

VOLUME III

CODE OF IOWA

2021

CONTAINING

ALL STATUTES OF A GENERAL
AND PERMANENT NATURE

Including the Acts of a permanent nature
with January 1, 2021, or earlier effective dates through
the Eighty-eighth General Assembly, 2020 Regular Session



Published under the authority of Iowa Code chapter 2B
by the
Legislative Services Agency
GENERAL ASSEMBLY OF IOWA
Des Moines

—
2020

PREFACE TO 2021 IOWA CODE

IOWA CODE — ANNUAL ELECTRONIC PUBLICATIONS — BIENNIAL PRINTED HARDBOUND VOLUMES. The Iowa Code is published pursuant to Iowa Code chapters 2A and 2B by the Legislative Services Agency. An official copy in PDF format and an unofficial and searchable version of the Iowa Code are published following each regular session of a General Assembly on the Internet and on the Iowa Law Infobase. Printed hardbound volumes of the Iowa Code and the Tables and Indexes are published following the second regular session of a General Assembly.

CODE CONTENTS AND EFFECTIVE AND APPLICABILITY DATES. This 2021 Iowa Code includes all enactments with a January 1, 2021, or earlier effective date from the 2020 Session of the Eighty-eighth Iowa General Assembly and includes enactments from prior sessions that were effective on or before that date. Unless otherwise indicated in the text or in a footnote, new sections, amendments, and repeals from the 2020 Session were effective on or before July 1, 2020. Refer to specific enactments to determine effective and applicability dates not shown. The Table of Contents enumerates the titles and subtitles in this Iowa Code, and each volume contains an analysis by title, subtitle, and chapter. Codified and original versions of the Constitution of the State of Iowa are included at the beginning of Volume I.

EDITORIAL DECISIONS. All duplicative or nonconflicting amendments to a Code section or part of a Code section were harmonized as required under Iowa Code sections 2B.13 and 4.11. A strike or repeal prevailed over an amendment to the same material. If amendments were irreconcilable, the last amendment in the Act, or latest in date of enactment, was codified as provided in Iowa Code sections 2B.13 and 4.8. Code Editor's Notes at the beginning of each Code volume explain editorial decisions. Iowa Code sections 2B.13 and 2B.17A govern editorial changes and their effective dates.

HISTORIES AND NOTES. Bracketed material at the end of Code sections traces the sections' histories up through 1982. Beginning with the 1983 Legislative Session, Code section histories are traced by citing all Iowa Acts amending or enacting the Code sections. The history of a transferred section includes the publication year and the Code section from which the transfer took place. An explanatory note describing the most recent changes in each new, amended, or revised Code section follows the history. Internal reference citations follow Code titles, subtitles, chapters, chapter subunits, or sections.

TABLES AND INDEXES. Tables and Indexes are published at the end of Volume VIII and online annually, and contain conversion tables of Senate and House files and Joint Resolutions to Iowa Acts chapters, tables of disposition of Iowa Acts, tables of Code sections altered, tables of corresponding sections, an Iowa Constitution Index, a General Index, and a Skeleton Index.

EDITORIAL STAFF. The 2021 Iowa Code senior legal editorial staff included Ed Cook, Senior Legal Counsel; Michael Duster, Senior Legal Counsel; John Heggen, Legal Services Editor; and Nicholas Schroeder, Legal Services Editor. The editorial staff of the Iowa Code welcomes comments and suggestions for improvements.

Glen P. Dickinson
Legislative Services Agency Director

Timothy C. McDermott
Legal Services Division Director

Leslie E. W. Hickey
Iowa Code Editor

Orders for legal publications, including the Iowa Code and Iowa Law Infobase, should be directed to:

Legislative Services Agency
State Capitol
Des Moines, Iowa 50319
515.281.6766
www.legis.iowa.gov/law/information

Printed with Bio-Renewable Materials

CODE EDITOR'S NOTES

Reference

Simple Harmonization Note

The multiple amendments do not conflict, so they were harmonized to give effect to each as required by Code sections 2B.13 and 4.11. In some cases where this note is referenced, the amendments are identical. Under Code section 2B.13, a strike or repeal prevails over an amendment to the same material and does not create a conflict.

- 124.204** 2020 Acts, ch 1023, §3, 4, and 6, amend subsections 4 and 7, effective June 1, 2020, by striking the words “, except as otherwise provided by rules of the board for medicinal purposes” from the text of subsection 4, paragraphs “m” and “u”, and by striking all of subsection 7. 2019 Acts, ch 130, §22, amends subsection 4, effective April, 8, 2020, by striking “by rules of the board for medicinal purposes” and adding “in subsection 7” in subsection 4, paragraph “m”, and by internally renumbering and adding a new subparagraph (2) to paragraph “u”. 2019 Acts, ch 130, §23, amends subsection 7, effective April 8, 2020, and adds new language defining the terms “hemp” and “hemp products”. The amendments to section 4, paragraph “m”, conflict and, because the changes made by 2019 Acts, ch 130, §22, are dependent upon language stricken by 2020 Acts, ch 1023, §3, the changes made by 2020 Acts, ch 1023, §3, prevailed and were codified. The amendments by 2020 Acts, ch 1023, §4, and 2019 Acts, ch 130, §22, to subsection 4, paragraph “u”, do not conflict and were harmonized to give effect to each Act. Because 2020 Acts, ch 1023, §6, struck the existing language that was amended by 2019 Acts, ch 130, §23, the strike by 2020 Acts, ch 1023, §6, prevailed and was codified. The new language added by 2019 Acts, ch 130, §23, however, being independent of the stricken language, was codified in subsection 7.
- 422.11N** 2020 Acts, ch 1062, §94, directs the Code editor to change the word “division” to “subchapter” in subsection 3, unnumbered paragraph 1, effective July 1, 2020. The section is repealed effective January 1, 2021, pursuant to the terms of subsection 10. The repeal prevails and was codified, but the terminology change was in effect from July 1, 2020, until January 1, 2021.
- 422.25** 2020 Acts, ch 1118, §17, amends subsection 1 by adding a new paragraph “c” at the end of the subsection. 2020 Acts, ch 1118, §63, strikes and rewrites subsection 1. Although 2020 Acts, ch 1118, §63, eliminates the former content of subsection 1, because the language contained in 2020 Acts, ch 1118, §17, was an addition to the subsection and not an amendment to the stricken text, the amendment from 2020 Acts, ch 1118, §17, was codified at the end of subsection 1 as a new paragraph “f”.

- 422.33** 2020 Acts, ch 1062, §94, directs the Code editor to change the word “division” to “subchapter” in subsection 4, paragraph “a”, effective July 1, 2020. The subsection was stricken pursuant to the terms of paragraph “c” of that subsection, effective January 1, 2021. The strike prevails and was codified, but the terminology change was in effect from July 1, 2020, until January 1, 2021.
- 422.60** 2020 Acts, ch 1062, §94, directs the Code editor to change the word “division” to “subchapter” in subsection 2, paragraph “a”, effective July 1, 2020. Subsection 2 is repealed pursuant to the terms of paragraph “c” of that subsection, effective January 1, 2021. The repeal prevails and was codified, but the terminology change was in effect from July 1, 2020, until January 1, 2021.

TABLE OF CONTENTS

Volume I

	PAGE
Preface to 2021 Iowa Code	iii
Code Editor's Notes	v
Designation of General Assembly — official legal publications — citations	xi
Abbreviations	xii
Analysis of Volume I of the Code by titles, subtitles, and chapters	xiii
The Declaration of Independence	xviii
Articles of Confederation	xxi
Authentication of Records (Federal Statutes)	xxviii
Constitution of the United States	xxix
1857 Constitution of the State of Iowa (codified)	xlvi
1857 Constitution of the State of Iowa (original)	lxxiii

CHAPTERS

TITLE I. STATE SOVEREIGNTY AND MANAGEMENT

SUBTITLES

1. Sovereignty	1 – 1D
2. Legislative branch	2 – 5
3. Eminent domain	6 – 6B
4. Executive branch	7 – 14B
5. Economic development	15 – 16A
6. Administrative procedure	17 – 17A
7. Land use — planning	18 – 18C
8. Personnel	19 – 20
9. Restraints on government	21 – 27A
10. Joint governmental activity	28 – 28N
11. Defense	29 – 29B
12. Emergency control	29C – 34A
13. Veterans	35 – 37A
14. Reserved	38 – 38D

TITLE II. ELECTIONS AND OFFICIAL DUTIES

SUBTITLES

1. Elections	39 – 63A
2. Public officers and employees	64 – 71
3. Public contracts and bonds	72 – 79

Volume II

	PAGE
Preface to 2021 Iowa Code	iii
Code Editor's Notes	v
Designation of General Assembly — official legal publications — citations	xi
Abbreviations	xii
Analysis of Volume II of the Code by titles, subtitles, and chapters	xiii

CHAPTERS

TITLE III. PUBLIC SERVICES AND REGULATION

SUBTITLES

1. Public safety	80 – 83A
2. Employment services	84 – 96
3. Retirement systems	97 – 98A
4. Gambling	99 – 99G
5. Fire control	100 – 102
6. Building codes	103 – 122C

**TITLE IV. PUBLIC HEALTH
SUBTITLES**

1. Alcoholic beverages and controlled substances	123 – 134
2. Health-related activities	135 – 146D
3. Health-related professions	147 – 158

**TITLE V. AGRICULTURE
SUBTITLES**

1. Agriculture and conservation of agricultural resources	159 – 161G
2. Animal industry	162 – 172E
3. Agricultural development and marketing	173 – 188
4. Agriculture-related products and activities	189 – 215A

Volume III

	PAGE
Preface to 2021 Iowa Code	iii
Code Editor’s Notes	v
Designation of General Assembly — official legal publications — citations	xi
Abbreviations	xii
Analysis of Volume III of the Code by titles, subtitles, and chapters	xiii

CHAPTERS

**TITLE VI. HUMAN SERVICES
SUBTITLES**

1. Social justice and human rights	216 – 216E
2. Human services — institutions	217 – 219
3. Mental health	220 – 230A
4. Elders	231 – 231F
5. Juveniles	232 – 233B
6. Children and families	234 – 255A

**TITLE VII. EDUCATION AND CULTURAL AFFAIRS
SUBTITLES**

1. Elementary and secondary education	256 – 259B
2. Community colleges	260 – 260I
3. Higher education	261 – 261H
4. Regents institutions	262 – 271
5. Educational development and professional regulation	272 – 272D
6. School districts	273 – 302
7. Cultural affairs	303 – 305B

Volume IV

	PAGE
Preface to 2021 Iowa Code	iii
Code Editor’s Notes	v
Designation of General Assembly — official legal publications — citations	xi
Abbreviations	xii
Analysis of Volume IV of the Code by titles, subtitles, and chapters	xiii

CHAPTERS

**TITLE VIII. TRANSPORTATION
SUBTITLES**

1. Highways and waterways	306 – 320
2. Vehicles	321 – 323A
3. Carriers	324 – 327K
4. Aviation	328 – 330B

TITLE IX. LOCAL GOVERNMENT**SUBTITLES**

1. Counties	331 – 356A
2. Special districts	357 – 358C
3. Townships	359 – 361
4. Cities	362 – 420

Volume V

	PAGE
Preface to 2021 Iowa Code	iii
Code Editor's Notes	v
Designation of General Assembly — official legal publications — citations	xi
Abbreviations	xii
Analysis of Volume V of the Code by titles, subtitles, and chapters	xiii

CHAPTERS**TITLE X. FINANCIAL RESOURCES****SUBTITLES**

1. Revenues and financial management	421 – 424
2. Property taxes	425 – 449
3. Inheritance taxes	450 – 451
4. Excise taxes	452 – 454

TITLE XI. NATURAL RESOURCES**SUBTITLES**

1. Control of environment	455 – 460A
2. Lands and waters	461 – 466C
3. Soil and water preservation — counties	467 – 468
4. Energy	469 – 473A
5. Public utilities	474 – 480A
6. Wildlife	481 – 485

Volume VI

	PAGE
Preface to 2021 Iowa Code	iii
Code Editor's Notes	v
Designation of General Assembly — official legal publications — citations	xi
Abbreviations	xii
Analysis of Volume VI of the Code by titles, subtitles, and chapters	xiii

CHAPTERS**TITLE XII. BUSINESS ENTITIES****SUBTITLES**

1. Partnerships	486 – 488
2. Business and professional corporations and companies	489 – 496C
3. Associations	497 – 501B
4. Securities	502 – 503
5. Nonprofit corporations	504 – 504C

TITLE XIII. COMMERCE**SUBTITLE**

1. Insurance and related regulation	505 – 523I
---	------------

Volume VII

	PAGE
Preface to 2021 Iowa Code	iii
Code Editor’s Notes	v
Designation of General Assembly — official legal publications — citations	xi
Abbreviations	xii
Analysis of Volume VII of the Code by titles, subtitles, and chapters	xiii

CHAPTERS

TITLE XIII. COMMERCE

SUBTITLES

2. Financial institutions	524 – 534
3. Money and credit	535 – 541B
4. Professional regulation, commerce-related	542 – 545
5. Regulation of commercial enterprises	546 – 554D

TITLE XIV. PROPERTY

SUBTITLES

1. Personal property	555 – 556H
2. Real property — gifts	557 – 569
3. Liens	570 – 584
4. Legalizing Acts	585 – 594A

Volume VIII

	PAGE
Preface to 2021 Iowa Code	iii
Code Editor’s Notes	v
Designation of General Assembly — official legal publications — citations	xi
Abbreviations	xii
Analysis of Volume VIII of the Code by titles, subtitles, and chapters	xiii

CHAPTERS

TITLE XV. JUDICIAL BRANCH AND JUDICIAL PROCEDURES

SUBTITLES

1. Domestic relations	595 – 601L
2. Courts	602 – 610A
3. Civil procedure	611 – 631
4. Probate — fiduciaries	632 – 638
5. Special actions	639 – 686D

TITLE XVI. CRIMINAL LAW AND PROCEDURE

SUBTITLES

1. Crime control and criminal acts	687 – 747
2. Criminal procedure	748 – 899
3. Criminal corrections	900 – 916

Mortality Tables	at end of volume
Historical chronological outline of Codes and Session Laws	at end of volume
Iowa-Missouri Boundary Compromise	at end of volume
Iowa-Nebraska Boundary Compromise	at end of volume
Admission of Iowa into the Union	at end of volume
Tables and Indexes	at end of volume

DESIGNATION OF GENERAL ASSEMBLY — OFFICIAL LEGAL PUBLICATIONS — CITATIONS

2.2 Designation of general assembly.

1. Each regular session of the general assembly shall be designated by the year in which it convenes and by a number with a new consecutive number assigned with the session beginning in each odd-numbered year.
2. A special session of the general assembly shall be designated as an extraordinary session in the particular year of a numbered general assembly.

2B.17 Official legal publications — citations.

1. A legal publication designated as official by the legislative services agency as provided in sections 2.42 and 2A.1 is the authoritative and official electronic or print version of the statutes, administrative rules, or court rules of the state of Iowa.

2.
 - a. The codified state constitution shall be known as the Constitution of the State of Iowa.
 - b. For statutes, the official versions of publications shall be known as the Iowa Acts, the Iowa Code, and the Code Supplement for supplements for the years 1979 through 2011.
 - c. For administrative rules, the official versions of the publications shall be known as the Iowa Administrative Bulletin and the Iowa Administrative Code.
 - d. For court rules, the official legal publication shall be known as the Iowa Court Rules.

3. The legislative services agency may adopt a style manual providing a uniform system of citing the codified Constitution of the State of Iowa and the official versions of publications listed in subsection 2, including by reference to commonly accepted legal sources. The legislative services agency style manual may provide for a different form of citation for electronic and printed versions of the same publication. Nothing in this section affects rules for style and format adopted pursuant to section 2.42.

4. The codified Constitution of the State of Iowa, and statutes enacted and joint resolutions enacted or passed by the general assembly shall be cited as follows:

- a. The codified Constitution of the State of Iowa shall be cited as the Constitution of the State of Iowa, with a reference identifying the preamble or boundaries, or article, section, and subunit of a section. Subject to the legislative services agency style manual, the Constitution of the State of Iowa may be cited as the Iowa Constitution.

- b. The Iowa Acts shall be cited as the Iowa Acts with a reference identifying the year of the publication in conformance with section 2.2, and the chapter of a bill enacted or joint resolution enacted or passed during a regular session, or in the alternative the bill or joint resolution chamber designation, and the section of the chapter or bill or subunit of a section. A bill or joint resolution enacted or passed during a special session shall be cited by the extraordinary session designation in conformance with section 2.2. If the Iowa Acts have not been published, a bill or joint resolution may be cited by its bill or joint resolution chamber designation.

- c. The Iowa Code shall be cited as the Iowa Code. Supplements to the Iowa Code published for the years 1979 through 2011 shall be cited as the Code Supplement. Subject to the legislative services agency style manual, the Iowa Code may be cited as the Code of Iowa or Code and the Code Supplement may be cited as the Iowa Code Supplement, with references identifying parts of the publication, including but not limited to title or chapter, section, or subunit of a section. If the citation refers to a past edition of the Iowa Code or Code Supplement, the citation shall identify the year of publication. The legislative services agency style manual shall provide for a citation form for any supplements to the Iowa Code published after the year 2013.

5. Administrative rules shall be cited as follows:

- a. The Iowa Administrative Bulletin shall be cited as the IAB, with references identifying the volume number which may be based on a fiscal year cycle, the issue number, and the ARC number assigned to the rulemaking document by the administrative rules coordinator pursuant to section 17A.4. Subject to the legislative services agency style manual, the citation may also include the publication's page number.

- b. The Iowa Administrative Code shall be cited as the IAC, with references to an agency's identification number placed at the beginning of the citation and with references to parts of the publication, including but not limited to chapter, rule, or subunit of a rule.

6. The Iowa Court Rules shall be cited as the Iowa Court Rules, with references to the rule number and to subunits of the publication, which may include but are not limited to the Iowa Rules of Civil Procedure, the Iowa Rules of Criminal Procedure, the Iowa Rules of Evidence, the Iowa Rules of Appellate Procedure, the Iowa Rules of Professional Conduct, and the Iowa Code of Judicial Conduct. Subject to the legislative services agency style manual, the names of the rules may be abbreviated.

Chapters of the Code are cited as whole numerals; as chapter 135 or chapter 135A.

Sections are cited as decimal numerals; as section 135.101 or section 135A.2. Sections are often divided into subunits. The following is an example of the hierarchical structure of a Code section:

Section: 8C.7A	Subparagraph division: (a)
Subsection: 3	Subparagraph subdivision: (iv)
Paragraph: c	Subparagraph part: (A)
Subparagraph: (3)	Subparagraph subpart: (I)

The above Code section example may be abbreviated as 8C.7A(3)(c)(3)(a)(iv)(A)(I).

ABBREVIATIONS

C51	Code of 1851	CS99	Code Supplement of 1999
R60	Revision of 1860	C2001	Code of 2001
C73	Code of 1873	CS2001	Code Supplement of 2001
C97	Code of 1897	C2003	Code of 2003
S'02	Supplement of 1902	CS2003	Code Supplement of 2003
S'07	Supplement of 1907	C2005	Code of 2005
S13	Supplement of 1913	CS2005	Code Supplement of 2005
SS15	Supplemental Supplement 1915	C2007	Code of 2007
C24	Code of 1924	CS2007	Code Supplement of 2007
C27	Code of 1927	C2009	Code of 2009
C31	Code of 1931	CS2009	Code Supplement of 2009
C35	Code of 1935	C2011	Code of 2011
C39	Code of 1939	CS2011	Code Supplement of 2011
C46	Code of 1946	C2013	Code of 2013
C50	Code of 1950	C2014	Code of 2014
C54	Code of 1954	C2015	Code of 2015
C58	Code of 1958	C2016	Code of 2016
C62	Code of 1962	C2017	Code of 2017
C66	Code of 1966	C2018	Code of 2018
C71	Code of 1971	C2019	Code of 2019
C73	Code of 1973	C2020	Code of 2020
C75	Code of 1975	C2021	Code of 2021
C77	Code of 1977	GA	General Assembly
C79	Code of 1979	§ or Sec.	Section
S79	Supplement of 1979	Art.	Article
C81	Code of 1981	Ch	Chapter
S81	Supplement of 1981	1st Ex	First Extra Session
C83	Code of 1983	2nd Ex	Second Extra Session
CS83	Supplement of 1983	R (in tables)	Repealed
C85	Code of 1985	Vol	Volume
CS85	Code Supplement of 1985	Ct.R.	Court Rule
C87	Code of 1987	R.C.P.	Rules of Civil Procedure
CS87	Code Supplement of 1987	R.Cr.P.	Rules of Criminal Procedure
C89	Code of 1989	R.App.P.	Rules of Appellate Procedure
CS89	Code Supplement of 1989	R.Prob.P.	Rules of Probate Procedure
C91	Code of 1991	Stat.	Statutes at Large (U. S.)
CS91	Code Supplement of 1991	U.S.C.	United States Code
C93	Code of 1993	U.S.C. App.	United States Code Appendix
CS93	Code Supplement of 1993	Pub. L. No.	Public Law Number (U. S.)
C95	Code of 1995	C.F.R.	Code of Federal Regulations (U. S.)
CS95	Code Supplement of 1995	Tit.	Title in federal Acts
C97	Code of 1997	Subtit.	Subtitle in federal Acts
CS97	Code Supplement of 1997	Pt.	Part in federal Acts
C99	Code of 1999	Subpt.	Subpart in federal Acts

ANALYSIS OF THE CODE BY TITLES, SUBTITLES, AND CHAPTERS

Volume III

TITLE VI HUMAN SERVICES

SUBTITLE 1. SOCIAL JUSTICE AND HUMAN RIGHTS

CHAPTER	PAGE
216 Civil rights commission	III-1
216A Department of human rights	III-25
216B Department for the blind	III-55
216C Rights of persons with disabilities	III-59
216D Operation of food service in public buildings	III-63
216E Assistive devices	III-64

SUBTITLE 2. HUMAN SERVICES — INSTITUTIONS

CHAPTER	PAGE
217 Department of human services	III-68
217A Repealed	
218 Institutions governed by human services department	III-81
219 Repealed	

SUBTITLE 3. MENTAL HEALTH

CHAPTER	PAGE
220 Reserved	
220A Repealed	
221 Interstate mental health compact	III-99
222 Persons with an intellectual disability	III-103
223 to 224B Reserved	
225 Psychiatric hospital	III-120
225A Reserved	
225B Repealed	
225C Mental health and disability services	III-126
225D Autism support program	III-151
226 State mental health institutes	III-154
227 Facilities for persons with mental illness or an intellectual disability	III-162
228 Disclosure of mental health and psychological information	III-167
229 Hospitalization of persons with mental illness	III-172
229A Commitment of sexually violent predators	III-200
230 Support of persons with mental illness	III-215
230A Community mental health centers	III-224

SUBTITLE 4. ELDERS

CHAPTER	PAGE
231 Department on aging — older Iowans	III-230
231A Repealed	
231B Elder group homes	III-246
231C Assisted living programs	III-255
231D Adult day services	III-266
231E Public guardian Act	III-275
231F Long-term living system	III-281

SUBTITLE 5. JUVENILES

CHAPTER	PAGE
232 Juvenile justice	III-282
232A Juvenile victim restitution	III-411
232B Indian child welfare Act	III-412
232C Emancipation of minors	III-424
232D Minor guardianships	III-426
233 Newborn infant custody release procedures (newborn safe haven Act)	III-438
233A Training school	III-441
233B Repealed	

SUBTITLE 6. CHILDREN AND FAMILIES

CHAPTER	PAGE
234 Child and family services	III-445
235 Child welfare	III-456
235A Child abuse	III-459
235B Dependent adult abuse services — information registry	III-473
235C Repealed	
235D Domestic and sexual violence center employment — criminal history checks	III-492
235E Dependent adult abuse in facilities and programs	III-493
235F Elder abuse	III-499
236 Domestic abuse	III-505
236A Sexual abuse — protective orders — services	III-516
237 Child foster care facilities	III-523
237A Child care facilities	III-537
237B Repealed	
237C Children's residential facilities — certification and inspection	III-554
238 Child-placing agencies	III-557
239 Reserved	
239A Public works positions for certain persons	III-562
239B Family investment program	III-564
240 Reserved	
241 Displaced homemakers	III-578
241A to 248A Reserved	
249 State supplementary assistance	III-580
249A Medical assistance	III-585
249B Medical assistance to institutionalized spouses	III-621
249C to 249E Reserved	
249F Transfer of assets — medical assistance debt	III-624
249G Repealed	
249H Repealed	
249I Repealed	
249J Repealed	
249K Nursing facility construction or expansion	III-628
249L Nursing facility quality assurance assessment program	III-631

249M	Hospital health care access assessment program	III-635
249N	Iowa health and wellness plan	III-638
250	Reserved	
251	Emergency relief administration	III-643
252	Support of the poor	III-645
252A	Support of dependents	III-649
252B	Child support recovery	III-658
252C	Child support debts — administrative procedures	III-687
252D	Support payments — income withholding	III-691
252E	Medical support	III-700
252F	Administrative establishment of paternity	III-711
252G	Central employee registry	III-718
252H	Adjustment and modification of support orders	III-721
252I	Support payments — levies against accounts	III-736
252J	Child support — licensing sanctions	III-741
252K	Uniform interstate family support Act	III-746
253	and 254 Reserved	
255	Repealed	
255A	Repealed	

**TITLE VII
EDUCATION AND CULTURAL AFFAIRS**

SUBTITLE 1. ELEMENTARY AND SECONDARY EDUCATION

CHAPTER	PAGE	
256	Department of education	III-773
256A	Child development assistance	III-833
256B	Special education	III-837
256C	Statewide preschool program for four-year-old children	III-846
256D	Repealed	
256E	Repealed	
256F	Charter schools and innovation zone schools	III-851
256G	Repealed	
256H	Interstate compact on education of military children	III-857
256I	Early childhood Iowa initiative	III-869
257	Financing school programs	III-880
257A	Repealed	
257B	School funds	III-928
257C	Advance funding authority	III-937
258	Career and technical education	III-942
258A	Reserved	
259	Vocational rehabilitation	III-948
259A	High school equivalency diplomas	III-950
259B	Reserved	

SUBTITLE 2. COMMUNITY COLLEGES

CHAPTER	PAGE	
260	Reserved	
260A	Repealed	
260B	Reserved	
260C	Community colleges	III-953
260D	Reserved	
260E	Industrial new jobs training	III-994
260F	Jobs training	III-998
260G	Accelerated career education program	III-1001

260H	Pathways for academic career and employment Act	III-1005
260I	Gap tuition assistance Act	III-1009

SUBTITLE 3. HIGHER EDUCATION

CHAPTER		PAGE
261	College student aid commission	III-1013
261A	Higher education loan authority (private institutions)	III-1058
261B	Registration of postsecondary schools	III-1077
261C	Repealed	
261D	Midwestern higher education compact	III-1083
261E	Senior year plus program	III-1087
261F	Educational loans	III-1097
261G	Postsecondary distance education — interstate reciprocity	III-1104
261H	Speech and expression — public institutions of higher education	III-1106

SUBTITLE 4. REGENTS INSTITUTIONS

CHAPTER		PAGE
262	Board of regents	III-1109
262A	University buildings, facilities, and services — revenue bonds	III-1143
262B	Commercialization of research	III-1148
263	University of Iowa	III-1151
263A	Medical and hospital buildings at university of Iowa	III-1158
263B	State archaeologist	III-1162
264	Perpetuation of college credits	III-1164
265	Laboratory schools	III-1165
266	Iowa state university of science and technology	III-1166
267	Livestock health advisory council	III-1177
267A	Local food and farm program	III-1179
268	University of northern Iowa	III-1181
269	Braille and sight saving school	III-1183
270	School for the deaf	III-1184
271	Oakdale campus	III-1186

SUBTITLE 5. EDUCATIONAL DEVELOPMENT AND PROFESSIONAL REGULATION

CHAPTER		PAGE
272	Educational examiners board	III-1188
272A	Interstate agreement on qualification of educational personnel	III-1202
272B	Education compact	III-1204
272C	Regulation of licensed professions and occupations	III-1209
272D	Debts owed state or local government — licensing sanctions	III-1222

SUBTITLE 6. SCHOOL DISTRICTS

CHAPTER		PAGE
273	Area education agencies	III-1228
274	School districts in general	III-1247
275	Reorganization of school districts	III-1251
276	Community education	III-1274
277	School elections	III-1277
278	Powers of electors	III-1282
279	Directors — powers and duties	III-1283
280	Uniform school requirements	III-1321

280A	Behavioral health services — school settings	III-1342
280B	to 281 Reserved	
282	School attendance and tuition	III-1345
283	Acceptance and distribution of federal funds	III-1363
283A	School meal programs	III-1364
284	Teacher performance, compensation, and career development	III-1367
284A	Administrator quality program	III-1387
285	State aid for transportation	III-1391
286	and 286A Reserved	
287	Societies and fraternities	III-1401
288	Repealed	
289	Repealed	
290	Appeal from decisions of boards of directors	III-1402
291	President, secretary, and treasurer of board	III-1403
292	School infrastructure program	III-1406
293	Reserved	
294	Teachers	III-1409
294A	Repealed	
295	Repealed	
296	Indebtedness of school corporations	III-1414
297	Schoolhouses and schoolhouse sites	III-1416
298	School taxes and bonds	III-1424
298A	School district fund structure	III-1433
299	Compulsory education	III-1438
299A	Private instruction	III-1446
300	Educational and recreational tax	III-1451
301	Textbooks	III-1453
301A	and 302 Reserved	

SUBTITLE 7. CULTURAL AFFAIRS

CHAPTER		PAGE
303	Department of cultural affairs	III-1457
303A	Iowa cultural trust	III-1484
303B	and 303C Reserved	
304	Repealed	
304A	Repealed	
305	State records and archives	III-1487
305A	Reserved	
305B	Museum property	III-1492

TITLE VI
HUMAN SERVICES

SUBTITLE 1
SOCIAL JUSTICE AND HUMAN RIGHTS

CHAPTER 216
CIVIL RIGHTS COMMISSION

Referred to in §2.11, 2.42, 19B.12, 20.8, 22.7(31), 22.7(37), 35.3, 84A.4, 124E.24, 256F4, 261E.9, 422.7(32)(c), 422.11S, 422.12, 544B.9, 602.1401, 614.8, 679C.115, 729A.5

This chapter not enacted as a part of this title;
transferred from chapter 601A in Code 1993
See also chapters 216C, 729, and 729A

216.1	Citation.	216.11	Aiding, abetting, or retaliation.
216.2	Definitions.	216.11A	Interference, coercion, or intimidation.
216.3	Commission appointed.	216.12	Exceptions.
216.4	Compensation and expenses — rules.	216.12A	Additional housing exception.
216.5	Powers and duties.	216.13	Exceptions for retirement plans, abortion coverage, life, disability, and health benefits.
216.6	Unfair employment practices.	216.14	Promotion or transfer.
216.6A	Additional unfair or discriminatory practice — wage discrimination in employment.	216.15	Complaint — hearing.
216.7	Unfair practices — accommodations or services.	216.15A	Additional proceedings — housing discrimination.
216.8	Unfair or discriminatory practices — housing.	216.15B	Formal mediation — confidentiality.
216.8A	Additional unfair or discriminatory practices — housing.	216.16	Sixty-day administrative release.
216.8B	Assistance animals and service animals in housing — penalty.	216.16A	Civil action elected — housing.
216.8C	Finding of disability and need for an assistance animal or service animal in housing.	216.17	Judicial review — enforcement.
216.9	Unfair or discriminatory practices — education.	216.17A	Civil proceedings — housing.
216.10	Unfair credit practices.	216.18	Rules of construction.
		216.19	Local laws implementing this chapter.
		216.20	Effect on other law.
		216.21	Documents to attorney or party.
		216.22	Franchisor-franchisee relationship.

216.1 Citation.
This chapter may be known and may be cited as the “*Iowa Civil Rights Act of 1965*”.
[C66, 71, §105A.1; C73, 75, 77, 79, 81, §601A.1]
C93, §216.1

216.2 Definitions.
When used in this chapter, unless the context otherwise requires:

1. “*Commission*” means the Iowa state civil rights commission created by this chapter.
2. “*Commissioner*” means a member of the commission.
3. “*Court*” means the district court in and for any judicial district of the state of Iowa or any judge of the court if the court is not in session at that time.
4. “*Covered multifamily dwelling*” means any of the following:

a. A building consisting of four or more dwelling units if the building has one or more elevators.

b. The ground floor units of a building consisting of four or more dwelling units.

5. “Disability” means the physical or mental condition of a person which constitutes a substantial disability, and the condition of a person with a positive human immunodeficiency virus test result, a diagnosis of acquired immune deficiency syndrome, a diagnosis of acquired immune deficiency syndrome-related complex, or any other condition related to acquired immune deficiency syndrome. The inclusion of a condition related to a positive human immunodeficiency virus test result in the meaning of “disability” under the provisions of this chapter does not preclude the application of the provisions of this chapter to conditions resulting from other contagious or infectious diseases.

6. “Employee” means any person employed by an employer.

7. “Employer” means the state of Iowa or any political subdivision, board, commission, department, institution, or school district thereof, and every other person employing employees within the state.

8. “Employment agency” means any person undertaking to procure employees or opportunities to work for any other person or any person holding itself to be equipped to do so.

9. a. “Familial status” means one or more individuals under the age of eighteen domiciled with one of the following:

(1) A parent or another person having legal custody of the individual or individuals.

(2) The designee of the parent or the other person having custody of the individual or individuals, with the written permission of the parent or other person.

(3) A person who is pregnant or is in the process of securing legal custody of the individual or individuals.

b. “Familial status” also means a person who is pregnant or who is in the process of securing legal custody of an individual who has not attained the age of eighteen years.

10. “Gender identity” means a gender-related identity of a person, regardless of the person’s assigned sex at birth.

11. “Labor organization” means any organization which exists for the purpose in whole or in part of collective bargaining, of dealing with employers concerning grievances, terms, or conditions of employment, or of other mutual aid or protection in connection with employment.

12. “Person” means one or more individuals, partnerships, associations, corporations, legal representatives, trustees, receivers, and the state of Iowa and all political subdivisions and agencies thereof.

13. a. “Public accommodation” means each and every place, establishment, or facility of whatever kind, nature, or class that caters or offers services, facilities, or goods for a fee or charge to nonmembers of any organization or association utilizing the place, establishment, or facility, provided that any place, establishment, or facility that caters or offers services, facilities, or goods to the nonmembers gratuitously shall be deemed a public accommodation if the accommodation receives governmental support or subsidy. Public accommodation shall not mean any bona fide private club or other place, establishment, or facility which is by its nature distinctly private, except when such distinctly private place, establishment, or facility caters or offers services, facilities, or goods to the nonmembers for fee or charge or gratuitously, it shall be deemed a public accommodation during such period.

b. “Public accommodation” includes each state and local government unit or tax-supported district of whatever kind, nature, or class that offers services, facilities, benefits, grants or goods to the public, gratuitously or otherwise. This paragraph shall not be construed by negative implication or otherwise to restrict any part or portion of the preexisting definition of the term “public accommodation”.

14. “Sexual orientation” means actual or perceived heterosexuality, homosexuality, or bisexuality.

15. “Unfair practice” or “discriminatory practice” means those practices specified as

unfair or discriminatory in sections 216.6, 216.6A, 216.7, 216.8, 216.8A, 216.8B, 216.9, 216.10, 216.11, and 216.11A.

[C66, 71, §105A.2; C73, 75, 77, 79, 81, §601A.2]

84 Acts, ch 1096, §1; 88 Acts, ch 1236, §1; 89 Acts, ch 205, §1; 91 Acts, ch 184, §1; 92 Acts, ch 1129, §1 – 3

C93, §216.2

94 Acts, ch 1023, §42; 95 Acts, ch 129, §2; 96 Acts, ch 1129, §113; 2007 Acts, ch 191, §1; 2009 Acts, ch 96, §1; 2019 Acts, ch 65, §1

216.3 Commission appointed.

1. The Iowa state civil rights commission shall consist of seven members appointed by the governor subject to confirmation by the senate. Appointments shall be made to provide geographical area representation insofar as practicable. No more than four members of the commission shall belong to the same political party. Members appointed to the commission shall serve for four-year staggered terms beginning and ending as provided by section 69.19.

2. Vacancies on the commission shall be filled by the governor by appointment for the unexpired part of the term of the vacancy. Any commissioner may be removed from office by the governor for cause.

3. The governor subject to confirmation by the senate shall appoint a director who shall serve as the executive officer of the commission.

[C66, 71, §105A.3; C73, 75, 77, 79, 81, §601A.3]

C93, §216.3

2017 Acts, ch 54, §76

Confirmation, see §2.32

216.4 Compensation and expenses — rules.

Commissioners shall be paid a per diem as specified in section 7E.6 and shall be reimbursed for actual and necessary expenses incurred while on official commission business. All per diem and expense moneys paid to commissioners shall be paid from funds appropriated to the commission. The commission shall adopt, amend or rescind rules as necessary for the conduct of its meetings. A quorum shall consist of four commissioners.

[C66, 71, §105A.4; C73, 75, 77, 79, 81, §601A.4]

90 Acts, ch 1256, §51

C93, §216.4

216.5 Powers and duties.

The commission shall have the following powers and duties:

1. To prescribe the duties of a director and appoint and prescribe the duties of such investigators and other employees and agents as the commission shall deem necessary for the enforcement of this chapter.

2. To receive, investigate, mediate, and finally determine the merits of complaints alleging unfair or discriminatory practices.

3. To investigate and study the existence, character, causes, and extent of discrimination in public accommodations, employment, apprenticeship programs, on-the-job training programs, vocational schools, career and technical education programs, credit practices, and housing in this state and to attempt the elimination of such discrimination by education and conciliation.

4. To seek a temporary injunction against a respondent when it appears that a complainant may suffer irreparable injury as a result of an alleged violation of this chapter. A temporary injunction may only be issued ex parte, if the complaint filed with the commission alleges discrimination in housing. In all other cases a temporary injunction may be issued only after the respondent has been notified and afforded the opportunity to be heard.

5. To hold hearings upon any complaint made against a person, an employer, an employment agency, or a labor organization, or the employees or members thereof, to subpoena witnesses and compel their attendance at such hearings, to administer oaths and take the testimony of any person under oath, and to compel such person, employer,

employment agency, or labor organization, or employees or members thereof to produce for examination any books and papers relating to any matter involved in such complaint. The commission shall issue subpoenas for witnesses in the same manner and for the same purposes on behalf of the respondent upon the respondent's request. Such hearings may be held by the commission, by any commissioner, or by any hearing examiner appointed by the commission. If a witness either fails or refuses to obey a subpoena issued by the commission, the commission may petition the district court having jurisdiction for issuance of a subpoena and the court shall in a proper case issue the subpoena. Refusal to obey such subpoena shall be subject to punishment for contempt.

6. To issue such publications and reports of investigations and research as in the judgment of the commission shall tend to promote goodwill among the various racial, religious, and ethnic groups of the state and which shall tend to minimize or eliminate discrimination in public accommodations, employment, apprenticeship and on-the-job training programs, vocational schools, career and technical education programs, or housing because of race, creed, color, sex, sexual orientation, gender identity, national origin, religion, ancestry, or disability.

7. To prepare and transmit to the governor and to the general assembly from time to time, but not less often than once each year, reports describing its proceedings, investigations, hearings conducted and the outcome thereof, decisions rendered, and the other work performed by the commission.

8. To make recommendations to the general assembly for such further legislation concerning discrimination because of race, creed, color, sex, sexual orientation, gender identity, national origin, religion, ancestry, or disability as it may deem necessary and desirable.

9. To cooperate, within the limits of any appropriations made for its operation, with other agencies or organizations, both public and private, whose purposes are consistent with those of this chapter, and in the planning and conducting of programs designed to eliminate racial, religious, cultural, and intergroup tensions.

10. To adopt, publish, amend, and rescind commission rules pursuant to chapter 17A consistent with and necessary for the enforcement of this chapter.

11. To receive, administer, dispense and account for any funds that may be voluntarily contributed to the commission and any grants that may be awarded the commission for furthering the purposes of this chapter.

12. To defer a complaint to a local civil rights commission under commission rules promulgated pursuant to chapter 17A.

13. To issue subpoenas and order discovery as provided by this section in aid of investigations and hearings of alleged unfair or discriminatory housing or real property practices. The subpoenas and discovery may be ordered to the same extent and are subject to the same limitations as subpoenas and discovery in a civil action in district court.

14. To defer proceedings and refer a complaint to a local commission that has been recognized by the United States department of housing and urban development as having adopted ordinances providing fair housing rights and remedies that are substantially equivalent to those granted under federal law.

15. To utilize volunteers to aid in the conduct of the commission's business including case processing functions such as intake, screening, investigation, and mediation.

[C66, 71, §105A.5; C73, 75, 77, 79, 81, §601A.5]

86 Acts, ch 1245, §1991; 91 Acts, ch 184, §2

C93, §216.5

95 Acts, ch 129, §3, 4; 2007 Acts, ch 191, §2; 2016 Acts, ch 1108, §19; 2019 Acts, ch 59, §60

216.6 Unfair employment practices.

1. It shall be an unfair or discriminatory practice for any:

a. Person to refuse to hire, accept, register, classify, or refer for employment, to discharge any employee, or to otherwise discriminate in employment against any applicant for employment or any employee because of the age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion, or disability of such applicant or employee, unless

based upon the nature of the occupation. If a person with a disability is qualified to perform a particular occupation, by reason of training or experience, the nature of that occupation shall not be the basis for exception to the unfair or discriminatory practices prohibited by this subsection.

b. Labor organization or the employees, agents, or members thereof to refuse to admit to membership any applicant, to expel any member, or to otherwise discriminate against any applicant for membership or any member in the privileges, rights, or benefits of such membership because of the age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion, or disability of such applicant or member.

c. Employer, employment agency, labor organization, or the employees, agents, or members thereof to directly or indirectly advertise or in any other manner indicate or publicize that individuals of any particular age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion, or disability are unwelcome, objectionable, not acceptable, or not solicited for employment or membership unless based on the nature of the occupation.

(1) If a person with a disability is qualified to perform a particular occupation by reason of training or experience, the nature of that occupation shall not be the basis for exception to the unfair or discriminatory practices prohibited by this subsection.

(2) An employer, employment agency, or their employees, servants, or agents may offer employment or advertise for employment to only persons with disabilities, when other applicants have available to them other employment compatible with their ability which would not be available to persons with disabilities because of their disabilities. Any such employment or offer of employment shall not discriminate among persons with disabilities on the basis of race, color, creed, sex, sexual orientation, gender identity, or national origin.

d. Person to solicit or require as a condition of employment of any employee or prospective employee a test for the presence of the antibody to the human immunodeficiency virus or to affect the terms, conditions, or privileges of employment or terminate the employment of any employee solely as a result of the employee obtaining a test for the presence of the antibody to the human immunodeficiency virus. An agreement between an employer, employment agency, labor organization, or their employees, agents, or members and an employee or prospective employee concerning employment, pay, or benefits to an employee or prospective employee in return for taking a test for the presence of the antibody to the human immunodeficiency virus, is prohibited. The prohibitions of this paragraph do not apply if the state epidemiologist determines and the director of public health declares through the utilization of guidelines established by the center for disease control of the United States department of health and human services, that a person with a condition related to acquired immune deficiency syndrome poses a significant risk of transmission of the human immunodeficiency virus to other persons in a specific occupation.

2. Employment policies relating to pregnancy and childbirth shall be governed by the following:

a. A written or unwritten employment policy or practice which excludes from employment applicants or employees because of the employee's pregnancy is a prima facie violation of this chapter.

b. Disabilities caused or contributed to by the employee's pregnancy, miscarriage, childbirth, and recovery therefrom are, for all job-related purposes, temporary disabilities and shall be treated as such under any health or temporary disability insurance or sick leave plan available in connection with employment. Written and unwritten employment policies and practices involving matters such as the commencement and duration of leave, the availability of extensions, the accrual of seniority, and other benefits and privileges, reinstatement, and payment under any health or temporary disability insurance or sick leave plan, formal or informal, shall be applied to a disability due to the employee's pregnancy or giving birth, on the same terms and conditions as they are applied to other temporary disabilities.

c. Disabilities caused or contributed to by legal abortion and recovery therefrom are, for all job-related purposes, temporary disabilities and shall be treated as such under any temporary disability or sick leave plan available in connection with employment.

Written and unwritten employment policies and practices involving matters such as the commencement and duration of leave, the availability of extensions, the accrual of seniority, and other benefits and privileges, reinstatement, and payment under any temporary disability insurance or sick leave plan, formal or informal, shall be applied to a disability due to legal abortion on the same terms and conditions as they are applied to other temporary disabilities. The employer may elect to exclude health insurance coverage for abortion from a plan provided by the employer, except where the life of the mother would be endangered if the fetus were carried to term or where medical complications have arisen from an abortion.

d. An employer shall not terminate the employment of a person disabled by pregnancy because of the employee's pregnancy.

e. Where a leave is not available or a sufficient leave is not available under any health or temporary disability insurance or sick leave plan available in connection with employment, the employer of the pregnant employee shall not refuse to grant to the employee who is disabled by the pregnancy a leave of absence if the leave of absence is for the period that the employee is disabled because of the employee's pregnancy, childbirth, or related medical conditions, or for eight weeks, whichever is less. However, the employee must provide timely notice of the period of leave requested and the employer must approve any change in the period requested before the change is effective. Before granting the leave of absence, the employer may require that the employee's disability resulting from pregnancy be verified by medical certification stating that the employee is not able to reasonably perform the duties of employment.

3. This section shall not prohibit discrimination on the basis of age if the person subject to the discrimination is under the age of eighteen years, unless that person is considered by law to be an adult.

4. Notwithstanding the provisions of this section, a state or federal program designed to benefit a specific age classification which serves a bona fide public purpose shall be permissible.

5. This section shall not apply to age discrimination in bona fide apprenticeship employment programs if the employee is over forty-five years of age.

6. This section shall not apply to:

a. Any employer who regularly employs less than four individuals. For purposes of this subsection, individuals who are members of the employer's family shall not be counted as employees.

b. The employment of individuals for work within the home of the employer if the employer or members of the employer's family reside therein during such employment.

c. The employment of individuals to render personal service to the person of the employer or members of the employer's family.

d. Any bona fide religious institution or its educational facility, association, corporation, or society with respect to any qualifications for employment based on religion, sexual orientation, or gender identity when such qualifications are related to a bona fide religious purpose. A religious qualification for instructional personnel or an administrative officer, serving in a supervisory capacity of a bona fide religious educational facility or religious institution, shall be presumed to be a bona fide occupational qualification.

[C66, 71, §105A.7; C73, §601A.7; C75, 77, 79, 81, §601A.6]

87 Acts, ch 201, §1; 88 Acts, ch 1236, §2

C93, §216.6

96 Acts, ch 1129, §27, 113; 2007 Acts, ch 191, §3, 4; 2009 Acts, ch 41, §220; 2018 Acts, ch 1026, §67, 68

Referred to in §216.2, 400.8

See also §139A.13A, 915.23

216.6A Additional unfair or discriminatory practice — wage discrimination in employment.

1. a. The general assembly finds that the practice of discriminating against any employee because of the age, race, creed, color, sex, sexual orientation, gender identity, national origin,

religion, or disability of such employee by paying wages to such employee at a rate less than the rate paid to other employees does all of the following:

- (1) Unjustly discriminates against the person receiving the lesser rate.
- (2) Leads to low employee morale, high turnover, and frequent labor unrest.
- (3) Discourages employees paid at lesser wage rates from training for higher level jobs.
- (4) Curtails employment opportunities, decreases employees' mobility, and increases labor costs.
- (5) Impairs purchasing power and threatens the maintenance of an adequate standard of living by such employees and their families.
- (6) Prevents optimum utilization of the state's available labor resources.
- (7) Threatens the well-being of citizens of this state and adversely affects the general welfare.

b. The general assembly declares that it is the policy of this state to correct and, as rapidly as possible, to eliminate, discriminatory wage practices based on age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion, and disability.

2. a. It shall be an unfair or discriminatory practice for any employer or agent of any employer to discriminate against any employee because of the age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion, or disability of such employee by paying wages to such employee at a rate less than the rate paid to other employees who are employed within the same establishment for equal work on jobs, the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions. An employer or agent of an employer who is paying wages to an employee at a rate less than the rate paid to other employees in violation of this section shall not remedy the violation by reducing the wage rate of any employee.

b. For purposes of this subsection, an unfair or discriminatory practice occurs when a discriminatory pay decision or other practice is adopted, when an individual becomes subject to a discriminatory pay decision or other practice, or when an individual is affected by application of a discriminatory pay decision or other practice, including each time wages, benefits, or other compensation is paid, resulting in whole or in part from such a decision or other practice.

3. It shall be an affirmative defense to a claim arising under this section if any of the following applies:

- a. Payment of wages is made pursuant to a seniority system.
- b. Payment of wages is made pursuant to a merit system.
- c. Payment of wages is made pursuant to a system which measures earnings by quantity or quality of production.
- d. Pay differential is based on any other factor other than the age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion, or disability of such employee.

4. This section shall not apply to any employer who regularly employs less than four individuals. For purposes of this subsection, individuals who are members of the employer's family shall not be counted as employees.

2009 Acts, ch 96, §2; 2010 Acts, ch 1069, §26
 Referred to in §216.2, 216.15

216.7 Unfair practices — accommodations or services.

1. It shall be an unfair or discriminatory practice for any owner, lessee, sublessee, proprietor, manager, or superintendent of any public accommodation or any agent or employee thereof:

a. To refuse or deny to any person because of race, creed, color, sex, sexual orientation, gender identity, national origin, religion, or disability the accommodations, advantages, facilities, services, or privileges thereof, or otherwise to discriminate against any person because of race, creed, color, sex, sexual orientation, gender identity, national origin, religion, or disability in the furnishing of such accommodations, advantages, facilities, services, or privileges.

b. To directly or indirectly advertise or in any other manner indicate or publicize that the patronage of persons of any particular race, creed, color, sex, sexual orientation, gender

identity, national origin, religion, or disability is unwelcome, objectionable, not acceptable, or not solicited.

2. This section shall not apply to:

a. Any bona fide religious institution with respect to any qualifications the institution may impose based on religion, sexual orientation, or gender identity when such qualifications are related to a bona fide religious purpose.

b. The rental or leasing to transient individuals of less than six rooms within a single housing accommodation by the occupant or owner of such housing accommodation if the occupant or owner or members of that person's family reside therein.

3. This section shall not require any state or local government unit or tax-supported district to provide for sex reassignment surgery or any other cosmetic, reconstructive, or plastic surgery procedure related to transsexualism, hermaphroditism, gender identity disorder, or body dysmorphic disorder.

[C97, §5008; C24, 27, 31, 35, 39, §13251; C46, 50, 54, 58, §735.1; C66, 71, §105A.6; C73, §601A.6; C75, 77, 79, 81, §601A.7]

C93, §216.7

2007 Acts, ch 191, §5, 6; 2019 Acts, ch 85, §93, 94

Referred to in §123.32, 216.2

216.8 Unfair or discriminatory practices — housing.

1. It shall be an unfair or discriminatory practice for any person, owner, or person acting for an owner, of rights to housing or real property, with or without compensation, including but not limited to persons licensed as real estate brokers or salespersons, attorneys, auctioneers, agents or representatives by power of attorney or appointment, or any person acting under court order, deed of trust, or will:

a. To refuse to sell, rent, lease, assign, sublease, refuse to negotiate, or to otherwise make unavailable, or deny any real property or housing accommodation or part, portion, or interest therein, to any person because of the race, color, creed, sex, sexual orientation, gender identity, religion, national origin, disability, or familial status of such person.

b. To discriminate against any person because of the person's race, color, creed, sex, sexual orientation, gender identity, religion, national origin, disability, or familial status, in the terms, conditions, or privileges of the sale, rental, lease assignment, or sublease of any real property or housing accommodation or any part, portion, or interest in the real property or housing accommodation or in the provision of services or facilities in connection with the real property or housing accommodation.

c. To directly or indirectly advertise, or in any other manner indicate or publicize that the purchase, rental, lease, assignment, or sublease of any real property or housing accommodation or any part, portion, or interest therein, by persons of any particular race, color, creed, sex, sexual orientation, gender identity, religion, national origin, disability, or familial status is unwelcome, objectionable, not acceptable, or not solicited.

d. To discriminate against the lessee or purchaser of any real property or housing accommodation or part, portion, or interest of the real property or housing accommodation, or against any prospective lessee or purchaser of the property or accommodation, because of the race, color, creed, religion, sex, sexual orientation, gender identity, disability, age, or national origin of persons who may from time to time be present in or on the lessee's or owner's premises for lawful purposes at the invitation of the lessee or owner as friends, guests, visitors, relatives, or in any similar capacity.

2. For purposes of this section, "person" means one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in cases under Tit. 11 of the United States Code, receivers, and fiduciaries.

[C71, §105A.13; C73, §601A.13; C75, 77, 79, 81, §601A.8]

89 Acts, ch 205, §2; 92 Acts, ch 1129, §4

C93, §216.8

2007 Acts, ch 191, §7; 2009 Acts, ch 41, §86

Referred to in §216.2, 216.11A, 216.12, 216.12A, 216.15A, 216.16A

216.8A Additional unfair or discriminatory practices — housing.

1. A person shall not induce or attempt to induce another person to sell or rent a dwelling by representations regarding the entry or prospective entry into a neighborhood of a person of a particular race, color, creed, sex, sexual orientation, gender identity, religion, national origin, disability, or familial status.

2. A person shall not represent to a person of a particular race, color, creed, sex, sexual orientation, gender identity, religion, national origin, disability, or familial status that a dwelling is not available for inspection, sale, or rental when the dwelling is available for inspection, sale, or rental.

3. a. A person shall not discriminate in the sale or rental or otherwise make unavailable or deny a dwelling to a buyer or renter because of a disability of any of the following persons:

(1) That buyer or renter.

(2) A person residing in or intending to reside in that dwelling after it is sold, rented, or made available.

(3) A person associated with that buyer or renter.

b. A person shall not discriminate against another person in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with the dwelling because of a disability of any of the following persons:

(1) That person.

(2) A person residing in or intending to reside in that dwelling after it is sold, rented, or made available.

(3) A person associated with that person.

c. For the purposes of this subsection only, discrimination includes any of the following circumstances:

(1) A refusal to permit, at the expense of the person with a disability, reasonable modifications of existing premises occupied or to be occupied by the person if the modifications are necessary to afford the person full enjoyment of the premises. However, it is not discrimination for a landlord, in the case of a rental and where reasonable to do so, to condition permission for a modification on the renter's agreement to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted.

(2) A refusal to make reasonable accommodations in rules, policies, practices, or services, when the accommodations are necessary to afford the person equal opportunity to use and enjoy a dwelling.

(3) In connection with the design and construction of covered multifamily dwellings for first occupancy after January 1, 1992, a failure to design and construct those dwellings in a manner that meets the following requirements:

(a) The public use and common use portions of the dwellings are readily accessible to and usable by persons with disabilities.

(b) All doors designed to allow passage into and within all premises within the dwellings are sufficiently wide to allow passage by persons with disabilities in wheelchairs.

(c) All premises within the dwellings contain the following features of adaptive design:

(i) An accessible route into and through the dwelling.

(ii) Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations.

(iii) Reinforcements in bathroom walls to allow later installation of grab bars.

(iv) Usable kitchens and bathrooms so that a person in a wheelchair can maneuver about the space.

d. Compliance with the appropriate requirements of the American national standard for buildings and facilities providing accessibility and usability for persons with disabilities, commonly cited as "ANSI A 117.1", satisfies the requirements of paragraph "c", subparagraph (3), subparagraph division (c).

e. Nothing in this subsection requires that a dwelling be made available to a person whose tenancy would constitute a direct threat to the health or safety of other persons or whose tenancy would result in substantial physical damage to the property of others.

4. a. A person whose business includes engaging in residential real estate related

transactions shall not discriminate against a person in making a residential real estate related transaction available or in terms or conditions of a residential real estate related transaction because of race, color, creed, sex, sexual orientation, gender identity, religion, national origin, disability, or familial status.

b. For the purpose of this subsection, “*residential real estate related transaction*” means any of the following:

(1) To make or purchase loans or provide other financial assistance to purchase, construct, improve, repair, or maintain a dwelling, or to secure residential real estate.

(2) To sell, broker, or appraise residential real estate.

5. A person shall not deny another person access to, or membership or participation in, a multiple-listing service, real estate brokers’ organization or other service, organization, or facility relating to the business of selling or renting dwellings, or discriminate against a person in terms or conditions of access, membership, or participation in such organization because of race, color, creed, sex, sexual orientation, gender identity, religion, national origin, disability, or familial status.

91 Acts, ch 184, §3

CS91, §601A.8A

C93, §216.8A

96 Acts, ch 1129, §28, 113; 2007 Acts, ch 191, §8 – 10; 2009 Acts, ch 41, §263; 2009 Acts, ch 133, §82

Referred to in §216.2, 216.11A, 216.12, 216.12A, 216.15A, 216.16A

216.8B Assistance animals and service animals in housing — penalty.

1. For purposes of this section, unless the context otherwise requires:

a. “*Assistance animal*” means an animal that qualifies as a reasonable accommodation under the federal Fair Housing Act, 42 U.S.C. §3601 et seq., as amended, or section 504 of the federal Rehabilitation Act of 1973, 29 U.S.C. §794, as amended.

b. “*Service animal*” means a dog or miniature horse as set forth in the implementing regulations of Tit. II and Tit. III of the federal Americans with Disabilities Act of 1990, 42 U.S.C. §12101 et seq.

2. A landlord shall waive lease restrictions and additional payments normally required for pets on the keeping of animals for the assistance animal or service animal of a person with a disability.

3. A renter is liable for damage done to any dwelling by an assistance animal or service animal.

4. A person who knowingly denies or interferes with the right of a person with a disability under this section is, upon conviction, guilty of a simple misdemeanor.

2019 Acts, ch 65, §2

Referred to in §216.2, 216.8C

216.8C Finding of disability and need for an assistance animal or service animal in housing.

1. A licensee under chapter 148, 148C, 152, 154B, 154C, or 154D whose assistance is requested by a patient or client seeking a finding that an assistance animal or service animal as defined in section 216.8B, subsection 1, is a reasonable accommodation in housing shall make a written finding regarding whether the patient or client has a disability and, if a disability is found, a separate written finding regarding whether the need for an assistance animal or service animal is related to the disability.

2. A licensee under chapter 148, 148C, 152, 154B, 154C, or 154D shall not make a finding under subsection 1 unless all of the following circumstances are present:

a. The licensee has met with the patient or client in person or by telemedicine.

b. The licensee is sufficiently familiar with the patient or client and the disability.

c. The licensee is legally and professionally qualified to make the finding.

3. The commission, in consultation with the consumer protection division of the office of the attorney general, shall adopt rules regarding the making of a written finding by licensees under this section. The rules shall include a form for licensees to document the

licensees' written finding. The form shall recite this section's requirements and comply with the federal Fair Housing Act, 42 U.S.C. §3601 et seq., as amended, and section 504 of the federal Rehabilitation Act of 1973, 29 U.S.C. §794, as amended. The form must contain only two questions regarding the qualifications of the patient or client, which shall be whether a person has a disability and whether the need for an assistance animal or service animal is related to the disability. The form must indicate that the responses must be limited to "yes" or "no". The form must not allow for additional detail.

4. A person who, in the course of employment, is asked to make a finding of disability and disability-related need for an assistance animal or service animal shall utilize the form created by the commission to document the person's written finding.

5. A landlord may deny a request for an exception to a pet policy if a person, who does not have a readily apparent disability, or a disability known to the landlord, fails to provide documentation indicating that the person has a disability and the person has a disability-related need for an assistance animal or service animal.

6. This section does not limit the means by which a person with a disability may demonstrate, pursuant to state or federal law, that the person has a disability or that the person has a disability-related need for an assistance animal or service animal.

2019 Acts, ch 65, §3, 9, 10

216.9 Unfair or discriminatory practices — education.

1. It is an unfair or discriminatory practice for any educational institution to discriminate on the basis of race, creed, color, sex, sexual orientation, gender identity, national origin, religion, or disability in any program or activity. Such discriminatory practices shall include but not be limited to the following practices:

a. Exclusion of a person or persons from participation in, denial of the benefits of, or subjection to discrimination in any academic, extracurricular, research, occupational training, or other program or activity except athletic programs;

b. Denial of comparable opportunity in intramural and interscholastic athletic programs;

c. Discrimination among persons in employment and the conditions of employment;

d. On the basis of sex, the application of any rule concerning the actual or potential parental, family or marital status of a person, or the exclusion of any person from any program or activity or employment because of pregnancy or related conditions dependent upon the physician's diagnosis and certification.

2. For the purpose of this section, "*educational institution*" includes any preschool, elementary or secondary school, community college, area education agency, or postsecondary college or university and their governing boards. This section does not prohibit an educational institution from maintaining separate toilet facilities, locker rooms, or living facilities for the different sexes so long as comparable facilities are provided. Nothing in this section shall be construed as prohibiting any bona fide religious institution from imposing qualifications based on religion, sexual orientation, or gender identity when such qualifications are related to a bona fide religious purpose or any institution from admitting students of only one sex.

[C79, 81, §601A.9]

85 Acts, ch 214, §1; 86 Acts, ch 1245, §1496; 90 Acts, ch 1253, §121

C93, §216.9

2007 Acts, ch 191, §11, 12; 2008 Acts, ch 1032, §36

Referred to in §216.2, 260C.5

216.10 Unfair credit practices.

1. It shall be an unfair or discriminatory practice for any:

a. Creditor to refuse to enter into a consumer credit transaction or impose finance charges or other terms or conditions more onerous than those regularly extended by that creditor to consumers of similar economic backgrounds because of age, color, creed, national origin, race, religion, marital status, sex, sexual orientation, gender identity, physical disability, or familial status.

b. Person authorized or licensed to do business in this state pursuant to chapter 524, 533,

536, or 536A to refuse to loan or extend credit or to impose terms or conditions more onerous than those regularly extended to persons of similar economic backgrounds because of age, color, creed, national origin, race, religion, marital status, sex, sexual orientation, gender identity, physical disability, or familial status.

c. Creditor to refuse to offer credit life or health and accident insurance because of color, creed, national origin, race, religion, marital status, age, physical disability, sex, sexual orientation, gender identity, or familial status. Refusal by a creditor to offer credit life or health and accident insurance based upon the age or physical disability of the consumer shall not be an unfair or discriminatory practice if such denial is based solely upon bona fide underwriting considerations not prohibited by Title XIII, subtitle 1.

2. The provisions of this section shall not be construed by negative implication or otherwise to narrow or restrict any other provisions of this chapter.

[C75, 77, §601A.9; C79, 81, §601A.10]

90 Acts, ch 1212, §1

C93, §216.10

2007 Acts, ch 191, §13; 2012 Acts, ch 1017, §57

Referred to in §216.2

See also §507B.4 and 537.3311

216.11 Aiding, abetting, or retaliation.

It shall be an unfair or discriminatory practice for:

1. Any person to intentionally aid, abet, compel, or coerce another person to engage in any of the practices declared unfair or discriminatory by this chapter.

2. Any person to discriminate or retaliate against another person in any of the rights protected against discrimination by this chapter because such person has lawfully opposed any practice forbidden under this chapter, obeys the provisions of this chapter, or has filed a complaint, testified, or assisted in any proceeding under this chapter.

[C66, 71, §105A.8; C73, §601A.8; C75, 77, §601A.10; C79, 81, §601A.11]

91 Acts, ch 94, §1

C93, §216.11

Referred to in §216.2, 216.15A, 216.16A

216.11A Interference, coercion, or intimidation.

It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, on account of the person having exercised or enjoyed, or on account of the person having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by section 216.8, 216.8A, or 216.15A.

91 Acts, ch 184, §4

CS91, §601A.11A

92 Acts, ch 1129, §5

C93, §216.11A

Referred to in §216.2, 216.15A, 216.16A

216.12 Exceptions.

1. The provisions of sections 216.8 and 216.8A shall not apply to:

a. Any bona fide religious institution with respect to any qualifications it may impose based on religion, sexual orientation, or gender identity, when the qualifications are related to a bona fide religious purpose unless the religious institution owns or operates property for a commercial purpose or membership in the religion is restricted on account of race, color, or national origin.

b. The rental or leasing of a dwelling in a building which contains housing accommodations for not more than two families living independently of each other, if the owner resides in one of the housing accommodations.

c. The rental or leasing of less than four rooms within a single dwelling by the occupant or owner of the dwelling, if the occupant or owner resides in the dwelling.

d. Discrimination on the basis of familial status involving dwellings provided under any state or federal program specifically designed and operated to assist elderly persons, as

defined in the state or federal program that the commission determines to be consistent with determinations made by the United States secretary of housing and urban development, and housing for older persons. As used in this paragraph, “housing for older persons” means housing communities consisting of dwellings intended for either of the following:

(1) For eighty percent occupancy by at least one person fifty-five years of age or older per unit, and providing significant facilities and services specifically designed to meet the physical or social needs of the persons and the housing facility must publish and adhere to policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons fifty-five years of age or older.

(2) For and occupied solely by persons sixty-two years of age or older.

e. The rental or leasing of a housing accommodation in a building which contains housing accommodations for not more than four families living independently of each other, if the owner resides in one of the housing accommodations for which the owner qualifies for the homestead tax credit under section 425.1.

f. Discrimination on the basis of sex involving the rental, leasing, or subleasing of a dwelling within which residents of both sexes would be forced to share a living area.

2. The exceptions to the requirements of sections 216.8 and 216.8A provided for dwellings specified in subsection 1, paragraphs “b”, “c”, and “e”, do not apply to advertising related to those dwellings.

[C71, §105A.14; C73, §601A.14; C75, 77, §601A.11; C79, 81, §601A.12]

89 Acts, ch 205, §3, 4; 91 Acts, ch 184, §5 – 7; 92 Acts, ch 1129, §6 – 9

C93, §216.12

95 Acts, ch 129, §5 – 7; 2007 Acts, ch 191, §14

216.12A Additional housing exception.

Sections 216.8 and 216.8A do not prohibit a person engaged in the business of furnishing appraisals of real estate from taking into consideration factors other than race, color, creed, sex, sexual orientation, gender identity, religion, national origin, disability, or familial status in appraising real estate.

91 Acts, ch 184, §8

CS91, §601A.12A

92 Acts, ch 1129, §10

C93, §216.12A

2007 Acts, ch 191, §15

216.13 Exceptions for retirement plans, abortion coverage, life, disability, and health benefits.

The provisions of this chapter relating to discrimination because of age do not apply to a retirement plan or benefit system of an employer unless the plan or system is a mere subterfuge adopted for the purpose of evading this chapter.

1. However, a retirement plan or benefit system shall not require the involuntary retirement of a person under the age of seventy because of that person’s age. This subsection does not prohibit the involuntary retirement of a person who has attained the age of sixty-five and has for the two prior years been employed in a bona fide executive or high policymaking position and who is entitled to an immediate, nonforfeitable annual retirement benefit from a pension, profit-sharing, savings, or deferred compensation plan of the employer which equals twenty-seven thousand dollars. This retirement benefit test may be adjusted according to the regulations prescribed by the United States secretary of labor pursuant to Pub. L. No. 95-256, section 3.

2. A health insurance program provided by an employer may exclude coverage of abortion, except where the life of the mother would be endangered if the fetus were carried to term or where medical complications have arisen from an abortion.

3. An employee welfare plan may provide life, disability or health insurance benefits which vary by age based on actuarial differences if the employer contributes equally for all

the participating employees or may provide for employer contributions differing by age if the benefits for all the participating employees do not vary by age.

[C71, §105A.15; C73, §601A.15; C75, 77, §601A.12; C79, 81, §601A.13]

84 Acts, ch 1011, §1

C93, §216.13

2006 Acts, ch 1010, §65; 2018 Acts, ch 1026, §69

216.14 Promotion or transfer.

After a person with a disability is employed, the employer shall not be required under this chapter to promote or transfer the person to another job or occupation, unless, prior to the transfer, the person with the disability, by training or experience, is qualified for the job or occupation. Any collective bargaining agreement between an employer and labor organization shall contain this section as part of the agreement.

[C73, §601A.16; C75, 77, §601A.13; C79, 81, §601A.14]

C93, §216.14

96 Acts, ch 1129, §29

216.15 Complaint — hearing.

1. Any person claiming to be aggrieved by a discriminatory or unfair practice may, in person or by an attorney, make, sign, and file with the commission a verified, written complaint which shall state the name and address of the person, employer, employment agency, or labor organization alleged to have committed the discriminatory or unfair practice of which complained, shall set forth the particulars thereof, and shall contain such other information as may be required by the commission. The commission, a commissioner, or the attorney general may in like manner make, sign, and file such complaint.

2. Any place of public accommodation, employer, labor organization, or other person who has any employees or members who refuse or threaten to refuse to comply with the provisions of this chapter may file with the commission a verified written complaint in triplicate asking the commission for assistance to obtain their compliance by conciliation or other remedial action.

3. a. After the filing of a verified complaint, a true copy shall be served within twenty days on the person against whom the complaint is filed, except as provided in subsection 4. An authorized member of the commission staff shall make a prompt investigation and shall issue a recommendation to an administrative law judge employed either by the commission or by the division of administrative hearings created by section 10A.801, who shall then issue a determination of probable cause or no probable cause.

b. For purposes of this chapter, an administrative law judge issuing a determination of probable cause or no probable cause under this section is exempt from section 17A.17.

c. If the administrative law judge concurs with the investigating official that probable cause exists regarding the allegations of the complaint, the staff of the commission shall promptly endeavor to eliminate the discriminatory or unfair practice by conference, conciliation, and persuasion. If the administrative law judge finds that no probable cause exists, the administrative law judge shall issue a final order dismissing the complaint and shall promptly mail a copy to the complainant and to the respondent. A finding of probable cause shall not be introduced into evidence in an action brought under section 216.16.

d. The commission staff must endeavor to eliminate the discriminatory or unfair practice by conference, conciliation, and persuasion for a period of thirty days following the initial conciliation meeting between the respondent and the commission staff after a finding of probable cause. After the expiration of thirty days, the director may order the conciliation conference and persuasion procedure provided in this section to be bypassed when the director determines the procedure is unworkable by reason of past patterns and practices of the respondent, or a statement by the respondent that the respondent is unwilling to continue with the conciliation. The director must have the approval of a commissioner before bypassing the conciliation, conference and persuasion procedure. Upon the bypassing of conciliation, the director shall state in writing the reasons for bypassing.

4. a. The commission may permit service of a complaint on a respondent by regular or

electronic mail. If the respondent does not respond to the service by regular or electronic mail after ninety days, the commission shall serve the complaint on the respondent by certified mail within twenty days after the expiration of the ninety-day response period to service by regular or electronic mail.

b. The commission may also permit a party to file a response to a complaint, a document, information, or other material, by electronic mail.

c. The commission may issue a notice, determination, order, subpoena, request, correspondence, or any other document issued by the commission, by electronic mail.

5. The members of the commission and its staff shall not disclose the filing of a complaint, the information gathered during the investigation, or the endeavors to eliminate such discriminatory or unfair practice by mediation, conference, conciliation, and persuasion, unless such disclosure is made in connection with the conduct of such investigation.

6. When the director is satisfied that further endeavor to settle a complaint by conference, conciliation, and persuasion is unworkable and should be bypassed, and the thirty-day period provided for in subsection 3 has expired without agreement, the director with the approval of a commissioner, shall issue and cause to be served a written notice specifying the charges in the complaint as they may have been amended and the reasons for bypassing conciliation, if the conciliation is bypassed, and requiring the respondent to answer the charges of the complaint at a hearing before the commission, a commissioner, or a person designated by the commission to conduct the hearing, hereafter referred to as the administrative law judge, and at a time and place to be specified in the notice.

7. The case in support of such complaint shall be presented at the hearing by one of the commission's attorneys or agents. The investigating official shall not participate in the hearing except as a witness nor participate in the deliberations of the commission in such case.

8. The hearing shall be conducted in accordance with the provisions of chapter 17A for contested cases. The burden of proof in such a hearing shall be on the commission.

9. If upon taking into consideration all of the evidence at a hearing, the commission determines that the respondent has engaged in a discriminatory or unfair practice, the commission shall state its findings of fact and conclusions of law and shall issue an order requiring the respondent to cease and desist from the discriminatory or unfair practice and to take the necessary remedial action as in the judgment of the commission will carry out the purposes of this chapter. A copy of the order shall be delivered to the respondent, the complainant, and to any other public officers and persons as the commission deems proper.

a. For the purposes of this subsection and pursuant to the provisions of this chapter "remedial action" includes but is not limited to the following:

(1) Hiring, reinstatement or upgrading of employees with or without pay. Interim earned income and unemployment compensation shall operate to reduce the pay otherwise allowable.

(2) Admission or restoration of individuals to a labor organization, admission to or participation in a guidance program, apprenticeship training program, on-the-job training program or other occupational training or retraining program, with the utilization of objective criteria in the admission of individuals to such programs.

(3) Admission of individuals to a public accommodation or an educational institution.

(4) Sale, exchange, lease, rental, assignment or sublease of real property to an individual.

(5) Extension to all individuals of the full and equal enjoyment of the advantages, facilities, privileges, and services of the respondent denied to the complainant because of the discriminatory or unfair practice.

(6) Reporting as to the manner of compliance.

(7) Posting notices in conspicuous places in the respondent's place of business in form prescribed by the commission and inclusion of notices in advertising material.

(8) Payment to the complainant of damages for an injury caused by the discriminatory or unfair practice which damages shall include but are not limited to actual damages, court costs and reasonable attorney fees.

(9) For an unfair or discriminatory practice relating to wage discrimination pursuant to section 216.6A, payment to the complainant of damages for an injury caused by the

discriminatory or unfair practice which damages shall include but are not limited to court costs, reasonable attorney fees, and either of the following:

(a) An amount equal to two times the wage differential paid to another employee compared to the complainant for the period of time for which the complainant has been discriminated against.

(b) In instances of willful violation, an amount equal to three times the wage differential paid to another employee as compared to the complainant for the period of time for which the complainant has been discriminated against.

b. In addition to the remedies provided in the preceding provisions of this subsection, the commission may issue an order requiring the respondent to cease and desist from the discriminatory or unfair practice and to take such affirmative action as in the judgment of the commission will carry out the purposes of this chapter as follows:

(1) In the case of a respondent operating by virtue of a license issued by the state or a political subdivision or agency, if the commission, upon notice to the respondent with an opportunity to be heard, determines that the respondent has engaged in a discriminatory or unfair practice and that the practice was authorized, requested, commanded, performed or knowingly or recklessly tolerated by the board of directors of the respondent or by an officer or executive agent acting within the scope of the officer's or agent's employment, the commission shall so certify to the licensing agency. Unless the commission finding of a discriminatory or unfair practice is reversed in the course of judicial review, the finding of discrimination is binding on the licensing agency. If a certification is made pursuant to this subsection, the licensing agency may initiate licensee disciplinary procedures.

(2) In the case of a respondent who is found by the commission to have engaged in a discriminatory or unfair practice in the course of performing under a contract or subcontract with the state or political subdivision or agency, if the practice was authorized, requested, commanded, performed, or knowingly or recklessly tolerated by the board of directors of the respondent or by an officer or executive agent acting within the scope of the officer's or agent's employment, the commission shall so certify to the contracting agency. Unless the commission's finding of a discriminatory or unfair practice is reversed in the course of judicial review, the finding of discrimination is binding on the contracting agency.

(3) Upon receiving a certification made under this subsection, a contracting agency may take appropriate action to terminate a contract or portion thereof previously entered into with the respondent, either absolutely or on condition that the respondent carry out a program of compliance with the provisions of this chapter; and assist the state and all political subdivisions and agencies thereof to refrain from entering into further contracts.

c. The election of an affirmative order under paragraph "b" of this subsection shall not bar the election of affirmative remedies provided in paragraph "a" of this subsection.

10. a. The terms of a conciliation or mediation agreement reached with the respondent may require the respondent to refrain in the future from committing discriminatory or unfair practices of the type stated in the agreement, to take remedial action as in the judgment of the commission will carry out the purposes of this chapter, and to consent to the entry in an appropriate district court of a consent decree embodying the terms of the conciliation or mediation agreement. Violation of such a consent decree may be punished as contempt by the court in which it is filed, upon a showing by the commission of the violation at any time within six months of its occurrence. At any time in its discretion, the commission may investigate whether the terms of the agreement are being complied with by the respondent.

b. Upon a finding that the terms of the conciliation or mediation agreement are not being complied with by the respondent, the commission shall take appropriate action to assure compliance.

11. If, upon taking into consideration all of the evidence at a hearing, the commission finds that a respondent has not engaged in any such discriminatory or unfair practice, the commission shall issue an order denying relief and stating the findings of fact and conclusions of the commission, and shall cause a copy of the order dismissing the complaint to be served on the complainant and the respondent.

12. The commission shall establish rules to govern, expedite, and effectuate the procedures established by this chapter and its own actions thereunder.

13. Except as provided in section 614.8, a claim under this chapter shall not be maintained unless a complaint is filed with the commission within three hundred days after the alleged discriminatory or unfair practice occurred.

14. The commission or a party to a complaint may request mediation of the complaint at any time during the commission's processing of the complaint. If the complainant and respondent participate in mediation, any mediation agreement may be enforced pursuant to this section. Mediation may be discontinued at the request of any party or the commission.

[C66, 71, §105A.9; C73, §601A.9; C75, 77, §601A.14; C79, 81, §601A.15]

88 Acts, ch 1109, §27, 28

C93, §216.15

95 Acts, ch 129, §8 – 11; 98 Acts, ch 1202, §36, 46; 2005 Acts, ch 23, §1 – 3; 2007 Acts, ch 110, §1; 2008 Acts, ch 1028, §1; 2009 Acts, ch 96, §3; 2009 Acts, ch 178, §25, 26

Referred to in §216.15A, 216.16, 216.16A, 216.17

216.15A Additional proceedings — housing discrimination.

1. a. The commission may join a person not named in the complaint as an additional or substitute respondent if in the course of the investigation, the commission determines that the person should be alleged to have committed a discriminatory housing or real estate practice.

b. In addition to the information required in the notice, the commission shall include in a notice to a respondent joined under this subsection an explanation of the basis for the determination under this subsection that the person is properly joined as a respondent.

2. a. The commission shall, during the period beginning with the filing of a complaint and ending with the filing of a charge or a dismissal by the commission, to the extent feasible, engage in mediation with respect to the complaint.

b. A mediation agreement is an agreement between a respondent and the complainant and is subject to commission approval.

c. A mediation agreement may provide for binding arbitration or other method of dispute resolution. Dispute resolution that results from a mediation agreement may authorize appropriate relief, including monetary relief.

d. A mediation agreement shall be made public unless the complainant and respondent agree otherwise, and the commission determines that disclosure is not necessary to further the purposes of this chapter relating to unfair or discriminatory practices in housing or real estate.

e. The proceedings or results of mediation shall not be made public or used as evidence in a subsequent proceeding under this chapter without the written consent of the persons who are party to the mediation.

f. After the completion of the commission's investigation, the commission shall make available to the aggrieved person and the respondent information derived from the investigation and the final investigation report relating to that investigation.

g. When the commission has reasonable cause to believe that a respondent has breached a mediation agreement, the commission shall refer this matter to an assistant attorney general with a recommendation that a civil action be filed for the enforcement of the agreement. The assistant attorney general may commence a civil action in the appropriate district court not later than the expiration of ninety days after referral of the breach.

3. a. If the commission concludes, following the filing of a complaint, that prompt judicial action is necessary to carry out the purposes of this chapter relating to unfair or discriminatory housing or real estate practices, the commission may authorize a civil action for appropriate temporary or preliminary relief pending final disposition of the complaint.

b. On receipt of the commission's authorization, the attorney general shall promptly file the action.

c. A temporary restraining order or other order granting preliminary or temporary relief under this section is governed by the applicable Iowa rules of civil procedure.

d. The filing of a civil action under this section does not affect the initiation or continuation of administrative proceedings in regard to an administrative hearing.

4. a. The commission shall prepare a final investigative report.

b. A final report under this section may be amended by the commission if additional evidence is discovered.

5. a. The commission shall determine based on the facts whether probable cause exists to believe that a discriminatory housing or real estate practice has occurred or is about to occur.

b. The commission shall make its determination under paragraph "a" not later than one hundred days after a complaint is filed unless any of the following applies:

(1) It is impracticable to make the determination within that time period.

(2) The commission has approved a mediation agreement relating to the complaint.

c. If it is impracticable to make the determination within the time period provided by paragraph "b", the commission shall notify the complainant and respondent in writing of the reasons for the delay.

d. If the commission determines that probable cause exists to believe that a discriminatory housing or real estate practice has occurred or is about to occur, the commission shall immediately issue a determination unless the commission determines that the legality of a zoning or land use law or ordinance is involved as provided in subsection 7.

6. a. A determination issued under subsection 5 must include all of the following:

(1) Must consist of a short and plain statement of the facts on which the commission has found probable cause to believe that a discriminatory housing or real estate practice has occurred or is about to occur.

(2) Must be based on the final investigative report.

(3) Need not be limited to the facts or grounds alleged in the complaint.

b. Not later than twenty days after the commission issues a determination, the commission shall send a copy of the determination with information concerning the election under section 216.16A to all of the following persons:

(1) Each respondent, together with a notice of the opportunity for a hearing as provided under subsection 10.

(2) Each aggrieved person on whose behalf the complaint was filed.

7. If the commission determines that the matter involves the legality of a state or local zoning or other land use ordinance, the commission shall not issue a determination and shall immediately refer the matter to the attorney general for appropriate action.

8. a. If the commission determines that no probable cause exists to believe that a discriminatory housing or real estate practice has occurred or is about to occur, the commission shall promptly dismiss the complaint.

b. The commission shall make public disclosure of each dismissal under this section.

9. The commission shall not issue a determination under this section regarding an alleged discriminatory housing or real estate practice after the beginning of the trial of a civil action commenced by the aggrieved party under federal or state law seeking relief with respect to that discriminatory housing or real estate practice.

10. a. If a timely election is not made under section 216.16A, the commission shall provide for a hearing on the charges in the complaint.

b. Except as provided by paragraph "c", the hearing shall be conducted in accordance with chapter 17A for contested cases.

c. A hearing under this section shall not be continued regarding an alleged discriminatory housing or real estate practice after the beginning of the trial of a civil action commenced by the aggrieved person under federal or state law seeking relief with respect to that discriminatory housing or real estate practice.

11. a. If the commission determines at a hearing under subsection 10 that a respondent has engaged or is about to engage in a discriminatory housing or real estate practice, the commission may order the appropriate relief, including actual damages, reasonable attorney fees, court costs, and other injunctive or equitable relief.

b. To vindicate the public interest, the commission may assess a civil penalty against the respondent in an amount that does not exceed the following applicable amount:

(1) Ten thousand dollars if the respondent has not been adjudged by the order of the commission or a court to have committed a prior discriminatory housing or real estate practice.

(2) Except as provided by paragraph "c", twenty-five thousand dollars if the respondent

has been adjudged by order of the commission or a court to have committed one other discriminatory housing or real estate practice during the five-year period ending on the date of the filing of the complaint.

(3) Except as provided by paragraph “c”, fifty thousand dollars if the respondent has been adjudged by order of the commission or a court to have committed two or more discriminatory housing or real estate practices during the seven-year period ending on the date of the filing of the complaint.

c. If the acts constituting the discriminatory housing or real estate practice that is the object of the complaint are committed by the same natural person who has been previously adjudged to have committed acts constituting a discriminatory housing or real estate practice, the civil penalties in paragraph “b”, subparagraphs (2) and (3) may be imposed without regard to the period of time within which any other discriminatory housing or real estate practice occurred.

d. At the request of the commission, the attorney general shall initiate legal proceedings to recover a civil penalty due under this section. Funds collected under this section shall be paid to the treasurer of state for deposit in the state treasury to the credit of the general fund.

12. This section applies only to the following:

a. Complaints which allege a violation of the prohibitions contained in section 216.8 or 216.8A.

b. Complaints which allege a violation of section 216.11 or 216.11A arising out of alleged violations of the prohibitions contained in section 216.8 or 216.8A.

13. If a provision of this section applies under the terms of subsection 12, and the provision of this section conflicts with a provision of section 216.15, then the provision contained within this section shall prevail. Similarly, if a provision of section 216.16A or 216.17A conflicts with a provision of section 216.16 or 216.17, then the provision contained in section 216.16A or 216.17A shall prevail.

91 Acts, ch 184, §9

CS91, §601A.15A

92 Acts, ch 1129, §11, 12; 92 Acts, ch 1163, §108

C93, §216.15A

2001 Acts, ch 24, §38

Referred to in §216.11A, 216.16A, 216.17, 216.17A

216.15B Formal mediation — confidentiality.

1. A mediator may be designated in writing by the commission to conduct formal mediation of a complaint filed under this chapter. The written designation must specifically refer to this section.

2. If formal mediation is conducted by a mediator pursuant to this section, the confidentiality of all mediation communications is protected as provided in section 679C.108.

95 Acts, ch 129, §12; 98 Acts, ch 1062, §10; 99 Acts, ch 114, §12; 2001 Acts, ch 71, §1; 2005 Acts, ch 68, §3

Referred to in §22.7(31)

216.16 Sixty-day administrative release.

1. A person claiming to be aggrieved by an unfair or discriminatory practice must initially seek an administrative relief by filing a complaint with the commission in accordance with section 216.15. This provision also applies to persons claiming to be aggrieved by an unfair or discriminatory practice committed by the state or an agency or political subdivision of the state, notwithstanding the terms of the Iowa administrative procedure Act, chapter 17A.

2. After the proper filing of a complaint with the commission, a complainant may subsequently commence an action for relief in the district court if all of the following conditions have been satisfied:

a. The complainant has timely filed the complaint with the commission as provided in section 216.15, subsection 13.

b. The complaint has been on file with the commission for at least sixty days and the commission has issued a release to the complainant pursuant to subsection 3.

3. *a.* Upon a request by the complainant, and after the expiration of sixty days from the timely filing of a complaint with the commission, the commission shall issue to the complainant a release stating that the complainant has a right to commence an action in the district court. A release under this subsection shall not be issued if any of the following apply:

(1) A finding of no probable cause has been made on the complaint by the administrative law judge charged with that duty under section 216.15, subsection 3.

(2) A conciliation agreement has been executed under section 216.15.

(3) The commission has served notice of hearing upon the respondent pursuant to section 216.15, subsection 6.

(4) The complaint is closed as an administrative closure and two years have elapsed since the issuance date of the closure.

b. Notwithstanding section 216.15, subsection 5, a party may obtain a copy of all documents contained in a case file where the commission has issued a release to the complainant pursuant to this subsection.

4. An action authorized under this section is barred unless commenced within ninety days after issuance by the commission of a release under subsection 3. If a complainant obtains a release from the commission under subsection 3, the commission is barred from further action on that complaint.

5. Venue for an action under this section shall be in the county in which the respondent resides or has its principal place of business, or in the county in which the alleged unfair or discriminatory practice occurred.

6. The district court may grant any relief in an action under this section which is authorized by section 216.15, subsection 9, to be issued by the commission. The district court may also award the respondent reasonable attorney fees and court costs when the court finds that the complainant's action was frivolous.

7. It is the legislative intent of this chapter that every complaint be at least preliminarily screened during the first one hundred twenty days.

8. This section does not authorize administrative closures if an investigation is warranted. [C79, 81, §601A.16]

84 Acts, ch 1096, §2; 85 Acts, ch 197, §10; 86 Acts, ch 1245, §263; 88 Acts, ch 1109, §29; 90 Acts, ch 1040, §1, 2

C93, §216.16

2003 Acts, ch 44, §114; 2009 Acts, ch 41, §221; 2009 Acts, ch 133, §83

Referred to in §216.15, 216.15A, 216.19

For provision governing conflicts between this section and section 216.16A, see §216.15A, subsection 13

216.16A Civil action elected — housing.

1. *a.* A complainant, a respondent, or an aggrieved person on whose behalf the complaint was filed may elect to have the charges asserted in the complaint decided in a civil action as provided by section 216.17A.

b. The election must be made not later than twenty days after the date of receipt by the electing person of service under section 216.15A, subsection 5, or in the case of the commission, not later than twenty days after the date the determination was issued.

c. The person making the election shall give notice to the commission and to all other complainants and respondents to whom the election relates.

d. The election to have the charges of a complaint decided in a civil action as provided in paragraph "a" is only available if one of the following is alleged:

(1) It is alleged that there has been a violation of section 216.8 or 216.8A.

(2) It is alleged that there has been a violation of section 216.11 or 216.11A arising out of an alleged violation of the prohibitions contained in section 216.8 or 216.8A.

2. *a.* An aggrieved person may file a civil action in district court not later than two years after the occurrence of the termination of an alleged discriminatory housing or real estate practice, or the breach of a mediation agreement entered into under this chapter, whichever occurs last, to obtain appropriate relief with respect to the discriminatory housing or real estate practice or breach.

b. The two-year period does not include any time during which an administrative hearing under this chapter is pending with respect to a complaint or charge based on the discriminatory housing or real estate practice. This subsection does not apply to actions arising from a breach of a mediation agreement.

c. An aggrieved person may file an action under this subsection whether or not a discriminatory housing or real estate complaint has been filed under section 216.15, and without regard to the status of any discriminatory housing or real estate complaint filed under that section.

d. If the commission has obtained a mediation agreement with the consent of an aggrieved person, the aggrieved person shall not file an action under this subsection with respect to the alleged discriminatory practice that forms the basis for the complaint except to enforce the terms of the agreement.

e. An aggrieved person shall not file an action under this subsection with respect to an alleged discriminatory housing or real estate practice that forms the basis of a charge issued by the commission if the commission has begun a hearing on the record under this chapter with respect to the charge.

f. In an action filed in district court under this subsection, the court may, upon a finding of discrimination, order any of the remedies provided for in section 216.17A, subsection 6.

91 Acts, ch 184, §10

CS91, §601A.16A

92 Acts, ch 1129, §13, 14

C93, §216.16A

95 Acts, ch 129, §13, 14

Referred to in §216.15A, 216.17A

216.17 Judicial review — enforcement.

1. a. Judicial review of the actions of the commission may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A. Notwithstanding the terms of said Act, petition for judicial review may be filed in the district court in which an enforcement proceeding under subsection 2 may be brought.

b. For purposes of the time limit for filing a petition for judicial review under the Iowa administrative procedure Act, chapter 17A, specified by section 17A.19, the issuance of a final decision of the commission under this chapter occurs on the date notice of the decision is mailed to the parties.

c. Notwithstanding the time limit provided in section 17A.19, subsection 3, a petition for judicial review of no-probable-cause decisions and other final agency actions which are not of general applicability must be filed within thirty days of the issuance of the final agency action.

2. The commission may obtain an order of court for the enforcement of commission orders in a proceeding as provided in this section. Such an enforcement proceeding shall be brought in the district court of the district in the county in which the alleged discriminatory or unfair practice which is the subject of the commission's order was committed, or in which any respondent required in the order to cease or desist from a discriminatory or unfair practice or to take other affirmative action, resides, or transacts business.

3. Such an enforcement proceeding shall be initiated by the filing of a petition in such court and the service of a copy thereof upon the respondent. Thereupon the commission shall file with the court a transcript of the record of the hearing before it. The court shall have power to grant such temporary relief or restraining order as it deems just and proper, and to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript an order enforcing, modifying, and enforcing as so modified, or setting aside the order of the commission, in whole or in part.

4. An objection that has not been urged before the commission shall not be considered by the court in an enforcement proceeding, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances.

5. Any party to the enforcement proceeding may move the court to remit the case to the commission in the interests of justice for the purpose of adducing additional specified and

material evidence and seeking findings thereof, providing such party shall show reasonable grounds for the failure to adduce such evidence before the commission.

6. In the enforcement proceeding the court shall determine its order on the same basis as it would in a proceeding reviewing commission action under section 17A.19.

7. The commission's copy of the testimony shall be available to all parties for examination at all reasonable times, without cost, and for the purpose of judicial review of the commission's orders.

8. The commission may appear in court by its own attorney.

9. Petitions filed under this section shall be heard expeditiously and determined upon the transcript filed without requirement for printing.

10. If no proceeding to obtain judicial review is instituted within thirty days from the issuance of an order of the commission under section 216.15 or 216.15A, the commission may obtain an order of the court for the enforcement of the order upon showing that respondent is subject to the jurisdiction of the commission and resides or transacts business within the county in which the petition for enforcement is brought.

[C66, 71, §105A.10; C73, §601A.10; C75, 77, §601A.15; C79, 81, §601A.17]

83 Acts, ch 57, §1; 92 Acts, ch 1129, §15

C93, §216.17

98 Acts, ch 1202, §37, 46; 2003 Acts, ch 44, §114; 2005 Acts, ch 23, §4; 2009 Acts, ch 41, §263

Referred to in §216.15A, 216.19

For provision governing conflicts between this section and section 216.17A, see §216.15A, subsection 13

216.17A Civil proceedings — housing.

1. *a.* If timely election is made under section 216.16A, subsection 1, the commission shall authorize, and not later than thirty days after the election is made, the attorney general shall file a civil action on behalf of the aggrieved person in a district court seeking relief.

b. Venue for an action under this section is in the county in which the respondent resides or has its principal place of business, or in the county in which the alleged discriminatory housing or real estate practice occurred.

c. An aggrieved person may intervene in the action.

d. If the district court finds that a discriminatory housing or real estate practice has occurred or is about to occur, the district court may grant as relief any relief that a court may grant in a civil action under subsection 6.

e. If monetary relief is sought for the benefit of an aggrieved person who does not intervene in the civil action, the district court shall not award the monetary relief if that aggrieved person has not complied with discovery orders entered by the district court.

2. A commission order under section 216.15A, subsection 11, and a commission order that has been substantially affirmed by judicial review, do not affect a contract, sale, encumbrance, or lease that was consummated before the commission issued the order and involved a bona fide purchaser, encumbrancer, or tenant who did not have actual notice of the charge issued under this chapter.

3. If the commission issues an order with respect to a discriminatory housing practice that occurred in the course of a business subject to a licensing or regulation by a governmental agency, the commission, not later than thirty days after the date of issuance of the order, shall do all of the following:

a. Send copies of the findings and the order to the governmental agency.

b. Recommend to the governmental agency appropriate disciplinary action.

4. If the commission issues an order against a respondent against whom another order was issued within the preceding five years under section 216.15A, subsection 11, the commission shall send a copy of each order issued under that section to the attorney general.

5. On application by a person alleging a discriminatory housing practice or by a person against whom a discriminatory practice is alleged, the district court may appoint an attorney for the person.

6. In an action under subsection 1 and section 216.16A, subsection 2, if the district court finds that a discriminatory housing or real estate practice has occurred or is about to occur, the district court may award or issue to the plaintiff one or more of the following:

a. Actual and punitive damages.
 b. Reasonable attorney's fees.
 c. Court costs.
 d. Subject to subsection 7, any permanent or temporary injunction, temporary restraining order, or other order, including an order enjoining the defendant from engaging in the practice or ordering appropriate affirmative action.

7. Relief granted under this section does not affect a contract, sale, encumbrance, or lease that was consummated before the granting of the relief and involved a bona fide purchaser, encumbrancer, or tenant who did not have actual notice of the filing of a complaint under this chapter or a civil action under this section.

8. a. On the request of the commission, the attorney general may intervene in an action under section 216.16A, subsection 2, if the commission certifies that the case is of general public importance.

b. The attorney general may obtain the same relief available to the attorney general under subsection 9.

9. a. On the request of the commission, the attorney general may file a civil action in district court for appropriate relief if the commission has reasonable cause to believe that any of the following applies:

(1) A person is engaged in a pattern or practice of resistance to the full enjoyment of any housing right granted by this chapter.

(2) A person has been denied any housing right granted by this chapter and that denial raises an issue of general public importance.

b. In an action under this subsection and subsection 8, the district court may do any of the following:

(1) Order preventive relief, including a permanent or temporary injunction, restraining order, or other order against the person responsible for a violation of housing rights as necessary to assure the full enjoyment of the housing rights granted by this chapter.

(2) Order another appropriate relief, including the awarding of monetary damages, reasonable attorney's fees, and court costs.

(3) To vindicate the public interest, assess a civil penalty against the respondent in an amount that does not exceed any of the following:

(a) Fifty thousand dollars for a first violation.

(b) One hundred thousand dollars for a second or subsequent violation.

c. A person may intervene in an action under this section if the person is any of the following:

(1) An aggrieved person to the discriminatory housing or real estate practice.

(2) A party to a mediation agreement concerning the discriminatory housing or real estate practice.

10. The attorney general, on behalf of the commission or other party at whose request a subpoena is issued, may enforce the subpoena in appropriate proceedings in district court.

11. A court in a civil action brought under this section or the commission in an administrative hearing under section 216.15A, subsection 11, may award reasonable attorney's fees to the prevailing party and assess court costs against the nonprevailing party.

91 Acts, ch 184, §11

CS91, §601A.17A

92 Acts, ch 1129, §16, 17

C93, §216.17A

95 Acts, ch 129, §15 – 17

Referred to in §216.15A, 216.16A

216.18 Rules of construction.

1. This chapter shall be construed broadly to effectuate its purposes.

2. This chapter shall not be construed to allow marriage between persons of the same sex, in accordance with chapter 595.

[C66, 71, §105A.11; C73, §601A.11; C75, 77, §601A.16; C79, 81, §601A.18]
C93, §216.18
2009 Acts, ch 133, §192

216.19 Local laws implementing this chapter.

1. All cities shall, to the extent possible, protect the rights of the citizens of this state secured by the Iowa civil rights Act. Nothing in this chapter shall be construed as indicating any of the following:

a. An intent on the part of the general assembly to occupy the field in which this chapter operates to the exclusion of local laws not inconsistent with this chapter that deal with the same subject matter.

b. An intent to prohibit an agency or commission of local government having as its purpose the investigation and resolution of violations of this chapter from developing procedures and remedies necessary to insure the protection of rights secured by this chapter.

c. Limiting a city or local government from enacting any ordinance or other law which prohibits broader or different categories of unfair or discriminatory practices.

2. A city with a population of twenty-nine thousand, or greater, shall maintain an independent local civil rights agency or commission consistent with commission rules adopted pursuant to chapter 17A. An agency or commission for which a staff is provided shall have control over such staff. A city required to maintain a local civil rights agency or commission shall structure and adequately fund the agency or commission in order to effect cooperative undertakings with the Iowa civil rights commission and to aid in effectuating the purposes of this chapter.

3. An agency or commission of local government and the Iowa civil rights commission shall cooperate in the sharing of data and research, and coordinating investigations and conciliations in order to expedite claims of unlawful discrimination and eliminate needless duplication. The Iowa civil rights commission may enter into cooperative agreements with any local agency or commission to effectuate the purposes of this chapter. Such agreements may include technical and clerical assistance and reimbursement of expenses incurred by the local agency or commission in the performance of the agency's or commission's duties if funds for this purpose are appropriated by the general assembly.

4. The Iowa civil rights commission may designate an unfunded local agency or commission as a referral agency. A local agency or commission shall not be designated a referral agency unless the ordinance creating it provides the same rights and remedies as are provided in this chapter. The Iowa civil rights commission shall establish by rules the procedures for designating a referral agency and the qualifications to be met by a referral agency.

5. The Iowa civil rights commission may adopt rules establishing the procedures for referral of complaints. A referral agency may refuse to accept a case referred to it by the Iowa civil rights commission if the referral agency is unable to effect proper administration of the complaint. It shall be the burden of the referral agency to demonstrate that it is unable to properly administer that complaint.

6. A complainant who files a complaint with a referral agency having jurisdiction shall be prohibited from filing a complaint with the Iowa civil rights commission alleging violations based upon the same acts or practices cited in the original complaint; and a complainant who files a complaint with the commission shall be prohibited from filing a complaint with the referral agency alleging violations based upon the same acts or practices cited in the original complaint. However, the Iowa civil rights commission in its discretion may refer a complaint filed with the commission to a referral agency having jurisdiction over the parties for investigation and resolution; and a referral agency in its discretion may refer a complaint filed with that agency to the commission for investigation and resolution.

7. A final decision by a referral agency shall be subject to judicial review as provided in section 216.17 in the same manner and to the same extent as a final decision of the Iowa civil rights commission.

8. The referral of a complaint by the Iowa civil rights commission to a referral agency or by a referral agency to the Iowa civil rights commission shall not affect the right of a complainant to commence an action in the district court under section 216.16.

[C66, 71, §105A.12; C73, §601A.12; C75, 77, §601A.17; C79, 81, §601A.19]

90 Acts, ch 1166, §1

C93, §216.19

2009 Acts, ch 133, §214

216.20 Effect on other law.

1. This chapter does not affect:

a. A reasonable local or state restriction on the maximum number of occupants permitted to occupy a dwelling.

b. Tenancy of an individual that would constitute a direct threat to the health or safety of other individuals or tenancy that would result in substantial physical damage to the property of others.

2. This chapter does not affect a requirement of nondiscrimination in other state or federal law.

91 Acts, ch 184, §12

CS91, §601A.20

92 Acts, ch 1129, §18

C93, §216.20

216.21 Documents to attorney or party.

If a party is represented by an attorney during the proceedings of the commission, with permission of the attorney for the party or of the party, the commission shall provide copies of all relevant documents including an order or decision to either the attorney for the party or the party, but not to both.

2009 Acts, ch 178, §27

216.22 Franchisor-franchisee relationship.

1. For purposes of this section, franchisee and franchisor mean the same as defined in section 523H.1.

2. For purposes of this chapter, a franchisor shall not be considered to be an employer of a franchisee or of an employee of a franchisee unless any of the following conditions apply:

a. The franchisor has agreed in writing to be considered to be the employer of the franchisee or of the employees of the franchisee.

b. The franchisor has been found by the commission to have exercised a type or degree of control over the franchisee or the franchisee’s employees that is not customarily exercised by a franchisor for the purpose of protecting the franchisor’s trademarks and brand.

2019 Acts, ch 21, §5, 6

Section applies to work performed on or after July 1, 2019; 2019 Acts, ch 21, §6

CHAPTER 216A

DEPARTMENT OF HUMAN RIGHTS

Referred to in §11.6, 256F.4, 261E.9

	SUBCHAPTER 1	216A.3	Human rights board.
	ADMINISTRATION	216A.4	Definitions.
216A.1	Department of human rights — purpose.	216A.5	Repeal. Repealed by 97 Acts, ch 52, §1.
216A.2	Appointment of department director, deputy director, and administrators — duties.	216A.6	Confidentiality of individual client advocacy records.
		216A.7	Access to information.
		216A.8	through 216A.10 Reserved.

216A.143	Commission powers and duties.	216A.155	through 216A.160 Repealed by
216A.144	and 216A.145 Repealed by 2010		2010 Acts, ch 1031, §168, 170.
	Acts, ch 1031, §168, 170.		
216A.146	Office on the status of African		
	Americans.		
216A.147	through 216A.149 Repealed by		
	2010 Acts, ch 1031, §168, 170.		
216A.150	Reserved.	216A.161	Definitions.
		216A.162	Establishment — purpose.
		216A.163	Term of office.
		216A.164	Meetings of the commission.
			Repealed by 2010 Acts, ch
			1031, §168, 170.
		216A.165	Duties.
		216A.166	Office of Native American affairs.
		216A.167	Limitations on authority.
		216A.168	through 216A.170 Repealed by
			2010 Acts, ch 1031, §168, 170.

SUBCHAPTER 11

ASIAN AND PACIFIC ISLANDER AFFAIRS

216A.151	Definitions.
216A.152	Commission of Asian and Pacific
	Islander affairs established.
216A.153	Commission powers and duties.
216A.154	Office of Asian and Pacific
	Islander affairs.

SUBCHAPTER 12
NATIVE AMERICAN AFFAIRSSUBCHAPTER 1
ADMINISTRATION**216A.1 Department of human rights — purpose.**

1. A department of human rights is created, with the following divisions and offices:
 - a. Division of community advocacy and services, with the following offices:
 - (1) Office of Latino affairs.
 - (2) Office on the status of women.
 - (3) Office of persons with disabilities.
 - (4) Office of deaf services.
 - (5) Office on the status of African Americans.
 - (6) Office of Asian and Pacific Islander affairs.
 - (7) Office of Native American affairs.
 - b. Division of community action agencies.
 - c. Division of criminal and juvenile justice planning.
2. The purpose of the department is to ensure basic rights, freedoms, and opportunities for all by empowering underrepresented Iowans and eliminating economic, social, and cultural barriers.

86 Acts, ch 1245, §1201
C87, §601K.1
87 Acts, ch 115, §70; 88 Acts, ch 1277, §27; 89 Acts, ch 83, §78; 90 Acts, ch 1180, §2; 91 Acts, ch 50, §2; 91 Acts, ch 109, §8
C93, §216A.1
2004 Acts, ch 1020, §2; 2008 Acts, ch 1184, §38; 2010 Acts, ch 1031, §101, 170
Referred to in §7E.5
See also §7E.6
Minority impact statements, see §2.56, 8.11

216A.2 Appointment of department director, deputy director, and administrators — duties.

1. The governor shall appoint a director of the department of human rights, subject to confirmation by the senate pursuant to section 2.32. The department director shall serve at the pleasure of the governor and is exempt from the merit system provisions of chapter 8A, subchapter IV. The governor shall set the salary of the department director within the ranges set by the general assembly.
2. The department director is the chief administrative officer of the department and in that capacity administers the programs and services of the department in compliance with applicable federal and state laws and regulations. The duties of the department director

include preparing a budget, establishing an internal administrative structure, and employing personnel.

3. The department director shall appoint the administrators of the divisions within the department and all other personnel deemed necessary for the administration of this chapter. The department director shall establish the duties of the administrators of the divisions within the department.

4. The department director shall do all of the following:

a. Manage the internal operations of the department and establish guidelines and procedures to promote the orderly and efficient administration of the department.

b. Prepare a budget for the department, subject to the budget requirements pursuant to chapter 8, for approval by the board.

c. Coordinate and supervise personnel services and shared administrative support services to assure maximum support and assistance to the divisions.

d. Serve as an ex officio member of all commissions or councils within the department.

e. Serve as an ex officio, nonvoting member of the human rights board.

f. Solicit and accept gifts and grants on behalf of the department and each commission or council and administer such gifts and grants in accordance with the terms thereof.

g. Enter into contracts with public and private individuals and entities to conduct the business and achieve the objectives of the department and each commission or council.

h. Issue an annual report to the governor and general assembly no later than November 1 of each year concerning the operations of the department. However, the division of criminal and juvenile justice planning and the division of community action agencies shall submit annual reports as specified in this chapter.

i. Seek to implement the comprehensive strategic plan approved by the board under section 216A.3.

86 Acts, ch 1245, §1202

C87, §601K.2

88 Acts, ch 1158, §95; 90 Acts, ch 1180, §3

C93, §216A.2

95 Acts, ch 212, §9; 99 Acts, ch 201, §10, 11; 2003 Acts, ch 145, §205; 2010 Acts, ch 1031, §102, 170; 2014 Acts, ch 1092, §46

Referred to in §216A.133

216A.3 Human rights board.

1. A human rights board is created within the department of human rights.

2. The board shall consist of sixteen members, including eleven voting members and five nonvoting members and determined as follows:

a. The voting members shall consist of nine voting members selected by each of the permanent commissions within the department, and two voting members, appointed by the governor. For purposes of this paragraph "a", "permanent commissions" means the commission of Latino affairs, commission on the status of women, commission of persons with disabilities, commission on community action agencies, commission of deaf services, justice advisory board, commission on the status of African Americans, commission of Asian and Pacific Islander affairs, and commission of Native American affairs. The term of office for voting members is four years.

b. The nonvoting members shall consist of the department director, two state representatives, one appointed by the speaker of the house of representatives and one by the minority leader of the house of representatives, and two state senators, one appointed by the majority leader of the senate and one by the minority leader of the senate.

3. A majority of the voting members of the board shall constitute a quorum, and the affirmative vote of two-thirds of the voting members present is necessary for any substantive action taken by the board. The board shall select a chairperson from the voting members of the board. The board shall meet not less than four times a year.

4. The board shall have the following duties:

a. Develop and monitor implementation of a comprehensive strategic plan to remove

barriers for underrepresented populations and, in doing so, to increase Iowa's productivity and inclusivity, including performance measures and benchmarks.

b. Approve, disapprove, amend, or modify the budget recommended by the department director for the operation of the department, subject to the budget requirements pursuant to chapter 8.

c. Adopt administrative rules pursuant to chapter 17A, upon the recommendation of the department director, for the operation of the department.

d. By November 1 of each year, approve the department report to the general assembly and the governor that covers activities during the preceding fiscal year.

86 Acts, ch 1245, §1203

C87, §601K.3

88 Acts, ch 1277, §28; 90 Acts, ch 1180, §4

C93, §216A.3

2010 Acts, ch 1031, §103, 170; 2010 Acts, ch 1189, §44; 2013 Acts, ch 140, §18; 2019 Acts, ch 156, §1

Referred to in §216A.2

216A.4 Definitions.

For purposes of this chapter, unless the context otherwise requires:

1. "Board" means the human rights board.
2. "Department" means the department of human rights.
3. "Department director" means the director of the department of human rights.
4. "Underrepresented" means the historical marginalization of populations or groups in the United States and Iowa, including but not limited to African Americans, Asian and Pacific Islanders, persons who are deaf or hard of hearing, persons with disabilities, Latinos, Native Americans, women, persons who have low socioeconomic status, at-risk youth, and adults or juveniles with a criminal history.

86 Acts, ch 1245, §1204

C87, §601K.4

90 Acts, ch 1180, §5

C93, §216A.4

2010 Acts, ch 1031, §104, 170

216A.5 Repeal. Repealed by 97 Acts, ch 52, §1.

216A.6 Confidentiality of individual client advocacy records.

1. For purposes of this section, unless the context otherwise requires:

a. "Advocacy services" means services in which a department staff member writes or speaks in support of a client or a client's cause or refers a person to another service to help alleviate or solve a problem.

b. "Individual client advocacy records" means those files or records which pertain to problems divulged by a client to the department or any related papers or records which are released to the department about a client for the purpose of assisting the client.

2. Information pertaining to clients receiving advocacy services shall be held confidential, including but not limited to the following:

a. Names and addresses of clients receiving advocacy services.

b. Information about a client reported on the initial advocacy intake form and all documents, information, or other material relating to the advocacy issues or to the client which could identify the client, or divulge information about the client.

c. Information concerning the social or economic conditions or circumstances of particular clients who are receiving or have received advocacy services.

d. Department, or division, or office evaluations of information about a person seeking or receiving advocacy services.

e. Medical or psychiatric data, including diagnoses and past histories of disease or disability, concerning a person seeking or receiving advocacy services.

f. Legal data, including records which represent or constitute the work product of an attorney, which are related to a person seeking or receiving advocacy services.

3. Information described in subsection 2 shall not be disclosed or used by any person or agency except for purposes of administration of advocacy services, and shall not be disclosed to or used by a person or agency outside the department except upon consent of the client as evidenced by a signed release.

4. This section does not restrict the disclosure or use of information regarding the cost, purpose, number of clients served or assisted, and results of an advocacy program administered by the department, and other general and statistical information, so long as the information does not identify particular clients or persons provided with advocacy services.

88 Acts, ch 1106, §1

C89, §601K.6

C93, §216A.6

2011 Acts, ch 34, §48

216A.7 Access to information.

Upon request of the director or a commission, council, or administrator of a division of the department, all boards, agencies, departments, and offices of the state shall make available nonconfidential information, records, data, and statistics which are relevant to the populations served by the offices, councils, and commissions of the department.

2010 Acts, ch 1031, §105, 170

216A.8 through 216A.10 Reserved.

SUBCHAPTER 2

LATINO AFFAIRS

216A.11 Definitions.

For purposes of this subchapter, unless the context otherwise requires:

1. “*Commission*” means the commission of Latino affairs.
2. “*Office*” means the office of Latino affairs of the department of human rights.

86 Acts, ch 1245, §1205

C87, §601K.11

90 Acts, ch 1180, §6

C93, §216A.11

2010 Acts, ch 1031, §106, 107, 170

216A.12 Commission of Latino affairs established.

1. The commission of Latino affairs consists of seven members, appointed by the governor, and subject to confirmation by the senate pursuant to section 2.32. Commission members shall be appointed in compliance with sections 69.16 and 69.16A. Commission members shall reside in the state.

2. The members of the commission shall be appointed during the month of June and shall serve for staggered four-year terms which shall begin and end pursuant to section 69.19. Members appointed shall continue to serve until their respective successors are appointed. Vacancies in the membership of the commission shall be filled by the original appointing authority and in the manner of the original appointments. Members shall receive actual expenses incurred while serving in their official capacity. Members may also be eligible to receive compensation as provided in section 7E.6.

3. The commission shall select from its membership a chairperson and other officers as it deems necessary and shall meet at least quarterly each fiscal year. A majority of the members currently appointed to the commission shall constitute a quorum, and the affirmative vote of a majority of the currently appointed members is necessary for any substantive action taken by the commission. A member shall not vote on any action if the member has a conflict

of interest on the matter, and a statement by the member of a conflict of interest shall be conclusive for this purpose.

86 Acts, ch 1245, §1206

C87, §601K.12

87 Acts, ch 115, §71; 90 Acts, ch 1180, §7; 91 Acts, ch 50, §1

C93, §216A.12

2010 Acts, ch 1031, §108, 170; 2010 Acts, ch 1189, §45

216A.13 Commission of Latino affairs — duties.

The commission shall have the following duties:

1. Study the opportunities for and changing needs of the Latino population of this state.
2. Serve as liaison between the department of human rights and the public, sharing information and gathering constituency input.
3. Recommend to the board the adoption of rules pursuant to chapter 17A as it deems necessary.

4. Recommend legislative and executive action to the governor and general assembly.

5. Establish advisory committees, work groups, or other coalitions as appropriate.

86 Acts, ch 1245, §1207

C87, §601K.13

C93, §216A.13

2010 Acts, ch 1031, §109, 170

See also §216A.15

216A.14 Office of Latino affairs — duties.

The office of Latino affairs is established and shall do the following:

1. Serve as the central permanent agency to advocate for Latino persons.
2. Coordinate and cooperate with the efforts of state departments and agencies to serve the needs of Latino persons in participating fully in the economic, social, and cultural life of the state, and by providing direct assistance to those who request it.
3. Develop, coordinate, and assist other public organizations which serve Latino persons.
4. Serve as an information clearinghouse on programs and agencies operating to assist Latino persons.

86 Acts, ch 1245, §1208

C87, §601K.14

90 Acts, ch 1180, §8

C93, §216A.14

2010 Acts, ch 1031, §110, 170

216A.15 Duties.

The commission shall:

1. Study the opportunities for and changing needs of the Latino population of this state.
2. Serve as liaison between the office and the public, sharing information and gathering constituency input.

3. Recommend to the board for adoption rules pursuant to chapter 17A as it deems necessary for the commission and office.

4. Recommend to the department director policies and programs for the office.

5. Establish advisory committees, work groups, or other coalitions as appropriate.

86 Acts, ch 1245, §1209

C87, §601K.15

90 Acts, ch 1180, §9

C93, §216A.15

2004 Acts, ch 1062, §1; 2010 Acts, ch 1031, §111, 170

See also §216A.13

216A.16 and 216A.17 Repealed by 2010 Acts, ch 1031, §168, 170.

216A.18 through 216A.30 Reserved.

SUBCHAPTER 3

216A.31 through 216A.50 Reserved.

SUBCHAPTER 4

STATUS OF WOMEN

216A.51 Definitions.

For purposes of this subchapter, unless the context otherwise requires:

1. “*Commission*” means the commission on the status of women.
2. “*Office*” means the office on the status of women of the department of human rights.
86 Acts, ch 1245, §1221
C87, §601K.51
87 Acts, ch 115, §2
C93, §216A.51
2010 Acts, ch 1031, §112, 113, 170

216A.52 Office on the status of women.

The office on the status of women is established, and shall do the following:

1. Serve as the central permanent agency to advocate for women and girls.
2. Coordinate and cooperate with the efforts of state departments and agencies to serve the needs of women and girls in participating fully in the economic, social, and cultural life of the state, and provide direct assistance to individuals who request it.
3. Serve as a clearinghouse on programs and agencies operating to assist women and girls.
4. Develop, coordinate, and assist other public or private organizations which serve women and girls.
86 Acts, ch 1245, §1222
C87, §601K.52
88 Acts, ch 1150, §2; 90 Acts, ch 1223, §30
C93, §216A.52
2010 Acts, ch 1031, §114, 170

216A.53 Commission on the status of women established.

1. The commission on the status of women is established and shall consist of seven voting members who shall be appointed by the governor, subject to confirmation by the senate pursuant to section 2.32, and shall represent a cross section of the citizens of the state. All members shall reside in the state.

2. The term of office for voting members is four years. Terms shall be staggered. Members whose terms expire may be reappointed. Vacancies in voting membership positions on the commission shall be filled for the unexpired term in the same manner as the original appointment. Voting members of the commission may receive a per diem as specified in section 7E.6 and shall be reimbursed for actual expenses incurred while serving in their official capacity, subject to statutory limits.

3. Members of the commission shall appoint a chairperson and vice chairperson and any other officers as the commission deems necessary. The commission shall meet at least quarterly during each fiscal year. A majority of the voting members currently appointed to the commission shall constitute a quorum. A quorum of the members shall be required for the conduct of business of the commission, and the affirmative vote of a majority of the currently appointed voting members is necessary for any substantive action taken by the commission. A member shall not vote on any action if the member has a conflict of interest

on the matter, and a statement by the member of a conflict of interest shall be conclusive for this purpose.

86 Acts, ch 1245, §1223

C87, §601K.53

88 Acts, ch 1150, §3

C93, §216A.53

2008 Acts, ch 1156, §27, 58; 2010 Acts, ch 1031, §115, 170

216A.54 Commission powers and duties.

The commission shall have the following powers and duties:

1. Study the opportunities for and changing needs of the women and girls of this state.
2. Serve as liaison between the office and the public, sharing information and gathering constituency input.
3. Recommend to the board the adoption of rules pursuant to chapter 17A as it deems necessary for the commission and office.

4. Recommend legislative and executive action to the governor and general assembly.
5. Establish advisory committees, work groups, or other coalitions as appropriate.

86 Acts, ch 1245, §1224

C87, §601K.54

88 Acts, ch 1150, §4; 90 Acts, ch 1256, §52

C93, §216A.54

2010 Acts, ch 1031, §116, 170

216A.55 through 216A.60 Repealed by 2010 Acts, ch 1031, §168, 170.

216A.61 through 216A.70 Reserved.

SUBCHAPTER 5

PERSONS WITH DISABILITIES

216A.71 Definitions.

For purposes of this subchapter, unless the context otherwise requires:

1. “*Commission*” means the commission of persons with disabilities.
2. “*Office*” means the office of persons with disabilities of the department of human rights.

86 Acts, ch 1245, §1231

C87, §601K.71

C93, §216A.71

95 Acts, ch 212, §10; 99 Acts, ch 201, §12; 2010 Acts, ch 1031, §117, 118, 170

216A.72 Office of persons with disabilities.

The office of persons with disabilities is established, and shall do all of the following:

1. Serve as the central permanent agency to advocate for persons with disabilities.
2. Coordinate and cooperate with the efforts of state departments and agencies to serve the needs of persons with disabilities in participating fully in the economic, social, and cultural life of the state, and provide direct assistance to individuals who request it.
3. Develop, coordinate, and assist other public or private organizations which serve persons with disabilities.
4. Serve as an information clearinghouse on programs and agencies operating to assist persons with disabilities.

86 Acts, ch 1245, §1232

C87, §601K.72

C93, §216A.72

2010 Acts, ch 1031, §119, 170

216A.73 Ex officio members. Repealed by 2010 Acts, ch 1031, §168, 170.

216A.74 Commission of persons with disabilities established.

1. The commission of persons with disabilities is established and shall consist of seven voting members appointed by the governor, subject to confirmation by the senate pursuant to section 2.32. A majority of the commission shall be persons with disabilities. All members shall reside in the state.

2. Members of the commission shall serve four-year staggered terms which shall begin and end pursuant to section 69.19. Members whose terms expire may be reappointed. Vacancies on the commission shall be filled for the unexpired term in the same manner as the original appointment. Voting members shall receive actual expenses incurred while serving in their official capacity, subject to statutory limits. Voting members may also be eligible to receive compensation as provided in section 7E.6.

3. Members of the commission shall appoint a chairperson. The commission shall meet at least quarterly during each fiscal year. A majority of the voting members currently appointed to the commission shall constitute a quorum. A quorum shall be required for the conduct of business of the commission, and the affirmative vote of a majority of the currently appointed voting members is necessary for any substantive action taken by the commission. A member shall not vote on any action if the member has a conflict of interest on the matter, and a statement by the member of a conflict of interest shall be conclusive for this purpose.

86 Acts, ch 1245, §1234

C87, §601K.74

C93, §216A.74

2010 Acts, ch 1031, §120, 170

216A.75 Commission powers and duties.

The commission shall have the following powers and duties:

1. Study the opportunities for and changing needs of persons with disabilities in this state.
2. Serve as liaisons between the office and the public, sharing information and gathering constituency input.

3. Recommend to the board the adoption of rules pursuant to chapter 17A as it deems necessary for the commission and office.

4. Recommend legislative and executive action to the governor and general assembly.

5. Establish advisory committees, work groups, or other coalitions as appropriate.

86 Acts, ch 1245, §1235

C87, §601K.75

C93, §216A.75

2010 Acts, ch 1031, §121, 170

216A.76 through 216A.79 Repealed by 2010 Acts, ch 1031, §168, 170.

216A.80 through 216A.90 Reserved.

SUBCHAPTER 6

DIVISION OF COMMUNITY ACTION AGENCIES

216A.91 Definitions.

For purposes of this subchapter, unless the context otherwise requires:

1. “*Administrator*” means the administrator of the division of community action agencies of the department of human rights.

2. “*Commission*” means the commission on community action agencies.

3. “*Community action agency*” means a public agency or a private nonprofit agency which is authorized under its charter or bylaws to receive funds to administer community action programs and is designated by the governor to receive and administer the funds.

4. “*Community action program*” means a program conducted by a community action agency which includes projects to provide a range of services to improve the conditions of poverty in the area served by the community action agency.

5. “*Delegate agency*” means a subgrantee or contractor selected by the community action agency.

6. “*Division*” means the division of community action agencies of the department of human rights.

86 Acts, ch 1245, §1240

C87, §601K.91

90 Acts, ch 1242, §1

C93, §216A.91

Referred to in §23A.2, 256I.8

216A.92 Division of community action agencies.

1. The division of community action agencies is established. The purpose of the division of community action agencies is to strengthen, supplement, and coordinate efforts to develop the full potential of each citizen by recognizing certain community action agencies and supporting certain community-based programs delivered by community action agencies.

2. The division shall do all of the following:

a. Provide financial assistance for community action agencies to implement community action programs, as permitted by the community service block grant and subject to the funding made available for the program.

b. Administer the community services block grant, the low-income energy assistance block grants, department of energy funds for weatherization, and other possible funding sources. If a political subdivision is the community action agency, the financial assistance shall be allocated to the political subdivision.

c. Implement accountability measures for its programs and require regular reporting on the measures by the community action agencies.

d. Issue an annual report to the governor and general assembly by July 1 of each year.

86 Acts, ch 1245, §1241

C87, §601K.92

90 Acts, ch 1242, §2

C93, §216A.92

2010 Acts, ch 1031, §122, 170

216A.92A Commission established.

1. The commission on community action agencies is created, composed of nine members appointed by the governor, subject to confirmation by the senate. The membership of the commission shall reflect the composition of local community action agency boards as follows:

a. One-third of the members shall be elected officials.

b. One-third of the members shall be representatives of business, industry, labor, religious, welfare, and educational organizations, or other major interest groups.

c. One-third of the members shall be persons who, according to federal guidelines, have incomes at or below one hundred eighty-five percent of poverty level.

2. Commission members shall serve three-year terms which shall begin and end pursuant to section 69.19, and shall serve the entire term even if the member experiences a change in the status which resulted in their appointment under subsection 1. Vacancies on the commission shall be filled for the remainder of the term of the original appointment. Members whose terms expire may be reappointed. Members of the commission shall receive actual expenses for their services. Members may also be eligible to receive compensation as provided in section 7E.6. Members as specified under subsection 1, paragraph “c”, however, shall receive per diem compensation as provided in section 7E.6 and actual expenses. The membership of the commission shall also comply with the political party affiliation and gender balance requirements of sections 69.16 and 69.16A.

3. The commission shall select from its membership a chairperson and other officers as

it deems necessary. The commission shall meet no less than four times per year. A majority of the members of the commission shall constitute a quorum.

90 Acts, ch 1242, §3

C91, §601K.92A

92 Acts, ch 1237, §13

C93, §216A.92A

99 Acts, ch 201, §13; 2010 Acts, ch 1031, §123, 124, 170

Referred to in §541A.5

Confirmation, see §2.32

216A.92B Commission powers and duties.

The commission shall have the following powers and duties:

1. Recommend to the board the adoption of rules pursuant to chapter 17A as it deems necessary for the commission and division.

2. Supervise the collection of data regarding the scope of services provided by the community action agencies.

3. Serve as liaisons between the division and the public, sharing information and gathering constituency input.

4. Make recommendations to the governor and the general assembly for executive and legislative action designed to improve the status of low-income persons in the state.

5. Establish advisory committees, work groups, or other coalitions as appropriate.

90 Acts, ch 1242, §4

C91, §601K.92B

C93, §216A.92B

2010 Acts, ch 1031, §125, 170

216A.93 Establishment of community action agencies.

The division shall recognize and assist in the designation of certain community action agencies to assist in the delivery of community action programs. These programs shall include but not be limited to outreach, community services block grant, low-income energy assistance, and weatherization programs. If a community action agency is in effect and currently serving an area, that community action agency shall become the designated community action agency for that area. If any geographic area of the state ceases to be served by a designated community action agency, the division may solicit applications and assist the governor in designating a community action agency for that area in accordance with current community services block grant requirements.

86 Acts, ch 1245, §1242

C87, §601K.93

C93, §216A.93

2010 Acts, ch 1031, §126, 170

Referred to in §423.3

216A.94 Community action agency board.

1. A recognized community action agency shall be governed by a board of directors composed of at least nine members. The board membership shall be as follows:

a. One-third of the members of the board shall be elected public officials currently holding office or their representatives. However, if the number of elected officials available and willing to serve is less than one-third of the membership of the board, the membership of the board consisting of appointive public officials may be counted as fulfilling the requirement that one-third of the members of the board be elected public officials.

b. At least one-third of the members of the board shall be chosen in accordance with procedures established by the community action agency to assure representation of the poor in an area served by the agency.

c. The remainder of the members of the board shall be members of business, industry, labor, religious, welfare, education, or other major groups or interests in the community.

2. Notwithstanding subsection 1, a public agency shall establish an advisory board to assist the governing board in meeting the requirements of section 216A.95. The advisory

board shall be composed of the same type of membership as a board of directors for community action agencies under subsection 1. In addition, the advisory board of the community action agency shall have the sole authority to determine annual program budget requests.

86 Acts, ch 1245, §1243

C87, §601K.94

87 Acts, ch 115, §73; 90 Acts, ch 1242, §5

C93, §216A.94

93 Acts, ch 56, §1; 2010 Acts, ch 1031, §127, 170

216A.95 Duties of board.

1. The governing board or advisory board shall fully participate in the development, planning, implementation, and evaluation of programs to serve low-income communities.

2. The governing board may:

a. Own, purchase, and dispose of property necessary for the operation of the community action agency.

b. Receive and administer funds and contributions from private or public sources which may be used to support community action programs.

c. Receive and administer funds from a federal or state assistance program pursuant to which a community action agency could serve as a grantee, a contractor, or a sponsor of a project appropriate for inclusion in a community action program.

86 Acts, ch 1245, §1244

C87, §601K.95

C93, §216A.95

2010 Acts, ch 1031, §128, 170

Referred to in §216A.94

216A.96 Duties of community action agency.

A community action agency shall:

1. Plan and implement strategies to alleviate the conditions of poverty and encourage self-sufficiency for citizens in its service area and in Iowa. In doing so, an agency shall plan for a community action program by establishing priorities among projects, activities, and areas to provide for the most efficient use of possible resources.

2. Obtain and administer assistance from available sources on a common or cooperative basis, in an attempt to provide additional opportunities to low-income persons.

3. Establish effective procedures by which the concerned low-income persons and area residents may influence the community action programs affecting them by providing for methods of participation in the implementation of the community action programs and by providing technical support to assist persons to secure assistance available from public and private sources.

4. Encourage and support self-help, volunteer, business, labor, and other groups and organizations to assist public officials and agencies in supporting a community action program by providing private resources, developing new employment opportunities, encouraging investments in areas of concentrated poverty, and providing methods by which low-income persons can work with private organizations, businesses, and institutions in seeking solutions to problems of common concern.

86 Acts, ch 1245, §1245

C87, §601K.96

C93, §216A.96

2010 Acts, ch 1031, §129, 130, 170; 2011 Acts, ch 34, §49

216A.97 Administration.

A community action agency may administer the components of a community action program when the program is consistent with plans and purposes and applicable law. The community action programs may be projects which are eligible for assistance from any

source. The programs shall be developed to meet local needs and may be designed to meet eligibility standards of a federal or state program.

86 Acts, ch 1245, §1246

C87, §601K.97

C93, §216A.97

2010 Acts, ch 1031, §131, 170; 2011 Acts, ch 34, §50

216A.98 Audit.

Each community action agency shall be audited annually but shall not be required to obtain a duplicate audit to meet the requirements of this section. In lieu of an audit by the auditor of state, the community action agency may contract with or employ a certified public accountant to conduct the audit, pursuant to the applicable terms and conditions prescribed by sections 11.6, 11.14, and 11.19 and an audit format prescribed by the auditor of state. Copies of each audit shall be furnished to the division in a manner prescribed by the division.

86 Acts, ch 1245, §1247

C87, §601K.98

89 Acts, ch 264, §9

C93, §216A.98

2010 Acts, ch 1031, §132, 170; 2011 Acts, ch 75, §36

216A.99 Allocation of financial assistance.

1. The administrator shall provide financial assistance for community action agencies to implement community action programs, as permitted by the community service block grant, administer the low-income energy assistance block grants, department of energy funds for weatherization received in Iowa, and other possible funding sources.

2. If a political subdivision is the agency, the financial assistance shall be allocated to the political subdivision.

86 Acts, ch 1245, §1248

C87, §601K.99

C93, §216A.99

2020 Acts, ch 1062, §94

Code editor directive applied

216A.100 Reserved.

216A.101 Emergency weatherization fund. Repealed by 2010 Acts, ch 1031, §168, 170.

216A.102 Energy crisis fund.

1. An energy crisis fund is created in the state treasury. Moneys deposited in the fund shall be used to assist low-income families who qualify for the low-income home energy assistance program to avoid loss of essential heating.

2. The fund may receive moneys including, but not limited to, the following:

a. Moneys appropriated by the general assembly for the fund.

b. After July 1, 1988, unclaimed patronage dividends of electric cooperative corporations or associations shall be applied to the fund following the time specified in section 556.12 for claiming the dividend from the holder.

c. The fund may also receive contributions from customer contribution funds established under section 476.66.

3. Under rules developed by the division of community action agencies of the department of human rights and adopted by the board, the fund may be used to negotiate reconnection of essential utility services with the energy provider.

88 Acts, ch 1175, §6

C89, §601K.102

91 Acts, ch 270, §6

C93, §216A.102

2002 Acts, ch 1119, §146; 2008 Acts, ch 1126, §14, 33; 2010 Acts, ch 1031, §133, 170

216A.103 Iowa affordable heating program established. Repealed by 2010 Acts, ch 1031, §168, 170.

216A.104 Energy utility assessment and resolution program.

1. The general assembly finds that provision of assistance to prevent utility disconnections will also prevent the development of public health risks due to such disconnections. The division shall establish an energy utility assessment and resolution program administered by each community action agency for persons with low incomes who have or need a deferred payment agreement or are in need of an emergency fuel delivery to address home energy utility costs.

2. A person must meet all of the following requirements to be eligible for the program:

- a. The person is eligible for the federal low-income home energy assistance program.
 - b. The person is a residential customer of an energy utility approved for the program by the division.
 - c. The person has or is in need of a deferred payment agreement to address the person's home energy utility costs.
 - d. The person is able to maintain or regain residential energy utility service in the person's own name.
 - e. The person provides the information necessary to determine the person's eligibility for the program.
 - f. The person complies with other eligibility requirements adopted in rules by the division.
3. The program components shall include but are not limited to all of the following:
- a. Analysis of a program participant's current financial situation.
 - b. Review of a program participant's resource and money management options.
 - c. Skills development and assistance for a program participant in negotiating a deferred payment agreement with the participant's energy utility.
 - d. Development of a written household energy affordability plan.
 - e. Provision of energy conservation training and assistance.
 - f. A requirement that a program participant must make uninterrupted, regular utility payments while participating in the program.

2007 Acts, ch 218, §136; 2010 Acts, ch 1031, §134, 170

216A.105 and 216A.106 Reserved.

216A.107 Family development and self-sufficiency — council and grant program.

1. A family development and self-sufficiency council is established within the department of human rights. The council shall consist of the following persons:

- a. The director of the department of human services or the director's designee.
- b. The director of the department of public health or the director's designee.
- c. The administrator of the division of community action agencies of the department of human rights or the administrator's designee.
- d. The director of the school of social work at the university of Iowa or the director's designee.
- e. The dean of the college of human sciences at Iowa state university or the dean's designee.
- f. Two recipients or former recipients of the family investment program, selected by the other members of the council.
- g. One recipient or former recipient of the family investment program who is a member of a racial or ethnic minority, selected by the other members of the council.
- h. One member representing providers of services to victims of domestic violence, selected by the other members of the council.
- i. The head of the department of design, textiles, gerontology, and family studies at the university of northern Iowa or that person's designee.
- j. The director of the department of education or the director's designee.
- k. The director of the department of workforce development or the director's designee.

l. Two persons representing the business community, selected by the other members of the council.

m. Two members from each chamber of the general assembly serving as ex officio, nonvoting members. The two members of the senate shall be appointed one each by the majority leader and the minority leader of the senate. The two members of the house of representatives shall be appointed one each by the speaker and the minority leader of the house of representatives.

2. Unless otherwise provided by law, terms of members, election of officers, and other procedural matters shall be as determined by the council. A quorum shall be required for the conduct of business of the council, and the affirmative vote of a majority of the currently appointed voting members is necessary for any substantive action taken by the council. A member shall not vote on any action if the member has a conflict of interest on the matter, and a statement by the member of a conflict of interest shall be conclusive for this purpose.

3. The family development and self-sufficiency council shall do all of the following:

a. Identify the factors and conditions that place Iowa families at risk of dependency upon the family investment program. The council shall seek to use relevant research findings and national and Iowa-specific data on the family investment program.

b. Identify the factors and conditions that place Iowa families at risk of family instability. The council shall seek to use relevant research findings and national and Iowa-specific data on family stability issues.

c. Subject to the availability of funds for this purpose, award grants to public or private organizations for provision of family development services to families at risk of dependency on the family investment program or of family instability. Not more than five percent of any funds appropriated by the general assembly for the purposes of this lettered paragraph may be used for staffing and administration of the grants. Grant proposals for the family development and self-sufficiency grant program shall include the following elements:

(1) Designation of families to be served that meet one or more criteria for being at risk of dependency on the family investment program or of family instability, and agreement to serve clients that are referred by the department of human services from the family investment program which meet the criteria. The criteria may include but are not limited to factors such as educational level, work history, family structure, age of the youngest child in the family, previous length of stay on the family investment program, and participation in the family investment program or the foster care program while the head of a household was a child. Grant proposals shall also establish the number of families to be served under the grant.

(2) Designation of the services to be provided for the families served, including assistance regarding job-seeking skills, family budgeting, nutrition, self-esteem, methamphetamine education, health and hygiene, child rearing, child education preparation, and goal setting. Grant proposals shall indicate the support groups and support systems to be developed for the families served during the transition between the need for assistance and self-sufficiency.

(3) Designation of the manner in which other needs of the families will be provided for, including but not limited to child care assistance, transportation, substance abuse treatment, support group counseling, food, clothing, and housing.

(4) Designation of the process for training of the staff which provides services, and the appropriateness of the training for the purposes of meeting family development and self-sufficiency goals of the families being served.

(5) Designation of the support available within the community for the program and for meeting subsequent needs of the clients, and the manner in which community resources will be made available to the families being served.

(6) Designation of the manner in which the program will be subject to audit and to evaluation.

(7) Designation of agreement provisions for tracking and reporting performance measures developed pursuant to paragraph "d".

d. Develop appropriate performance measures for the grant program to demonstrate how the program helps families achieve self-sufficiency.

e. Seek to enlist research support from the Iowa research community in meeting the duties outlined in paragraphs "a" through "d".

f. Seek additional support for the funding of grants under the program, including but not limited to funds available through the federal government in serving families at risk of long-term welfare dependency, and private foundation grants.

g. Make recommendations to the governor and the general assembly on the effectiveness of programs in Iowa and throughout the country that provide family development services that lead to self-sufficiency for families at risk of welfare dependency.

4. a. The division shall administer the family development and self-sufficiency grant program. The department of human services shall disclose to the division confidential information pertaining to individuals receiving services under the grant program, as authorized under section 217.30. The division and the department of human services shall share information and data necessary for tracking performance measures of the family development and self-sufficiency grant program, for referring families participating in the promoting independence and self-sufficiency through employment job opportunities and basic skills (PROMISE JOBS) program under section 239B.17 and related activities and programs to the grant program, and for meeting federal reporting requirements. The division and the department of human services may by mutual agreement, as specified in the memorandum of agreement entered into in accordance with paragraph "b", add to or delete from the initial shared information items listed in this lettered paragraph. The initial shared information shall include but is not limited to all of the following:

(1) Family enrollments and exits to and from each of the programs.

(2) Monthly reports of individual participant activity in PROMISE JOBS components that are countable work activities according to federal guidelines applicable to those components.

(3) Aggregate grant program participant activity in all PROMISE JOBS program components.

(4) Work participation rates for grant program participants who were active family investment program participants.

(5) The average hourly wage of grant program participants who left the family investment program.

(6) The percentage of grant program participants who exited from the grant program at or after the time family investment program participation ended and did not reenroll in the family investment program for at least one year.

b. The division shall develop a memorandum of agreement with the department of human services to share outcome data and coordinate referrals and delivery of services to participants in the family investment program under chapter 239B and the grant program and other shared clients and shall provide the department of human services with information necessary for compliance with federal temporary assistance for needy families block grant state plan and reporting requirements, including but not limited to financial and data reports.

c. To the extent that the family development and self-sufficiency grant program is funded by the federal temporary assistance for needy families block grant and by the state maintenance of efforts funds appropriated in connection with the block grant, the division shall comply with all federal requirements for the block grant. The division is responsible for payment of any federal penalty imposed that is attributable to the grant program and shall receive any federal bonus payment attributable to the grant program.

d. The division shall ensure that expenditures of moneys appropriated to the department of human services from the general fund of the state for the family development and self-sufficiency grant program are eligible to be considered as state maintenance of effort expenditures under federal temporary assistance for needy families block grant requirements.

e. The commission shall consider the recommendations of the council in adopting rules pertaining to the grant program.

f. The division shall submit to the governor and general assembly on or before November 30 following the end of each state fiscal year, a report detailing performance measure and

outcome data evaluating the family development and self-sufficiency grant program for the fiscal year that just ended.

2008 Acts, ch 1072, §1; 2010 Acts, ch 1031, §135, 170

Referred to in §232.69, 239B.8

Legislative appointments, see §69.16B

216A.108 through 216A.110 Reserved.

SUBCHAPTER 7

DEAF SERVICES

216A.111 Definitions.

For purposes of this subchapter, unless the context otherwise requires:

1. “*Commission*” means the commission of deaf services.
2. “*Office*” means the office of deaf services of the department of human rights.

86 Acts, ch 1245, §1250

C87, §601K.111

C93, §216A.111

2010 Acts, ch 1031, §136, 137, 170

216A.112 Office of deaf services.

The office of deaf services is established, and shall do all of the following:

1. Serve as the central permanent agency to advocate for persons who are deaf or hard of hearing.

2. Coordinate and cooperate with the efforts of state departments and agencies to serve the needs of persons who are deaf or hard of hearing in participating fully in the economic, social, and cultural life of the state, and provide direct assistance to individuals who request it.

3. Develop, coordinate, and assist other public or private organizations which serve persons who are deaf or hard of hearing.

4. Serve as an information clearinghouse on programs and agencies operating to assist persons who are deaf or hard of hearing.

86 Acts, ch 1245, §1251

C87, §601K.112

87 Acts, ch 58, §1; 87 Acts, ch 115, §74

C93, §216A.112

93 Acts, ch 75, §3; 95 Acts, ch 212, §11; 2010 Acts, ch 1031, §138, 170

216A.113 Deaf services commission established.

1. The commission of deaf services is established, and shall consist of seven voting members appointed by the governor, subject to confirmation by the senate pursuant to section 2.32. Membership of the commission shall include at least four members who are deaf and at least one member who is hard of hearing. All members shall reside in Iowa.

2. Members of the commission shall serve four-year staggered terms which shall begin and end pursuant to section 69.19. Members whose terms expire may be reappointed. Vacancies on the commission may be filled for the remainder of the term in the same manner as the original appointment. Members shall receive actual expenses incurred while serving in their official capacity, subject to statutory limits. Members may also be eligible to receive compensation as provided in section 7E.6.

3. Members of the commission shall appoint a chairperson and vice chairperson and other officers as the commission deems necessary. The commission shall meet at least quarterly during each fiscal year. A majority of the members currently appointed to the commission shall constitute a quorum. A quorum shall be required for the conduct of business of the commission, and the affirmative vote of a majority of the currently appointed members is necessary for any substantive action taken by the commission. A member shall not vote on

any action if the member has a conflict of interest on the matter, and a statement by the member of a conflict of interest shall be conclusive for this purpose.

86 Acts, ch 1245, §1252

C87, §601K.113

C93, §216A.113

2010 Acts, ch 1031, §139, 170; 2010 Acts, ch 1193, §42, 80; 2020 Acts, ch 1102, §9

Subsection 1 amended

216A.114 Commission powers and duties.

The commission shall have the following powers and duties:

1. Study the changing needs and opportunities for the deaf and hard-of-hearing people in this state.

2. Serve as a liaison between the office and the public, sharing information and gathering constituency input.

3. Recommend to the board for adoption rules pursuant to chapter 17A as it deems necessary for the commission and office.

4. Recommend legislative and executive action to the governor and general assembly.

5. Establish advisory committees, work groups, or other coalitions as appropriate.

86 Acts, ch 1245, §1253

C87, §601K.114

87 Acts, ch 115, §75; 89 Acts, ch 54, §1

C93, §216A.114

93 Acts, ch 75, §4; 2003 Acts, ch 145, §286; 2010 Acts, ch 1031, §140, 170

216A.115 through 216A.117 Repealed by 2010 Acts, ch 1031, §168, 170.

216A.118 through 216A.120 Reserved.

SUBCHAPTER 8

216A.121 Iowa Abraham Lincoln bicentennial commission. Repealed by its own terms; 2007 Acts, ch 99, §1.

216A.122 through 216A.130 Reserved.

SUBCHAPTER 9

DIVISION OF CRIMINAL AND JUVENILE
JUSTICE PLANNING

216A.131 Definitions.

For the purpose of this subchapter, unless the context otherwise requires:

1. “*Administrator*” means the administrator of the division of criminal and juvenile justice planning.

2. “*Board*” means the justice advisory board.

3. “*Department*” means the department of human rights.

4. “*Division*” means the division of criminal and juvenile justice planning.

88 Acts, ch 1277, §14

C89, §601K.131

90 Acts, ch 1124, §1

C93, §216A.131

2010 Acts, ch 1193, §151; 2019 Acts, ch 156, §2

216A.131A Division of criminal and juvenile justice planning.

The division of criminal and juvenile justice planning is established to fulfill the responsibilities of this subchapter, including the duties specified in sections 216A.135, 216A.136, 216A.137, 216A.138, and 216A.140.

2010 Acts, ch 1031, §141, 170; 2019 Acts, ch 156, §3

216A.132 Board established — terms — compensation.

1. A justice advisory board is established consisting of twenty-eight members who shall all reside in the state.

a. The governor shall appoint nine voting members each for a four-year term beginning and ending as provided in section 69.19 and subject to confirmation by the senate as follows:

(1) Three persons, each of whom is a county supervisor, county sheriff, mayor, nonsupervisory police officer, or a chief of police of a department with fewer than eleven police officers.

(2) Two persons who are knowledgeable about Iowa's juvenile justice system.

(3) One person representing the general public, who is not employed in any law enforcement, judicial, or corrections capacity.

(4) One person who is either a crime victim, or who represents a crime victim organization.

(5) One person who represents a recognized civil rights organization that advocates for minorities.

(6) One person who was formerly under juvenile court or correctional supervision, or a representative of an organization that advocates for individuals who have been under juvenile court or correctional supervision.

b. Additional voting members of the board, each serving a four-year term, shall include one representative from each of the following:

(1) The Iowa coalition against sexual assault.

(2) The American civil liberties union of Iowa.

(3) The Iowa county attorneys association.

(4) The department of human services.

(5) The department of corrections.

(6) A judicial district department of correctional services.

(7) The department of public safety.

(8) The office on the status of African Americans.

(9) The department of public health.

(10) The board of parole.

(11) The department of justice.

(12) The state public defender.

(13) The governor's office of drug control policy.

c. The chief justice of the supreme court shall designate one member who is a district judge and one member who is either a district associate judge or associate juvenile judge. The members appointed pursuant to this paragraph shall serve as ex officio, nonvoting members for four-year terms beginning and ending as provided in section 69.19, unless the member ceases to serve as a judge.

d. The chairperson and ranking member of the senate committee on judiciary shall be ex officio, nonvoting members. In alternating two-year terms, beginning and ending as provided in section 69.16B, the chairperson and ranking member of the house committee on judiciary or of the house committee on public safety shall be ex officio, nonvoting members, with the chairperson and ranking member of the house committee on public safety serving during the term beginning in January 2020.

2. Vacancies shall be filled by the original appointing authority in the manner of the original appointments.

3. Members of the board shall receive reimbursement from the state for actual and necessary expenses incurred in the performance of their official duties and may also be eligible to receive compensation as provided in section 7E.6. All expense moneys paid to

nonlegislative members shall be paid from funds appropriated to the division. Legislative members shall receive compensation as provided in sections 2.10 and 2.12.

4. Members of the board shall appoint a chairperson and vice chairperson and other officers as the board deems necessary. A majority of the voting members currently appointed to the board shall constitute a quorum. A quorum shall be required for the conduct of business of the board and the affirmative vote of a majority of the currently appointed members is necessary for any substantive action taken by the board. A member shall not vote on any action if the member has a conflict of interest on the matter, and a statement by the member of a conflict of interest shall be conclusive for this purpose.

5. Membership on the board shall be bipartisan as provided in section 69.16 and gender balanced as provided in section 69.16A.

6. Meetings of the board shall be open to the public as provided in chapter 21.

7. The board may call upon any department, agency, or office of the state, or any political subdivision of the state, for information or assistance as needed in the performance of its duties. The information or assistance shall be furnished to the extent that it is within the resources and authority of the department, agency, office, or political subdivision. This section does not require the production or opening of any records which are required by law to be kept private or confidential.

88 Acts, ch 1277, §15

C89, §601K.132

90 Acts, ch 1124, §2

C93, §216A.132

2006 Acts, ch 1010, §66; 2007 Acts, ch 22, §51; 2008 Acts, ch 1085, §1, 2; 2008 Acts, ch 1156, §28, 58; 2010 Acts, ch 1031, §142 – 144, 170; 2010 Acts, ch 1193, §152; 2012 Acts, ch 1138, §110; 2019 Acts, ch 156, §4

Confirmation, see §2.32

216A.133 Purpose and duties.

1. The purpose of the board shall be all of the following:

a. Develop short-term and long-term goals to improve the criminal and juvenile justice systems.

b. Identify and analyze justice system issues.

c. Develop and assist others in implementing recommendations and plans for justice system improvement.

d. Provide the general assembly with an analysis of current and proposed criminal code provisions.

e. Provide for a clearinghouse of justice system information to coordinate with data resource agencies and assist others in the use of justice system data.

2. The board shall advise the division on its administration of state and federal grants and appropriations and shall carry out other functions consistent with this subchapter.

3. The duties of the board shall consist of the following:

a. Identifying issues and analyzing the operation and impact of present criminal and juvenile justice policy and making recommendations for policy changes.

b. Coordinating with data resource agencies to provide data and analytical information to federal, state, and local governments, and assisting agencies in the use of criminal and juvenile justice data.

c. Reporting criminal justice system needs to the governor, the general assembly, and other decision makers to improve the criminal justice system.

d. Reporting juvenile justice system needs to the governor, the general assembly, and other decision makers to address issues specifically affecting the juvenile justice system, including evidence-based programs for group foster care placements and the state training school, diversion, and community-based services for juvenile offenders.

e. Providing technical assistance upon request to state and local agencies.

f. Administering federal funds and funds appropriated by the state or that are otherwise available in compliance with applicable laws, regulations, and other requirements for

purposes of study, research, investigation, planning, and implementation in the areas of criminal and juvenile justice.

- g. Making grants to cities, counties, and other entities pursuant to applicable law.
 - h. Maintaining an Iowa correctional policy project as provided in section 216A.137.
 - i. Providing input to the department director in the development of budget recommendations for the division.
 - j. Coordinating with the administrator to develop and make recommendations to the department director pursuant to section 216A.2.
 - k. Serving as a liaison between the division and the public, sharing information and gathering constituency input.
 - l. Recommending to the department the adoption of rules pursuant to chapter 17A as it deems necessary for the board and division.
 - m. Recommending legislative and executive action to the governor and general assembly.
 - n. Establishing advisory committees, work groups, or other coalitions as appropriate.
 - o. Providing the general assembly with an analysis and recommendations of current criminal code provisions and proposed legislation which include but are not limited to all of the following:
 - (1) Potential disparity in sentencing.
 - (2) Truth in sentencing.
 - (3) Victims.
 - (4) The proportionality of specific sentences.
 - (5) Sentencing procedures.
 - (6) Costs associated with the implementation of criminal code provisions, including costs to the judicial branch, department of corrections, and judicial district departments of correctional services, costs for representing indigent defendants, and costs incurred by political subdivisions of the state.
 - (7) Best practices related to the department of corrections including recidivism rates, safety and the efficient use of correctional staff, and compliance with correctional standards set by the federal government and other jurisdictions.
 - (8) Best practices related to the Iowa child death review team established in section 135.43 and the Iowa domestic abuse death review team established in section 135.109.
 - p. Studying and making recommendations for treating and supervising adult and juvenile sex offenders in institutions, community-based programs, and in the community, in areas which include but are not limited to all of the following:
 - (1) The effectiveness of electronically monitoring sex offenders.
 - (2) The cost and effectiveness of special sentences pursuant to chapter 903B.
 - (3) Risk assessment models created for sex offenders.
 - (4) Determining the best treatment programs available for sex offenders and the efforts of Iowa and other states to implement treatment programs.
 - (5) The efforts of Iowa and other states to prevent sex abuse-related crimes including child sex abuse.
 - (6) Any other related issues the board deems necessary, including but not limited to computer and internet sex-related crimes, sex offender case management, best practices for sex offender supervision, the sex offender registry, and the effectiveness of safety zones.
 - q. Providing expertise and advice to the legislative services agency, the department of corrections, the judicial branch, and others charged with formulating fiscal, correctional, or minority impact statements.
 - r. Reviewing data supplied by the division, the department of management, the legislative services agency, the Iowa supreme court, and other departments or agencies for the purpose of determining the effectiveness and efficiency of the collection of such data.
4. The board shall submit reports, in accordance with section 216A.135, to the governor and general assembly regarding actions taken, issues studied, and board recommendations.
- 88 Acts, ch 1277, §16
 C89, §601K.133
 90 Acts, ch 1124, §3; 92 Acts, ch 1231, §47

C93, §216A.133

2010 Acts, ch 1031, §145, 146, 170; 2010 Acts, ch 1193, §153, 154; 2019 Acts, ch 89, §9; 2019 Acts, ch 156, §5

216A.133A Public safety advisory board — duties. Repealed by 2019 Acts, ch 156, §8.

216A.134 Administrator. Repealed by 2010 Acts, ch 1031, §168, 170.

216A.135 Plan and report.

1. The board shall submit a three-year criminal and juvenile justice plan for the state, beginning December 1, 2020, and every three years thereafter, by December 1. The three-year plan shall be updated annually. Each three-year plan and annual updates of the three-year plan shall be submitted to the governor and the general assembly by December 1.

2. The three-year plan and annual updates shall include but are not limited to the following:

a. Short-term and long-term goals for the criminal and juvenile justice systems.

b. The identification of issues and studies on the effective treatment and supervision of adult and juvenile sex offenders in institutions, community-based programs, and the community.

c. Analysis of and recommendations regarding current criminal code provisions.

d. The effectiveness and efficiencies of current criminal and juvenile justice policies, practices, and services.

e. Collection of criminal and juvenile justice data.

f. Recommendations to improve the criminal and juvenile justice systems.

88 Acts, ch 1277, §18

C89, §601K.135

92 Acts, ch 1231, §48

C93, §216A.135

2010 Acts, ch 1193, §156; 2019 Acts, ch 156, §6; 2020 Acts, ch 1063, §75

Referred to in §216A.131A, 216A.133, 216A.137
Subsection 2, paragraph c amended

216A.136 Statistical analysis center — access to records.

The division shall maintain an Iowa statistical analysis center for the purpose of coordinating with data resource agencies to provide data and analytical information to federal, state, and local governments, and assist agencies in the use of criminal and juvenile justice data. Notwithstanding any other provision of state law, unless prohibited by federal law or regulation, the division shall be granted access, for purposes of research and evaluation, to criminal history records, official juvenile court records, juvenile court social records, and any other data collected or under control of the board of parole, department of corrections, department of workforce development, district departments of correctional services, department of human services, judicial branch, and department of public safety. However, intelligence data and peace officer investigative reports maintained by the department of public safety shall not be considered data for the purposes of this section. Any record, data, or information obtained by the division under this section and the division itself is subject to the federal and state confidentiality laws and regulations which are applicable to the original record, data, or information obtained by the division and to the original custodian of the record, data, or information. The access shall include but is not limited to all of the following:

1. Juvenile court records and all other information maintained under sections 232.147 through 232.151.

2. Child abuse information under sections 235A.15 through 235A.19.

3. Dependent adult abuse records maintained under chapter 235B.

4. Criminal history data maintained under chapter 692.

5. Sex offender registry information maintained under chapter 692A.

6. Presentence investigation reports maintained under section 901.4.

7. Corrections records maintained under sections 904.601 and 904.602.

8. Community-based correctional program records maintained under chapter 905.
 9. Parole records maintained under chapter 906.
 10. Deferred judgment, deferred or suspended sentence, and probation records maintained under chapter 907.
 11. Violation of parole or probation records maintained under chapter 908.
 12. Fines and victim restitution records maintained under chapters 909 and 910.
 13. Employment records maintained under section 96.11.
- 88 Acts, ch 1277, §19
 C89, §601K.136
 90 Acts, ch 1124, §4
 C93, §216A.136
 96 Acts, ch 1150, §2; 96 Acts, ch 1193, §3, 4; 98 Acts, ch 1047, §18; 2008 Acts, ch 1085, §3, 4; 2020 Acts, ch 1063, §76
 Referred to in §216A.131A, 232.147, 232.149, 232.149A
 Subsection 1 amended

216A.137 Correctional policy project.

1. The division shall maintain an Iowa correctional policy project for the purpose of conducting analyses of major correctional issues affecting the criminal and juvenile justice system. The board shall identify and prioritize the issues and studies to be addressed by the division through this project and shall report project plans and findings annually along with the report required in section 216A.135. Issues and studies to be considered by the board shall include but are not limited to a review of the information systems available to assess corrections trends and program effectiveness, the development of an evaluation plan for assessing the impact of corrections expenditures, and a study of the desirability and feasibility of changing the state's sentencing practices, which includes a prison population forecast.

2. The division may form subcommittees for the purpose of addressing major correctional issues affecting the criminal and juvenile justice system. The division shall establish a subcommittee to address issues specifically affecting the juvenile justice system.

90 Acts, ch 1124, §5

C91, §601K.137

C93, §216A.137

2019 Acts, ch 156, §7

Referred to in §216A.131A, 216A.133

216A.138 Multiagency database concerning juveniles.

1. The division shall coordinate the development of a multiagency database to track the progress of juveniles through various state and local agencies and programs. The division shall develop a plan which utilizes existing databases, including the Iowa court information system, the federally mandated national adoption and foster care information system, and the other state and local databases pertaining to juveniles, to the extent possible.

2. The department of human services, department of corrections, judicial branch, department of public safety, department of education, local school districts, and other state agencies and political subdivisions shall cooperate with the division in the development of the plan.

3. The database shall be designed to track the progress of juveniles in various programs, evaluate the experiences of juveniles, and evaluate the success of the services provided.

4. The division shall develop the plan within the context of existing federal privacy and confidentiality requirements. The plan shall build upon existing resources and facilities to the extent possible.

5. The plan shall include proposed guidelines for the sharing of information by case management teams, consisting of designated representatives of various state and local agencies and political subdivisions to coordinate the delivery of services to juveniles under the jurisdiction of the juvenile court. The guidelines shall be developed to structure and improve the information-sharing procedures of case management teams established pursuant to any applicable state or federal law or approved by the juvenile court with respect

to a juvenile who is the recipient of the case management team services. The plan shall also contain proposals for changes in state laws or rules to facilitate the exchange of information among members of case management teams.

6. The plan shall include development of a resource guide outlining successful programs and practices established within this state which are designed to promote positive youth development and that assist delinquent and other at-risk youth in overcoming personal and social problems. The guide shall be made publicly available.

7. If the division has insufficient funds and resources to implement this section, the division shall determine what, if any, portion of this section may be implemented, and the remainder of this section shall not apply.

92 Acts, ch 1231, §49; 97 Acts, ch 126, §9; 98 Acts, ch 1047, §19; 2010 Acts, ch 1031, §147, 170

Referred to in §216A.131A

216A.139 Sex offender research council. Repealed by 2019 Acts, ch 156, §8.

216A.140 Iowa collaboration for youth development council — state of Iowa youth advisory council.

1. *Definitions.* For the purposes of this section, unless the context otherwise requires:

a. “Youth” means children and young persons who are ages six through twenty-one years.

b. “Youth advisory council” means the state of Iowa youth advisory council created by this section.

c. “Youth development council” means the Iowa collaboration for youth development council created by this section.

2. *Collaboration council created.* An Iowa collaboration for youth development council is created as an alliance of state agencies that address the needs of youth in Iowa.

3. *Purpose.* The purpose of the youth development council is to improve the lives and futures of Iowa’s youth by doing all of the following:

a. Adopting and applying positive youth development principles and practices at the state and local levels.

b. Increasing the quality, efficiency, and effectiveness of opportunities and services and other supports for youth.

c. Improving and coordinating state youth policy and programs across state agencies.

4. *Vision statement.* All youth development activities addressed by the youth development council shall be aligned around the following vision statement:

“All Iowa youth will be safe, healthy, successful, and prepared for adulthood.”

5. *Membership.* The youth development council membership shall be determined by the council itself and shall include the directors or chief administrators, or their designees, from the following state agencies and programs:

a. Child advocacy board.

b. Iowa commission on volunteer service in the office of the governor.

c. Department of education.

d. Department of human rights.

e. Department of human services.

f. Department of public health.

g. Department of workforce development.

h. Governor’s office of drug control policy.

i. Iowa cooperative extension service in agriculture and home economics.

j. Early childhood Iowa office in the department of management.

6. *Procedure.* Except as otherwise provided by law, the youth development council shall determine its own rules of procedure and operating policies, including but not limited to terms of members. The youth development council may form committees or subgroups as necessary to achieve its purpose.

7. *Duties.* The youth development council's duties shall include but are not limited to all of the following:

a. Study, explore, and plan for the best approach to structure and formalize the functions and activities of the youth development council to meet its purpose, and make formal recommendations for improvement to the governor and general assembly.

b. Review indicator data and identify barriers to youth success and develop strategies to address the barriers.

c. Coordinate across agencies the state policy priorities for youth.

d. Strengthen partnerships with the nonprofit and private sectors to gather input, build consensus, and maximize use of existing resources and leverage new resources to improve the lives of youth and their families.

e. Oversee the activities of the youth advisory council.

f. Seek input from and engage the youth advisory council in the development of more effective policies, practices, and programs to improve the lives and futures of youth.

g. Report annually by February 1 to the governor and general assembly.

8. *State of Iowa youth advisory council.* A state of Iowa youth advisory council is created to provide input to the governor, general assembly, and state and local policymakers on youth issues.

a. The purpose of the youth advisory council is to foster communication among a group of engaged youth and the governor, general assembly, and state and local policymakers regarding programs, policies, and practices affecting youth and families; and to advocate for youth on important issues affecting youth.

b. The youth advisory council shall consist of no more than twenty-one youth ages fourteen through twenty years who reside in Iowa. Membership shall be for two-year staggered terms. The department director, or the director's designee, shall select council members using an application process. The department director or the director's designee shall strive to maintain a diverse council membership and shall take into consideration race, ethnicity, disabilities, gender, and geographic location of residence of the applicants.

c. Except as otherwise provided by law, the youth advisory council shall determine its own rules of procedure and operating policies, subject to approval by the department director or the director's designee.

d. The youth advisory council shall meet at least quarterly.

9. *Lead agency.* The lead agency for support of the Iowa collaboration for youth development council and the state of Iowa youth advisory council is the department. The department shall coordinate activities and, with funding made available to it for such purposes, provide staff support for the youth development council and the youth advisory council.

2009 Acts, ch 53, §1; 2009 Acts, ch 179, §35; 2010 Acts, ch 1031, §295

Referred to in §216A.131A

Section not amended; editorial change applied

SUBCHAPTER 10

STATUS OF AFRICAN AMERICANS

216A.141 Definitions.

For purposes of this subchapter, unless the context otherwise requires:

1. "*Commission*" means the commission on the status of African Americans.
2. "*Office*" means the office on the status of African Americans of the department of human rights.

88 Acts, ch 1201, §1

C89, §601K.141

91 Acts, ch 50, §3

C93, §216A.141

2010 Acts, ch 1031, §148, 149, 170

216A.142 Commission on the status of African Americans established.

1. The commission on the status of African Americans is established and shall consist of seven members appointed by the governor, subject to confirmation by the senate. All members shall reside in Iowa. At least five members shall be individuals who are African American.

2. Terms of office are staggered four-year terms. Members whose terms expire may be reappointed. Vacancies on the commission shall be filled for the remainder of the term of and in the same manner as the original appointment. The commission shall meet quarterly and may hold special meetings on the call of the chairperson. The members of the commission shall be reimbursed for actual expenses while engaged in their official duties. Members may also be eligible to receive compensation as provided in section 7E.6.

3. Members of the commission shall appoint a chairperson and vice chairperson and other officers as the commission deems necessary. A majority of members of the commission shall constitute a quorum. A quorum shall be required for the conduct of business of the commission, and the affirmative vote of a majority of the currently appointed members is necessary for any substantive action taken by the commission. A member shall not vote on any action if the member has a conflict of interest on the matter, and a statement by the member of a conflict of interest shall be conclusive for this purpose.

88 Acts, ch 1201, §2

C89, §601K.142

91 Acts, ch 50, §4

C93, §216A.142

2010 Acts, ch 1031, §150, 170

Confirmation, see §2.32

216A.143 Commission powers and duties.

The commission shall have the following powers and duties:

1. Study the opportunities for and changing needs of the African American community in this state.

2. Serve as liaison between the office and the public, sharing information and gathering constituency input.

3. Recommend to the board for adoption rules pursuant to chapter 17A as it deems necessary for the commission and office.

4. Recommend executive and legislative action to the governor and general assembly.

5. Establish advisory committees, work groups, or other coalitions as appropriate.

88 Acts, ch 1201, §3

C89, §601K.143

C93, §216A.143

95 Acts, ch 69, §1; 2010 Acts, ch 1031, §151, 170

216A.144 and 216A.145 Repealed by 2010 Acts, ch 1031, §168, 170.

216A.146 Office on the status of African Americans.

The office on the status of African Americans is established and shall do the following:

1. Serve as the central permanent agency to advocate for African Americans.

2. Coordinate and cooperate with the efforts of state departments and agencies to serve the needs of African Americans in participating fully in the economic, social, and cultural life of the state, and provide direct assistance to individuals who request it.

3. Develop, coordinate, and assist other public or private organizations which serve African Americans.

4. Serve as an information clearinghouse on programs and agencies operating to assist African Americans.

88 Acts, ch 1201, §6

C89, §601K.146

91 Acts, ch 50, §6

C93, §216A.146
2003 Acts, ch 145, §286; 2010 Acts, ch 1031, §152, 170

216A.147 through 216A.149 Repealed by 2010 Acts, ch 1031, §168, 170.

216A.150 Reserved.

SUBCHAPTER 11

ASIAN AND PACIFIC ISLANDER AFFAIRS

216A.151 Definitions.

For purposes of this subchapter, unless the context otherwise requires:

1. “*Asian and Pacific Islander*” means an individual from any of the countries of Asia or islands of the Pacific.
2. “*Commission*” means the commission of Asian and Pacific Islander affairs.
3. “*Office*” means the office of Asian and Pacific Islander affairs of the department of human rights.

2004 Acts, ch 1020, §3; 2010 Acts, ch 1031, §153 – 155, 170

216A.152 Commission of Asian and Pacific Islander affairs established.

1. The commission of Asian and Pacific Islander affairs is established and shall consist of seven members appointed by the governor, subject to confirmation by the senate. Members shall be appointed representing every geographical area of the state and ethnic groups of Asian and Pacific Islander heritage. All members shall reside in Iowa.

2. Terms of office are four years and shall begin and end pursuant to section 69.19. Members whose terms expire may be reappointed. Vacancies on the commission may be filled for the remainder of the term of and in the same manner as the original appointment. Members shall receive actual expenses incurred while serving in their official capacity, subject to statutory limits. Members may also be eligible to receive compensation as provided in section 7E.6.

3. Members of the commission shall appoint a chairperson and vice chairperson and other officers as the commission deems necessary. The commission shall meet at least quarterly during each fiscal year. A majority of the members of the commission shall constitute a quorum. A quorum shall be required for the conduct of business of the commission, and the affirmative vote of a majority of the currently appointed members is necessary for any substantive action taken by the commission. A member shall not vote on any action if the member has a conflict of interest on the matter, and a statement by the member of a conflict of interest shall be conclusive for this purpose.

2004 Acts, ch 1020, §4; 2010 Acts, ch 1031, §156, 170

Confirmation, see §2.32

216A.153 Commission powers and duties.

The commission shall have the following powers and duties:

1. Study the opportunities for and changing needs of the Asian and Pacific Islander persons in this state.
2. Serve as liaison between the office and the public, sharing information and gathering constituency input.
3. Recommend to the board for adoption rules pursuant to chapter 17A as it deems necessary for the commission and office.
4. Recommend legislative and executive action to the governor and general assembly.
5. Establish advisory committees, work groups, or other coalitions as appropriate.

2004 Acts, ch 1020, §5; 2010 Acts, ch 1031, §157, 170

216A.154 Office of Asian and Pacific Islander affairs.

The office of Asian and Pacific Islander affairs is established and shall do the following:

1. Serve as the central permanent agency to advocate for Iowans of Asian and Pacific Islander heritage.
 2. Coordinate and cooperate with the efforts of state departments and agencies to serve the needs of Iowans of Asian and Pacific Islander heritage in participating fully in the economic, social, and cultural life of the state, and provide direct assistance to individuals who request it.
 3. Develop, coordinate, and assist other public or private organizations which serve Iowans of Asian and Pacific Islander heritage.
 4. Serve as an information clearinghouse on programs and agencies operating to assist Iowans of Asian and Pacific Islander heritage.
- 2004 Acts, ch 1020, §6; 2010 Acts, ch 1031, §158, 170

216A.155 through 216A.160 Repealed by 2010 Acts, ch 1031, §168, 170.

SUBCHAPTER 12 NATIVE AMERICAN AFFAIRS

216A.161 Definitions.

For purposes of this subchapter, unless the context otherwise requires:

1. “*Commission*” means the commission of Native American affairs.
 2. “*Office*” means the office of Native American affairs of the department of human rights.
 3. “*Tribal government*” means the governing body of a federally recognized Indian tribe.
- 2008 Acts, ch 1184, §39; 2010 Acts, ch 1031, §159 – 161, 170

Referred to in §423.3, 423.4

216A.162 Establishment — purpose.

1. A commission of Native American affairs is established consisting of eleven voting members appointed by the governor, subject to confirmation by the senate.
2. The purpose of the commission shall be to work in concert with Native American groups and Native Americans in this state to advance the interests of Native Americans in the areas of human rights, access to justice, economic equality, and the elimination of discrimination.
3. The members of the commission shall be as follows:
 - a. Seven public members appointed in compliance with sections 69.16 and 69.16A who shall be appointed with consideration given to the geographic residence of the member and the population density of Native Americans within the vicinity of the geographic residence of a member. Of the seven public members appointed, at least one shall be a Native American who is an enrolled tribal member living on a tribal settlement or reservation in Iowa and whose tribal government is located in Iowa.
 - b. Four members selected by and representing tribal governments.
 - c. All members of the commission shall be residents of Iowa.
4. Members of the commission shall appoint one of their members to serve as chairperson and may appoint such other officers as the commission deems necessary. The commission shall meet at least four times per year and shall hold special meetings on the call of the chairperson. The members of the commission shall be reimbursed for actual expenses while engaged in their official duties. A member may also be eligible to receive compensation as provided in section 7E.6. A majority of the members of the commission shall constitute a quorum. A quorum shall be required for the conduct of business of the commission, and the affirmative vote of a majority of the currently appointed members is necessary for any substantive action taken by the commission. A member shall not vote on any action if the member has a conflict of interest on the matter, and a statement by the member of a conflict of interest shall be conclusive for this purpose.

2008 Acts, ch 1184, §40; 2008 Acts, ch 1191, §52, 53; 2010 Acts, ch 1031, §162, 163, 170

Confirmation, see §2.32

216A.163 Term of office.

Five of the members appointed to the initial commission shall be designated by the governor to serve two-year terms, and six shall be designated by the governor to serve four-year terms. Succeeding appointments shall be for a term of four years. Vacancies in the membership shall be filled for the remainder of the term of the original appointment.

2008 Acts, ch 1184, §41

216A.164 Meetings of the commission. Repealed by 2010 Acts, ch 1031, §168, 170.

216A.165 Duties.

The commission shall have all powers necessary to carry out the functions and duties specified in this subchapter and shall do all of the following:

1. Study the opportunities for and changing needs of Native American persons in this state.
2. Serve as a liaison between the department and the public, sharing information and gathering constituency input.
3. Recommend to the board for adoption rules pursuant to chapter 17A as it deems necessary for the commission and office.
4. Recommend legislative and executive action to the governor and general assembly.
5. Establish advisory committees, work groups, or other coalitions as appropriate.

2008 Acts, ch 1184, §43; 2008 Acts, ch 1191, §54; 2010 Acts, ch 1031, §164, 170

216A.166 Office of Native American affairs.

The office of Native American affairs is established and shall do the following:

1. Serve as the central permanent agency to advocate for Native Americans.
2. Coordinate and cooperate with the efforts of state departments and agencies to serve the needs of Native Americans in participating fully in the economic, social, and cultural life of the state, and provide direct assistance to individuals who request it.
3. Develop, coordinate, and assist other public or private organizations which serve Native Americans.
4. Serve as an information clearinghouse on programs and agencies operating to assist Native Americans.

2008 Acts, ch 1184, §44; 2008 Acts, ch 1191, §55; 2010 Acts, ch 1031, §165, 170

216A.167 Limitations on authority.

1. The commission and office shall not have the authority to do any of the following:
 - a. Implement or administer the duties of the state of Iowa under the federal Indian Gaming Regulatory Act, shall not have any authority to recommend, negotiate, administer, or enforce any agreement or compact entered into between the state of Iowa and Indian tribes located in the state pursuant to section 10A.104, and shall not have any authority relative to Indian gaming issues.
 - b. Administer the duties of the state under the federal National Historic Preservation Act, the federal Native American Graves Protection and Repatriation Act, and chapter 263B. The commission shall also not interfere with the advisory role of a separate Indian advisory council or committee established by the state archeologist by rule for the purpose of consultation on matters related to ancient human skeletal remains and associated artifacts.
2. This subchapter shall not diminish or inhibit the right of any tribal government to interact directly with the state or any of its departments or agencies for any purpose which a tribal government desires to conduct its business or affairs as a sovereign governmental entity.

2008 Acts, ch 1184, §45; 2010 Acts, ch 1031, §166, 167, 170

216A.168 through 216A.170 Repealed by 2010 Acts, ch 1031, §168, 170.

CHAPTER 216B

DEPARTMENT FOR THE BLIND

Referred to in §7E.5

This chapter not enacted as a part of this title;
transferred from chapter 601L in Code 1993

216B.1	Definitions.	216B.5	Commission employees.
216B.2	Commission created.	216B.6	Powers.
216B.3	Commission duties.	216B.7	Report.
216B.4	Federal aid.	216B.8	Contract bids.

216B.1 Definitions.

For purposes of this chapter, unless the context otherwise requires:

1. “*Commission*” means the commission for the blind.
2. “*Department*” means the department for the blind.
3. “*Director*” means the director of the department for the blind.

86 Acts, ch 1245, §1256

C87, §601K.121

88 Acts, ch 1277, §29, 31

C89, §601L.1

C93, §216B.1

216B.2 Commission created.

The commission for the blind is established consisting of three members appointed by the governor, subject to confirmation by the senate. Members of the commission shall serve three-year terms beginning and ending as provided in section 69.19. The commission shall adopt rules concerning programs and services for blind persons provided under this chapter.

Commission members shall be reimbursed for actual expenses incurred in performance of their duties. Members may also be eligible to receive compensation as provided in section 7E.6. The members of the commission shall appoint officers for the commission. A majority of the members of the commission shall constitute a quorum.

86 Acts, ch 1245, §1257

C87, §601K.122

88 Acts, ch 1277, §31

C89, §601L.2

C93, §216B.2

99 Acts, ch 96, §23

Confirmation, see §2.32

216B.3 Commission duties.

The commission shall:

1. Prepare and maintain a complete register of the blind of the state which shall describe the condition, cause of blindness, ability to receive education and industrial training, and other facts the commission deems of value.

2. Assist in marketing of products of blind workers of the state.

3. Ameliorate the condition of the blind by promoting visits to them in their homes for the purpose of instruction and by other lawful methods as the commission deems expedient.

4. Make inquiries concerning the causes of blindness to ascertain what portion of cases are preventable, and cooperate with the other organized agents of the state in the adoption and enforcement of proper preventive measures.

5. Provide for suitable vocational training if the commission deems it advisable and necessary. The commission may establish workshops for the employment of the blind, paying suitable wages for work under the employment. The commission may provide or pay for, during their training period, the temporary lodging and support of persons receiving vocational training. The commission may use receipts or earnings that accrue from the operation of workshops as provided in this chapter, but a detailed statement of receipts

or earnings and expenditures shall be made monthly to the director of the department of management.

6. Establish, manage, and control a special training, orientation, and adjustment center or centers for the blind. Training in the centers shall be limited to persons who are sixteen years of age or older, and the department shall not provide or cause to be provided any academic education or training to children under the age of sixteen except that the commission may provide library services to these children. The commission may provide for the maintenance, upkeep, repair, and alteration of the buildings and grounds designated as centers for the blind including the expenditure of funds appropriated for that purpose. Nonresidents may be admitted to Iowa centers for the blind as space is available, upon terms determined by rule.

7. Establish and maintain offices for the department and commission.

8. Accept gifts, grants, devises, or bequests of real or personal property from any source for the use and purposes of the department. Notwithstanding sections 8.33 and 12C.7, the interest accrued from moneys received under this section shall not revert to the general fund of the state.

9. Provide library services to persons who are blind and persons with disabilities.

10. Act as a bureau of information and industrial aid for the blind, such as assisting the blind in finding employment.

11. Be responsible for the budgetary and personnel decisions for the department and commission.

12. Manage and control the property, both real and personal, belonging to the department. The commission shall, according to the schedule established in this subsection, when the price is reasonably competitive and the quality as intended, purchase soybean-based inks and plastic products with recycled content, including but not limited to plastic garbage can liners. For purposes of this subsection, "*recycled content*" means that the content of the product contains a minimum of thirty percent postconsumer material.

a. By July 1, 1991, one hundred percent of the purchases of inks which are used for newsprint paper for printing services performed internally or contracted for by the commission shall be soybean-based.

b. By July 1, 1995, a minimum of ten percent of the purchases of garbage can liners made by the commission shall be plastic garbage can liners with recycled content. The percentage purchased shall increase by ten percent annually until fifty percent of the purchases of garbage can liners are plastic garbage can liners with recycled content.

c. By July 1, 1993, one hundred percent of the purchases of inks, other than inks which are used for newsprint printing services, and which are used internally or contracted for by the commission, shall be soybean-based to the extent formulations for such inks are available.

d. The commission shall report to the general assembly on February 1 of each year, the following:

(1) A listing of plastic products which are regularly purchased by the commission for which recycled content product alternatives are available, including the cost of the plastic products purchased and the cost of the recycled content product alternatives.

(2) Information relating to soybean-based inks and plastic garbage can liners with recycled content regularly purchased by the commission, including the cost of purchasing soybean-based inks and plastic garbage can liners with recycled content and the percentages of soybean-based inks and plastic garbage can liners with recycled content that have been purchased.

e. The department of natural resources shall review the procurement specifications currently used by the commission to eliminate, wherever possible, discrimination against the procurement of products manufactured with recycled content and soybean-based inks.

f. The department of natural resources shall assist the commission in locating suppliers of products with recycled content and soybean-based inks, and collecting data on recycled content and soybean-based ink purchases.

g. The commission, in conjunction with the department of natural resources, shall adopt rules to carry out the provisions of this section.

h. The department of natural resources shall cooperate with the commission in all phases of implementing this section.

13. The commission shall, whenever technically feasible, purchase and use degradable loose foam packing material manufactured from grain starches or other renewable resources, unless the cost of the packing material is more than ten percent greater than the cost of packing material made from nonrenewable resources. For the purposes of this subsection, “*packing material*” means material, other than an exterior packing shell, that is used to stabilize, protect, cushion, or brace the contents of a package.

14. Purchase and use recycled printing and writing paper in accordance with the schedule established in section 8A.315; establish a wastepaper recycling program in accordance with the recommendations made by the department of natural resources and requirements of section 8A.329; and, in accordance with section 8A.311, require product content statements and compliance with requirements regarding contract bidding.

15. Develop a plan to provide telephone yellow pages information without charge to persons declared to be blind under the standards in section 422.12, subsection 2, paragraph “a”, subparagraph (5). The department may apply for federal funds to support the service. The program shall be limited in scope by the availability of funds.

16. a. A gasoline-powered motor vehicle purchased by the commission shall not operate on gasoline other than ethanol blended gasoline as defined in section 214A.1. A diesel-powered motor vehicle purchased by the commission shall not operate on diesel fuel other than biodiesel fuel as defined in section 214A.1, if commercially available. A state issued credit card shall not be valid to purchase gasoline other than ethanol blended gasoline or to purchase diesel fuel other than biodiesel fuel, if commercially available. The motor vehicle shall also be affixed with a brightly visible sticker which notifies the traveling public that the motor vehicle is being operated on ethanol blended gasoline or biodiesel fuel, as applicable. However, the sticker is not required to be affixed to an unmarked vehicle used for purposes of providing law enforcement or security.

b. Of all new passenger vehicles and light pickup trucks purchased by the commission, a minimum of ten percent of all such vehicles and trucks purchased shall be equipped with engines which utilize alternative methods of propulsion, including but not limited to any of the following:

(1) A flexible fuel which is any of the following:

(a) E-85 gasoline as provided in section 214A.2.

(b) B-20 biodiesel blended fuel as provided in section 214A.2.

(c) A renewable fuel approved by the office of renewable fuels and coproducts pursuant to section 159A.3.

(2) Compressed or liquefied natural gas.

(3) Propane gas.

(4) Solar energy.

(5) Electricity.

c. The provisions of paragraph “b” do not apply to vehicles and trucks purchased and directly used for law enforcement or off-road maintenance work.

17. Comply with the requirements for the purchase of lubricating oils, industrial oils, greases, and hydraulic fluids as established pursuant to section 8A.316.

18. Give preference to purchasing designated biobased products in the same manner as provided in section 8A.317.

19. Plan, establish, administer, and promote a statewide program to provide audio news and information services to blind or visually impaired persons residing in this state.

a. The commission may enter into necessary contracts and arrangements with the national federation for the blind to provide for the delivery of newspapers over the telephone, furnished by the national federation for the blind.

b. The commission may enter into necessary contracts and arrangements with the Iowa radio reading information service for the blind and print handicapped to provide for the delivery of newspapers, magazines, and other printed materials over the radio, furnished by the Iowa radio reading information service for the blind and print handicapped.

C87, §601K.123

88 Acts, ch 1185, §4; 88 Acts, ch 1277, §31

C89, §601L.3

89 Acts, ch 83, §79; 89 Acts, ch 272, §39; 90 Acts, ch 1237, §5, 6; 91 Acts, ch 97, §59; 91 Acts, ch 194, §8; 91 Acts, ch 254, §23; 92 Acts, ch 1095, §4

C93, §216B.3

93 Acts, ch 26, §2; 93 Acts, ch 176, §38; 94 Acts, ch 1119, §24; 95 Acts, ch 44, §1; 95 Acts, ch 62, §2; 96 Acts, ch 1129, §30; 98 Acts, ch 1082, §3; 99 Acts, ch 114, §14; 99 Acts, ch 121, §8; 2000 Acts, ch 1109, §3; 2003 Acts, ch 145, §207; 2004 Acts, ch 1176, §10; 2006 Acts, ch 1142, §59, 60; 2007 Acts, ch 22, §52; 2008 Acts, ch 1104, §3; 2008 Acts, ch 1169, §37, 42; 2009 Acts, ch 41, §222; 2009 Acts, ch 133, §230; 2010 Acts, ch 1079, §1

Referred to in §8A.302, 8A.321, 8A.322

216B.4 Federal aid.

1. The director may accept financial aid from the government of the United States for carrying out rehabilitation and physical restoration of the blind and for providing library, news, and information services to persons who are blind and persons with disabilities.

2. A contribution or grant shall not be accepted if a condition is attached to it for its use or administration other than that it be used for assistance to the blind.

86 Acts, ch 1245, §1258

C87, §601K.124

88 Acts, ch 1277, §31

C89, §601L.4

C93, §216B.4

96 Acts, ch 1129, §31; 2002 Acts, ch 1119, §28; 2004 Acts, ch 1176, §11; 2010 Acts, ch 1079, §2

216B.5 Commission employees.

The commission may employ staff who shall be qualified by experience to assume the responsibilities of the offices. The director shall be the administrative officer of the commission and shall be responsible for implementing policy set by the commission. The director shall carry out programs and policies as determined by the commission.

86 Acts, ch 1245, §1259

C87, §601K.125

88 Acts, ch 1277, §31

C89, §601L.5

C93, §216B.5

216B.6 Powers.

The commission shall have all powers necessary to carry out the functions and duties specified in this chapter, including, but not limited to the power to establish advisory committees on special studies, to solicit and accept gifts and grants, to adopt rules according to chapter 17A for the commission and department, and to contract with public and private groups to conduct its business. All departments, divisions, agencies, and offices of the state shall make available upon request of the commission information which is pertinent to the subject matter of the study and which is not by law confidential.

86 Acts, ch 1245, §1260

C87, §601K.126

88 Acts, ch 1277, §31

C89, §601L.6

C93, §216B.6

99 Acts, ch 96, §24

216B.7 Report.

The commission shall make a detailed report of its activities, studies, conclusions and recommendations to the general assembly not later than February 15 of each odd-numbered year.

- 86 Acts, ch 1245, §1261
- C87, §601K.127
- 88 Acts, ch 1277, §31
- C89, §601L.7
- C93, §216B.7

216B.8 Contract bids.

A bidder awarded a contract with the department shall disclose the names of all subcontractors, who will work on the project being bid, within forty-eight hours after the award of the contract. If a subcontractor named by a bidder awarded a contract is replaced, or if the cost of work to be done by a subcontractor is reduced, the bidder shall disclose the name of the new subcontractor or the amount of the reduced cost.

- 90 Acts, ch 1161, §5
- C91, §601L.8
- C93, §216B.8

CHAPTER 216C

RIGHTS OF PERSONS WITH DISABILITIES

This chapter not enacted as a part of this title;
transferred from chapter 601D in Code 1993

216C.1	Participation by persons with disabilities.	216C.9	Curb ramps and sloped areas for persons with disabilities.
216C.1A	Definitions.	216C.10	Use of hearing dog.
216C.2	Public employment.	216C.11	Service animals and service-animals-in-training — penalty.
216C.3	Free use of public facilities.	216C.12	Immunity from liability for injury or damage caused by service animals and service-animals-in-training.
216C.4	Accommodations.		
216C.5	Use of guide dogs.		
216C.6	Failure to use cane or dog not negligence.		
216C.7	Penalty for denying rights.		
216C.8	White cane safety day.		

216C.1 Participation by persons with disabilities.

1. It is the policy of this state to encourage and enable persons who are blind or partially blind and persons with disabilities to participate fully in the social and economic life of the state and to engage in remunerative employment.

2. To encourage participation by persons with disabilities, it is the policy of this state to ensure compliance with federal requirements concerning persons with disabilities.

- [C71, §93B.1; C73, 75, 77, 79, 81, §601D.1]
- C93, §216C.1

93 Acts, ch 95, §6; 96 Acts, ch 1129, §32; 2010 Acts, ch 1079, §3

216C.1A Definitions.

For purposes of this chapter, unless the context otherwise requires:

1. “Disability” means the physical or mental condition of a person which constitutes a substantial disability, and the condition of a person with a positive human immunodeficiency virus test result, a diagnosis of acquired immune deficiency syndrome, a diagnosis of acquired immune deficiency syndrome-related complex, or any other condition related to acquired immune deficiency syndrome. The inclusion of a condition related to a positive human immunodeficiency virus test result in the meaning of “disability” under the provisions

of this chapter does not preclude the application of the provisions of this chapter to conditions resulting from other contagious or infectious diseases.

2. “*Service animal*” means a dog or miniature horse as set forth in the implementing regulations of Tit. II and Tit. III of the federal Americans with Disabilities Act of 1990, 42 U.S.C. §12101 et seq.

3. “*Service-animal-in-training*” means a dog or miniature horse that is undergoing a course of development and training to do work or perform tasks for the benefit of an individual that directly relate to the disability of the individual.

2019 Acts, ch 65, §4

216C.2 Public employment.

Persons who are blind or partially blind and persons with disabilities shall be employed in the state service, the service of the political subdivisions of the state, the public schools, and all other employment supported in whole or in part by public funds, on the same terms and conditions as other persons, unless it is shown that the particular disability prevents the performance of the work required.

[C71, §93B.2; C73, 75, 77, 79, 81, §601D.2]

C93, §216C.2

96 Acts, ch 1129, §33; 2010 Acts, ch 1079, §4

Referred to in §331.324

216C.3 Free use of public facilities.

Persons who are blind or partially blind and persons with disabilities have the same right as other persons to the full and free use of the streets, highways, sidewalks, walkways, public buildings, public elevators, public facilities, and other public places.

[C62, 66, §351.31; C71, §93B.3; C73, 75, 77, 79, 81, §601D.3]

C93, §216C.3

96 Acts, ch 1129, §34; 2010 Acts, ch 1079, §5

Referred to in §216C.5, 216C.10, 216C.11

216C.4 Accommodations.

Persons who are blind or partially blind and persons with disabilities are entitled to full and equal accommodations, facilities, and privileges of all common carriers, airplanes, motor vehicles, railroad trains, motorbuses, streetcars, boats, other public conveyances or modes of transportation, hotels, lodging places, eating places, places of public accommodation, amusement, or resort, and other places to which the general public is invited, subject only to the conditions and limitations established by law and applicable alike to all persons.

[C71, §93B.4; C73, 75, 77, 79, 81, §601D.4]

C93, §216C.4

96 Acts, ch 1129, §35; 2010 Acts, ch 1079, §6

Referred to in §216C.5, 216C.10, 216C.11

216C.5 Use of guide dogs.

Every blind or partially blind person shall have the right to be accompanied by a guide dog, under control and especially trained for the purpose, in any of the places listed in sections 216C.3 and 216C.4 without being required to make additional payment for the guide dog. A landlord shall waive lease restrictions on the keeping of a guide dog for a blind person. The blind person is liable for damage done to the premises or facilities by a guide dog.

[C62, 66, §351.30; C71, §93B.5; C73, 75, 77, 79, 81, §601D.5]

83 Acts, ch 46, §3

C93, §216C.5

216C.6 Failure to use cane or dog not negligence.

A blind or partially blind pedestrian not carrying a cane or using a guide dog in any place shall have all of the rights and privileges conferred by law upon other persons, and the failure

of a blind or partially blind pedestrian to carry a cane or to use a guide dog in any place shall not be held to constitute or be evidence of contributory negligence.

[C71, §93B.6; C73, 75, 77, 79, 81, §601D.6]
C93, §216C.6

216C.7 Penalty for denying rights.

Any person, firm, or corporation, or the agent of any person, firm, or corporation, who denies or interferes with the rights of any person under this chapter shall be guilty of a simple misdemeanor.

[C62, 66, §351.32; C71, §93B.7; C73, 75, 77, 79, 81, §601D.7]
C93, §216C.7

216C.8 White cane safety day.

The governor shall annually take suitable public notice of October 15 as “White Cane Safety Day”. The governor shall issue a proclamation commenting upon the significance of the white cane; calling upon the citizens to observe the provisions of this chapter and sections 321.332 and 321.333 and to take precautions necessary for the safety of persons with disabilities; reminding the citizens of the policies herein declared and urging the citizens to cooperate in giving effect to them; and emphasizing the need of the citizens to be aware of the presence of persons with disabilities in the community and to offer assistance to persons with disabilities upon appropriate occasions.

[C71, §93B.8; C73, 75, 77, 79, 81, §601D.8]
C93, §216C.8
96 Acts, ch 1129, §36

216C.9 Curb ramps and sloped areas for persons with disabilities.

1. If a street, road, or highway in this state is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the street, road, or highway with a sidewalk or path. If a sidewalk or path in this state is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the sidewalk or path with a street, highway, or road.

2. Curb ramps and sloped areas that are required pursuant to this section shall be constructed or installed in compliance with applicable federal requirements adopted in accordance with the federal Americans With Disabilities Act, including but not limited to the guidelines issued by the federal architectural and transportation barriers compliance board.

[C75, 77, 79, 81, §601D.9]
C93, §216C.9

93 Acts, ch 95, §7; 96 Acts, ch 1129, §37; 2010 Acts, ch 1079, §7; 2010 Acts, ch 1193, §43
Referred to in §331.361

216C.10 Use of hearing dog.

1. A deaf or hard-of-hearing person has the right to be accompanied by a hearing dog, under control and especially trained to assist the deaf or hard-of-hearing by responding to sound, in any place listed in sections 216C.3 and 216C.4 without being required to make additional payment for the hearing dog. A landlord shall waive lease restrictions on the keeping of dogs for a deaf or hard-of-hearing person with a hearing dog. The deaf or hard-of-hearing person is liable for damage done to any premises or facility by a hearing dog.

2. A person who denies or interferes with the right of a deaf or hard-of-hearing person under this section is, upon conviction, guilty of a simple misdemeanor.

86 Acts, ch 1245, §1263
C87, §601D.10
C93, §216C.10

93 Acts, ch 75, §5; 2010 Acts, ch 1079, §8

216C.11 Service animals and service-animals-in-training — penalty.

1. A person with a disability, a person assisting a person with a disability by controlling

a service animal or a service-animal-in-training, or a person training a service animal has the right to be accompanied by a service animal or service-animal-in-training, under control, in any of the places listed in sections 216C.3 and 216C.4 without being required to make additional payment for the service animal or service-animal-in-training. The person is liable for damage done to any premises or facility by a service animal or a service-animal-in-training.

2. A person who knowingly denies or interferes with the right of a person under this section is, upon conviction, guilty of a simple misdemeanor.

3. a. A person who intentionally misrepresents an animal as a service animal or a service-animal-in-training is, upon conviction, guilty of a simple misdemeanor.

b. A person commits the offense of intentional misrepresentation of an animal as a service animal or a service-animal-in-training if all of the following elements are established:

(1) For the purpose of obtaining any of the rights or privileges set forth in state or federal law, the person intentionally misrepresents an animal in one's possession as one's service animal or service-animal-in-training or a person with a disability's service animal or service-animal-in-training whom the person is assisting by controlling.

(2) The person was previously given a written or verbal warning regarding the fact that it is illegal to intentionally misrepresent an animal as a service animal or a service-animal-in-training.

(3) The person knows that the animal in question is not a service animal or a service-animal-in-training.

88 Acts, ch 1067, §1

C89, §601D.11

91 Acts, ch 69, §1

C93, §216C.11

96 Acts, ch 1129, §113; 2009 Acts, ch 163, §1; 2010 Acts, ch 1069, §27; 2010 Acts, ch 1079, §9; 2019 Acts, ch 65, §5

216C.12 Immunity from liability for injury or damage caused by service animals and service-animals-in-training.

1. For purposes of this section, unless the context otherwise requires:

a. "Owner" means the owner of real property, a contract for deed vendee, receiver, personal representative, trustee, lessor, lessee, agent, or other person directly or indirectly in control of the real property.

b. "Real property" includes any physical location or portion of real property that federal or state law or local ordinance requires to be accessible to a person with a disability who is using a service animal or a service-animal-in-training, a person assisting a person with a disability by controlling a service animal or a service-animal-in-training, or a person training a service animal.

2. An owner is not liable for any injury or damage caused by a service animal or service-animal-in-training if all of the following criteria are met:

a. The owner believes in good faith that the animal is a service animal or a service-animal-in-training and the person using the animal is a person with a disability, a person assisting a person with a disability by controlling a service animal or a service-animal-in-training, or a person training a service-animal-in-training.

b. The injury or damage is not caused by the owner's negligence, recklessness, or willful misconduct.

2019 Acts, ch 65, §6

CHAPTER 216D

OPERATION OF FOOD SERVICE IN PUBLIC BUILDINGS

Referred to in §331.361

This chapter not enacted as a part of this title;
transferred from chapter 601C in Code 1993

216D.1	Public policy.	216D.4	Other public buildings.
216D.2	Definitions.		
216D.3	Agreement with commission for blind.		

216D.1 Public policy.

It is the policy of this state to provide maximum opportunities for training blind persons, helping them to become self-supporting and demonstrating their capabilities. This chapter shall be construed to carry out this policy.

[C71, §93C.1; C73, 75, 77, 79, 81, §601C.1]
C93, §216D.1

216D.2 Definitions.

For the purposes of this chapter:

1. “*Food service*” includes restaurant, cafeteria, snack bar, vending machines for food and beverages, and goods and services customarily offered in connection with any of these.

2. “*Public office building*” means the state capitol, all county courthouses, all city halls, and all buildings used primarily for governmental offices of the state or any county or city. It does not include public schools or buildings at institutions of the state board of regents or the state department of human services.

[C71, §93C.2; C73, 75, 77, 79, 81, S81, §601C.2; 81 Acts, ch 117, §1095]
83 Acts, ch 96, §157, 159
C93, §216D.2
94 Acts, ch 1173, §9

216D.3 Agreement with commission for blind.

A governmental agency which proposes to operate or continue a food service in a public office building shall first attempt in good faith to make an agreement for the commission for the blind to operate the food service without payment of rent. The governmental agency shall not offer or grant to any other party a contract or concession to operate such food service unless the governmental agency determines in good faith that the commission for the blind is not willing to or cannot satisfactorily provide such food service. This chapter shall not impair any valid contract existing on July 1, 1969, and shall not preclude renegotiation of such contract on the same terms and with the same parties.

[C71, §93C.3; C73, 75, 77, 79, 81, §601C.3]
C93, §216D.3
Referred to in §216D.4

216D.4 Other public buildings.

With respect to all state, county, municipal, and school buildings which are not subject to section 216D.3, the governmental agency in charge of the building shall consider allowing the commission for the blind to operate any existing or proposed food service in the building, and shall discuss such operation with the commission for the blind upon its request.

[C71, §93C.4; C73, 75, 77, 79, 81, §601C.4]
C93, §216D.4

CHAPTER 216E

ASSISTIVE DEVICES

216E.1	Definitions.	216E.5	Nonconformity disclosure requirement.
216E.2	Express warranties.	216E.6	Remedies.
216E.3	Assistive device replacement or refund.	216E.7	Exemptions.
216E.4	Manufacturer's duty to provide reimbursement or a loaner for temporary replacement of assistive devices — penalties.		

216E.1 Definitions.

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

1. “*Assistive device*” means any item, piece of equipment, or product system which is purchased, or whose transfer is accepted in this state, and which is used to increase, maintain, or improve the functional capabilities of individuals with disabilities concerning a major life activity. “*Assistive device*” does not mean any medical device, surgical device, or organ implanted or transplanted into or attached directly to an individual. “*Assistive device*” does not mean any device for which a certificate of title is issued by the state department of transportation but does mean any item, piece of equipment, or product system otherwise meeting the definition of “*assistive device*” that is incorporated, attached, or included as a modification in or to such a certificated device.

2. “*Assistive device dealer*” means a person who is in the business of selling assistive devices.

3. “*Assistive device lessor*” means a person who leases assistive devices to consumers, or who holds the lessor’s rights, under a written lease.

4. “*Collateral costs*” means expenses incurred by a consumer in connection with the repair of a nonconformity, including the cost of shipping, sales tax, and of obtaining an alternative assistive device.

5. “*Consumer*” means any one of the following:

a. The purchaser of an assistive device, if the assistive device was purchased from an assistive device dealer or manufacturer for purposes other than resale.

b. A person to whom the assistive device is transferred for purposes other than resale, if the transfer occurs before the expiration of an express warranty applicable to the assistive device.

c. A person who may enforce the warranty.

d. A person who leases an assistive device from an assistive device lessor under a written lease.

6. “*Demonstrator*” means an assistive device used primarily for the purpose of demonstration to the public.

7. “*Early termination costs*” means any expense or obligation that an assistive device lessor incurs as a result of both the termination of a written lease before the termination date set forth in the lease and the return of an assistive device to the manufacturer. “*Early termination costs*” includes a penalty for prepayment under a finance arrangement.

8. “*Early termination savings*” means any expense or obligation that an assistive device lessor avoids as a result of both the termination of a written lease before the termination date set forth in the lease and the return of an assistive device to a manufacturer which shall include an interest charge that the assistive device lessor would have paid to finance the assistive device or, if the assistive device lessor does not finance the assistive device, the difference between the total payments remaining for the period of the lease term remaining after the early termination and the present value of those remaining payments at the date of the early termination.

9. “*Loaner*” means an assistive device, provided free of charge to the consumer, for use by the consumer, that need not be new or be identical to, or have functional capabilities equal

to or greater than, those of the original assistive device, but that meets all of the following conditions:

- a. The loaner is in good working order.
- b. The loaner performs, at a minimum, the most essential functions of the original assistive device, in light of the disabilities of the consumer.
- c. Any differences between the loaner and the original assistive device do not create a threat to the consumer's health or safety.

10. "*Major life activity*" includes functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, or working.

11. "*Manufacturer*" means a person who manufactures or assembles assistive devices and agents of that person, including an importer, a distributor, a factory branch, distributor branch, and any warrantors of the assistive device, but does not include an assistive device dealer or assistive device lessor.

12. "*Nonconformity*" means any defect, malfunction, or condition which substantially impairs the use, value, or safety of an assistive device or any of its component parts, but does not include a condition, defect, or malfunction that is the result of abuse, neglect, or unauthorized modification or alteration of the assistive device by the consumer.

13. "*Reasonable attempt to repair*" means any of the following occurring within the terms of an express warranty applicable to a new assistive device or within one year after first delivery of the assistive device to a consumer, whichever is sooner:

- a. The manufacturer, assistive device lessor, or any of the manufacturer's authorized assistive device dealers accepts return of the new assistive device for repair at least two times.

- b. The manufacturer, assistive device lessor, or any of the manufacturer's authorized assistive device dealers places the assistive device out of service for an aggregate of at least thirty cumulative days because of warranty nonconformities.

98 Acts, ch 1042, §1; 2006 Acts, ch 1159, §9, 10

Referred to in §321.1

216E.2 Express warranties.

1. A manufacturer or assistive device lessor who sells or leases an assistive device to a consumer, either directly or through an assistive device dealer, shall furnish the consumer with an express warranty for the assistive device, warranting the assistive device to be free of any nonconformity. The duration of the express warranty shall be not less than one year after first delivery of the assistive device to the consumer. If a manufacturer fails to furnish an express warranty as required by this section, the assistive device shall be covered by an express warranty as if the manufacturer had furnished an express warranty to the consumer as required by this section.

2. An express warranty does not take effect until the consumer takes possession of the new assistive device.

98 Acts, ch 1042, §2

216E.3 Assistive device replacement or refund.

1. If an assistive device does not conform to an applicable express warranty and the consumer reports the nonconformity to the manufacturer, the assistive device lessor, or any of the manufacturer's authorized assistive device dealers, and makes the assistive device available for repair before one year after first delivery of the device to the consumer or within the period of the express warranty if the warranty is longer than one year, a reasonable attempt to repair the nonconformity shall be made.

2. If, after a reasonable attempt to repair, the nonconformity is not repaired, the manufacturer shall carry out the requirements of either paragraph "a" or "b" upon the request of a consumer.

- a. The manufacturer shall provide for a refund by doing one of the following:

- (1) If the assistive device was purchased by the consumer, accept return of the assistive device and refund to the consumer and to any holder of perfected security interest in the consumer's assistive device, as the holder's interest may appear, the full purchase price plus

any finance charge paid by the consumer at the point of sale and collateral costs, less a reasonable allowance for use.

(2) If the assistive device was leased by the consumer, accept return of the assistive device, refund to the assistive device lessor and to any holder of a perfected security interest in the assistive device, as the holder's interest may appear, the current value of the written lease and refund to the consumer the amount that the consumer paid under the written lease plus any collateral costs, less a reasonable allowance for use. The manufacturer shall have a cause of action against the dealer or lessor for reimbursement of any amount that the manufacturer pays to a consumer which exceeds the net price received by the manufacturer for the assistive device.

b. The manufacturer shall provide a comparable new assistive device or offer a refund to the consumer if the consumer does any one of the following:

(1) Offers to transfer possession of the assistive device to the manufacturer. No later than thirty days after that offer, the manufacturer shall provide the consumer with the comparable new assistive device or a refund. When the manufacturer provides the new assistive device or refund, the consumer shall return the assistive device having the nonconformity to the manufacturer, along with any endorsements necessary to transfer legal possession to the manufacturer.

(2) Offers to return the assistive device to the manufacturer. No later than thirty days after the offer, the manufacturer shall provide a refund to the consumer. When the manufacturer provides a refund, the consumer shall return the assistive device having the nonconformity to the manufacturer.

(3) Offers to transfer possession of a leased assistive device to the manufacturer. No later than thirty days after the offer, the manufacturer shall provide a refund to the assistive device lessor. When the manufacturer provides the refund, the assistive device lessor shall provide to the manufacturer any endorsements necessary to transfer legal possession to the manufacturer.

3. Under the provisions of this section, the current value of the written lease equals the total amount for which that lease obligates the consumer during the period of the lease remaining after its early termination, plus the assistive device lessor's early termination costs and the value of the assistive device at the lease expiration date if the lease sets forth that value, less the assistive device lessor's early termination savings.

4. Under the provisions of this section, a reasonable allowance for use shall not exceed the amount obtained by multiplying the total amount for which the written lease obligates the consumer by a fraction, the denominator of which is one thousand eight hundred twenty-five and the numerator of which is the number of days that the consumer used the assistive device before first reporting the nonconformity to the manufacturer, assistive device lessor, or assistive device dealer.

5. A person shall not enforce a lease against a consumer after the consumer receives a refund.

98 Acts, ch 1042, §3

216E.4 Manufacturer's duty to provide reimbursement or a loaner for temporary replacement of assistive devices — penalties.

1. Whenever an assistive device covered by a manufacturer's express warranty is tendered by a consumer to the dealer from whom the assistive device was purchased or exchanged for the repair of any defect, malfunction, or nonconformity to which the warranty is applicable, the manufacturer shall provide the consumer, at the consumer's choice, for the duration of the repair period, either a rental assistive device reimbursement of up to twenty dollars per day, or a loaner, without cost to the consumer, if a loaner is reasonably available or obtainable by the manufacturer, assistive device lessor, or assistive device dealer, if any of the following applies:

a. The repair period exceeds ten working days, including the day on which the device is tendered to the manufacturer or an assistive device dealer designated by the manufacturer for repairs. If the assistive device dealer does not tender the assistive device to the manufacturer in a timely enough manner for the manufacturer to make the repairs within

ten days, the manufacturer shall have a cause of action against the assistive device dealer for reimbursement of any penalties that the manufacturer must pay.

b. The nonconformity is the same for which the assistive device has been tendered to the assistive device dealer for repair on at least two previous occasions.

2. The provisions of this section regarding a manufacturer's duty shall apply for the period of the applicable express warranty, or until the date any repair required by the warranty is completed and the assistive device is returned to the consumer with the nonconformity eliminated, whichever is later, even if the assistive device is returned after the end of the warranty period.

98 Acts, ch 1042, §4

216E.5 Nonconformity disclosure requirement.

An assistive device returned by a consumer or assistive device lessor in this state or any other state for nonconformity shall not be sold or leased again in this state unless full written disclosure of the reason for return is made to any prospective buyer or lessee by the manufacturer, assistive device dealer, or assistive device lessor.

98 Acts, ch 1042, §5

216E.6 Remedies.

1. This chapter shall not limit rights or remedies available to a consumer under any other law.

2. Any waiver of rights by a consumer under this chapter is void.

3. In addition to pursuing any other remedy, a consumer may bring an action to recover any damages caused by a violation of this chapter. The court shall award a consumer who prevails in such an action no more than three times the amount of any pecuniary loss, together with costs and reasonable attorney fees, and any equitable relief that the court determines is appropriate.

98 Acts, ch 1042, §6

216E.7 Exemptions.

This chapter does not apply to a hearing aid sold, leased, or transferred to a consumer by an audiologist licensed under chapter 154F, or a hearing aid specialist licensed under chapter 154A, if the audiologist or specialist provides either an express warranty for the hearing aid or provides for service and replacement of the hearing aid.

98 Acts, ch 1042, §7; 2005 Acts, ch 3, §49; 2009 Acts, ch 41, §87; 2009 Acts, ch 133, §84; 2015 Acts, ch 57, §16

SUBTITLE 2

HUMAN SERVICES — INSTITUTIONS

Referred to in §714.8

CHAPTER 217

DEPARTMENT OF HUMAN SERVICES

Referred to in §252B.9

	SUBCHAPTER I		
	GENERAL PROVISIONS		
		217.24	Payment by electronic funds transfer.
		217.25	through 217.29 Reserved.
217.1	Programs of department.	217.30	Confidentiality of records — report of recipients.
217.2	Council on human services.		
217.3	Duties of council.	217.31	Action for damages.
217.3A	Advisory committees.	217.32	Office space in county.
217.4	Meetings of council.	217.33	Legal services.
217.5	Director of human services.	217.34	Debt setoff.
217.6	Rules and regulations — organization of department.	217.35	Fraud and recoupment activities.
217.7	Administrators of divisions.	217.36	Distribution of earned income tax credit information.
217.8	Division of child and family services.	217.37	Reserved.
217.9	Additional duties.	217.38	Restitution to individuals of Japanese ancestry.
217.9A	Commission on children, youth, and families. Repealed by 98 Acts, ch 1206, §19.	217.39	Persecuted victims of World War II — reparations — heirs.
217.10	Administrator of division of mental health and disability services.	217.40	Training for guardians and conservators.
217.11	and 217.12 Repealed by 2008 Acts, ch 1072, §6.	217.41	Refugee services foundation.
217.13	Department to provide certain volunteer services — volunteer liability.	217.41A	Electronic health records system task force. Repealed by 2008 Acts, ch 1188, §28.
217.14	Reserved.	217.41B	State family planning services program — establishment — discontinuation of Medicaid family planning network waiver.
217.15	Administrator of division of administration.		
217.16	Cooperation with other divisions.		
217.17	Administrator of division of planning.		
217.18	Official seal.		
217.19	Expenses.		
217.20	Trips to other states. Repealed by 2011 Acts, ch 127, §56, 89.	217.42	Service areas — offices.
217.21	Annual report.	217.43	Service area advisory boards — location of county offices.
217.22	Reserved.	217.44	Service areas — employee and volunteer record checks.
217.23	Personnel — merit system — reimbursement for damaged property.	217.45	Background investigations.
			SUBCHAPTER II
			FIELD SERVICES ORGANIZATION

SUBCHAPTER I

GENERAL PROVISIONS

217.1 Programs of department.

There is established a department of human services to administer programs designed to improve the well-being and productivity of the people of the state of Iowa. The department shall concern itself with the problems of human behavior, adjustment, and daily living through the administration of programs of family, child, and adult welfare, economic

assistance including costs of medical care, rehabilitation toward self-care and support, delinquency prevention and control, treatment and rehabilitation of juvenile offenders, care and treatment of persons with mental illness or an intellectual disability, and other related programs as provided by law.

[C71, 73, 75, 77, 79, 81, §217.1]

83 Acts, ch 96, §63, 159; 96 Acts, ch 1129, §38; 2012 Acts, ch 1019, §20

Referred to in §7E.5

Department to develop and implement strategies to increase efficiencies by reducing paperwork, decreasing staff time, and providing more streamlined services; annual progress report to joint appropriations subcommittee on health and human services; 2010 Acts, ch 1031, §335

217.2 Council on human services.

1. a. There is created within the department of human services a council on human services which shall act in a policymaking and advisory capacity on matters within the jurisdiction of the department. The council shall consist of seven voting members appointed by the governor subject to confirmation by the senate. Appointments shall be made on the basis of interest in public affairs, good judgment, and knowledge and ability in the field of human services. Appointments shall be made to provide a diversity of interest and point of view in the membership and without regard to religious opinions or affiliations. The voting members of the council shall serve for six-year staggered terms.

b. Each term of a voting member shall commence and end as provided by section 69.19.

c. All voting members of the council shall be electors of the state of Iowa. No more than four members shall belong to the same political party and no more than two members shall, at the time of appointment, reside in the same congressional district. At least one member of the council shall be a member of a county board of supervisors at the time of appointment to the council. Vacancies occurring during a term of office shall be filled in the same manner as the original appointment for the balance of the unexpired term subject to confirmation by the senate.

2. In addition to the voting members described in subsection 1, the membership of the council shall include four legislators as ex officio, nonvoting members. The four legislators shall be appointed one each by the majority leader of the senate, the minority leader of the senate, the speaker of the house of representatives, and the minority leader of the house of representatives for terms as provided in section 69.16B.

[C71, 73, 75, 77, 79, 81, §217.2; 81 Acts, ch 78, §20, 21]

83 Acts, ch 96, §157, 159; 2009 Acts, ch 115, §1

Confirmation, see §2.32

217.3 Duties of council.

The council on human services shall:

1. Organize annually and select a chairperson and vice chairperson.
2. Adopt and establish policy for the operation and conduct of the department of human services, subject to any guidelines which may be adopted by the general assembly, and the implementation of all services and programs thereunder.
3. Report immediately to the governor any failure by the director or any administrator of the department of human services to carry out any of the policy decisions or directives of the council.
4. Approve the budget of the department of human services prior to submission to the governor. Prior to approval of the budget, the council shall publicize and hold a public hearing to provide explanations and hear questions, opinions, and suggestions regarding the budget. Invitations to the hearing shall be extended to the governor, the governor-elect, the director of the department of management, and other persons deemed by the council as integral to the budget process. The budget materials submitted to the governor shall include a review of options for revising the medical assistance program made available by federal action or by actions implemented by other states as identified by the department, the medical assistance advisory council created in section 249A.4B, and by county representatives. The review shall address what potential revisions could be made in this state and how the changes would be beneficial to Iowans.

5. Insure that all programs administered or services rendered by the department directly to any citizen or through a local board of welfare to any citizen are coordinated and integrated so that any citizen does not receive a duplication of services from various departments or local agencies that could be rendered by one department or local agency. If the council finds that such is not the case, it shall hear and determine which department or local agency shall provide the needed service or services and enter an order of their determination by resolution of the council which must be concurred in by at least a majority of the members. Thereafter such order or resolution of the council shall be obeyed by all state departments and local agencies to which it is directed.

6. Adopt all necessary rules recommended by the director or administrators of divisions hereinafter established prior to their promulgation pursuant to chapter 17A.

7. Approve the establishment of any new division or reorganization, consolidation or abolition of any established division prior to the same becoming effective.

8. Recommend to the governor the names of individuals qualified for the position of director of human services when a vacancy exists in the office.

[C71, 73, 75, 77, 79, 81, §217.3]

83 Acts, ch 96, §157, 159; 89 Acts, ch 283, §18; 95 Acts, ch 205, §36; 98 Acts, ch 1155, §7; 2005 Acts, ch 120, §1; 2019 Acts, ch 85, §90

Referred to in §225C.6, 249A.4B

217.3A Advisory committees.

1. *General.* The council on human services shall establish and utilize the advisory committee identified in this section and may establish and utilize other advisory committees. The council shall establish appointment provisions, membership terms, operating guidelines, and other operational requirements for committees established pursuant to this section.

2. *Child abuse prevention.* The council shall establish a child abuse prevention program advisory committee to support the child abuse prevention program implemented in accordance with section 235A.1. The duties of the advisory committee shall include all of the following:

a. Advise the director of human services and the administrator of the division of the department of human services responsible for child and family programs regarding expenditures of funds received for the child abuse prevention program.

b. Review the implementation and effectiveness of legislation and administrative rules concerning the child abuse prevention program.

c. Recommend changes in legislation and administrative rules to the general assembly and the appropriate administrative officials.

d. Require reports from state agencies and other entities as necessary to perform its duties.

e. Receive and review complaints from the public concerning the operation and management of the child abuse prevention program.

f. Approve grant proposals.

2010 Acts, ch 1031, §391; 2013 Acts, ch 10, §29; 2019 Acts, ch 85, §86, 87

217.4 Meetings of council.

The council shall meet at least monthly. Additional meetings shall be called by the chairperson or upon written request of any three members thereof as necessary to carry out the duties of the council. The chairperson shall preside at all meetings or in the absence of the chairperson the vice chairperson shall preside. The members of the council shall be paid a per diem as specified in section 7E.6 and their reasonable and necessary expenses.

[C71, 73, 75, 77, 79, 81, §217.4]

90 Acts, ch 1256, §36

Mileage expense rate, see §70A.9

217.5 Director of human services.

The chief administrative officer for the department of human services is the director of human services. The director shall be appointed by the governor subject to confirmation by the senate and shall serve at the pleasure of the governor. The governor shall fill a vacancy in

this office in the same manner as the original appointment was made. The director shall be selected primarily for administrative ability. The director shall not be selected on the basis of political affiliation and shall not engage in political activity while holding this position.

[C71, 73, 75, 77, 79, 81, §217.5]

83 Acts, ch 96, §157, 159; 88 Acts, ch 1134, §43; 2018 Acts, ch 1041, §56

Confirmation, see §2.32

217.6 Rules and regulations — organization of department.

1. The director is hereby authorized to recommend to the council for adoption such rules and regulations as are necessary to carry into practice the programs of the various divisions and to establish such divisions and to assign or reassign duties, powers, and responsibilities within the department, all with the approval of the council on human services, within the department as the director deems necessary and appropriate for the proper administration of the duties, functions and programs with which the department is charged. Any action taken, decision made, or administrative rule adopted by any administrator of a division may be reviewed by the director. The director, upon such review, may affirm, modify, or reverse any such action, decision, or rule.

2. The rules and regulations adopted for the public benefits and programs administered by the department of human services shall apply the residency eligibility restrictions required by federal and state law.

3. The director shall organize the department of human services into divisions to carry out in an efficient manner the intent of this chapter. The department of human services may be initially divided into the following divisions of responsibility:

- a. The division of child and family services.
- b. The division of mental health and disability services.
- c. The division of administration.
- d. The division of planning, research, and statistics.

4. If the department of human services requires or requests a service consumer, service provider, or other person to maintain required documentation in electronic form, the department shall accept such documentation submitted by electronic means and shall not require a physical copy of the documentation unless required by state or federal law.

[C71, 73, 75, 77, 79, 81, §217.6; 81 Acts, ch 78, §20, 22]

83 Acts, ch 96, §64, 159; 94 Acts, ch 1170, §27; 2006 Acts, ch 1115, §21; 2010 Acts, ch 1031, §406; 2011 Acts, ch 34, §52; 2011 Acts, ch 122, §19, 23; 2020 Acts, ch 1062, §26

Subsection 3 amended

217.7 Administrators of divisions.

The director may appoint an administrator of each of the divisions. The administrators shall be selected on the basis of their particular professional qualifications, education, and background relative to the assigned responsibilities of their divisions.

[C71, 73, 75, 77, 79, 81, §217.7]

88 Acts, ch 1134, §44

217.8 Division of child and family services.

The administrator of the division of child and family services shall be qualified by training, experience, and education in the field of welfare and social problems. The administrator is charged with the administration of programs involving neglected, dependent, and delinquent children, child welfare, family investment program, and aid to persons with disabilities and shall administer and be in control of other related programs established for the general welfare of families, adults, and children as directed by the director.

[C50, 54, 58, 62, 66, §218.79; C71, 73, 75, 77, 79, 81, §217.8; 81 Acts, ch 27, §2; 82 Acts, ch 1260, §17]

90 Acts, ch 1239, §3; 93 Acts, ch 97, §24; 96 Acts, ch 1129, §113

217.9 Additional duties.

The administrator of the division of child and family services may have the additional following duties, powers and responsibilities:

1. Develop a program of basic education, recreation, career and technical training and guidance for social adjustment.

2. Administer programs and statutes involved with child placement, employment and supervision of state boards.

3. Prepare a budget and such report or reports as required by law or as directed by the director.

4. Develop a program in corrective institutions for juveniles designed to rehabilitate the inmates and patients and institute a program of placement and parole supervision for all parolees of said corrective institutions for juveniles.

[C50, 54, 58, 62, 66, §218.80; C71, 73, 75, 77, 79, 81, §217.9]

2016 Acts, ch 1108, §20

217.9A Commission on children, youth, and families. Repealed by 98 Acts, ch 1206, §19.

217.10 Administrator of division of mental health and disability services.

The administrator of the division of mental health and disability services shall be qualified as provided in section 225C.3, subsection 3. The administrator's duties are enumerated in section 225C.4.

[C50, 54, 58, 62, 66, §218.75; C71, 73, 75, 77, 79, 81, §217.10; 81 Acts, ch 78, §20, 23, 50]

94 Acts, ch 1170, §28; 2006 Acts, ch 1115, §22

217.11 and 217.12 Repealed by 2008 Acts, ch 1072, §6. See §216A.107.

217.13 Department to provide certain volunteer services — volunteer liability.

1. The department of human services shall establish volunteer programs designed to enhance the services provided by the department. Roles for volunteers may include but shall not be limited to parent aides, friendly visitors, commodity distributors, clerical assistants, medical transporters, and other functions to complement and supplement the department's work with clients. Roles for volunteers shall include conservators and guardians. The department shall adopt rules for programs which are established.

2. *a.* The director shall appoint a coordinator of volunteer services to oversee the provision of services of volunteer conservators and guardians on a volunteer basis to individuals in this state requiring such services. The coordinator, after consulting with personnel assigned to the district of the department, shall recommend to the director how best to serve the needs of individuals in need of the services of a guardian or conservator. Where possible, the coordinator shall recommend that the services be provided on a multicounty basis.

b. The coordinator shall cooperate with the administrators of the divisions of the department in providing these services and shall seek out alternative sources for providing the services required under this section.

3. All volunteers registered with the department and in compliance with departmental rules are considered state employees for purposes of chapter 669. However, this section does not except a conservator or guardian from an action brought under section 658.1A or 658.3. This section does not relieve a guardian or conservator from duties under chapter 633.

88 Acts, ch 1170, §1; 2005 Acts, ch 175, §91

217.14 Reserved.

217.15 Administrator of division of administration.

The administrator of the division of administration shall be qualified in the general field of governmental administration with special training and experience in the areas of competitive bidding, contract letting, accounting and budget preparation.

[C71, 73, 75, 77, 79, 81, §217.15]

217.16 Cooperation with other divisions.

The administrator of the division of administration shall cooperate with the administrators of the other divisions of the department of human services, assist them and the director of the department in the preparation of annual budgets and such other like reports as may be requested by the director or required by law.

[C71, 73, 75, 77, 79, 81, §217.16]

83 Acts, ch 96, §157, 159

217.17 Administrator of division of planning.

The administrator of the division of planning, research, and statistics shall be qualified in the general field of governmental planning with special training and experience in the areas of preparation and development of plans for future efficient reorganization and administration of government social functions. The administrator of the division of planning, research, and statistics shall cooperate with the administrators of the other divisions of the department of human services, assisting them and the director of the department in their planning, research, and statistical problems. The administrator of the division of planning, research, and statistics shall assist the administrators, director, and the council on human services by proposing administrative and organizational changes at both the state and local level to provide more efficient and integrated social services to the citizens of this state. The planning, research, and statistical operations now forming an integral part of the present state functions assigned to the administrators of this department along with their future needs in this regard are all assigned to and shall be administered by the administrator of the division.

[C71, 73, 75, 77, 79, 81, §217.17]

83 Acts, ch 96, §65, 159; 2013 Acts, ch 90, §42

217.18 Official seal.

The department shall have an official seal with the words "Iowa Department of Human Services" and such other design as the department prescribes engraved thereon. Every commission, order or other paper of an official nature executed by the department may be attested with such seal.

[S13, §2727-a1; SS15, §2727-a3; C24, 27, 31, 35, 39, §3281; C46, 50, 54, 58, 62, 66, §217.8; C71, 73, 75, 77, 79, 81, §217.18]

83 Acts, ch 96, §157, 159

217.19 Expenses.

1. The director of said department, the director's staff, assistants and employees shall, in addition to salary, receive their necessary traveling expenses by the nearest traveled and practicable route, when engaged in the performance of official business.

2. The department of administrative services shall work with the department of human services to develop and implement an expense policy applicable to the members of a board, commission, committee, or other body under the auspices of the department of human services who meet the income requirements for payment of per diem in accordance with section 7E.6, subsection 2. The policy shall allow for the payment of the member's expenses to be addressed through use of direct billings, travel purchase card, prepaid expenses, or other alternative means of addressing the expenses in lieu of reimbursement of the member.

[S13, §2727-a5; C24, 27, 31, 35, 39, §3282; C46, 50, 54, 58, 62, 66, §217.9; C71, 73, 75, 77, 79, 81, §217.19]

2008 Acts, ch 1187, §113

217.20 Trips to other states. Repealed by 2011 Acts, ch 127, §56, 89. See §8A.512A.

217.21 Annual report.

The department shall, annually, at the time provided by law make a report to the governor and general assembly, and cover therein the annual period ending with June 30 preceding, which report shall embrace:

1. An itemized statement of its expenditures concerning each program under its administration.

2. Adequate and complete statistical reports for the state as a whole concerning all payments made under its administration.

3. Such recommendations as to changes in laws under its administration as the director may deem necessary.

4. The observations and recommendations of the director and the council on human services relative to the programs of the department.

5. Such other information as the director or council on human services may deem advisable, or which may be requested by the governor or by the general assembly.

[S13, §2727-a9, -a12, -a16, -a34; SS15, §2727-a3; C24, 27, 31, 35, 39, §3285; C46, 50, 54, 58, 62, 66, §217.11; C71, 73, 75, 77, 79, 81, §217.21]

83 Acts, ch 96, §157, 159

217.22 Reserved.

217.23 Personnel — merit system — reimbursement for damaged property.

1. The director of human services or the director’s designee, shall employ such personnel as are necessary for the performance of the duties and responsibilities assigned to the department. All employees shall be selected on a basis of fitness for the work to be performed with due regard to training and experience and shall be subject to the provisions of chapter 8A, subchapter IV.

2. The department may expend moneys from the support allocation of the department as reimbursement for replacement or repair of personal items of the department’s employees damaged or destroyed by clients of the department during the employee’s tour of duty. However, the reimbursement shall not exceed three hundred dollars for each item. The department shall establish rules in accordance with chapter 17A to carry out the purpose of this section.

[C75, 77, 79, 81, §217.23]

85 Acts, ch 253, §7; 2003 Acts, ch 145, §208; 2007 Acts, ch 218, §37

217.24 Payment by electronic funds transfer.

The department of human services shall continue expanding the practice of making payments to program participants and vendors by means of electronic funds transfer. The department shall seek the capacity for making payment by such means for all programs administered by the department.

2010 Acts, ch 1031, §407

217.25 through 217.29 Reserved.

217.30 Confidentiality of records — report of recipients.

1. For purposes of this section unless the context otherwise requires, “person” means the same as defined in section 4.1.

2. The following information relative to an individual receiving services or assistance from the department shall be held confidential except as otherwise provided in subsection 5:

a. The name and address of an individual receiving services or assistance from the department, and the type of services or amount of assistance provided.

b. Information concerning the social or economic conditions or circumstances of an individual who is receiving or has received services or assistance from the department.

c. An agency evaluation of information about an individual.

d. Medical or psychiatric data, including diagnosis and past history of disease or disability, concerning an individual.

3. Information described in subsection 2 shall not be disclosed to or used by any person except for purposes of administration of a program of services or assistance, and shall not, except as provided in subsection 5, be disclosed to or used by a person outside the department

unless the person is subject to standards of confidentiality comparable to those imposed on the department by this section.

4. Nothing in this section shall restrict the disclosure or use of information regarding the cost, purpose, number of individuals served or assisted by, and results of any program administered by the department, and other general and statistical information, provided the information does not identify any particular individual served or assisted.

5. *a.* The general assembly finds and determines that the use and disclosure of information as provided in this subsection are for purposes directly connected with the administration of the programs of services and assistance referred to in this section and are essential for their proper administration.

b. Confidential information described in subsection 2 shall only be disclosed under the following circumstances:

(1) Upon written application to and with the approval of the director or the director's designee, confidential information described in subsection 2, paragraphs "a", "b", and "c", shall be disclosed to a public official for use in connection with the public official's duties relating to law enforcement, audits, the support and protection of children and families, and other purposes directly connected with the administration of the programs of services and assistance referred to in this section.

(2) If necessary for an individual to receive services, upon written application to and with the approval of the director or the director's designee, confidential information described in subsection 2 shall be disclosed to a state agency, or a person that is not subject to chapter 17A, and that is providing services to the individual pursuant to chapter 239B promoting independence and self-sufficiency through employment through the job opportunities and basic skills program.

(3) Information described in subsection 2, paragraphs "a", "b", and "c", in accordance with section 235A.15, subsection 10.

(4) To a multidisciplinary team as defined in section 235A.13, subsection 8, if the department approves the composition of the multidisciplinary team and the team's sole focus is identifying services for children who are victims of, and children at risk of becoming victims of, human trafficking as defined in section 710A.1. Confidential information shall only be shared if a fully executed multidisciplinary agreement is in place between the department and the multidisciplinary team certifying that all confidential information shared between the parties to the multidisciplinary agreement shall be used solely for identifying services for children who are victims of, and children at risk of becoming victims of, human trafficking.

c. It shall be unlawful for any person to solicit, disclose, receive, use, or to authorize or knowingly permit, participate in, or acquiesce in the use of any information obtained from any such report or record for commercial or political purposes.

6. If the director or the director's designee finds that any provision of this section will cause a program of services or assistance referred to in this section to be ineligible for federal funds, such provision shall be limited or restricted to the extent which is essential to make such program eligible for federal funds. The department shall adopt, pursuant to chapter 17A, any rules necessary to implement this subsection.

7. This section shall apply to an individual receiving assistance pursuant to chapter 252. Any report required to be prepared by the department under this section regarding assistance or services provided pursuant to chapter 252 shall be prepared by the individual appointed pursuant to section 252.26.

8. An individual that violates this section commits a serious misdemeanor.

9. This section shall take precedence over section 17A.12, subsection 7.

[C39, §3828.047; C46, 50, 54, 58, §239.10, 241.25, 249.44; C62, 66, §239.10, 241.25, 241A.16, 249.44, 249A.18; C71, 73, §239.10, 241.25, 241A.16, 249.44, 249A.8; C75, 77, 79, 81, §217.30]

93 Acts, ch 54, §1; 93 Acts, ch 97, §8; 97 Acts, ch 41, §32; 2000 Acts, ch 1088, §1; 2000 Acts, ch 1123, §1; 2004 Acts, ch 1153, §1; 2008 Acts, ch 1072, §2; 2013 Acts, ch 90, §43; 2019 Acts, ch 125, §1

Referred to in §135G.12, 135H.13, 216A.107, 217.31, 232.71D, 235A.15, 235A.17, 235A.24, 237.9, 237.21, 239B.8, 299.13

For requirement to make available requested record of reasons for excluding child from attending a hearing or meeting, see §232.91

217.31 Action for damages.

1. Any person may institute a civil action for damages under chapter 669 or to restrain the dissemination of confidential records set out in section 217.30, subsection 2, paragraph “b”, “c”, or “d”, in violation of that section, and any person, agency or governmental body proven to have disseminated or to have requested and received confidential records in violation of section 217.30, subsection 2, paragraph “b”, “c”, or “d”, shall be liable for actual damages and exemplary damages for each violation and shall be liable for court costs, expenses, and reasonable attorney fees incurred by the party bringing the action. In no case shall the award for damages be less than one hundred dollars.

2. Any reasonable grounds that a public employee has violated any provision of section 217.30 shall be grounds for immediate removal from access of any kind to confidential records or suspension from duty without pay.

[C75, 77, 79, 81, §217.31]

2013 Acts, ch 90, §44; 2019 Acts, ch 125, §2

217.32 Office space in county.

Where the department of human services assigns personnel to an office located in a county for the purpose of performing in that county designated duties and responsibilities assigned by law to the department, it shall be the responsibility of the county to provide and maintain the necessary office space and office supplies and equipment for the personnel so assigned in the same manner as if they were employees of the county. The department shall at least annually, or more frequently if the department so elects, reimburse the county for a portion, designated by law, of the cost of maintaining office space and providing supplies and equipment as required by this section, and also for a similar portion of the cost of providing the necessary office space if in order to do so it is necessary for the county to lease office space outside the courthouse or any other building owned by the county. The portion of the foregoing costs reimbursed to the county under this section shall be equivalent to the proportion of those costs which the federal government authorizes to be paid from available federal funds, unless the general assembly directs otherwise when appropriating funds for support of the department.

[C75, 77, 79, 81, §217.32]

83 Acts, ch 96, §157, 159

217.33 Legal services.

The director of human services pursuant to a state plan funded in part by the federal government may provide services for eligible persons by contract with nonprofit legal aid organizations.

[C77, 79, 81, §217.33]

83 Acts, ch 96, §157, 159

217.34 Debt setoff.

The investigations division of the department of inspections and appeals and the department of human services shall provide assistance to set off against a person’s or provider’s income tax refund or rebate any debt which has accrued through written contract, nonpayment of premiums pursuant to section 249A.3, subsection 2, paragraph “a”, subparagraph (1), subrogation, departmental recoupment procedures, or court judgment and which is in the form of a liquidated sum due and owing the department of human services. The department of inspections and appeals, with approval of the department of human services, shall adopt rules under chapter 17A necessary to assist the department of administrative services in the implementation of the setoff under section 8A.504 in regard to money owed to the state for public assistance overpayments or nonpayment of premiums as specified in this section. The department of human services shall adopt rules under chapter 17A necessary to assist the department of administrative services in the implementation of

the setoff under section 8A.504, in regard to collections by the child support recovery unit and the foster care recovery unit.

83 Acts, ch 96, §160; 83 Acts, ch 153, §2; 89 Acts, ch 250, §1; 2003 Acts, ch 145, §209; 2011 Acts, ch 120, §2; 2013 Acts, ch 138, §122, 127

For future amendment to this section effective upon the later of January 1, 2021, or the effective date of rules adopted by the department of revenue to implement 2020 Acts, ch 1064, see 2020 Acts, ch 1064, §9, 28; 2020 Acts, ch 1118, §73, 74

217.35 Fraud and recoupment activities.

Notwithstanding the requirement for deposit of recovered moneys under section 239B.14, recovered moneys generated through fraud and recoupment activities are appropriated to the department of human services to be used for additional fraud and recoupment activities performed by the department of human services or the department of inspections and appeals. The department of human services may use the recovered moneys appropriated to add not more than five full-time equivalent positions, in addition to those funded by annual appropriations. The appropriation of the recovered moneys is subject to both of the following conditions:

1. The director of human services determines that the investment can reasonably be expected to increase recovery of assistance paid in error, due to fraudulent or nonfraudulent actions, in excess of the amount recovered in the previous fiscal year.

2. The amount expended for the additional fraud and recoupment activities shall not exceed the amount of the projected increase in assistance recovered.

2005 Acts, ch 175, §92

217.36 Distribution of earned income tax credit information.

1. The department shall ensure that educational materials relating to the federal and state earned income tax credits are provided in accordance with this section to each household receiving assistance or benefits under:

- a. The hawk-i program under chapter 514I.
- b. The family investment program under chapter 239B.
- c. The medical assistance Act under chapter 249A.
- d. The food programs defined in section 234.1 which are administered by the department.
- e. Any other appropriate programs administered by, or under the oversight of, the department of human services.

2. The department shall, by mail or through the internet, provide a household described in subsection 1 with access to:

- a. Internal revenue service publications relating to the federal earned income tax credit.
- b. Department of revenue publications relating to the state earned income tax credit.
- c. Information prepared by tax preparers who provide volunteer or free federal or state income tax preparation services to low-income and other eligible persons and who are located in close geographic proximity to the person.

3. In January of each year, the department or a representative of the department shall mail to each household described in subsection 1 information about the federal and state earned income tax credit that provides the household with referrals to the resources described in subsection 2.

4. The mailings required by the department under this section do not have to be made as a separate mailing but may be included in existing mailings being made to the appropriate households.

2008 Acts, ch 1157, §1

217.37 Reserved.

217.38 Restitution to individuals of Japanese ancestry.

Notwithstanding any other law of this state, payments paid to an eligible individual of Japanese ancestry under section 105 of the Civil Liberties Act of 1988, Pub. L. No. 100-383, Tit. I, shall not be considered as income or an asset for determining the eligibility for state or local government benefit or entitlement programs. The proceeds are not subject to

recoupment for the receipt of governmental benefits or entitlements and liens, except liens for child support, are not enforceable against these sums for any reason.

89 Acts, ch 285, §1; 2010 Acts, ch 1061, §180

217.39 Persecuted victims of World War II — reparations — heirs.

Notwithstanding any other law of this state, payments paid to and income from lost property of a victim of persecution for racial, ethnic, or religious reasons by Nazi Germany or any other Axis regime or as an heir of such victim which is exempt from state income tax as provided in section 422.7, subsection 35, shall not be considered as income or an asset for determining the eligibility for state or local government benefit or entitlement programs. The proceeds are not subject to recoupment for the receipt of governmental benefits or entitlements, and liens, except liens for child support, are not enforceable against these sums for any reason.

2000 Acts, ch 1103, §1, 3

For future amendment to this section, effective on or after January 1, 2023, contingent upon meeting certain net general fund revenue criteria, see 2018 Acts, ch 1161, §100, 133, 134

217.40 Training for guardians and conservators.

The department of human services, or a person designated by the director, shall establish training programs designed to assist all duly appointed guardians and conservators in understanding their fiduciary duties and liabilities, the special needs of the ward, and how to best serve the ward and the ward's interests.

89 Acts, ch 178, §2

217.41 Refugee services foundation.

1. The department of human services shall cause a refugee services foundation to be created for the sole purpose of engaging in refugee resettlement activities to promote the welfare and self-sufficiency of refugees who live in Iowa and who are not citizens of the United States. The foundation may establish an endowment fund to assist in the financing of its activities. The foundation shall be incorporated under chapter 504.

2. The foundation shall be created in a manner so that donations and bequests to the foundation qualify as tax deductible under federal and state income tax laws. The foundation is not a state agency and shall not exercise sovereign power of the state. The state is not liable for any debts of the foundation.

3. The refugee services foundation shall have a board of directors of five members. One member shall be appointed by the governor and four members shall be appointed by the director of human services. Members of the board shall serve three-year terms beginning on July 1, and ending on June 30. A vacancy on the board shall be filled in the same manner as the original appointment for the remainder of the term. Not more than two members appointed by the director of human services shall be of the same gender or of the same political party.

4. The refugee services foundation may accept and administer trusts deemed by the board to be beneficial. Notwithstanding section 633.63, the foundation may act as trustee of such a trust.

2004 Acts, ch 1049, §191; 2004 Acts, ch 1175, §146; 2005 Acts, ch 3, §50

217.41A Electronic health records system task force. Repealed by 2008 Acts, ch 1188, §28.

217.41B State family planning services program — establishment — discontinuation of Medicaid family planning network waiver.

1. The department of human services shall discontinue the Medicaid family planning network waiver effective July 1, 2017, and shall instead establish a state family planning services program. The state program shall replicate the eligibility requirements and other provisions included in the Medicaid family planning network waiver as approved by the centers for Medicare and Medicaid services of the United States department of health and human services in effect on June 30, 2017.

2. Distribution of family planning services program funds under this section shall be made in a manner that continues access to family planning services.

3. a. (1) Distribution of family planning services program funds shall not be made to any entity that performs abortions or that maintains or operates a facility where abortions are performed, which shall not be interpreted to include a nonpublic entity that is a distinct location of a nonprofit health care delivery system, if the distinct location provides family planning services but does not perform abortions or maintain or operate as a facility where abortions are performed.

(2) The department of human services shall adopt rules pursuant to chapter 17A to require that as a condition of eligibility as a provider under the family planning services program, each distinct location of a nonprofit health care delivery system shall enroll in the program as a separate provider, be assigned a distinct provider identification number, and complete an attestation that abortions are not performed at the distinct location.

(3) For the purposes of this section, “*nonprofit health care delivery system*” means an Iowa nonprofit corporation that controls, directly or indirectly, a regional health care network consisting of hospital facilities and various ambulatory and clinic locations that provide a range of primary, secondary, and tertiary inpatient, outpatient, and physician services.

b. For the purposes of this section, “*abortion*” does not include any of the following:

(1) The treatment of a woman for a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death.

(2) The treatment of a woman for a spontaneous abortion, commonly known as a miscarriage, when not all of the products of human conception are expelled.

4. Family planning services program funds distributed in accordance with this section shall not be used for direct or indirect costs, including but not limited to administrative costs or expenses, overhead, employee salaries, rent, and telephone and other utility costs, related to providing abortions as specified in subsection 3.

2017 Acts, ch 174, §90, 92; 2018 Acts, ch 1165, §83

SUBCHAPTER II

FIELD SERVICES ORGANIZATION

217.42 Service areas — offices.

1. The organizational structure to deliver the department’s field services shall be based upon service areas designated by the department. The service areas shall serve as a basis for providing field services to persons residing in the counties comprising the service area.

2. The department shall maintain an office in each county. Based on the annual appropriations for field operations, the department shall strive to maintain a full-time presence in each county. If it is not possible to maintain a full-time presence in each county, the department shall provide staff based on its caseweight system to assure the provision of services. The department shall consult with the county boards of supervisors of those counties regarding staffing prior to any modification of office hours.

3. A county or group of counties may voluntarily enter into a chapter 28E agreement with the department to provide funding or staff persons to deliver field services in county offices. The agreement shall cover the full fiscal year but may be revised by mutual consent.

92 Acts, ch 1079, §1; 2001 Acts, 2nd Ex, ch 4, §1, 9; 2010 Acts, ch 1031, §296, 401, 402

217.43 Service area advisory boards — location of county offices.

1. a. The department shall establish a service area advisory board in each service area. Each of the county boards of supervisors of the counties comprising the service area shall appoint two service area advisory board members. All of the following requirements apply to the appointments made by a county board of supervisors:

(1) The membership shall be appointed in accordance with section 69.16, relating to political affiliation, and section 69.16A, relating to gender balance.

(2) Not more than one of the members shall be a member of the board of supervisors.

(3) Appointments shall be made on the basis of interest in maintaining and improving service delivery.

b. Appointments shall be made a part of the regular proceedings of the board of supervisors and shall be filed with the county auditor and the service area manager. A vacancy on the board shall be filled in the same manner as the original appointment.

c. The boards of supervisors shall develop and agree to other organizational provisions involving the advisory board, including reporting requirements.

2. The purpose of the advisory boards is to improve communication and coordination between the department and the counties and to advise the department regarding maintenance and improvement of service delivery in the counties and communities comprising the service areas.

3. The department shall determine the community in which each county office will be located. The county board of supervisors shall determine the location of the office space for the county office. The county board of supervisors shall make reasonable efforts to collocate the office with other state and local government or private entity offices in order to maintain the offices in a cost-effective location that is convenient to the public.

92 Acts, ch 1079, §2; 93 Acts, ch 54, §2; 2001 Acts, 2nd Ex, ch 4, §2, 9; 2020 Acts, ch 1062, §27

Referred to in §251.3, 251.5, 331.321

Emergency relief duties of service area advisory board, see §251.5

Subsection 1 amended

217.44 Service areas — employee and volunteer record checks.

1. The department shall conduct criminal and child and dependent adult abuse record checks of persons who are potential employees, employees, potential volunteers, and volunteers in service area offices in a position having direct contact with the department’s clients. The record checks shall be performed in this state and the department may conduct these checks in other states. If the department determines that a person has been convicted of a crime or has a record of founded child or dependent adult abuse, the department shall perform an evaluation to determine whether the crime or founded abuse warrants prohibition of the person’s employment or participation as a volunteer. The record checks and evaluation shall be performed in accordance with procedures adopted for this purpose by the department.

2. In an evaluation, the department shall consider the nature and seriousness of the crime or founded child or dependent adult abuse in relation to the position sought or held, the time elapsed since the commission of the crime or founded abuse, the circumstances under which the crime or founded abuse was committed, the degree of rehabilitation, the likelihood that the person will commit the crime or founded abuse again, and the number of crimes or founded abuses committed by the person involved.

3. The department may permit a person who is evaluated to be employed or to participate as a volunteer if the person complies with the department’s conditions relating to employment or participation as a volunteer which may include completion of additional training.

4. If the department determines that the person has committed a crime or has a record of founded child or dependent adult abuse which warrants prohibition of employment or participation as a volunteer, the person shall not be employed by or participate as a volunteer in a department service area office in a position having direct contact with the department’s clients.

2000 Acts, ch 1112, §52; 2001 Acts, 2nd Ex, ch 4, §3, 9

217.45 Background investigations.

1. A background investigation may be conducted by the department of human services on all of the following individuals:

a. An applicant for employment with the department.

b. A contractor, vendor, or employee performing work for the department with access to federal tax information used for purposes of the department.

2. An individual subject to this section shall authorize the release of the results of all of the following:

- a. A work history.
- b. A state criminal history background check.
- c. A national criminal history check through the federal bureau of investigation.

3. An individual subject to this section shall provide the individual's fingerprints to the department. The department shall request the national criminal history check and shall provide the individual's fingerprints to the department of public safety for submission through the state criminal history repository to the federal bureau of investigation.

4. The department shall pay the actual cost of the fingerprinting and the national criminal history check, if any, unless otherwise agreed to as part of a vendor contract or other contract with the department.

5. A contractor, vendor, or employee performing work for the department with access to federal tax information used for purposes of the department may be subject to a background investigation by the department at least once every ten years after the date of the initial contract with the contractor or vendor or initial date of hire of the employee.

6. The results of background investigations conducted pursuant to this section shall not be considered public records under chapter 22.

2017 Acts, ch 57, §1

CHAPTER 217A

PARENTAL INVOLVEMENT

Repealed by 2006 Acts, ch 1030, §87

CHAPTER 218

INSTITUTIONS GOVERNED BY HUMAN SERVICES DEPARTMENT

218.1	Institutions controlled.	218.23	Reports to administrator.
218.2	Powers of governor — report of abuses.	218.24	Questionable commitment.
218.3	Definitions.	218.25	Religious beliefs.
218.4	Recommendation for rules.	218.26	Religious worship.
218.5	Fire protection contracts.	218.27	Religious belief of minors.
218.6	Transfer of appropriations made to institutions.	218.28	Investigation.
218.7	and 218.8 Reserved.	218.29	Scope of investigation.
218.9	Appointment of superintendents.	218.30	Investigation of other institutions.
218.10	Subordinate officers and employees.	218.31	Witnesses.
218.11	Interagency case information service. Repealed by 2013 Acts, ch 19, §2.	218.32	Contempt.
218.12	Bonds.	218.33	Transcript of testimony.
218.13	Record checks.	218.34	through 218.39 Reserved.
218.14	Dwelling of superintendent or other employee.	218.40	Services required.
218.15	Salaries — how paid.	218.41	Custody.
218.16	Reserved.	218.42	Wages of residents.
218.17	Authorized leave.	218.43	Deduction to pay court costs.
218.18	Reserved.	218.44	Wages paid to dependent — deposits.
218.19	Districts.	218.45	Conferences.
218.20	Place of commitments — transfers.	218.46	Scientific investigation.
218.21	Record of residents.	218.47	Monthly report.
218.22	Record privileged.	218.48	Annual reports.
		218.49	Contingent fund.
		218.50	Requisition for contingent fund.
		218.51	Monthly reports of contingent fund.
		218.52	Supplies — competition.
		218.53	Dealers may file addresses.

218.54	Samples preserved.	218.84	Abstracting claims and keeping accounts.
218.55	Purchase from an institution.	218.85	Uniform system of accounts.
218.56	Purchase of supplies — vendor warrants.	218.86	Abstract of claims.
218.57	Combining appropriations.	218.87	Warrants issued by director of the department of administrative services.
218.58	Construction, repair, and improvement projects — emergencies.	218.88	Institutional payrolls.
218.59	through 218.63 Reserved.	218.89	Abstracts of payrolls. Repealed by 2003 Acts, ch 145, §291. and 218.91 Reserved.
218.64	Investigation of death.	218.90	
218.65	Property of deceased resident.	218.92	Patients with dangerous mental disturbances.
218.66	Property of small value.	218.93	Consultants for director or administrators.
218.67	Estate administrator not identified.	218.94	Director may buy and sell real estate — options.
218.68	Money deposited with treasurer of state.	218.95	Synonymous terms.
218.69	Permanent record.	218.96	Gifts, grants and devises.
218.70	Payment to party entitled.	218.97	Reserved.
218.71	Reserved.	218.98	Canteen maintained.
218.72	Temporary quarters in emergency.	218.99	Counties to be notified of patients' personal accounts.
218.73	through 218.77 Reserved.	218.100	Central warehouse and supply depot.
218.78	Institutional receipts deposited.		
218.79	through 218.82 Reserved.		
218.83	Administrative improvement.		

218.1 Institutions controlled.

The director of human services shall have the general and full authority given under statute to control, manage, direct, and operate the following institutions under the director's jurisdiction, and may at the director's discretion assign the powers and authorities given the director by statute to any one of the deputy directors, division administrators, or officers or employees of the divisions of the department of human services:

1. Glenwood state resource center.
2. Woodward state resource center.
3. Mental health institute, Cherokee, Iowa.
4. Mental health institute, Independence, Iowa.
5. State training school.
6. Iowa juvenile home.
7. Other facilities not attached to the campus of the main institution as program developments require.

[S13, §2727-a8, -a77; SS15, §2713-n2, 2727-a96; C24, 27, 31, 35, 39, §3287; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §218.1; 81 Acts, ch 73, §1; 82 Acts, ch 1260, §18]

83 Acts, ch 96, §66, 157, 159; 83 Acts, ch 101, §37; 92 Acts, ch 1140, §21; 2000 Acts, ch 1112, §1, 45; 2019 Acts, ch 100, §1

Referred to in §218.2, 218.3, 218.4, 218.13, 218.42, 218.58, 222.2, 225C.13, 227.19, 229.1, 230.1, 232.69, 237.4, 237C.1, 280.16, 282.33, 357H.1, 708.3A, 709.16

218.2 Powers of governor — report of abuses.

1. Nothing contained in section 218.1 shall limit the general supervisory or examining powers vested in the governor by the laws or Constitution of the State of Iowa, or legally vested by the governor in any committee appointed by the governor.

2. The administrator to whom primary responsibility for a particular institution has been assigned shall make reports to the director of human services as are requested by the director and the director shall report, in writing, to the governor any abuses found to exist in any of the institutions.

[S13, §2727-a9, -a18; C24, 27, 31, 35, 39, §3288, 3289; C46, 50, 54, 58, 62, 66, §218.2, 218.3; C71, 73, 75, 77, 79, 81, §218.2]

83 Acts, ch 96, §157, 159; 2000 Acts, ch 1112, §2; 2006 Acts, ch 1010, §67; 2019 Acts, ch 24, §104; 2020 Acts, ch 1062, §28

Subsection 2 amended

218.3 Definitions.

For the purposes of this chapter, unless the context otherwise requires:

1. “*Administrator*” means the person to whom the director of human services has assigned power and authority over an institution in accordance with section 218.1.

2. “*Institution*” means an institution listed in section 218.1.

[C71, 73, 75, 77, 79, 81, §218.3; 81 Acts, ch 78, §20, 24; 82 Acts, ch 1260, §19]

83 Acts, ch 96, §67, 157, 159; 83 Acts, ch 101, §38; 91 Acts, ch 258, §36; 94 Acts, ch 1170, §29; 2000 Acts, ch 1112, §3

218.4 Recommendation for rules.

1. The administrators of particular institutions shall recommend to the council on human services for adoption such rules not inconsistent with law as they may deem necessary for the discharge of their duties, the management of each of such institutions, the admission of residents thereto and the treatment, care, custody, education and discharge of residents. It is made the duty of the particular administrators to establish rules by which danger to life and property from fire will be minimized. In the discharge of their duties and in the enforcement of their rules, they may require any of their appointees to perform duties in addition to those required by statute.

2. Rules adopted by the council pursuant to chapter 17A shall be uniform and shall apply to all institutions under the particular administrator and to all other institutions under the administrator’s jurisdiction. The primary rules for use in institutions where persons with mental illness are served shall, unless otherwise indicated, uniformly apply to county or private hospitals in which persons with mental illness are served, but the rules shall not interfere with proper medical treatment administered to patients by competent physicians. Annually, signed copies of the rules shall be sent to the superintendent of each institution or hospital under the control or supervision of a particular administrator. Copies shall also be sent to the clerk of each district court, the chairperson of the board of supervisors of each county and, as appropriate, to the officer in charge of institutions or hospitals caring for persons with mental illness in each county who shall be responsible for seeing that the rules are posted in each institution or hospital in a prominent place. The rules shall be kept current to meet the public need and shall be revised and published annually.

3. The state fire marshal shall cause to be made an annual inspection of all the institutions listed in section 218.1 and shall make written report thereof to the particular administrator of the state department of human services in control of such institution.

[S13, §2727-a30, -a48, 5718-a3; SS15, §2727-a50, -a96; C24, 27, 31, 35, 39, §3290; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §218.4]

83 Acts, ch 96, §157, 159, 160; 94 Acts, ch 1170, §30; 2000 Acts, ch 1112, §4; 2017 Acts, ch 54, §76; 2018 Acts, ch 1041, §57

218.5 Fire protection contracts.

The administrators shall have power to enter into contracts with the governing body of any city or other municipal corporation for the protection from fire of any property under the administrators’ primary control, located in any municipal corporation or in territory contiguous to the municipal corporation, upon terms as may be agreed upon.

[C31, 35, §3290-d1; C39, §3290.1; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §218.5]

83 Acts, ch 96, §157, 159; 2000 Acts, ch 1112, §5

218.6 Transfer of appropriations made to institutions.

1. Notwithstanding section 8.39, subsection 1, without the prior written consent and approval of the governor and the director of the department of management, the director of human services may transfer funds between the appropriations made for the institutions, listed as follows:

- a. The state resource centers.
- b. The state mental health institutes.
- c. The state training school.
- d. The civil commitment unit for sexual offenders.

2. The department shall report any transfer made pursuant to subsection 1 during a fiscal quarter to the legislative services agency within thirty days of the beginning of the subsequent fiscal quarter.

2005 Acts, ch 175, §93; 2017 Acts, ch 174, §110; 2018 Acts, ch 1165, §121

218.7 and 218.8 Reserved.

218.9 Appointment of superintendents.

1. The administrator in charge of an institution, subject to the approval of the director of human services, shall appoint the superintendent of the institution. The tenure of office of a superintendent shall be at the pleasure of the administrator. The administrator may transfer a superintendent or warden from one institution to another.

2. The superintendent or warden shall have immediate custody and control, subject to the orders and policies of the administrator in charge of the institution, of all property used in connection with the institution except as provided in this chapter.

[S13, §2727-a24; C24, 27, 31, 35, 39, §3292; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §218.9; 81 Acts, ch 27, §3, ch 73, §2, ch 78, §20, 25; 82 Acts, ch 1260, §20]

83 Acts, ch 96, §68, 157, 159; 83 Acts, ch 101, §39; 84 Acts, ch 1277, §17; 90 Acts, ch 1239, §4; 94 Acts, ch 1170, §31; 2000 Acts, ch 1112, §6; 2018 Acts, ch 1041, §58; 2019 Acts, ch 59, §61

218.10 Subordinate officers and employees.

The administrator in charge of a particular institution, with the consent and approval of the director of human services, shall determine the number of subordinate officers and employees for the institution. Subject to this chapter, the officers and employees shall be appointed and discharged by the superintendent or business manager pursuant to chapter 8A, subchapter IV. The superintendent shall keep, in the record of each subordinate officer and employee, the date of employment, the compensation, and the date of each discharge, and the reasons for discharge.

[S13, §2727-a37; SS15, §2713-n2, 2727-a96; C24, 27, 31, 35, 39, §3293; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §218.10]

83 Acts, ch 96, §157, 159; 86 Acts, ch 1245, §260; 2000 Acts, ch 1112, §7; 2003 Acts, ch 145, §210

218.11 Interagency case information service. Repealed by 2013 Acts, ch 19, §2.

218.12 Bonds.

The administrator in charge of any particular institution shall require each officer and any employee of such administrator and of every institution under the administrator's control who may be charged with the custody or control of any money or property belonging to the state to give an official bond, properly conditioned, and signed by sufficient sureties in a sum to be fixed by the administrator, which bond shall be approved by the administrator, and filed in the office of the secretary of state.

[S13, §2727-a31; C24, 27, 31, 35, 39, §3295; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §218.12]

218.13 Record checks.

1. For the purposes of this section, unless the context otherwise requires:

a. "Department" means the department of human services.

b. "Institution" means an institution controlled by the department as described in section 218.1.

c. "Resident" means a person committed or admitted to an institution.

2. If a person is being considered for employment involving direct responsibility for a resident or with access to a resident when the resident is alone, or if a person will reside in a facility utilized by an institution, and if the person has been convicted of a crime or has a record of founded child or dependent adult abuse, the department shall perform an evaluation

to determine whether the crime or founded abuse warrants prohibition of employment or residence in the facility. The department shall conduct criminal and child and dependent adult abuse record checks of the person in this state and may conduct these checks in other states. The investigation and evaluation shall be performed in accordance with procedures adopted for this purpose by the department.

3. If the department determines that a person, who is employed by an institution or resides in a facility utilized by an institution, has been convicted of a crime or has a record of founded child or dependent adult abuse, the department shall perform an evaluation to determine whether prohibition of the person's employment or residence is warranted. The evaluation shall be performed in accordance with procedures adopted for this purpose by the department.

4. In an evaluation, the department shall consider the nature and seriousness of the crime or founded child or dependent adult abuse in relation to the position sought or held, the time elapsed since the commission of the crime or founded abuse, the circumstances under which the crime or founded abuse was committed, the degree of rehabilitation, the likelihood that the person will commit the crime or founded abuse again, and the number of crimes or founded abuses committed by the person involved. The department may permit a person who is evaluated to be employed or reside or to continue employment or residence if the person complies with the department's conditions relating to employment or residence which may include completion of additional training.

5. If the department determines that the person has committed a crime or has a record of founded child or dependent adult abuse which warrants prohibition of employment or residence, the person shall not be employed by an institution or reside in a facility utilized by an institution.

91 Acts, ch 138, §3; 97 Acts, ch 169, §12

Referred to in §218.64, 235A.15

218.14 Dwelling of superintendent or other employee.

1. The administrator having control over an institution may, with consent of the director of human services, furnish the superintendent of the institution, in addition to salary, with a dwelling or with appropriate quarters in lieu of the dwelling, or the administrator may compensate the superintendent of the institution in lieu of furnishing a dwelling or quarters. If the superintendent of the institution is furnished with a dwelling or quarters, either of which is owned by the state, the superintendent may also be furnished with water, heat, and electricity.

2. The administrator having control over an institution may furnish assistant superintendents or other employees, or both, with a dwelling or with appropriate quarters, owned by the state. The assistant superintendent or employee, who is so furnished, shall pay rent for the dwelling or quarters in an amount to be determined by the superintendent of the institution, which shall be the fair market rental value of the dwelling or quarters. If an assistant superintendent or employee is furnished with a dwelling or quarters, either of which is owned by the state, the assistant superintendent or employee may also be furnished with water, heat, and electricity. However, the furnishing of these utilities shall be considered in determining the fair market rental value of the dwelling or quarters.

[S13, §2727-a38; SS15, §2713-n2, 2727-a96, 5717; C24, 27, 31, 35, 39, §3297, 3746; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, §218.14, 246.7; C81, §218.14]

83 Acts, ch 96, §157, 159; 2000 Acts, ch 1112, §8

Referred to in §35D.13

Similar provisions, see §35D.13 and 904.305

218.15 Salaries — how paid.

The salaries and wages shall be included in the semimonthly payrolls and paid in the same manner as other expenses of the several institutions.

[S13, §2727-a38; C24, 27, 31, 35, 39, §3298; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §218.15]

218.16 Reserved.

218.17 Authorized leave.

Vacations and sick leave with pay as authorized in section 70A.1 shall only be taken at such times as the superintendent or the business manager in charge of an officer or employee, as the case may be, may direct, and only after written authorization by the superintendent or business manager, and for the number of days specified in the authorization. A copy of the authorization shall be attached to the institution's copy of the payroll of the institution, for audit purposes, for the period during which the vacation was taken, and the semimonthly payroll shall show the number of days the person was absent under the authorization.

[S13, §2727-a74c, -a74d; C24, 27, 31, 35, 39, §3300; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §218.17]

2000 Acts, ch 1112, §9

218.18 Reserved.**218.19 Districts.**

The administrator having control over a type of institution shall, from time to time, divide the state into districts from which the type of institution may receive residents. The particular administrator shall promptly notify the proper county or judicial officers of all changes in the districts.

[S13, §2727-a21; C24, 27, 31, 35, 39, §3302; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §218.19]

83 Acts, ch 96, §159, 160; 2000 Acts, ch 1112, §10

218.20 Place of commitments — transfers.

Commitments, unless otherwise permitted by the administrator having control over an institution, shall be to the institution located in the district embracing the county from which the commitment is issued. An administrator may, at the expense of the state, transfer a resident of one institution to another like institution.

[S13, §2727-a26; C24, 27, 31, 35, 39, §3303; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §218.20]

83 Acts, ch 96, §159, 160; 2000 Acts, ch 1112, §11

218.21 Record of residents.

The administrator of the department of human services in control of a state institution shall, as to every person committed to any of the institutions, keep the following record:

1. Name.
2. Residence.
3. Sex.
4. Age.
5. Nativity.
6. Occupation.
7. Civil condition.
8. Date of entrance or commitment.
9. Date of discharge.
10. Whether a discharge was final.
11. Condition of the person when discharged.
12. The name of the institutions from which and to which such person has been transferred.

13. If dead, the date and cause of the person's death.

[S13, §2727-a22; C24, 27, 31, 35, 39, §3304; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §218.21]

83 Acts, ch 96, §157, 159, 160; 2018 Acts, ch 1041, §59

Referred to in §218.22

218.22 Record privileged.

Except with the consent of the administrator in charge of an institution, or on an order of a court of record, the record provided in section 218.21 shall be accessible only to the administrator of the division of the department of human services in control of such institution, the director of the department of human services and to assistants and proper clerks authorized by such administrator or the administrator's director. The administrator of the division of such institution is authorized to permit the division of library services of the department of education and the historical division of the department of cultural affairs to copy or reproduce by any photographic, photostatic, microfilm, microcard or other process which accurately reproduces a durable medium for reproducing the original and to destroy in the manner described by law such records of residents designated in section 218.21.

[S13, §2727-a22; C24, 27, 31, 35, 39, §3305; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §218.22]

83 Acts, ch 96, §157, 159, 160; 93 Acts, ch 48, §11; 2011 Acts, ch 132, §40, 106

218.23 Reports to administrator.

The superintendent of an institution shall, within ten days after the commitment or entrance of a person to the institution, cause a true copy of the person's entrance record to be made and forwarded to the administrator in control of the institution. When a patient or resident leaves, or is discharged, or transferred, or dies in an institution, the superintendent or person in charge shall within ten days after that date send the information to the office of the institution's administrator on forms which the administrator prescribes.

[S13, §2727-a22; C24, 27, 31, 35, 39, §3306; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §218.23]

83 Acts, ch 96, §159, 160; 2000 Acts, ch 1112, §12

218.24 Questionable commitment.

The superintendent is required to immediately notify the administrator in control of the superintendent's particular institution if there is any question as to the propriety of the commitment or detention of any person received at such institution, and said administrator, upon such notification, shall inquire into the matter presented, and take such action as may be deemed proper in the premises.

[S13, §2727-a29; C24, 27, 31, 35, 39, §3307; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §218.24]

218.25 Religious beliefs.

The superintendent of an institution, receiving a person committed to the institution, shall inquire of the person as to the person's religious preference and enter the preference in the book kept for the purpose, and cause the person to sign the book.

[S13, §5718-a1; C24, 27, 31, 35, 39, §3308; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §218.25]

2000 Acts, ch 1112, §13

218.26 Religious worship.

Any such resident, during the time of the resident's detention, shall be allowed, for at least one hour on each Sunday and in times of extreme sickness, and at such other suitable and reasonable times as is consistent with proper discipline in said institution, to receive spiritual advice, instruction, and ministrations from any recognized member of the clergy of the church or denomination which represents the resident's religious belief.

[S13, §5718-a1, -a2; C24, 27, 31, 35, 39, §3309; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §218.26]

83 Acts, ch 96, §159, 160

218.27 Religious belief of minors.

In case such resident is a minor and has formed no choice, the minor's preference may, at any time, be expressed by the minor with the approval of parents or guardian, if the minor has any such.

[S13, §5718-a3; C24, 27, 31, 35, 39, §3310; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §218.27]

83 Acts, ch 96, §159, 160

218.28 Investigation.

The administrator of the department of human services in control of a particular institution or the administrator's authorized officer or employee shall visit, and minutely examine, at least once in six months, and more often if necessary or required by law, the institutions under such administrator's control, and the financial condition and management thereof.

[S13, §2727-a10, -a19; C24, 27, 31, 35, 39, §3311; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §218.28]

83 Acts, ch 96, §157, 159; 2005 Acts, ch 3, §51

218.29 Scope of investigation.

The administrator of the department of human services in control of a particular institution or the administrator's authorized officer or employee shall, during such investigation and as far as possible, see every resident of each institution, especially those admitted since the preceding visit, and shall give such residents as may require it, suitable opportunity to converse with such administrator or authorized officer or employee apart from the officers and attendants.

[S13, §2727-a19; C24, 27, 31, 35, 39, §3312; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §218.29]

83 Acts, ch 96, §157, 159

218.30 Investigation of other institutions.

The administrators to whom control of institutions has been assigned, or their authorized officers or employees, may investigate charges of abuse, neglect, or mismanagement on the part of an officer or employee of a private institution which is subject to the administrator's particular supervision or control. The administrator who has been assigned to have authority over the state mental health institutes, or the administrator's authorized officer or employee, shall also investigate charges concerning county care facilities in which persons with mental illness are served.

[S13, §2727-a74b; C24, 27, 31, 35, 39, §3313; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §218.30]

83 Acts, ch 96, §157, 159; 94 Acts, ch 1170, §32; 2000 Acts, ch 1112, §14

218.31 Witnesses.

In aid of any investigation the administrator shall have the power to summon and compel the attendance of witnesses; to examine the same under oath, which the administrator shall have power to administer; to have access to all books, papers, and property material to such investigation, and to order the production of any other books or papers material thereto. Witnesses other than those in the employ of the state shall be entitled to the same fees as in civil cases in the district court.

[S13, §2727-a10; C24, 27, 31, 35, 39, §3314; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §218.31]

Referred to in §218.32

Witness fees, §622.69 – 622.75

218.32 Contempt.

Any person failing or refusing to obey the orders of the administrator issued under section 218.31, or to give or produce evidence when required, shall be reported by the administrator

to the district court in the county where the offense occurs, and shall be dealt with by the court as for contempt of court.

[S13, §2727-a10; C24, 27, 31, 35, 39, §3315; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §218.32]

Contempts, chapter 665

218.33 Transcript of testimony.

The particular administrator involved shall cause the testimony taken at such investigation to be transcribed and filed in the administrator's office at the seat of government within ten days after the same is taken, or as soon thereafter as practicable, and when so filed the same shall be open for the inspection of any person.

[S13, §2727-a10; C24, 27, 31, 35, 39, §3316; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §218.33]

218.34 through 218.39 Reserved.

218.40 Services required.

Residents of the institutions who are subject to the provisions of this chapter may be required to render any proper and reasonable service either in the institutions proper or in the industries established in connection with the institutions.

[S13, §2727-a51; SS15, §5718-a11; C24, 27, 31, 35, 39, §3323; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §218.40]

83 Acts, ch 96, §159, 160; 2019 Acts, ch 59, §62

218.41 Custody.

When a resident of an institution is so working outside the institution proper, the resident shall be deemed at all times in the actual custody of the head of the institution.

[SS15, §5718-a11; C24, 27, 31, 35, 39, §3324; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §218.41]

83 Acts, ch 96, §159, 160

218.42 Wages of residents.

If a resident performs services for the state at an institution listed in section 218.1, the administrator in control of the institution shall pay the resident a wage in accordance with federal wage and hour requirements. However, the wage amount shall not exceed the amount of the prevailing wage paid in the state for a like service or its equivalent.

[SS15, §5718-a11a; C24, 27, 31, 35, 39, §3325; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §218.42]

83 Acts, ch 96, §159, 160; 95 Acts, ch 82, §1

218.43 Deduction to pay court costs.

If such wage be paid, the administrator in control of such institution may deduct therefrom an amount sufficient to pay all or a part of the costs taxed to such resident by reason of the resident's commitment to said institution. In such case the amount so deducted shall be forwarded to the clerk of the district court or proper official.

[SS15, §5718-a11a; C24, 27, 31, 35, 39, §3326; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §218.43]

83 Acts, ch 96, §159, 160

218.44 Wages paid to dependent — deposits.

If such wage be paid, the administrator in control of such institution may pay all or any part of the same directly to any dependent of such resident, or may deposit such wage to the account of such resident, or may so deposit part thereof and allow the resident a portion for the resident's own personal use, or may pay to the county of commitment all or any part of

the resident's care, treatment or subsistence while at said institution from any credit balance accruing to the account of said resident.

[SS15, §5718-a11a; C24, 27, 31, 35, 39, §3327; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §218.44]

83 Acts, ch 96, §159, 160

218.45 Conferences.

Quarterly conferences of the superintendents of the institutions shall be held with the administrator in control of the institutions at Des Moines or at institutions under the administrator's jurisdiction, for the consideration of all matters relative to the management of the institutions. Full minutes of the conferences shall be preserved in the records of the administrator. The administrator in control may cause papers on appropriate subjects to be prepared and read at the conferences.

[S13, §2727-a20; C24, 27, 31, 35, 39, §3328; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §218.45]

2000 Acts, ch 1112, §15

218.46 Scientific investigation.

1. The administrator who is in charge of an institution shall encourage the scientific investigation, on the part of the superintendent and medical staff of the institution, as to the most successful methods of institutional management and treating the persons committed to the institution. In addition, the administrator shall procure and furnish to the superintendent and medical staff information relative to such management and treatment and, from time to time, publish bulletins and reports of scientific and clinical work done in that type of institution.

2. The administrators of such state institutions are authorized to provide services and facilities for the scientific observation, rechecking, and treatment of persons with mental illness within the state. Application by, or on behalf of, any person for such services and facilities shall be made to the administrator in charge of the particular institution involved and shall be made on forms furnished by such administrator. The time and place of admission of any person to outpatient or clinical services and facilities for scientific observation, rechecking and treatment and the use of such services and facilities for the benefit of persons who have already been hospitalized for psychiatric evaluation and appropriate treatment or involuntarily hospitalized as seriously mentally ill shall be in accordance with rules and regulations adopted by the administrator in control of the particular institution involved.

[S13, §2727-a27; C24, 27, 31, 35, 39, §3329; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §218.46]

83 Acts, ch 96, §157, 159; 96 Acts, ch 1129, §113; 2000 Acts, ch 1112, §16

Publications; §7A.27

218.47 Monthly report.

The superintendent or business manager of each institution shall, on the first day of each month, account to the administrator in control of the particular institution for all state funds received during the preceding month, and, at the same time, remit the accounting to the treasurer of state.

[S13, §2727-a40; C24, 27, 31, 35, 39, §3330; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §218.47]

2000 Acts, ch 1112, §17

218.48 Annual reports.

The superintendent or business manager of each institution shall make an annual report to the administrator in control of the particular institution and include in the report a detailed and accurate inventory of the stock and supplies on hand, and their amount and value, under the following headings:

1. Livestock.
2. Farm produce on hand.

3. Vehicles.
4. Agricultural implements.
5. Machinery.
6. Mechanical fixtures.
7. Real estate.
8. Furniture.
9. Bedding in residents' department.
10. State property in superintendent's department.
11. Clothing.
12. Dry goods.
13. Provisions and groceries.
14. Drugs and medicine.
15. Fuel.
16. Library.
17. All other state property under appropriate headings to be determined by the particular administrator involved.

[S13, §2705-b, 2727-a32; C24, 27, 31, 35, 39, §3331; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §218.48]

2000 Acts, ch 1112, §18; 2017 Acts, ch 29, §52

218.49 Contingent fund.

The administrator in control of an institution may permit the superintendent or the business manager of each institution to retain a stated amount of funds under the superintendent's or business manager's supervision as a contingent fund for the payment of freight, postage, commodities purchased on authority of the particular superintendent or business manager involved on a cash basis, salaries, and bills granting discount for cash.

[SS15, §2727-a44; C24, 27, 31, 35, 39, §3332; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §218.49]

2000 Acts, ch 1112, §19

218.50 Requisition for contingent fund.

If necessary, the director of the department of human services shall make proper requisition upon the director of the department of administrative services for a warrant on the state treasurer to secure the said contingent fund for each institution.

[SS15, §2727-a44; C24, 27, 31, 35, 39, §3333; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §218.50]

83 Acts, ch 96, §157, 159; 2003 Acts, ch 145, §286

218.51 Monthly reports of contingent fund.

A monthly report of the status of such contingent fund shall be submitted by the proper officer of said institution to the administrator in control of the institution involved and such rules as such administrator may establish.

[SS15, §2727-a44; C24, 27, 31, 35, 39, §3334; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §218.51]

218.52 Supplies — competition.

The administrator in control of a state institution shall, in the purchase of supplies, afford all reasonable opportunity for competition, and shall give preference to local dealers and Iowa producers when such can be done without loss to the state.

[S13, §2727-a46; SS15, §2727-a50; C24, 27, 31, 35, 39, §3335; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §218.52]

Preference to Iowa products, §8A.311, 73.1 et seq.

218.53 Dealers may file addresses.

Jobbers or others desirous of selling supplies shall, by filing with the administrator in control of a state institution a memorandum showing their address and business, be

afforded an opportunity to compete for the furnishing of supplies, under such rules as such administrator may prescribe.

[SS15, §2727-a50; C24, 27, 31, 35, 39, §3336; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §218.53]

218.54 Samples preserved.

When purchases are made by sample, the same shall be properly marked and retained until after an award or delivery of such items is made.

[SS15, §2727-a50; C24, 27, 31, 35, 39, §3337; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §218.54]

218.55 Purchase from an institution.

An administrator may purchase supplies of any institution under the administrator's control, for use in any other institution under the administrator's control, and reasonable payment for the supplies shall be made as in the case of other purchases.

[S13, §2727-a47; C24, 27, 31, 35, 39, §3338; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §218.55]

83 Acts, ch 96, §157, 159; 2000 Acts, ch 1112, §20

218.56 Purchase of supplies — vendor warrants.

1. The administrators shall, from time to time, adopt and make of record rules and regulations governing the purchase of all articles and supplies needed at the various institutions under their control and the form and verification of vouchers for such purchases.

2. The department of human services shall mail vendor warrants for the department of corrections.

[S13, §2727-a41, -a42, -a49; C24, 27, 31, 35, 39, §3339; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §218.56]

90 Acts, ch 1247, §4; 2019 Acts, ch 59, §63

218.57 Combining appropriations.

The director of the department of administrative services may combine the balances carried in all specific appropriations into a special account for each institution under the control of a particular administrator, except that the support fund for each institution shall be carried as a separate account.

[S13, §2727-a43; C24, 27, 31, 35, 39, §3344; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §218.57]

83 Acts, ch 96, §157, 159; 2000 Acts, ch 1112, §21; 2003 Acts, ch 145, §286

218.58 Construction, repair, and improvement projects — emergencies.

The department shall work with the department of administrative services to accomplish the following responsibilities:

1. The department shall prepare and submit to the director of the department of management, as provided in section 8.23, a multiyear construction program including estimates of the expenditure requirements for the construction, repair, or improvement of buildings, grounds, or equipment at the institutions listed in section 218.1.

2. The director shall have plans and specifications prepared by the department of administrative services for authorized construction, repair, or improvement projects costing over the competitive bid threshold in section 26.3, or as established in section 314.1B. An appropriation for a project shall not be expended until the department of administrative services has adopted plans and specifications and has completed a detailed estimate of the cost of the project, prepared under the supervision of a licensed architect or licensed professional engineer. Plans and specifications shall not be adopted and a project shall not proceed if the project would require an expenditure of money in excess of the appropriation.

3. The department of administrative services shall comply with the competitive bid procedures in chapter 26 to let all contracts under chapter 8A, subchapter III, for authorized construction, repair, or improvement of departmental buildings, grounds, or equipment.

4. If the director of the department of human services and the director of the department of administrative services determine that emergency repairs or improvements estimated to cost more than the competitive bid threshold in section 26.3, or as established in section 314.1B are necessary to assure the continued operation of a departmental institution, the requirements of subsections 2 and 3 for preparation of plans and specifications and competitive procurement procedures are waived. A determination of necessity for waiver by the director of the department of human services and the director of the department of administrative services shall be in writing and shall be entered in the project record for emergency repairs or improvements. Emergency repairs or improvements shall be accomplished using plans and specifications and competitive quotation or bid procedures, as applicable, to the greatest extent possible, considering the necessity for rapid completion of the project. A waiver of the requirements of subsections 2 and 3 does not authorize an expenditure in excess of an amount otherwise authorized for the repair or improvement.

5. A claim for payment relating to a project shall be itemized on a voucher form pursuant to section 8A.514, certified by the claimant and the architect or engineer in charge, and audited and approved by the department of administrative services. Upon approval by the department of administrative services, the director of the department of administrative services shall draw a warrant to be paid by the treasurer of state from funds appropriated for the project. A partial payment made before completion of the project does not constitute final acceptance of the work or a waiver of any defect in the work.

6. Subject to the prior approval of the administrator in control of a departmental institution, minor projects costing five thousand dollars or less may be authorized and completed by the executive head of the institution through the use of day labor. A contract is not required if a minor project is to be completed with the use of resident labor.

84 Acts, ch 1256, §1; 86 Acts, ch 1245, §314; 2003 Acts, ch 145, §211, 286; 2006 Acts, ch 1017, §23, 42, 43; 2007 Acts, ch 126, §44; 2017 Acts, ch 131, §7

218.59 through 218.63 Reserved.

218.64 Investigation of death.

1. For the purposes of this section, unless the context otherwise requires, “*institution*” and “*resident*” mean the same as defined in section 218.13.

2. Upon the death of a resident of an institution, the county medical examiner shall conduct a preliminary investigation of the death as provided in section 331.802. The cost of the preliminary investigation shall be paid by the department of human services.

2008 Acts, ch 1187, §134

Referred to in §222.12, 226.34, 331.802

218.65 Property of deceased resident.

The superintendent or business manager of each institution shall, upon the death of any resident or patient, immediately take possession of all property of the deceased left at the institution, and deliver the property to the duly appointed and qualified representative of the deceased.

[S13, §2727-a72; C24, 27, 31, 35, 39, §3352; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §218.65]

83 Acts, ch 96, §159, 160; 2000 Acts, ch 1112, §22

218.66 Property of small value.

If administration be not granted within one year from the date of the death of the decedent, and the value of the estate of decedent is so small as to make the granting of administration inadvisable, then delivery of the money and other property left by the decedent may be made to the surviving spouse and heirs of the decedent.

[S13, §2727-a72; C24, 27, 31, 35, 39, §3353; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §218.66]

218.67 Estate administrator not identified.

If an estate administrator is not identified within one year from the death of a decedent in an institution, and a surviving spouse or heir is not known, the superintendent of the institution may convert all the decedent's property into cash and in so doing the superintendent shall have the powers possessed by a general administrator of an estate.

[S13, §2727-a72; C24, 27, 31, 35, 39, §3354; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §218.67]

2000 Acts, ch 1112, §23

Referred to in §218.68

218.68 Money deposited with treasurer of state.

Moneys under section 218.67 shall be transmitted to the treasurer of state as soon after one year after the death of the intestate as practicable, and be credited to the support fund of the institution of which the intestate was a resident.

[S13, §2727-a72; C24, 27, 31, 35, 39, §3355; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §218.68]

83 Acts, ch 96, §159, 160; 2020 Acts, ch 1063, §77

Referred to in §218.69, 218.70

Section amended

218.69 Permanent record.

A complete permanent record of the money transmitted to the treasurer of state under section 218.68, showing by whom and with whom it was left, its amount, the date of the death of the owner, the owner's reputed place of residence before the owner became a resident of the institution, the date on which it was transmitted to the state treasurer, and any other facts which may tend to identify the intestate and explain the case, shall be kept by the superintendent of the institution or business manager, as the case may be, and a transcript of the record shall be sent to, and kept by, the treasurer of state.

[S13, §2727-a72; C24, 27, 31, 35, 39, §3356; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §218.69]

83 Acts, ch 96, §159, 160; 2000 Acts, ch 1112, §24

218.70 Payment to party entitled.

Moneys transmitted to the treasurer of state under section 218.68 shall be paid, at any time within ten years from the death of the intestate, to any person who is shown to be entitled thereto. Payment shall be made from the state treasury out of the support fund of such institution in the manner provided for the payment of other claims from that fund.

[S13, §2727-a73, -a74; C24, 27, 31, 35, 39, §3357; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §218.70]

2020 Acts, ch 1063, §78; 2020 Acts, ch 1121, §63, 70

Section amended

218.71 Reserved.**218.72 Temporary quarters in emergency.**

In case the buildings at any institution under the control of an administrator are destroyed or rendered unfit for habitation by reason of fire, storms, or other like causes, to such an extent that the residents cannot be housed and cared for, the administrator shall make temporary provision for the housing and care of the residents at some other place in the state. Like provision may be made in case any pestilence breaks out among the residents. The reasonable cost of the change, including transfer of residents, shall be paid from any moneys in the state treasury not otherwise appropriated.

[C51, §3143; R60, §5156; C73, §4795; C97, §5693; SS15, §2713-n18; C24, 27, 31, 35, 39, §3359; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §218.72]

83 Acts, ch 96, §157, 159, 160; 2000 Acts, ch 1112, §25; 2019 Acts, ch 24, §104

218.73 through 218.77 Reserved.

218.78 Institutional receipts deposited.

1. All institutional receipts of the department of human services, including funds received from client participation at the state resource centers under section 222.78 and at the state mental health institutes under section 230.20, shall be deposited in the general fund except for reimbursements for services provided to another institution or state agency, for receipts deposited in the revolving fund under section 904.706, for deposits into the medical assistance fund under section 249A.11, and rentals charged to employees or others for room, apartment, or house and meals, which shall be available to the institutions.

2. If approved by the director of human services, the department may use appropriated funds for the granting of educational leave.

[C77, 79, 81, §218.78, 218.101; 81 Acts, ch 11, §14, ch 75, §2]

83 Acts, ch 96, §157, 159; 85 Acts, ch 146, §1; 88 Acts, ch 1249, §5; 2000 Acts, ch 1112, §51; 2005 Acts, ch 167, §30, 66; 2010 Acts, ch 1141, §24

218.79 through 218.82 Reserved.

218.83 Administrative improvement.

The director of human services and the administrators assigned to have authority over the institutions shall cooperate with any department or agency of the state government in any manner, including the exchange of employees, calculated to improve administration of the affairs of the institutions.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §218.83]

83 Acts, ch 96, §157, 159; 2000 Acts, ch 1112, §26

218.84 Abstracting claims and keeping accounts.

The director of the department of human services shall have sole charge of abstracting and certifying claims for payment and the keeping of a central system of accounts in institutions under the director's control.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §218.84]

83 Acts, ch 96, §157, 159

218.85 Uniform system of accounts.

The director of human services through the administrators in control of the institutions shall install in all the institutions the most modern, complete, and uniform system of accounts, records, and reports possible. The system shall be prescribed by the director of the department of administrative services as authorized in section 8A.502, subsection 13, and, among other matters, shall clearly show the detailed facts relative to the handling and uses of all purchases.

[S13, §2727-a13; C24, 27, 31, 35, 39, §3286; C46, §217.12; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §218.85]

83 Acts, ch 96, §157, 159; 89 Acts, ch 284, §5; 2000 Acts, ch 1112, §27; 2003 Acts, ch 145, §212

Requirement of auditor of state, §11.5

218.86 Abstract of claims.

Vouchers for expenditures other than salaries shall be submitted to the director of the department of administrative services, who shall prepare in triplicate an abstract of claims submitted showing the name of the claimant and the institutions and institutional fund on account of which the payment is made. The claims and abstracts of claims shall be returned to the director of the department of human services where the correctness of the abstracts shall be certified by the director. The original abstract shall be delivered to the director of the department of administrative services, the duplicate to be retained in the office of the director of the department of human services and the triplicate forwarded to the proper institution to be retained as a record of claims paid.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §218.86]

94 Acts, ch 1107, §9; 2003 Acts, ch 145, §286

Referred to in §218.100

218.87 Warrants issued by director of the department of administrative services.

Upon such certificate the director of the department of administrative services shall, if the institution named has sufficient funds, issue the director's warrants upon the state treasurer, for the amounts and to the claimants indicated thereon. The director of the department of administrative services shall deliver the warrants thus issued to the director of human services, who will cause same to be transmitted to the payees thereof.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §218.87]

2003 Acts, ch 145, §286

Referred to in §218.100

218.88 Institutional payrolls.

At the close of each pay period, the superintendent or business manager of each institution shall prepare and forward to the director of human services a semimonthly payroll which shall show the name of each officer and employee, the semimonthly pay, time paid for, the amount of pay, and any deductions. A substitute shall not be permitted to receive compensation in the name of the employee for whom the substitute is acting.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §218.88]

83 Acts, ch 96, §157, 159; 2000 Acts, ch 1112, §28

Referred to in §218.100

218.89 Abstracts of payrolls. Repealed by 2003 Acts, ch 145, §291.

218.90 and 218.91 Reserved.

218.92 Patients with dangerous mental disturbances.

When a patient in a state resource center for persons with an intellectual disability, a state mental health institute, or another institution under the administration of the department of human services has become so mentally disturbed as to constitute a danger to self, to other patients or staff of the institution, or to the public, and the institution cannot provide adequate security, the administrator in charge of the institution, with the consent of the director of the Iowa department of corrections, may order the patient to be transferred to the Iowa medical and classification center, if the superintendent of the institution from which the patient is to be transferred, with the support of a majority of the medical staff, recommends the transfer in the interest of the patient, other patients, or the public. If the patient transferred was hospitalized pursuant to sections 229.6 to 229.15, the transfer shall be promptly reported to the court that ordered the hospitalization of the patient, as required by section 229.15, subsection 5. The Iowa medical and classification center has the same rights, duties, and responsibilities with respect to the patient as the institution from which the patient was transferred had while the patient was hospitalized in the institution. The cost of the transfer shall be paid from the funds of the institution from which the transfer is made.

[C62, 66, 71, 73, 75, 77, 79, 81, §218.92; 82 Acts, ch 1100, §5]

83 Acts, ch 96, §69, 159; 89 Acts, ch 83, §34; 94 Acts, ch 1170, §33; 96 Acts, ch 1129, §113; 2000 Acts, ch 1112, §29, 51; 2012 Acts, ch 1019, §21

See also §226.30

218.93 Consultants for director or administrators.

The director of human services or the administrators in control of the institutions are authorized to secure the services of consultants to furnish advice on administrative, professional, or technical problems to the director or the administrators, their employees, or employees of institutions under their jurisdiction or to provide in-service training and instruction for the employees. The director and administrators are authorized to pay the consultants at a rate to be determined by them from funds under their control or from any institutional funding under their jurisdiction as the director or administrator may determine.

[C62, 66, 71, 73, 75, 77, 79, 81, §218.93]

83 Acts, ch 96, §157, 159; 2000 Acts, ch 1112, §30

218.94 Director may buy and sell real estate — options.

1. The director of the department of human services shall have full power to secure options to purchase real estate, to acquire and sell real estate, and to grant utility easements, for the proper uses of said institutions. Real estate shall be acquired and sold and utility easements granted, upon such terms and conditions as the director may determine. Upon sale of the real estate, the proceeds shall be deposited with the treasurer of state and credited to the general fund of the state. There is hereby appropriated from the general fund of the state a sum equal to the proceeds so deposited and credited to the general fund of the state to the department of human services, which may be used to purchase other real estate or for capital improvements upon property under the director's control.

2. The costs incident to securing of options, acquisition and sale of real estate and granting of utility easements, including but not limited to appraisals, invitations for offers, abstracts, and other necessary costs, may be paid from moneys appropriated for support and maintenance to the institution at which such real estate is located. Such fund shall be reimbursed from the proceeds of the sale.

[C62, 66, 71, 73, 75, 77, 79, 81, §218.94]

83 Acts, ch 96, §157, 159; 86 Acts, ch 1244, §29; 2019 Acts, ch 24, §104

218.95 Synonymous terms.

1. For purposes of construing the provisions of this and the following subtitles of this title and chapters 904, 913, and 914 relating to persons with mental illness and reconciling these provisions with other former and present provisions of statute, the following terms shall be considered synonymous:

a. "*Mentally ill*" and "*insane*", except that the hospitalization or detention of any person for treatment of mental illness shall not constitute a finding or create a presumption that the individual is legally insane in the absence of a finding of incompetence made pursuant to section 229.27.

b. "*Parole*" and "*convalescent leave*".

c. "*Resident*" and "*patient*".

d. "*Escape*" and "*depart without proper authorization*".

e. "*Warrant*" and "*order of admission*".

f. "*Escapee*" and "*patient*".

g. "*Sane*" and "*in good mental health*".

h. "*Commitment*" and "*admission*".

2. It is hereby declared to be the policy of the general assembly that words which have come to have a degrading meaning shall not be employed in institutional records having reference to persons with various mental conditions and that in all records pertaining to persons with various mental conditions the less discriminatory of the foregoing synonyms shall be employed.

[C62, 66, 71, 73, 75, 77, 79, 81, §218.95]

83 Acts, ch 96, §159, 160; 96 Acts, ch 1129, §39; 2009 Acts, ch 41, §263; 2015 Acts, ch 30, §71; 2016 Acts, ch 1073, §65

218.96 Gifts, grants and devises.

The director of the department of human services is authorized to accept gifts, grants, devises or bequests of real or personal property from the federal government or any source. The director may exercise such powers with reference to the property so accepted as may be deemed essential to its preservation and the purposes for which given, devised or bequeathed.

[C62, 66, 71, 73, 75, 77, 79, 81, §218.96]

83 Acts, ch 96, §157, 159

218.97 Reserved.**218.98 Canteen maintained.**

The administrators in control of the institutions may maintain a canteen at any institution under their jurisdiction and control for the sale to persons residing in the institution of toilet

articles, candy, tobacco products, notions, and other sundries, and may provide the necessary facilities, equipment, personnel, and merchandise for such sale. The administrators shall specify what commodities will be sold in the canteen. The department may establish and maintain a permanent operating fund for each canteen. The fund shall consist of the receipts from the sale of commodities at the canteen.

[C62, 66, 71, 73, 75, 77, 79, 81, §218.98]

83 Acts, ch 96, §157, 159; 2000 Acts, ch 1112, §31

218.99 Counties to be notified of patients' personal accounts.

The administrator in control of a state institution shall direct the business manager of each institution under the administrator's jurisdiction which is mentioned in section 331.424, subsection 1, paragraph "a", subparagraphs (1) and (2), and for which services are paid under section 331.424A, to quarterly inform the county of residence of any patient or resident who has an amount in excess of two hundred dollars on account in the patients' personal deposit fund and the amount on deposit. The administrators shall direct the business manager to further notify the county of residence at least fifteen days before the release of funds in excess of two hundred dollars or upon the death of the patient or resident. If the patient or resident has no residency in this state or the person's residency is unknown, notice shall be made to the director of human services and the administrator in control of the institution involved.

[C66, 71, 73, 75, 77, 79, 81, S81, §218.99; 81 Acts, ch 117, §1026]

83 Acts, ch 96, §157, 159, 160; 83 Acts, ch 123, §80, 209; 95 Acts, ch 206, §6, 12; 97 Acts, ch 169, §1; 98 Acts, ch 1100, §23; 2000 Acts, ch 1112, §32; 2004 Acts, ch 1090, §33; 2010 Acts, ch 1061, §165; 2012 Acts, ch 1120, §68, 130; 2018 Acts, ch 1165, §61

218.100 Central warehouse and supply depot.

The department of human services shall establish a fund for maintaining and operating a central warehouse as a supply depot and distribution facility for surplus government products, carload canned goods, paper products, other staples, and such other items as determined by the department. The fund shall be permanent and shall be composed of the receipts from the sales of merchandise, recovery of handling, operating and delivery charges of such merchandise, and from the funds contributed by the institutions now in a contingent fund being used for this purpose. All claims for purchases of merchandise, operating, and salary expenses shall be subject to the provisions of sections 218.86 to 218.88.

[C71, 73, 75, 77, 79, 81, §218.100]

83 Acts, ch 96, §157, 159; 2003 Acts, ch 145, §213

Legislative intent that upon completion of the central warehouse and supply depot of the department of corrections pursuant to §904.118A, the department of human services cease utilizing the central warehouse and supply depot established under this section; 2008 Acts, ch 1180, §19

CHAPTER 219

STATE MEDICAL INSTITUTION

Repealed by 2010 Acts, ch 1141, §28

SUBTITLE 3**MENTAL HEALTH**

Referred to in §714.8

CHAPTER 220

RESERVED

CHAPTER 220A**INTERAGENCY INFORMATION SERVICE
ON PERSONS WITH MENTAL DISABILITIES**

Repealed by 2013 Acts, ch 19, §3

CHAPTER 221**INTERSTATE MENTAL HEALTH COMPACT**

Referred to in §331.394

221.1	Mental health compact enacted.	221.4	Payments.
221.2	Administrator.	221.5	Consultation.
221.3	Supplementary agreements.	221.6	Distribution of compact.

221.1 Mental health compact enacted.

The interstate compact on mental health is hereby enacted into law and entered into by this state with all other states legally joining therein in the form substantially as follows, and the contracting states solemnly agree that:

1. *Article I.* The party states find that the proper and expeditious treatment of the mentally ill and mentally deficient can be facilitated by cooperative action, to the benefit of the patients, their families, and society as a whole. Further, the party states find that the necessity of and desirability for furnishing such care and treatment bears no primary relation to the residence or citizenship of the patient but that, on the contrary, the controlling factors of community safety and humanitarianism require that facilities and services be made available for all who are in need of them. Consequently, it is the purpose of this compact and of the party states to provide the necessary legal basis for the institutionalization or other appropriate care and treatment of the mentally ill and mentally deficient under a system that recognizes the paramount importance of patient welfare and to establish the responsibilities of the party states in terms of such welfare.

2. *Article II.* As used in this compact:

a. “*Sending state*” shall mean a party state from which a patient is transported pursuant to the provisions of the compact or from which it is contemplated that a patient may be so sent.

b. “*Receiving state*” shall mean a party state to which a patient is transported pursuant to the provisions of the compact or to which it is contemplated that a patient may be so sent.

c. “*Institution*” shall mean any hospital or other facility maintained by a party state or political subdivision thereof for the care and treatment of mental illness or mental deficiency.

d. “*Patient*” shall mean any person subject to or eligible as determined by the laws of the sending state, for institutionalization or other care, treatment, or supervision pursuant to the provisions of this compact.

e. “*After-care*” shall mean care, treatment and services provided a patient, as defined herein, on convalescent status or conditional release.

f. “*Mental illness*” shall mean mental disease to such extent that a person so afflicted requires care and treatment for the person’s own welfare, or the welfare of others, or of the community.

g. “*Mental deficiency*” shall mean mental deficiency as defined by appropriate clinical authorities to such extent that a person so afflicted is incapable of managing the person and the person’s affairs, but shall not include mental illness as defined herein.

h. “*State*” shall mean any state, territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

3. *Article III.*

a. Whenever a person physically present in any party state shall be in need of institutionalization by reason of mental illness or mental deficiency, the person shall be eligible for care and treatment in an institution in that state irrespective of the person’s residence, settlement or citizenship qualifications.

b. The provisions of paragraph “a” of this article to the contrary notwithstanding, any patient may be transferred to an institution in another state whenever there are factors based upon clinical determinations indicating that the care and treatment of said patient would be facilitated or improved thereby. Any such institutionalization may be for the entire period of care and treatment or for any portion or portions thereof. The factors referred to in this paragraph shall include the patient’s full record with due regard for the location of the patient’s family, character of the illness and probable duration thereof, and such other factors as shall be considered appropriate.

c. No state shall be obliged to receive any patient pursuant to the provisions of paragraph “b” of this article unless the sending state has given advance notice of its intention to send the patient; furnished all available medical and other pertinent records concerning the patient; given the qualified medical or other appropriate clinical authorities of the receiving state an opportunity to examine the patient if said authorities so wish; and unless the receiving state shall agree to accept the patient.

d. In the event that the laws of the receiving state establish a system of priorities for the admission of patients, an interstate patient under this compact shall receive the same priority as a local patient and shall be taken in the same order and at the same time that the interstate patient would be taken if the interstate patient were a local patient.

e. Pursuant to this compact, the determination as to the suitable place of institutionalization for a patient may be reviewed at any time and such further transfer of the patient may be made as seems likely to be in the best interest of the patient.

4. *Article IV.*

a. Whenever, pursuant to the laws of the state in which a patient is physically present, it shall be determined that the patient should receive after-care or supervision, such care or supervision may be provided in a receiving state. If the medical or other appropriate clinical authorities having responsibility for the care and treatment of the patient in the sending state shall have reason to believe that after-care in another state would be in the best interest of the patient and would not jeopardize the public safety, they shall request the appropriate authorities in the receiving state to investigate the desirability of affording the patient such after-care in said receiving state, and such investigation shall be made with all reasonable speed. The request for investigation shall be accompanied by complete information concerning the patient’s intended place of residence and the identity of the person in whose charge it is proposed to place the patient, the complete medical history of the patient, and such other documents as may be pertinent.

b. If the medical or other appropriate clinical authorities having responsibility for the care and treatment of the patient in the sending state and the appropriate authorities in the receiving state find that the best interest of the patient would be served thereby, and if the public safety would not be jeopardized thereby, the patient may receive after-care or supervision in the receiving state.

c. In supervising, treating, or caring for a patient on after-care pursuant to the terms of

this article, a receiving state shall employ the same standards of visitation, examination, care, and treatment that it employs for similar local patients.

5. *Article V.* Whenever a dangerous or potentially dangerous patient escapes from an institution in any party state, that state shall promptly notify all appropriate authorities within and without the jurisdiction of the escape in a manner reasonably calculated to facilitate the speedy apprehension of the escapee. Immediately upon the apprehension and identification of any such dangerous or potentially dangerous patient, the patient shall be detained in the state where found pending disposition in accordance with law.

6. *Article VI.* The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the patient, shall be permitted to transport any patient being moved pursuant to this compact through any and all states party to this compact, without interference.

7. *Article VII.*

a. No person shall be deemed a patient of more than one institution at any given time. Completion of transfer of any patient to an institution in a receiving state shall have the effect of making the person a patient of the institution in the receiving state.

b. The sending state shall pay all costs of and incidental to the transportation of any patient pursuant to this compact, but any two or more party states may, by making a specific agreement for that purpose, arrange for a different allocation of costs as among themselves.

c. No provision of this compact shall be construed to alter or affect any internal relationships among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

d. Nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency or other entity in regard to costs for which such party state or subdivision thereof may be responsible pursuant to any provision of this compact.

e. Nothing in this compact shall be construed to invalidate any reciprocal agreement between a party state and a nonparty state relating to institutionalization, care or treatment of the mentally ill or mentally deficient, or any statutory authority pursuant to which such agreements may be made.

8. *Article VIII.*

a. Nothing in this compact shall be construed to abridge, diminish, or in any way impair the rights, duties, and responsibilities of any patient's guardian on the guardian's own behalf or in respect of any patient for whom the guardian may serve, except that where the transfer of any patient to another jurisdiction makes advisable the appointment of a supplemental or substitute guardian, any court of competent jurisdiction in the receiving state may make such supplemental or substitute appointment and the court which appointed the previous guardian shall upon being duly advised of the new appointment, and upon the satisfactory completion of such accounting and other acts as such court may by law require, relieve the previous guardian of power and responsibility to whatever extent shall be appropriate in the circumstances; provided, however, that in the case of any patient having settlement in the sending state, the court of competent jurisdiction in the sending state shall have the sole discretion to relieve a guardian appointed by it or continue the guardian's power and responsibility, whichever it shall deem advisable. The court in the receiving state may, in its discretion, confirm or reappoint the person or persons previously serving as guardian in the sending state in lieu of making a supplemental or substitute appointment.

b. The term "guardian" as used in paragraph "a" of this article shall include any guardian, trustee, legal committee, conservator, or other person or agency however denominated who is charged by law with power to act for or responsibility for the person or property of a patient.

9. *Article IX.*

a. No provision of this compact except article V shall apply to any person institutionalized while under sentence in a penal or correctional institution or while subject to trial on a criminal charge, or whose institutionalization is due to the commission of an offense for which, in the absence of mental illness or mental deficiency, said person would be subject to incarceration in a penal or correctional institution.

b. To every extent possible, it shall be the policy of states party to this compact that no patient shall be placed or detained in any prison, jail or lockup, but such patient shall, with all expedition, be taken to a suitable institutional facility for mental illness or mental deficiency.

10. *Article X.*

a. Each party state shall appoint a “compact administrator” who, on behalf of the compact administrator’s state, shall act as general coordinator of activities under the compact in the administrator’s state and who shall receive copies of all reports, correspondence, and other documents relating to any patient processed under the compact by the administrator’s state either in the capacity of sending or receiving state. The compact administrator or the administrator’s duly designated representative shall be the official with whom other party states shall deal in any matter relating to the compact or any patient processed thereunder.

b. The compact administrators of the respective party states shall have power to promulgate reasonable rules and regulations to carry out more effectively the terms and provisions of this compact.

11. *Article XI.* The duly constituted administrative authorities of any two or more party states may enter into supplementary agreements for the provision of any service or facility or for the maintenance of any institution on a joint or cooperative basis whenever the states concerned shall find that such agreements will improve services, facilities, or institutional care and treatment in the fields of mental illness or mental deficiency. No such supplementary agreement shall be construed so as to relieve any party state of any obligation which it otherwise would have under other provisions of this compact.

12. *Article XII.* This compact shall enter into full force and effect as to any state when enacted by it into law and such state shall thereafter be a party thereto with any and all states legally joining therein.

13. *Article XIII.*

a. A state party to this compact may withdraw therefrom by enacting a statute repealing the same. Such withdrawal shall take effect one year after notice thereof has been communicated officially and in writing to the governors and compact administrators of all other party states. However, the withdrawal of any state shall not change the status of any patient who has been sent to said state or sent out of said state pursuant to the provisions of the compact.

b. Withdrawal from any agreement permitted by article VII, paragraph “b”, as to costs or from any supplementary agreement made pursuant to article XI shall be in accordance with the terms of such agreement.

14. *Article XIV.* This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the Constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the Constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

[C66, 71, 73, 75, 77, 79, 81, §218A.1]

C93, §221.1

2008 Acts, ch 1032, §201

221.2 Administrator.

Pursuant to the compact, the administrator of the division of mental health and disability services of the department of human services shall be the compact administrator. The compact administrator may cooperate with all departments, agencies, and officers of this state and its subdivisions in facilitating the proper administration of the compact and of any supplementary agreement entered into by this state under the compact.

[C66, 71, 73, 75, 77, 79, 81, §218A.2; 81 Acts, ch 78, §20, 26]

83 Acts, ch 96, §157, 159

C93, §221.2

94 Acts, ch 1170, §34; 2006 Acts, ch 1115, §23

221.3 Supplementary agreements.

The compact administrator is hereby authorized and empowered to enter into supplementary agreements with appropriate officials of other states pursuant to articles VII and XI of the compact. In the event that such supplementary agreements shall require or contemplate the use of any institution or facility of this state or require or contemplate the provisions of any service by this state, no such agreement shall have force or effect until approved by the head of the department or agency under whose jurisdiction said institution or facility is operated or whose department or agency will be charged with the rendering of such service.

[C66, 71, 73, 75, 77, 79, 81, §218A.3]

C93, §221.3

221.4 Payments.

The compact administrator, subject to the approval of the director of the department of human services, may make or arrange for any payments necessary to discharge any financial obligations imposed upon this state by the compact or by any supplementary agreement entered into thereunder.

[C66, 71, 73, 75, 77, 79, 81, §218A.4]

83 Acts, ch 96, §157, 159

C93, §221.4

221.5 Consultation.

The compact administrator is hereby directed to consult with the immediate family of our proposed transferee and, in the case of a proposed transferee from an institution in this state to an institution in another party state, to take no final action without approval of the district court of the county of admission or commitment.

[C66, 71, 73, 75, 77, 79, 81, §218A.5]

C93, §221.5

221.6 Distribution of compact.

Duly authorized copies of this chapter shall, upon its approval be transmitted by the secretary of state to the governor of each state, the attorney general and the administrator of general services of the United States, and the council of state governments.

[C66, 71, 73, 75, 77, 79, 81, §218A.6]

C93, §221.6

CHAPTER 222

PERSONS WITH AN INTELLECTUAL DISABILITY

Referred to in §225C.6, 235B.2, 235B.3, 235E.1, 235E.2, 235F.1, 331.381, 331.394

222.1	Purpose of chapter — state resource centers — special unit at state mental health institute.	222.9	Unauthorized departures.
222.2	Definitions.	222.10	Duty of peace officer.
222.3	Superintendents.	222.11	Expense.
222.4	Duties.	222.12	Deaths investigated.
222.5	Preadmission diagnostic evaluation.	222.13	Voluntary admissions.
222.6	State districts.	222.13A	Voluntary admissions — minors.
222.7	Transfers.	222.14	Care by region pending admission.
222.8	Communications by patients.	222.15	Discharge of patients admitted voluntarily.
		222.16	through 222.32 Repealed by 2013 Acts, ch 130, §34, 35.

222.33	Reserved.	222.69	Payment by state.
222.34	Guardianship proceedings.	222.70	Residency disputes.
222.35	Reserved.	222.71	and 222.72 Repealed by 2004 Acts, ch 1090, §55.
222.36	through 222.49 Repealed by 2013 Acts, ch 130, §34, 35.	222.73	Billing of patient charges — computation of actual costs — cost settlement.
222.50	County of residence or state to pay.	222.74	Duplicate to county.
222.51	Costs collected. Repealed by 2013 Acts, ch 130, §34, 35.	222.75	Delinquent payments — penalty.
222.52	Proceedings against delinquent — hearing on intellectual disability.	222.76	Reserved.
222.53	Conviction — suspension.	222.77	Patients on leave.
222.54	through 222.58 Repealed by 2013 Acts, ch 130, §34, 35.	222.78	Parents and others liable for support.
222.59	Alternative to state resource center placement.	222.79	Certification statement presumed correct.
222.60	Costs paid by county or state — diagnosis and evaluation.	222.80	Liability to county or state.
222.60A	Cost of assessment.	222.81	Claim against estate.
222.61	Residency determined.	222.82	Collection of liabilities and claims.
222.62	Residency in another county.	222.83	Nonresident patients.
222.63	Finding of residency — objection.	222.84	Patients' personal deposit fund.
222.64	Foreign state or country or unknown residency.	222.85	Deposit of moneys — exception to guardians.
222.65	Investigation.	222.86	Payment for care from fund.
222.66	Transfers — no residency in state or residency unknown — expenses.	222.87	Deposit in bank.
222.67	Charge on finding of residency.	222.88	Special intellectual disability unit.
222.68	Costs paid in first instance.	222.89	Location — staff and personnel.
		222.90	Superintendent.
		222.91	Direct referral to special unit.
		222.92	Net general fund appropriation — state resource centers.

222.1 Purpose of chapter — state resource centers — special unit at state mental health institute.

1. This chapter addresses the public and private services available in this state to meet the needs of persons with an intellectual disability. The responsibility of the mental health and disability services regions formed by counties and of the state for the costs and administration of publicly funded services shall be as set out in section 222.60 and other pertinent sections of this chapter.

2. The Glenwood state resource center and the Woodward state resource center are established and shall be maintained as the state's regional resource centers for the purpose of providing treatment, training, instruction, care, habilitation, and support of persons with an intellectual disability or other disabilities in this state, and providing facilities, services, and other support to the communities located in the region being served by a state resource center. In addition, the state resource centers are encouraged to serve as a training resource for community-based program staff, medical students, and other participants in professional education programs. A resource center may request the approval of the council on human services to change the name of the resource center for use in communication with the public, in signage, and in other forms of communication.

3. A special intellectual disability unit may be maintained at one of the state mental health institutes for the purposes set forth in sections 222.88 to 222.91.

[S13, §2727-a93, -a95; SS15, §2727-a93, -a96; C24, 27, 31, 35, 39, §3465, 3468; C46, 50, 54, 58, 62, §223.1, 223.4; C66, 71, 73, 75, 77, 79, 81, §222.1]

95 Acts, ch 82, §6; 98 Acts, ch 1155, §8; 2000 Acts, ch 1112, §46; 2012 Acts, ch 1019, §22; 2015 Acts, ch 69, §2

Referred to in §222.73

222.2 Definitions.

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

1. "Administrator" means the person assigned by the director of human services, in accordance with section 218.1, to control the state resource centers.

2. "Auditor" means the county auditor or the auditor's designee.
3. "Department" means the department of human services.
4. "Intellectual disability" means the same as defined in section 4.1.
5. "Mental health and disability services region" means a mental health and disability services region formed in accordance with section 331.389.
6. "Regional administrator" means the regional administrator of a mental health and disability services region, as defined in section 331.388.
7. "Special unit" means a special intellectual disability unit established at a state mental health institute pursuant to sections 222.88 to 222.91.
8. "State resource centers" or "resource centers" means the Glenwood state resource center and the Woodward state resource center.
9. "Superintendents" means the superintendents of the state resource centers.
[C97, §2699; C24, 27, 31, 35, 39, §3411; C46, 50, 54, 58, 62, §222.1; C66, 71, 73, 75, 77, 79, 81, §222.2; 81 Acts, ch 78, §20, 30]
83 Acts, ch 96, §157, 159; 94 Acts, ch 1170, §35; 96 Acts, ch 1183, §1; 97 Acts, ch 169, §14; 2000 Acts, ch 1112, §47 – 50; 2001 Acts, ch 155, §14; 2004 Acts, ch 1090, §33; 2012 Acts, ch 1019, §23; 2015 Acts, ch 69, §3, 4

222.3 Superintendents.

The administrator shall appoint a qualified superintendent for each of the resource centers who shall receive such salary as the administrator shall determine.

[SS15, §2727-a96; C24, 27, 31, 35, 39, §3466; C46, 50, 54, 58, 62, §223.2; C66, 71, 73, 75, 77, 79, 81, §222.3]
2000 Acts, ch 1112, §51

222.4 Duties.

The superintendents shall:

1. Perform all duties required by law and by the administrator not inconsistent with law.
2. Oversee and insure individual treatment and professional care of each patient in the resource centers.
3. Maintain a full and complete record of the condition of each patient in the resource centers.
4. Have custody, control, and management of all patients in such manner as deemed best subject to the regulations of the administrator.

[SS15, §2727-a96; C24, 27, 31, 35, 39, §3467; C46, 50, 54, 58, 62, §223.3; C66, 71, 73, 75, 77, 79, 81, §222.4]

2000 Acts, ch 1112, §51

Referred to in §222.90

222.5 Preadmission diagnostic evaluation.

No person shall be eligible for admission to a resource center or a special unit until a preadmission diagnostic evaluation has been made by a resource center or a special unit which confirms or establishes the need for admission.

[C24, 27, 31, 35, 39, §3444; C46, 50, 54, 58, 62, §222.34; C66, 71, 73, 75, 77, 79, 81, §222.5]
2000 Acts, ch 1112, §51

222.6 State districts.

The administrator shall divide the state into two districts in such manner that one of the resource centers shall be located within each of the districts. Such districts may from time to time be changed. After such districts have been established, the administrator shall notify all boards of supervisors, regional administrators, and clerks of the district courts of the action. Thereafter, unless the administrator otherwise orders, all admissions of persons with

an intellectual disability from a district shall be to the resource center located within such district.

[C24, 27, 31, 35, 39, §3476; C46, 50, 54, 58, 62, §223.10; C66, 71, 73, 75, 77, 79, 81, §222.6] 96 Acts, ch 1129, §113; 2000 Acts, ch 1112, §51; 2012 Acts, ch 1019, §24; 2013 Acts, ch 130, §17, 35; 2015 Acts, ch 69, §5; 2016 Acts, ch 1073, §66

222.7 Transfers.

The administrator may transfer patients from one state resource center to the other and may at any time transfer patients from the resource centers to the hospitals for persons with mental illness, or transfer patients in the resource centers to a special unit or vice versa. The administrator may also transfer patients from a hospital for persons with mental illness to a resource center if:

1. In the case of a patient who entered the hospital for persons with mental illness voluntarily, consent is given in advance by the patient or, if the patient is a minor or is incompetent, the person responsible for the patient.

2. In the case of a patient hospitalized pursuant to sections 229.6 through 229.15, the consent of the court which hospitalized the patient is obtained in advance, rather than afterward as otherwise permitted by section 229.15, subsection 4.

[SS15, §2727-a96; C24, 27, 31, 35, 39, §3456, 3472, 3477; C46, 50, 54, 58, 62, §222.46, 223.8, 223.11; C66, 71, 73, 75, 77, 79, 81, §222.7]

83 Acts, ch 96, §71, 159; 96 Acts, ch 1129, §113; 2000 Acts, ch 1112, §51; 2020 Acts, ch 1063, §79

Referred to in §226.8
Subsection 2 amended

222.8 Communications by patients.

Persons admitted to the resource centers or a special unit shall have all reasonable opportunity and facility for communication with their friends. Such persons shall be permitted to write and send letters, provided the letters contain nothing of an offensive character. Letters written by any patient to the administrator or to any state or county official shall be forwarded unopened.

[C24, 27, 31, 35, 39, §3445; C46, 50, 54, 58, 62, §222.35; C66, 71, 73, 75, 77, 79, 81, §222.8] 2000 Acts, ch 1112, §51

222.9 Unauthorized departures.

If any person with an intellectual disability shall depart without proper authorization from a resource center or a special unit, it shall be the duty of the superintendent and the superintendent's assistants and all peace officers of any county in which such patient may be found to take and detain the patient without a warrant or order and to immediately report such detention to the superintendent who shall immediately provide for the return of such patient to the resource center or special unit.

[C24, 27, 31, 35, 39, §3460; C46, 50, 54, 58, 62, §222.50; C66, 71, 73, 75, 77, 79, 81, §222.9] 96 Acts, ch 1129, §113; 2000 Acts, ch 1112, §51; 2012 Acts, ch 1019, §25

222.10 Duty of peace officer.

When any person with an intellectual disability departs without proper authority from an institution in another state and is found in this state, any peace officer in any county in which such patient is found may take and detain the patient without warrant or order and shall report such detention to the administrator. The administrator shall provide for the return of the patient to the authorities in the state from which the unauthorized departure was made. Pending return, such patient may be detained temporarily at one of the institutions of this state governed by the administrator or by the administrator of the division of child and family services of the department of human services. The provisions of this section relating to the

administrator shall also apply to the return of other nonresident persons with an intellectual disability having legal residency outside the state of Iowa.

[C58, 62, §222.55; C66, 71, 73, 75, 77, 79, 81, §222.10]

83 Acts, ch 96, §157, 159; 96 Acts, ch 1129, §113; 2012 Acts, ch 1019, §26; 2012 Acts, ch 1120, §69, 130

222.11 Expense.

All actual and necessary expenses incurred in the taking into protective custody, restraint, and transportation of such patients to the resource centers shall be paid on itemized vouchers, sworn to by the claimants, and approved by the superintendent and the administrator from any moneys in the state treasury not otherwise appropriated.

[C24, 27, 31, 35, 39, §3461; C46, 50, 54, 58, 62, §222.51; C66, 71, 73, 75, 77, 79, 81, §222.11]

2000 Acts, ch 1112, §51; 2019 Acts, ch 24, §104

222.12 Deaths investigated.

1. Upon the death of a patient of a resource center or special unit, a preliminary investigation of the death shall be conducted as required by section 218.64 by the county medical examiner as provided in section 331.802. Such a preliminary investigation shall also be conducted in the event of a sudden or mysterious death of a patient in a private institution for persons with an intellectual disability. The chief administrative officer of any private institution may request an investigation of the death of any patient by the county medical examiner.

2. Notice of the death of the patient, and the cause of death, shall be sent to the regional administrator for the patient's county of residence. The fact of death with the time, place, and alleged cause shall be entered upon the docket of the court.

3. The parent, guardian, or other person responsible for the admission of a patient to a private institution for persons with an intellectual disability may also request such a preliminary investigation by the county medical examiner in the event of the death of the patient that is not sudden or mysterious. The person or persons making the request are liable for the expense of such preliminary investigation and payment for the expense may be required in advance.

[C24, 27, 31, 35, 39, §3447; C46, 50, 54, 58, 62, §222.37; C66, 71, 73, 75, 77, 79, 81, §222.12]

96 Acts, ch 1129, §113; 2000 Acts, ch 1112, §51; 2008 Acts, ch 1187, §135; 2012 Acts, ch 1019, §27; 2013 Acts, ch 130, §18, 35; 2015 Acts, ch 69, §6; 2016 Acts, ch 1073, §67

222.13 Voluntary admissions.

1. If an adult person is believed to be a person with an intellectual disability, the adult person or the adult person's guardian may apply to the department and the superintendent of any state resource center for the voluntary admission of the adult person either as an inpatient or an outpatient of the resource center. If the expenses of the person's admission or placement are payable in whole or in part by the person's county of residence, application for the admission shall be made through the regional administrator. An application for admission to a special unit of any adult person believed to be in need of any of the services provided by the special unit under section 222.88 may be made in the same manner. The superintendent shall accept the application if a preadmission diagnostic evaluation confirms or establishes the need for admission, except that an application shall not be accepted if the institution does not have adequate facilities available or if the acceptance will result in an overcrowded condition.

2. If the resource center does not have an appropriate program for the treatment of an adult or minor person with an intellectual disability applying under this section or section 222.13A, the regional administrator for the person's county of residence or the department, as applicable, shall arrange for the placement of the person in any public or private facility within or without the state, approved by the director of human services, which offers appropriate services for the person. If the expenses of the placement are payable in whole or in part by a county, the placement shall be made by the regional administrator for the county.

3. If the expenses of an admission of an adult to a resource center or a special unit,

or of the placement of the person in a public or private facility are payable in whole or in part by a mental health and disability services region, the regional administrator shall make a full investigation into the financial circumstances of the person and those liable for the person's support under section 222.78 to determine whether or not any of them are able to pay the expenses arising out of the admission of the person to a resource center, special unit, or public or private facility. If the regional administrator finds that the person or those legally responsible for the person are presently unable to pay the expenses, the regional administrator shall pay the expenses. The regional administrator may review such a finding at any subsequent time while the person remains at the resource center, or is otherwise receiving care or treatment for which this chapter obligates the region to pay. If the regional administrator finds upon review that the person or those legally responsible for the person are presently able to pay the expenses, the finding shall apply only to the charges incurred during the period beginning on the date of the review and continuing thereafter, unless and until the regional administrator again changes such a finding. If the regional administrator finds that the person or those legally responsible for the person are able to pay the expenses, the regional administrator shall collect the charges to the extent required by section 222.78, and the regional administrator shall be responsible for the payment of the remaining charges.

[C24, 27, 31, 35, 39, §3464, 3477.2; C46, 50, 54, 58, 62, §222.54, 223.13; C66, 71, 73, 75, 77, 79, 81, §222.13]

83 Acts, ch 96, §157, 159; 95 Acts, ch 82, §7; 96 Acts, ch 1183, §2; 97 Acts, ch 169, §2; 2000 Acts, ch 1112, §51; 2004 Acts, ch 1090, §33; 2012 Acts, ch 1019, §28; 2012 Acts, ch 1120, §70, 130; 2013 Acts, ch 90, §45; 2015 Acts, ch 69, §7

Referred to in §222.14, 222.15, 222.59, 331.381, 331.502

222.13A Voluntary admissions — minors.

1. If a minor is believed to be a person with an intellectual disability, the minor's parent, guardian, or custodian may apply to the department for admission of the minor as a voluntary patient in a state resource center. If the resource center does not have appropriate services for the minor's treatment, the department may arrange for the admission of the minor in a public or private facility within or without the state, approved by the director of human services, which offers appropriate services for the minor's treatment.

2. Upon receipt of an application for voluntary admission of a minor, the department shall provide for a preadmission diagnostic evaluation of the minor to confirm or establish the need for the admission. The preadmission diagnostic evaluation shall be performed by a person who meets the qualifications of a qualified intellectual disability professional who is designated by the department.

3. During the preadmission diagnostic evaluation, the minor shall be informed both orally and in writing that the minor has the right to object to the voluntary admission. If the preadmission diagnostic evaluation determines that the voluntary admission is appropriate but the minor objects to the admission, the minor shall not be admitted to the state resource center unless the court approves of the admission. A petition for approval of the minor's admission may be submitted to the juvenile court by the minor's parent, guardian, or custodian.

4. As soon as practicable after the filing of a petition for approval of the voluntary admission, the court shall determine whether the minor has an attorney to represent the minor in the proceeding. If the minor does not have an attorney, the court shall assign to the minor an attorney. If the minor is unable to pay for an attorney, the attorney shall be compensated by the mental health and disability services region at an hourly rate to be established by the regional administrator in substantially the same manner as provided in section 815.7.

5. The court shall order the admission of a minor who objects to the admission, only after a hearing in which it is shown by clear and convincing evidence that both of the following circumstances exist:

- a. The minor needs and will substantially benefit from treatment or habilitation.

b. A placement which involves less restriction of the minor's liberties for the purposes of treatment or habilitation is not feasible.

95 Acts, ch 82, §8; 96 Acts, ch 1183, §3; 99 Acts, ch 135, §15; 2000 Acts, ch 1112, §51; 2004 Acts, ch 1090, §33; 2012 Acts, ch 1019, §29; 2015 Acts, ch 69, §8

Referred to in §222.13, 222.15, 222.59

222.14 Care by region pending admission.

If the institution is unable to receive a patient, the superintendent shall notify the regional administrator for the county of residence of the prospective patient. Until such time as the patient is able to be received by the institution, or when application has been made for admission to a public or private facility as provided in section 222.13 and the application is pending, the care of the patient shall be provided as arranged by the regional administrator.

[C24, 27, 31, 35, 39, §3433; C46, 50, 54, 58, 62, §222.23; C66, 71, 73, 75, 77, 79, 81, §222.14]

2015 Acts, ch 69, §9

Referred to in §331.381

222.15 Discharge of patients admitted voluntarily.

This section applies to any person who was voluntarily admitted to a state resource center or other facility in accordance with the provisions of section 222.13 or 222.13A. Except as otherwise provided by this section, if the person or the person's parent, guardian, or custodian submits a written request for the person's release, the person shall be immediately released.

1. If the person is an adult and was admitted pursuant to an application by the person or the person's guardian and the request for release is made by a different person, the release is subject to the agreement of the person voluntarily admitted or the person's guardian, if the guardian submitted the application.

2. If the person is a minor who was admitted pursuant to the provisions of section 222.13A, the person's release prior to becoming eighteen years of age is subject to the consent of the person's parent, guardian, or custodian, or to the approval of the court if the admission was approved by the court.

[SS15, §2727-a96; C24, 27, 31, 35, 39, §3473; C46, 50, 54, 58, 62, §223.9; C66, 71, 73, 75, 77, 79, 81, §222.15]

95 Acts, ch 82, §9; 2000 Acts, ch 1112, §51; 2013 Acts, ch 130, §19, 35

Referred to in §222.59

222.16 through 222.32 Repealed by 2013 Acts, ch 130, §34, 35.

222.33 Reserved.

222.34 Guardianship proceedings.

If a guardianship is proposed for a person with an intellectual disability, guardianship proceedings shall be initiated and conducted as provided in chapter 232D or 633.

[C24, 27, 31, 35, 39, §3431; C46, 50, 54, 58, 62, §222.21; C66, 71, 73, 75, 77, 79, 81, §222.34] 84 Acts, ch 1299, §4; 96 Acts, ch 1129, §113; 2012 Acts, ch 1019, §40; 2020 Acts, ch 1063,

§80

Section amended

222.35 Reserved.

222.36 through 222.49 Repealed by 2013 Acts, ch 130, §34, 35.

222.50 County of residence or state to pay.

When the proceedings are instituted in a county in which the person who is alleged to have an intellectual disability was found but which is not the county of residence of the person, and the costs are not taxed to the petitioner, the person's county of residence or the state, as

determined in accordance with section 222.60, shall, on presentation of a properly itemized bill for such costs, repay the costs to the former county.

[C24, 27, 31, 35, 39, §3451; C46, 50, 54, 58, 62, §222.41; C66, 71, 73, 75, 77, 79, 81, §222.50] 96 Acts, ch 1129, §49; 2012 Acts, ch 1019, §46; 2012 Acts, ch 1120, §73, 130
Referred to in §331.502

222.51 Costs collected. Repealed by 2013 Acts, ch 130, §34, 35.

222.52 Proceedings against delinquent — hearing on intellectual disability.

When in proceedings against an alleged delinquent or dependent child, the court is satisfied from any evidence that such child has an intellectual disability, the court may order a continuance of such proceeding, and may direct an officer of the court or some other proper person to file a petition against such child permitted under the provisions of this chapter. Pending hearing of the petition the court may by order provide proper custody for the child.

[C24, 27, 31, 35, 39, §3453; C46, 50, 54, 58, 62, §222.43; C66, 71, 73, 75, 77, 79, 81, §222.52] 2012 Acts, ch 1019, §48
Referred to in §222.53

222.53 Conviction — suspension.

If on the conviction in the district court of any person for any crime or for any violation of any municipal ordinance, or if on the determination in the court that a child is dependent, neglected, or delinquent and it appears from any evidence presented to the court before sentence, that such person has an intellectual disability within the meaning of this chapter, the court may suspend sentence or order, and may order any officer of the court or some other proper person to file a petition permitted under the provisions of this chapter against such person. Pending hearing of the petition, the court shall provide for the custody of such person as directed in section 222.52.

[C24, 27, 31, 35, 39, §3454; C46, 50, 54, 58, 62, §222.44; C66, 71, 73, 75, 77, 79, 81, §222.53] 2012 Acts, ch 1019, §49

222.54 through 222.58 Repealed by 2013 Acts, ch 130, §34, 35.

222.59 Alternative to state resource center placement.

1. Upon receiving a request from an authorized requester, the superintendent of a state resource center shall coordinate with the regional administrator for the person's county of residence or the department, as applicable, in assisting the requester in identifying available community-based services as an alternative to continued placement of a patient in the state resource center. For the purposes of this section, "authorized requester" means the parent, guardian, or custodian of a minor patient, the guardian of an adult patient, or an adult patient who does not have a guardian. The assistance shall identify alternatives to continued placement which are appropriate to the patient's needs and shall include but are not limited to any of the following:

a. Providing information on currently available services that are an alternative to residence in the state resource center.

b. Referring the patient to an appropriate case management agency or other provider of service.

2. If a patient was admitted pursuant to section 222.13 or section 222.13A and the patient wishes to be placed outside of the state resource center, the discharge for the placement shall be made in accordance with the provisions of section 222.15.

[C97, §2698; C24, 27, 31, 35, 39, §3405, 3446; C46, §221.4; C46, 50, 54, 58, 62, §222.36, 223.19; C66, 71, 73, 75, 77, 79, 81, §222.59]

83 Acts, ch 96, §157, 159; 90 Acts, ch 1271, §1502; 95 Acts, ch 82, §11; 96 Acts, ch 1183, §5; 2000 Acts, ch 1112, §51; 2004 Acts, ch 1090, §33; 2009 Acts, ch 133, §217; 2013 Acts, ch 130, §20, 35; 2015 Acts, ch 69, §10

Referred to in §331.381

222.60 Costs paid by county or state — diagnosis and evaluation.

1. All necessary and legal expenses for the cost of admission or for the treatment, training, instruction, care, habilitation, support, and transportation of persons with an intellectual disability, as provided for in the applicable regional service system management plan implemented pursuant to section 331.393 in a state resource center, or in a special unit, or any public or private facility within or without the state, approved by the director of human services, shall be paid by either:

a. The regional administrator for the person's county of residence.

b. The state when the person is a resident in another state or in a foreign country, or when the person's residence is unknown.

2. a. Prior to the regional administrator for a county of residence approving the payment of expenses for a person under this section, the regional administrator may require that the person be diagnosed to determine if the person has an intellectual disability or that the person be evaluated to determine the appropriate level of services required to meet the person's needs relating to an intellectual disability. The diagnosis and the evaluation may be performed concurrently and shall be performed by an individual or individuals approved by the regional administrator for the person's county who are qualified to perform the diagnosis or the evaluation. Following the initial approval for payment of expenses, the regional administrator may require that an evaluation be performed at reasonable time periods.

b. The cost of a regional administrator-required diagnosis and an evaluation is at the mental health and disability services region's expense. When a person is a resident in another state or in a foreign country, or when the person's residence is unknown, the state may apply the diagnosis and evaluation provisions of this subsection at the state's expense.

c. A diagnosis or an evaluation under this section may be part of a diagnosis and assessment process implemented by the applicable regional administrator, provided that a diagnosis is performed only by an individual qualified as provided in this section.

3. a. A diagnosis of an intellectual disability under this section shall be made only when the onset of the person's condition was prior to the age of eighteen years and shall be based on an assessment of the person's intellectual functioning and level of adaptive skills. The diagnosis shall be made by an individual who is a psychologist or psychiatrist who is professionally trained to administer the tests required to assess intellectual functioning and to evaluate a person's adaptive skills.

b. A diagnosis of an intellectual disability shall be made in accordance with the criteria provided in the diagnostic and statistical manual of mental disorders, published by the American psychiatric association, as provided in the definition of intellectual disability in section 4.1.

[C39, §3477.3, 3477.4, 3477.7; C46, 50, 54, 58, 62, §223.14, 223.15, 223.18; C66, 71, 73, 75, 77, 79, 81, §222.60]

83 Acts, ch 96, §157, 159; 95 Acts, ch 82, §12; 95 Acts, ch 190, §1; 95 Acts, ch 206, §13; 2000 Acts, ch 1112, §51; 2004 Acts, ch 1090, §33; 2009 Acts, ch 41, §223; 2012 Acts, ch 1019, §53 – 55; 2012 Acts, ch 1120, §74, 75, 130; 2013 Acts, ch 130, §21, 35; 2015 Acts, ch 69, §11; 2018 Acts, ch 1165, §62, 63

Referred to in §222.1, 222.50, 222.65, 222.77, 222.78, 249A.12, 331.381

222.60A Cost of assessment.

Notwithstanding any provision of this chapter to the contrary, any amount attributable to any assessment pursuant to section 249A.21 that would otherwise be the liability of any county shall be paid by the state. The department may transfer funds from the appropriation for medical assistance to pay any amount attributable to any assessment pursuant to section 249A.21 that is a liability of the state.

2004 Acts, ch 1085, §3, 10, 11; 2016 Acts, ch 1139, §50

Referred to in §331.381

222.61 Residency determined.

When a county receives an application on behalf of any person for admission to a resource center or a special unit, the application shall be forwarded to the regional administrator for the county to determine and certify that the residence of the person is in one of the following:

1. In the county in which the application is received.
2. In some other county of the state.
3. In another state or in a foreign country.
4. Unknown.

[C66, 71, 73, 75, 77, 79, 81, §222.61]

97 Acts, ch 169, §3; 2000 Acts, ch 1112, §51; 2004 Acts, ch 1090, §33, 37; 2012 Acts, ch 1120, §76, 130; 2014 Acts, ch 1092, §156; 2015 Acts, ch 69, §12

Referred to in §331.381, 331.502

222.62 Residency in another county.

When the regional administrator for the county determines that the residency of the person is other than in the county in which the application is received, the determination shall be certified to the superintendent of the resource center or the special unit where the person is a patient. The certification shall be accompanied by a copy of the evidence supporting the determination. If the person is not eligible for the medical assistance program, the superintendent shall charge the expenses already incurred and unadjusted to the mental health and disability services region for the county of the person's residency.

[C66, 71, 73, 75, 77, 79, 81, §222.62]

97 Acts, ch 169, §4; 2000 Acts, ch 1112, §51; 2004 Acts, ch 1090, §33, 38; 2012 Acts, ch 1120, §77, 130; 2015 Acts, ch 69, §13

Referred to in §331.381, 331.502

222.63 Finding of residency — objection.

A certification through the regional administrator for a county that a person's residency is in another county shall be sent to the regional administrator for the county of residence. The certification shall be accompanied by a copy of the evidence supporting the determination. The regional administrator for the county of residence shall submit the certification to the region's governing board and it shall be conclusively presumed that the patient has residency in a county in the notified region unless that regional administrator for that county disputes the determination of residency as provided in section 331.394.

[C66, 71, 73, 75, 77, 79, 81, §222.63]

2004 Acts, ch 1090, §33, 39; 2012 Acts, ch 1120, §78, 130; 2015 Acts, ch 69, §14; 2019 Acts, ch 59, §64

Referred to in §331.381, 331.502

222.64 Foreign state or country or unknown residency.

If the residency of the person is determined by a regional administrator on behalf of a county or by the state to be in a foreign state or country or is determined to be unknown, the regional administrator or the state shall certify the determination. The certification shall be accompanied by a copy of the evidence supporting the determination. The care of the person shall be as arranged by the regional administrator or the state. Application for admission may be made pending investigation by the administrator.

[C66, 71, 73, 75, 77, 79, 81, §222.64]

97 Acts, ch 169, §5; 2004 Acts, ch 1090, §33, 40; 2012 Acts, ch 1120, §79, 130; 2013 Acts, ch 130, §23, 35; 2014 Acts, ch 1092, §157; 2015 Acts, ch 69, §15

Referred to in §331.381, 331.502

222.65 Investigation.

If an application is made for placement of a person in a state resource center or special unit, the department's administrator shall immediately investigate the residency of the person and proceed as follows:

1. If the administrator concurs with a certified determination as to residency of the person in another state or in a foreign country, or the person's residence is unknown under section

222.60, the administrator shall cause the person either to be transferred to a resource center or a special unit or to be transferred to the place of foreign residency.

2. If the administrator disputes a certified determination of residency, the administrator shall order the person transferred to a state resource center or a special unit until the dispute is resolved.

3. If the administrator disputes a certified determination of residency, the administrator shall utilize the procedure provided in section 331.394 to resolve the dispute. A determination of the person's residency status made pursuant to section 331.394 is conclusive.

[C66, 71, 73, 75, 77, 79, 81, §222.65]

2000 Acts, ch 1112, §51; 2004 Acts, ch 1090, §41; 2012 Acts, ch 1120, §80, 130; 2018 Acts, ch 1165, §64

Referred to in §331.381, 331.502

222.66 Transfers — no residency in state or residency unknown — expenses.

The transfer to a resource center or a special unit or to the place of residency of a person with an intellectual disability who has no residence in this state or whose residency is unknown, shall be made in accordance with such directions as shall be prescribed by the administrator and when practicable by employees of the state resource center or the special unit. The actual and necessary expenses of such transfers shall be paid by the department on itemized vouchers sworn to by the claimants and approved by the administrator and the approved amount is appropriated to the department from any funds in the state treasury not otherwise appropriated.

[C66, 71, 73, 75, 77, 79, 81, §222.66]

96 Acts, ch 1129, §113; 2000 Acts, ch 1112, §51; 2012 Acts, ch 1019, §56; 2012 Acts, ch 1120, §81, 130; 2018 Acts, ch 1165, §65

Referred to in §331.381, 331.502

222.67 Charge on finding of residency.

If a person has been received into a resource center or a special unit as a patient whose residency is unknown and the administrator determines that the residency of the patient was at the time of admission in a county of this state, the administrator shall certify the determination and charge all legal costs and expenses pertaining to the admission and support of the patient to the county of residence. The certification shall be sent to the county of residence. The certification shall be accompanied by a copy of the evidence supporting the determination. If the person's residency status has been determined in accordance with section 331.394, the legal costs and expenses shall be charged to the county in accordance with that determination. The costs and expenses shall be collected as provided by law in other cases.

[C66, 71, 73, 75, 77, 79, 81, §222.67]

2000 Acts, ch 1112, §51; 2004 Acts, ch 1090, §42; 2012 Acts, ch 1120, §82, 130; 2013 Acts, ch 130, §24, 35; 2018 Acts, ch 1165, §66

Referred to in §331.381

222.68 Costs paid in first instance.

All necessary and legal expenses for the cost of admission of a person to a resource center or a special unit when the person's residency is found to be in another county of this state shall in the first instance be paid by the county from which the person was admitted. The county of residence shall reimburse the county which pays for all such expenses. If a county fails to make such reimbursement within forty-five days following submission of a properly itemized bill to the county of residence, a penalty of not greater than one percent per month on and after forty-five days from submission of the bill may be added to the amount due.

[C24, 27, 31, 35, 39, §3451; C46, 50, 54, 58, 62, §222.41; C66, 71, 73, 75, 77, 79, 81, §222.68]

98 Acts, ch 1218, §68; 2000 Acts, ch 1112, §51; 2012 Acts, ch 1120, §83, 130; 2013 Acts, ch 130, §25, 35

Referred to in §331.381

222.69 Payment by state.

The amount necessary to pay the necessary and legal expenses of admission of a person to a resource center or a special unit when the person's residence is outside this state or is unknown is appropriated to the department from any moneys in the state treasury not otherwise appropriated. Such payments shall be made by the department on itemized vouchers executed by the auditor of the county from which the expenses have been paid and approved by the administrator.

[C66, 71, 73, 75, 77, 79, 81, §222.69]

2000 Acts, ch 1112, §51; 2012 Acts, ch 1120, §84, 130; 2013 Acts, ch 130, §26, 35; 2019 Acts, ch 24, §104

Referred to in §331.381, 331.502

222.70 Residency disputes.

If a dispute arises between counties or between the department and a county as to the residency of a person admitted to a resource center or a special unit, the dispute shall be resolved as provided in section 331.394.

[C66, 71, 73, 75, 77, 79, 81, §222.70]

94 Acts, ch 1170, §1; 2000 Acts, ch 1112, §51; 2004 Acts, ch 1090, §43; 2012 Acts, ch 1120, §85, 130; 2013 Acts, ch 130, §27, 35; 2018 Acts, ch 1165, §67

Referred to in §331.381

222.71 and 222.72 Repealed by 2004 Acts, ch 1090, §55.

222.73 Billing of patient charges — computation of actual costs — cost settlement.

1. The superintendent of each resource center and special unit shall compute by February 1 the average daily patient charge and outpatient treatment charges for which each county will be billed for services provided to patients chargeable to the county during the fiscal year beginning the following July 1. The department shall certify the amount of the charges and notify the counties of the billing charges.

a. The superintendent shall compute the average daily patient charge for a resource center or special unit for services provided in the following fiscal year, in accordance with generally accepted accounting procedures, by totaling the expenditures of the resource center or special unit for the immediately preceding calendar year, by adjusting the expenditures by a percentage not to exceed the percentage increase in the consumer price index for all urban consumers for the immediately preceding calendar year, and by dividing the adjusted expenditures by the total inpatient days of service provided during the immediately preceding calendar year.

b. The department shall compute the outpatient treatment charges, in accordance with generally accepted accounting procedures, on the basis of the actual cost of the outpatient treatment provided during the immediately preceding calendar year.

2. a. The superintendent shall certify to the department the billings to each county for services provided to patients chargeable to the county during the preceding calendar quarter. The county billings shall be based on the average daily patient charge and outpatient treatment charges computed pursuant to subsection 1, and the number of inpatient days and outpatient treatment service units chargeable to the county. The billings to a county of residence are subject to adjustment for all of the following circumstances:

(1) The county billing for a patient shall be reduced by the amount received for the patient's care from a source other than state appropriated funds.

(2) If more than twenty percent of the cost of a patient's care is initially paid from a source other than state appropriated funds, the amount paid shall be subtracted from the average per-patient-per-day cost of that patient's care and the patient's county shall be billed for the full balance of the cost so computed.

(3) The county of a patient who is eligible for reimbursement under the medical assistance program shall be responsible for the costs which are not reimbursed by the medical assistance program, regardless of the level of care provided to the patient.

(4) A county shall be responsible for eighty percent of the cost of care of a patient who is not eligible for reimbursement under the medical assistance program.

(5) The billings for counties shall be credited with one hundred percent of the client participation for patients eligible for medical assistance in the calculation of the per diem rate for patients.

(6) A mental health and disability services region shall not be billed for the cost of a patient unless the patient's admission is authorized through the applicable regional administrator. The state resource center and the regional administrator shall work together to locate appropriate alternative placements and services and to educate patients and the family members of patients regarding such alternatives.

b. The per diem costs billed to each mental health and disability services region shall not exceed the per diem costs billed to the region in the fiscal year beginning July 1, 2016.

3. The superintendent shall compute in January the actual per-patient-per-day cost for each resource center or special unit for the immediately preceding calendar year, in accordance with generally accepted accounting procedures, by totaling the actual expenditures of the resource center or special unit for the calendar year and by dividing the total actual expenditures by the total inpatient days of service provided during the calendar year.

4. The department shall certify to the counties by February 1 the actual per-patient-per-day costs, as computed pursuant to subsection 3, and the actual costs owed by each county for the immediately preceding calendar year for patients chargeable to the county. If the actual costs owed by the county are greater than the charges billed to the county pursuant to subsection 2, the department shall bill the county for the difference with the billing for the quarter ending June 30. If the actual costs owed by the county are less than the charges billed to the county pursuant to subsection 2, the department shall credit the county for the difference starting with the billing for the quarter ending June 30.

5. A superintendent of a resource center or special unit may request that the director of human services enter into a contract with a person for the resource center or special unit to provide consultation or treatment services or for fulfilling other purposes which are consistent with the purposes stated in section 222.1. The contract provisions shall include charges which reflect the actual cost of providing the services. Any income from a contract authorized under this subsection may be retained by the resource center or special unit to defray the costs of providing the services or fulfilling the other purposes. Except for a contract voluntarily entered into by a county under this subsection, the costs or income associated with a contract authorized under this subsection shall not be considered in computing charges and per diem costs in accordance with the provisions of subsections 1 through 4.

[SS15, §2727-a96; C24, 27, 31, 35, 39, §3469; C46, 50, 54, 58, 62, §223.5; C66, 71, 73, 75, 77, 79, 81, §222.73]

86 Acts, ch 1169, §1; 88 Acts, ch 1249, §6; 88 Acts, ch 1276, §38; 95 Acts, ch 82, §4; 96 Acts, ch 1183, §6 – 8; 98 Acts, ch 1155, §9; 2000 Acts, ch 1112, §51; 2001 Acts, ch 155, §15 – 17; 2004 Acts, ch 1090, §33; 2009 Acts, ch 41, §263; 2012 Acts, ch 1120, §86, 130; 2015 Acts, ch 69, §16, 17; 2017 Acts, ch 109, §1, 20, 21

Referred to in §222.74, 331.381

2017 amendment to subsection 2, paragraph b, takes effect May 5, 2017, and applies to fiscal years beginning on or after July 1, 2017; 2017 Acts, ch 109, §20, 21

222.74 Duplicate to county.

When certifying to the department amounts to be charged against each county as provided in section 222.73, the superintendent shall send to the county auditor of each county against which the superintendent has so certified any amount, a duplicate of the certification statement. The county auditor upon receipt of the duplicate certification statement shall enter it to the credit of the state in the ledger of state accounts, and shall immediately issue a notice to the county treasurer authorizing the treasurer to transfer the amount from the county fund to the general state revenue. The county treasurer shall file the notice as authority for making the transfer and shall include the amount transferred in the next

remittance of state taxes to the treasurer of state, designating the fund to which the amount belongs.

[C66, 71, 73, 75, 77, 79, 81, §222.74]

83 Acts, ch 123, §82, 209; 2001 Acts, ch 155, §18

Referred to in §222.75, 331.381, 331.502

222.75 Delinquent payments — penalty.

If a county fails to pay a billed charge within forty-five days from the date the county auditor received the certification statement from the superintendent pursuant to section 222.74, the department may charge the delinquent county a penalty of not greater than one percent per month on and after forty-five days from the date the county auditor received the certification statement until paid.

[C66, 71, 73, 75, 77, 79, 81, §222.75]

98 Acts, ch 1218, §69; 2001 Acts, ch 155, §19

Referred to in §331.381

222.76 Reserved.

222.77 Patients on leave.

The cost of support of patients placed on convalescent leave or removed as a habilitation measure from a resource center, or a special unit, except when living in the home of a person legally bound for the support of the patient, shall be paid by the county of residence or the state as provided in section 222.60.

[C66, 71, 73, 75, 77, 79, 81, S81, §222.77; 81 Acts, ch 117, §1027]

83 Acts, ch 123, §83, 209; 2000 Acts, ch 1112, §51; 2012 Acts, ch 1120, §87, 130

Referred to in §222.78, 331.381

222.78 Parents and others liable for support.

1. The father and mother of any patient admitted to a resource center or to a special unit, as either an inpatient or an outpatient, and any person, firm, or corporation bound by contract made for support of the patient are liable for the support of the patient. The patient and those legally bound for the support of the patient shall be liable to the county or state, as applicable, for all sums advanced in accordance with the provisions of sections 222.60 and 222.77.

2. The liability of any person, other than the patient, who is legally bound for the support of a patient who is under eighteen years of age in a resource center or a special unit shall not exceed the average minimum cost of the care of a normally intelligent minor without a disability of the same age and sex as the minor patient. The administrator shall establish the scale for this purpose but the scale shall not exceed the standards for personal allowances established by the state division under the family investment program. The father or mother shall incur liability only during any period when the father or mother either individually or jointly receive a net income from whatever source, commensurate with that upon which they would be liable to make an income tax payment to this state. The father or mother of a patient shall not be liable for the support of the patient upon the patient attaining eighteen years of age. Nothing in this section shall be construed to prevent a relative or other person from voluntarily paying the full actual cost as established by the administrator for caring for the patient with an intellectual disability.

[C39, §3477.5; C46, 50, 54, 58, 62, §223.16, 223.20; C66, 71, 73, 75, 77, 79, 81, §222.78]

93 Acts, ch 97, §27; 98 Acts, ch 1218, §70; 2000 Acts, ch 1112, §51; 2012 Acts, ch 1019, §57; 2012 Acts, ch 1120, §88, 130; 2013 Acts, ch 130, §28, 35

Referred to in §218.78, 222.13, 222.79, 222.80, 222.81, 222.82, 226.8, 234.39, 331.381

222.79 Certification statement presumed correct.

In actions to enforce the liability imposed by section 222.78, the superintendent or the county of residence, as applicable, shall submit a certification statement stating the sums charged, and the certification statement shall be considered presumptively correct.

[C66, 71, 73, 75, 77, 79, 81, §222.79]

2001 Acts, ch 155, §20; 2012 Acts, ch 1120, §89, 130

Referred to in §331.381

222.80 Liability to county or state.

A person admitted to a county institution or home or admitted at county or state expense to a private hospital, sanitarium, or other facility for treatment, training, instruction, care, habilitation, and support as a patient with an intellectual disability shall be liable to the county or state, as applicable, for the reasonable cost of the support as provided in section 222.78.

[C66, 71, 73, 75, 77, 79, 81, §222.80]

96 Acts, ch 1129, §50; 2012 Acts, ch 1019, §58; 2012 Acts, ch 1120, §90, 130; 2013 Acts, ch 130, §29, 35

Referred to in §331.381

222.81 Claim against estate.

The total amount of liability provided in section 222.78 shall be allowed as a claim of the sixth class against the estate of the person or against the estate of the father or mother of such person.

[C66, 71, 73, 75, 77, 79, 81, §222.81]

Referred to in §331.381

222.82 Collection of liabilities and claims.

If liabilities and claims exist as provided in section 222.78 or other provision of this chapter, the county of residence or the state, as applicable, may proceed as provided in this section. If the liabilities and claims are owed to a county of residence, the county's board of supervisors may direct the county attorney to proceed with the collection of the liabilities and claims as a part of the duties of the county attorney's office when the board of supervisors deems such action advisable. If the liabilities and claims are owed to the state, the state shall proceed with the collection. The board of supervisors or the state, as applicable, may compromise any and all liabilities to the county or state arising under this chapter when such compromise is deemed to be in the best interests of the county or state. Any collections and liens shall be limited in conformance to section 614.1, subsection 4.

[C39, §3477.6; C46, 50, 54, 58, 62, §223.17; C66, 71, 73, 75, 77, 79, 81, §222.82]

2012 Acts, ch 1120, §91, 130

Referred to in §331.381, 331.756(38)

222.83 Nonresident patients.

The estates of all nonresident patients who are provided treatment, training, instruction, care, habilitation, and support in or by a resource center or a special unit, and all persons legally bound for the support of such persons, shall be liable to the state for the reasonable value of such services. The certificate of the superintendent of the resource center or special unit in which any nonresident is or has been a patient, showing the amounts drawn from the state treasury or due therefrom as provided by law on account of such nonresident patient, shall be presumptive evidence of the reasonable value of such services furnished such patient by the resource center or special unit.

[C66, 71, 73, 75, 77, 79, 81, §222.83]

2000 Acts, ch 1112, §51

222.84 Patients' personal deposit fund.

There is hereby established at each resource center and special unit a fund which shall be known as the "patients' personal deposit fund"; provided that in the case of a special unit, the director may direct that the patients' personal deposit fund be maintained and administered as a part of the fund established, pursuant to sections 226.43 through 226.46, by the mental health institute where the special unit is located.

[C66, 71, 73, 75, 77, 79, 81, §222.84]

2000 Acts, ch 1112, §51; 2020 Acts, ch 1063, §81

Section amended

222.85 Deposit of moneys — exception to guardians.

1. Any funds coming into the possession of the superintendent or any employee of a resource center or special unit belonging to any patient in that institution shall be deposited

in the name of the patient in the patients' personal deposit fund, except that if a guardian of the property has been appointed for the person, the guardian shall have the right to demand and receive such funds. Funds belonging to a patient deposited in the patients' personal deposit fund may be used for the purchase of personal incidentals, desires, and comforts for the patient.

2. Moneys paid to a resource center from any source other than state appropriated funds and intended to pay all or a portion of the cost of care of a patient, which cost would otherwise be paid from state or county funds or from the patient's own funds, shall not be deemed "funds belonging to a patient" for the purposes of this section.

[C66, 71, 73, 75, 77, 79, 81, §222.85]

2000 Acts, ch 1112, §51; 2018 Acts, ch 1041, §60

222.86 Payment for care from fund.

If a patient is not receiving medical assistance under chapter 249A and the amount in the account of any patient in the patients' personal deposit fund exceeds two hundred dollars, the business manager of the resource center or special unit may apply any amount of the excess to reimburse the county of residence or the state for liability incurred by the county or the state for the payment of care, support, and maintenance of the patient, when billed by the county or state, as applicable.

[C66, 71, 73, 75, 77, 79, 81, S81, §222.86; 81 Acts, ch 11, §15]

2000 Acts, ch 1112, §51; 2012 Acts, ch 1120, §92, 130

222.87 Deposit in bank.

The business manager shall deposit the patients' personal deposit fund in a commercial account of a bank of reputable standing. When deposits in the commercial account exceed average monthly withdrawals, the business manager may deposit the excess at interest. The savings account shall be in the name of the patients' personal deposit fund and interest paid thereon may be used for recreational purposes for the patients at the resource center or special unit.

[C66, 71, 73, 75, 77, 79, 81, §222.87]

2000 Acts, ch 1112, §51

222.88 Special intellectual disability unit.

The director of human services may organize and establish a special intellectual disability unit at an existing institution which may provide:

1. Psychiatric and related services to children with an intellectual disability and adults who are also emotionally disturbed or otherwise mentally ill.
2. Specific programs to meet the needs of such other special categories of persons with an intellectual disability as may be designated by the director.
3. Appropriate diagnostic evaluation services.

[C71, 73, 75, 77, 79, 81, §222.88]

83 Acts, ch 96, §157, 159; 96 Acts, ch 1129, §51, 113; 2012 Acts, ch 1019, §59

Referred to in §222.1, 222.2, 222.13, 222.91

222.89 Location — staff and personnel.

The director may:

1. Designate a portion of the physical facilities of one of the mental health institutes to be occupied by the offices and facilities of the special unit.
2. Determine the extent to which the special unit may effectively utilize services of the mental health institute staff, and what staff personnel should be employed for and assigned specifically to the special unit.

[C71, 73, 75, 77, 79, 81, §222.89]

Referred to in §222.1, 222.2

222.90 Superintendent.

The director shall appoint a qualified superintendent of the special unit. The superintendent shall employ all staff personnel to be assigned specifically to the special unit, and shall have

the same duties with respect to the special unit as are imposed upon superintendents of resource centers by section 222.4.

[C71, 73, 75, 77, 79, 81, §222.90]

2000 Acts, ch 1112, §51

Referred to in §222.1, 222.2

222.91 Direct referral to special unit.

In addition to any other manner of referral or admission to the special unit provided for by this chapter, persons may be referred directly to the special unit by courts, law enforcement agencies, or state penal or correctional institutions for services under section 222.88, subsection 2, but persons so referred shall not be admitted unless a preadmission diagnostic evaluation indicates that the person would benefit from such services, and the admission of the person to the special unit would not cause the special unit's patient load to exceed its capacity.

[C71, 73, 75, 77, 79, 81, §222.91]

2013 Acts, ch 130, §30, 35

Referred to in §222.1, 222.2

222.92 Net general fund appropriation — state resource centers.

1. The department shall operate the state resource centers on the basis of net appropriations from the general fund of the state. The appropriation amounts shall be the net amounts of state moneys projected to be needed for the state resource centers for the fiscal year of the appropriations. The purpose of utilizing net appropriations is to encourage the state resource centers to operate with increased self-sufficiency, to improve quality and efficiency, and to support collaborative efforts between the state resource centers and counties and other providers of funding for the services available from the state resource centers. The state resource centers shall not be operated under the net appropriations in a manner that results in a cost increase to the state or in cost shifting between the state, the medical assistance program, counties, or other sources of funding for the state resource centers.

2. The net appropriation made for a state resource center may be used throughout the fiscal year in the manner necessary for purposes of cash flow management, and for purposes of cash flow management, a state resource center may temporarily draw more than the amount appropriated, provided the amount appropriated is not exceeded at the close of the fiscal year.

3. Subject to the approval of the department, except for revenues segregated as provided in section 249A.11, revenues received that are attributed to a state resource center for a fiscal year shall be credited to the state resource center's account and shall be considered repayment receipts as defined in section 8.2, including but not limited to all of the following:

- a. Moneys received by the state from billings to counties and regional administrators for the counties.
- b. The federal share of medical assistance program revenue received under chapter 249A.
- c. Federal Medicare program payments.
- d. Moneys received from client financial participation.
- e. Other revenues generated from current, new, or expanded services that the state resource center is authorized to provide.

4. For purposes of allocating moneys to the state resource centers from the salary adjustment fund created in section 8.43, the state resource centers shall be considered to be funded entirely with state moneys.

5. Notwithstanding section 8.33, up to five hundred thousand dollars of a state resource center's revenue that remains unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for purposes of the state resource center until the close of the succeeding fiscal year.

2005 Acts, ch 175, §94; 2012 Acts, ch 1120, §93, 130; 2015 Acts, ch 69, §18

CHAPTERS 223 to 224B

RESERVED

CHAPTER 225

PSYCHIATRIC HOSPITAL

Referred to in §229.1

225.1	Establishment — definitions.	225.20	Compensation for physician. Repealed by 2006 Acts, ch 1059, §14.
225.2	Name — location.	225.21	Compensation claims — filing — approval.
225.3	Under control of state board of regents.	225.22	Liability of private patients — payment.
225.4	Reserved.	225.23	Collection for treatment.
225.5	Cooperation of hospitals.	225.24	Collection of preliminary expense.
225.6	Reserved.	225.25	Commitment of private patient as public.
225.7	Classes of patients.	225.26	Private patients — disposition of funds.
225.8	Maintenance.	225.27	Discharge — transfer.
225.9	Voluntary private patients.	225.28	Appropriation.
225.10	Voluntary public patients.	225.29	Reserved.
225.11	Initiating commitment procedures.	225.30	Blanks — audit.
225.12	Voluntary public patient — physician's report.	225.31	Reserved.
225.13	Financial condition.	225.32	Report and order to accompany patient.
225.14	Patient costs.	225.33	Death of patient — disposal of body.
225.15	Examination and treatment.	225.34	Appropriation. Repealed by 96 Acts, ch 1215, §59.
225.16	Voluntary public patients — admission.	225.35	Expense collected.
225.17	Committed private patient — treatment.		
225.18	Attendants.		
225.19	Compensation for attendant.		

225.1 Establishment — definitions.

1. The state psychiatric hospital is established. The hospital shall be especially designed, kept, and administered for the care, observation, and treatment of those persons who are afflicted with abnormal mental conditions.

2. For the purposes of this chapter, unless the context otherwise requires:

a. “*Mental health and disability services region*” means a mental health and disability services region approved in accordance with section 331.389.

b. “*Regional administrator*” means the administrator of a mental health and disability services region, as defined in section 331.388.

[C24, 27, 31, 35, §3954; C39, §3482.01; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §225.1] 2015 Acts, ch 69, §19

225.2 Name — location.

It shall be known as the state psychiatric hospital, and shall be located at Iowa City, and integrated with the university of Iowa college of medicine and university hospital of the state university of Iowa.

[C24, 27, 31, 35, §3955; C39, §3482.02; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §225.2] 2001 Acts, ch 74, §9

225.3 Under control of state board of regents.

The state board of regents shall have full power to manage, control, and govern the said hospital the same as other institutions already under its control.

[C24, 27, 31, 35, §3957; C39, §3482.03; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §225.3]

225.4 Reserved.**225.5 Cooperation of hospitals.**

The medical director of the state psychiatric hospital shall seek to bring about systematic cooperation between the several state hospitals for persons with mental illness and the state psychiatric hospital.

[C24, 27, 31, 35, §3959; C39, §3482.05; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §225.5] 96 Acts, ch 1129, §113

225.6 Reserved.**225.7 Classes of patients.**

Patients admitted to the said state psychiatric hospital shall be divided into four classes:

1. Voluntary private patients.
2. Committed private patients.
3. Voluntary public patients.
4. Committed public patients.

[C24, 27, 31, 35, §3961; C39, §3482.07; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §225.7]

225.8 Maintenance.

All voluntary private patients and committed private patients shall be kept and maintained without expense to the state, and the voluntary public patients and committed public patients shall be kept and maintained by the state.

[C24, 27, 31, 35, §3962; C39, §3482.08; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §225.8]

225.9 Voluntary private patients.

Voluntary private patients may be admitted in accordance with the regulations to be established by the state board of regents, and their care, nursing, observation, treatment, medicine, and maintenance shall be without expense to the state. However, the charge for such care, nursing, observation, treatment, medicine, and maintenance shall not exceed the cost of the same to the state. The physicians on the hospital staff may charge such patients for their medical services under such rules, regulations and plan therefor as approved by the state board of regents.

[C24, 27, 31, 35, §3963; C39, §3482.09; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §225.9]

225.10 Voluntary public patients.

Persons suffering from mental diseases may be admitted to the state psychiatric hospital as voluntary public patients if a physician authorized to practice medicine or osteopathic medicine in the state of Iowa files information with the regional administrator for the person's county of residence, stating all of the following:

1. That the physician has examined the person and finds that the person is suffering from some abnormal mental condition that can probably be remedied by observation, treatment, and hospital care.
2. That the physician believes it would be appropriate for the person to enter the state psychiatric hospital for that purpose and that the person is willing to do so.
3. That neither the person nor those legally responsible for the person are able to provide the means for the observation, treatment, and hospital care.

[C24, 27, 31, 35, §3964; C39, §3482.10; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §225.10] 2006 Acts, ch 1059, §1; 2008 Acts, ch 1088, §141; 2013 Acts, ch 90, §47; 2015 Acts, ch 69, §20; 2016 Acts, ch 1073, §68

Referred to in §225.12, 225.16, 225.30
Additional information blanks; §225.30

225.11 Initiating commitment procedures.

When a court finds upon completion of a hearing held pursuant to section 229.12 that the contention that a respondent is seriously mentally impaired has been sustained by clear and convincing evidence, and the application filed under section 229.6 also contends or the court otherwise concludes that it would be appropriate to refer the respondent to the state psychiatric hospital for a complete psychiatric evaluation and appropriate treatment pursuant to section 229.13, the judge may order that a financial investigation be made in the manner prescribed by section 225.13. If the costs of a respondent's evaluation or treatment are payable in whole or in part by a county, an order under this section shall be for referral of the respondent through the regional administrator for the respondent's county of residence for an evaluation and referral of the respondent to an appropriate placement or service, which may include the state psychiatric hospital for additional evaluation or treatment.

[C77, 79, 81, §225.11]

96 Acts, ch 1183, §9; 2004 Acts, ch 1090, §33; 2015 Acts, ch 69, §21

Referred to in §225.17

225.12 Voluntary public patient — physician's report.

A physician filing information under section 225.10 shall include a written report to the regional administrator for the county of residence of the person named in the information, giving a history of the case as will be likely to aid in the observation, treatment, and hospital care of the person and describing the history in detail.

[C24, 27, 31, 35, §3966; C39, §3482.12; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §225.12]

2002 Acts, ch 1119, §29; 2006 Acts, ch 1059, §2; 2015 Acts, ch 69, §22

225.13 Financial condition.

The regional administrator for the county of residence of a person being admitted to the state psychiatric hospital is responsible for investigating the financial condition of the person and of those legally responsible for the person's support.

[C24, 27, 31, 35, §3967; C39, §3482.13; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §225.13]

2006 Acts, ch 1059, §3; 2015 Acts, ch 69, §23; 2016 Acts, ch 1073, §69

Referred to in §225.11, 225.14, 225.16, 225.25

225.14 Patient costs.

If it is determined through the financial condition investigation made pursuant to section 225.13 that a person is a committed or voluntary private patient, the person or those legally responsible for the person's support are liable for expenses as provided in section 225.22. The costs of a committed or voluntary public patient shall be paid by the state as provided in section 225.28.

[C24, 27, 31, 35, §3968; C39, §3482.14; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §225.14]

2006 Acts, ch 1059, §4

225.15 Examination and treatment.

1. When a respondent arrives at the state psychiatric hospital, the admitting physician shall examine the respondent and determine whether or not, in the physician's judgment, the respondent is a fit subject for observation, treatment, and hospital care. If, upon examination, the physician decides that the respondent should be admitted to the hospital, the respondent shall be provided a proper bed in the hospital. The physician who has charge of the respondent shall proceed with observation, medical treatment, and hospital care as in the physician's judgment are proper and necessary, in compliance with sections 229.13 to 229.16. After the respondent's admission, the observation, medical treatment, and hospital care of the respondent may be provided by a mental health professional, as defined in section 228.1, who is licensed as a physician, advanced registered nurse practitioner, or physician assistant.

2. A proper and competent nurse shall also be assigned to look after and care for the respondent during observation, treatment, and care. Observation, treatment, and hospital care under this section which are payable in whole or in part by a county shall only be

provided as determined through the regional administrator for the respondent's county of residence.

[C24, 27, 31, 35, §3969; C39, §3482.15; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §225.15] 96 Acts, ch 1183, §10; 2004 Acts, ch 1090, §33; 2012 Acts, ch 1120, §55; 2015 Acts, ch 69, §24; 2016 Acts, ch 1073, §70

Referred to in §225.16, 225.17

225.16 Voluntary public patients — admission.

1. If the regional administrator for a person's county of residence finds from the physician's information which was filed under the provisions of section 225.10 that it would be appropriate for the person to be admitted to the state psychiatric hospital, and the report of the regional administrator made pursuant to section 225.13 shows that the person and those who are legally responsible for the person are not able to pay the expenses incurred at the hospital, or are able to pay only a part of the expenses, the person shall be considered to be a voluntary public patient and the regional administrator shall direct that the person shall be sent to the state psychiatric hospital at the state university of Iowa for observation, treatment, and hospital care.

2. When the patient arrives at the hospital, the patient shall be cared for in the same manner as is provided for committed public patients in section 225.15.

[C24, 27, 31, 35, §3970; C39, §3482.16; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §225.16] 2006 Acts, ch 1059, §5; 2015 Acts, ch 69, §25

225.17 Committed private patient — treatment.

1. If the judge of the district court finds pursuant to section 225.11 that the respondent is an appropriate subject for placement at the state psychiatric hospital, and that the respondent, or those legally responsible for the respondent, are able to pay the expenses associated with the placement, the judge shall enter an order directing that the respondent shall be sent to the state psychiatric hospital at the state university of Iowa for observation, treatment, and hospital care as a committed private patient.

2. When the respondent arrives at the hospital, the respondent shall receive the same treatment as is provided for committed public patients in section 225.15, in compliance with sections 229.13 to 229.16. However, observation, treatment, and hospital care under this section of a respondent whose expenses are payable in whole or in part by a county shall only be provided as determined through the regional administrator for the respondent's county of residence.

[C24, 27, 31, 35, §3971; C39, §3482.17; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §225.17] 96 Acts, ch 1183, §11; 2004 Acts, ch 1090, §33; 2006 Acts, ch 1059, §6; 2015 Acts, ch 69, §26; 2016 Acts, ch 1073, §71

225.18 Attendants.

The regional administrator may appoint an attendant to accompany the committed public patient or the voluntary public patient or the committed private patient from the place where the patient may be to the state psychiatric hospital, or to accompany the patient from the hospital to a place as may be designated by the regional administrator. If a patient is moved pursuant to this section, at least one attendant shall be of the same gender as the patient.

[C24, 27, 31, 35, §3974; C39, §3482.18; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §225.18] 85 Acts, ch 99, §4; 2006 Acts, ch 1059, §7; 2015 Acts, ch 69, §27

Referred to in §225.19

225.19 Compensation for attendant.

An individual appointed by the regional administrator in accordance with section 225.18 to accompany a person to or from the hospital or to make an investigation and report on any question involved in the matter shall receive three dollars per day for the time actually spent in making the investigation and actual necessary expenses incurred in making the investigation

or trip. This section does not apply to an appointee who receives fixed compensation or a salary.

[C24, 27, 31, 35, §3975; C39, §3482.19; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §225.19] 2006 Acts, ch 1059, §8; 2015 Acts, ch 69, §28

Referred to in §225.21

225.20 Compensation for physician. Repealed by 2006 Acts, ch 1059, §14.

225.21 Compensation claims — filing — approval.

The person making claim to compensation under section 225.19 shall file the claim in the office of the regional administrator for the person's county of residence. The claim is subject to review and approval by the regional administrator for the county.

[C24, 27, 31, 35, §3977; C39, §3482.21; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §225.21; 82 Acts, ch 1104, §6]

83 Acts, ch 123, §84, 209; 2006 Acts, ch 1059, §9; 2015 Acts, ch 69, §29

Referred to in §225.24

225.22 Liability of private patients — payment.

Every committed private patient, if the patient has an estate sufficient for that purpose, or if those legally responsible for the patient's support are financially able, shall be liable to the county and state for all expenses paid by them in behalf of such patient. All bills for the care, nursing, observation, treatment, medicine, and maintenance of such patients shall be paid by the director of the department of administrative services in the same manner as those of committed and voluntary public patients as provided in this chapter, unless the patient or those legally responsible for the patient make such settlement with the state psychiatric hospital.

[C24, 27, 31, 35, §3978; C39, §3482.22; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §225.22] 2003 Acts, ch 145, §286

Referred to in §225.14

225.23 Collection for treatment.

If the bills for a committed or voluntary private patient are paid by the state, the state psychiatric hospital shall file a certified copy of the claim for the bills with the department of administrative services. The department shall proceed to collect the claim in the name of the state psychiatric hospital.

[C24, 27, 31, 35, §3979; C39, §3482.23; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §225.23] 2003 Acts, ch 145, §286; 2006 Acts, ch 1059, §10; 2012 Acts, ch 1120, §94, 130

Referred to in §225.35, 331.502

225.24 Collection of preliminary expense.

Unless a committed private patient or those legally responsible for the patient's support offer to settle the amount of the claims, the regional administrator for the person's county of residence shall collect, by action if necessary, the amount of all claims for per diem and expenses that have been approved by the regional administrator for the county and paid by the regional administrator as provided under section 225.21. Any amount collected shall be credited to the county mental health and disabilities services fund created in accordance with section 331.424A.

[C24, 27, 31, 35, §3980; C39, §3482.24; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §225.24] 2006 Acts, ch 1059, §11; 2015 Acts, ch 69, §30; 2016 Acts, ch 1011, §39

Referred to in §225.35, 331.502

225.25 Commitment of private patient as public.

If a patient is committed to the state psychiatric hospital as a private patient and after admission it is determined through an investigation made pursuant to section 225.13 that the person is a public patient, the expense of keeping and maintaining the patient from the date of the filing of the information upon which the order is made shall be paid by the state.

[C24, 27, 31, 35, §3981; C39, §3482.25; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §225.25] 2006 Acts, ch 1059, §12

225.26 Private patients — disposition of funds.

All moneys collected from private patients shall be used for the support of the said hospital. [C24, 27, 31, 35, §3982; C39, §3482.26; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §225.26]

225.27 Discharge — transfer.

The state psychiatric hospital may, at any time, discharge any patient as recovered, as improved, or as not likely to be benefited by further treatment. If the patient being so discharged was involuntarily hospitalized, the hospital shall notify the committing judge or court of the discharge as required by section 229.14 or section 229.16, whichever is applicable, and the applicable regional administrator. Upon receiving the notification, the court shall issue an order confirming the patient's discharge from the hospital or from care and custody, as the case may be, and shall terminate the proceedings pursuant to which the order was issued. The court or judge shall, if necessary, appoint a person to accompany the discharged patient from the state psychiatric hospital to such place as the hospital or the court may designate, or authorize the hospital to appoint such attendant.

[C24, 27, 31, 35, §3983; C39, §3482.27; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §225.27] 2001 Acts, ch 155, §41; 2015 Acts, ch 69, §31

225.28 Appropriation.

The state shall pay to the state psychiatric hospital, out of any moneys in the state treasury not otherwise appropriated, all expenses for the administration of the hospital, and for the care, treatment, and maintenance of committed and voluntary public patients therein, including their clothing and all other expenses of the hospital for the public patients. The bills for the expenses shall be rendered monthly in accordance with rules agreed upon by the director of the department of administrative services and the state board of regents.

[C24, 27, 31, 35, §3984; C39, §3482.28; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §225.28] 2003 Acts, ch 145, §286; 2019 Acts, ch 24, §104
Referred to in §225.14

225.29 Reserved.**225.30 Blanks — audit.**

The medical faculty of the university of Iowa college of medicine shall prepare blanks containing such questions and requiring such information as may be necessary and proper to be obtained by the physician or mental health professional who examines a person or respondent whose referral to the state psychiatric hospital is contemplated. A judge may request that a physician or mental health professional who examines a respondent as required by section 229.10 complete such blanks in duplicate in the course of the examination. A physician who proposes to file information under section 225.10 shall obtain and complete such blanks in duplicate and file them with the information. The blanks shall be printed by the state and a supply of the blanks shall be made available to counties. The director of the department of administrative services shall audit, allow, and pay the cost of the blanks as other bills for public printing are allowed and paid.

[C24, 27, 31, 35, §3986, 3987; C39, §3482.30, 3482.31; C46, 50, 54, 58, 62, 66, 71, 73, §225.30; C75, §225.30, 225.31; C77, 79, 81, §225.30]

2001 Acts, ch 74, §10; 2002 Acts, ch 1119, §30; 2003 Acts, ch 145, §286; 2006 Acts, ch 1059, §13; 2018 Acts, ch 1026, §70

225.31 Reserved.**225.32 Report and order to accompany patient.**

One of the duplicate reports shall be sent to the state psychiatric hospital with the patient, together with a certified copy of the order of the court.

[C24, 27, 31, 35, §3988; C39, §3482.32; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §225.32]

225.33 Death of patient — disposal of body.

In the event that a committed public patient or a voluntary public patient or a committed private patient should die while at the state psychiatric hospital or at the university hospital, the state psychiatric hospital shall have the body prepared for shipment in accordance with the rules prescribed by the state board of health for shipping such bodies; and it shall be the duty of the state board of regents to make arrangements for the embalming and such other preparation as may be necessary to comply with the rules and for the purchase of suitable caskets.

[C24, 27, 31, 35, §3989; C39, §3482.33; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §225.33] 2001 Acts, ch 74, §11

225.34 Appropriation. Repealed by 96 Acts, ch 1215, §59.

225.35 Expense collected.

In the event that the said person is a committed private patient, it shall be the duty of the county auditor of the proper county to proceed to collect all of such expenses, in accordance with the provisions of sections 225.23 and 225.24.

[C24, 27, 31, 35, §3991; C39, §3482.35; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §225.35] Referred to in §331.502

CHAPTER 225A

RESERVED

CHAPTER 225B

PREVENTION OF DISABILITIES

Repealed per the terms of former §225B.8; 2012 Acts, ch 1133, §96

CHAPTER 225C

MENTAL HEALTH AND DISABILITY SERVICES

Referred to in §230A.101, 331.389, 423.3

County participation in funding for services to persons with disabilities; §249A.26, 331.388 – 331.398

	SUBCHAPTER I		
	GENERAL PROVISIONS		
225C.1	Findings and purpose.	225C.6B	Mental health and disability services system — legislative intent — comprehensive plan — state and regional service systems.
225C.2	Definitions.	225C.6C	Regional service system — regulatory requirements.
225C.3	Division of mental health and disability services — state mental health authority.	225C.7	Mental health and developmental disabilities community services fund. Repealed by 2014 Acts, ch 1092, §152.
225C.4	Administrator’s duties.	225C.7A	Mental health and disability regional services fund.
225C.5	Mental health and disability services commission.	225C.8	Legal settlement dispute resolution. Repealed by 2012 Acts, ch 1120, §129, 130.
225C.6	Duties of commission.	225C.9	through 225C.11 Repealed by 94 Acts, ch 1170, §54.
225C.6A	Disability services system central data repository.		

and continuity of care for those persons receiving publicly supported disability services in Iowa. It is the purpose of this chapter to continue and to strengthen the services to persons with disabilities now available in the state of Iowa, to make disability services conveniently available to all persons in this state upon a reasonably uniform financial basis, and to assure the continued high quality of these services.

2. It is the intent of the general assembly that the service system for persons with disabilities emphasize the ability of persons with disabilities to exercise their own choices about the amounts and types of services received; that all levels of the service system seek to empower persons with disabilities to accept responsibility, exercise choices, and take risks; that disability services are individualized, provided to produce results, flexible, and cost-effective; and that disability services be provided in a manner which supports the ability of persons with disabilities to live, learn, work, and recreate in communities of their choice.

[81 Acts, ch 78, §1, 20]

94 Acts, ch 1170, §10; 2006 Acts, ch 1115, §2; 2012 Acts, ch 1019, §60

Referred to in §225C.6B, 426B.5

225C.2 Definitions.

As used in this chapter:

1. “*Administrator*” means the administrator of the division.
2. “*Child*” or “*children*” means a person or persons under eighteen years of age.
3. “*Children’s behavioral health services*” means services for children with a serious emotional disturbance.
4. “*Children’s behavioral health system*” or “*children’s system*” means the behavioral health service system for children implemented pursuant to this subchapter.
5. “*Commission*” means the mental health and disability services commission.
6. “*Department*” means the department of human services.
7. “*Director*” means the director of human services.
8. “*Disability services*” means services and other support available to a person with mental illness, an intellectual disability or other developmental disability, or brain injury.
9. “*Division*” means the division of mental health and disability services of the department.
10. “*Mental health and disability services region*” means a mental health and disability services region formed in accordance with section 331.389.
11. “*Mental health and disability services regional service system*” means the mental health and disability service system for a mental health and disability services region.
12. “*Regional administrator*” means the same as defined in section 331.388.
13. “*Serious emotional disturbance*” means a diagnosable mental, behavioral, or emotional disorder of sufficient duration to meet diagnostic criteria specified within the most current diagnostic and statistical manual of mental disorders published by the American psychiatric association that results in a functional impairment. “*Serious emotional disturbance*” does not include substance use or developmental disorders unless those disorders co-occur with such a diagnosable mental, behavioral, or emotional disorder.
14. “*State board*” means the children’s behavioral health system state board created in section 225C.51.

[S81, §225C.1; 81 Acts, ch 78, §2, 20; 82 Acts, ch 1117, §1, 2]

83 Acts, ch 96, §157, 159; 94 Acts, ch 1170, §11; 96 Acts, ch 1183, §12; 2004 Acts, ch 1090, §4, 33; 2006 Acts, ch 1115, §3, 24; 2010 Acts, ch 1031, §382; 2012 Acts, ch 1019, §61; 2012 Acts, ch 1120, §1, 20, 21; 2015 Acts, ch 69, §32; 2019 Acts, ch 61, §1, 2; 2020 Acts, ch 1063, §82

Referred to in §230A.102, 331.388

Subsection 13 amended

225C.3 Division of mental health and disability services — state mental health authority.

1. The division is designated the state mental health authority as defined in 42 U.S.C. §201(m) (1976) for the purpose of directing the benefits of the National Mental Health Act, 42 U.S.C. §201 et seq. This designation does not preclude the board of regents from authorizing or directing any institution under its jurisdiction to carry out educational, prevention, and research activities in the areas of mental health and intellectual disability. The division may

contract with the board of regents or any institution under the board's jurisdiction to perform any of these functions.

2. The division is designated the state developmental disabilities agency for the purpose of directing the benefits of the federal Developmental Disabilities Assistance and Bill of Rights Act, 42 U.S.C. §15001 et seq.

3. The division is administered by the administrator. The administrator of the division shall be qualified in the general field of mental health, intellectual disability, or other disability services, and preferably in more than one field. The administrator shall have at least five years of experience as an administrator in one or more of these fields.

1, 2. [C66, 71, 73, 75, 77, §225B.1; C79, 81, §225B.2; S81, §225C.2; 81 Acts, ch 78, §3, 20]

3. [C50, 54, 58, 62, 66, §218.75; C71, 73, 75, 77, 79, 81, §217.10; S81, §225C.2; 81 Acts, ch 78, §3, 20]

94 Acts, ch 1170, §12; 2006 Acts, ch 1115, §34; 2012 Acts, ch 1019, §62; 2014 Acts, ch 1092, §170

Referred to in §217.10

225C.4 Administrator's duties.

1. To the extent funding is available, the administrator shall perform the following duties:

a. Prepare and administer the comprehensive mental health and disability services plan as provided in section 225C.6B, including state mental health and intellectual disability plans for the provision of disability services within the state and the state developmental disabilities plan. The administrator shall take into account any related planning activities implemented by the Iowa department of public health, the state board of regents or a body designated by the board for that purpose, the department of management or a body designated by the director of the department for that purpose, the department of education, the department of workforce development and any other appropriate governmental body, in order to facilitate coordination of disability services provided in this state. The state mental health and intellectual disability plans shall be consistent with the state health plan, and shall take into account mental health and disability services regional service system management plans.

b. Assist mental health and disability services region governing boards and regional administrators in planning for community-based disability services.

c. Assist the state board in planning for community-based children's behavioral health services.

d. Emphasize the provision of evidence-based outpatient and community support services by community mental health centers and local intellectual disability providers as a preferable alternative to acute inpatient services and services provided in large institutional settings.

e. Encourage and facilitate coordination of mental health and disability services with the objective of developing and maintaining in the state a mental health and disability service delivery system to provide services to all persons in this state who need the services, regardless of the place of residence or economic circumstances of those persons. The administrator shall work with the commission and other state agencies, including but not limited to the departments of corrections, education, and public health and the state board of regents, to develop and implement a strategic plan to expand access to qualified mental health workers across the state.

f. Encourage and facilitate applied research and preventive educational activities related to causes and appropriate treatment for disabilities. The administrator may designate, or enter into agreements with, private or public agencies to carry out this function.

g. Coordinate community-based services with those of the state mental health institutes and state resource centers.

h. Administer state programs regarding the care, treatment, and supervision of persons with mental illness or an intellectual disability, except the programs administered by the state board of regents.

i. Administer and distribute state appropriations in connection with the mental health and disability regional services fund established by section 225C.7A.

j. Act as compact administrator with power to effectuate the purposes of interstate compacts on mental health.

k. Establish and maintain a data collection and management information system oriented to the needs of patients, providers, the department, and other programs or facilities in accordance with section 225C.6A. The system shall be used to identify, collect, and analyze service outcome and performance measures data in order to assess the effects of the services on the persons utilizing the services. The administrator shall annually submit to the commission information collected by the department indicating the changes and trends in the mental health and disability services system. The administrator shall make the outcome data available to the public.

l. Encourage and facilitate coordination of children's behavioral health services with the objective of developing and maintaining in the state a children's behavioral health system to provide behavioral health services to all children in this state who need the services, regardless of the place of residence or economic circumstances of those children. The administrator shall work with the state board and other state agencies including but not limited to the department of education and the department of public health to develop and implement a strategic plan to expand access to qualified mental health workers across the state.

m. Establish and maintain a data collection and management information system oriented to the needs of children utilizing the children's behavioral health system, providers, the department, and other programs or facilities in accordance with section 225C.6A. The system shall be used to identify, collect, and analyze service outcome and performance measures data in order to assess the effects of the services on the children utilizing the services. The administrator shall annually submit to the state board information collected by the department indicating the changes and trends in the children's behavioral health system. The administrator shall make the outcome data available to the public.

n. Prepare a division budget and reports of the division's activities.

o. Establish suitable agreements with other state agencies to encourage appropriate care and to facilitate the coordination of disability services.

p. Provide consultation and technical assistance to patients' advocates appointed pursuant to section 229.19, in cooperation with the judicial branch and the certified volunteer long-term care ombudsmen certified pursuant to section 231.45.

q. Provide technical assistance to agencies and organizations, to aid them in meeting standards which are established, or with which compliance is required, under statutes administered by the administrator, including but not limited to chapters 227 and 230A.

r. Recommend to the commission minimum accreditation standards for the maintenance and operation of community mental health centers, services, and programs under section 230A.110. The administrator's review and evaluation of the centers, services, and programs for compliance with the adopted standards shall be as provided in section 230A.111.

s. Recommend to the commission minimum standards for supported community living services. The administrator shall review and evaluate the services for compliance with the adopted standards.

t. In cooperation with the department of inspections and appeals, recommend minimum standards under section 227.4 for the care of and services to persons with mental illness or an intellectual disability residing in county care facilities. The administrator shall also cooperate with the department of inspections and appeals in recommending minimum standards for care of and services provided to persons with mental illness or an intellectual disability living in a residential care facility regulated under chapter 135C.

u. In cooperation with the Iowa department of public health, recommend minimum standards for the maintenance and operation of public or private facilities offering disability services, which are not subject to licensure by the department or the department of inspections and appeals.

v. Provide technical assistance concerning disability services and funding to mental health and disability services region governing boards and regional administrators.

w. Coordinate with the mental health planning and advisory council created pursuant to 42 U.S.C. §300x-3 to ensure the council membership includes representation by a military veteran who is knowledgeable concerning the behavioral and mental health issues of veterans.

x. Enter into performance-based contracts with regional administrators as described in section 331.390. A performance-based contract shall require a regional administrator to fulfill the statutory and regulatory requirements of the regional service system under this chapter and chapter 331. A failure to fulfill the requirements may be addressed by remedies specified in the contract, including but not limited to suspension of contract payments or cancellation of the contract. The contract provisions may include but are not limited to requirements for the regional service system to attain outcomes within a specified range of acceptable performance in any of the following categories:

- (1) Access standards for the required core services.
- (2) Penetration rates for serving the number of persons expected to be served.
- (3) Utilization rates for inpatient and residential treatment.
- (4) Readmission rates for inpatient and residential treatment.
- (5) Employment of the persons receiving services.
- (6) Administrative costs.
- (7) Data reporting.
- (8) Timely and accurate claims processing.
- (9) School attendance.

y. Provide information through the internet concerning waiting lists for services implemented by mental health and disability services regions.

2. The administrator may:

a. Apply for, receive, and administer federal aids, grants, and gifts for purposes relating to disability services or programs.

b. Establish and supervise suitable standards of care, treatment, and supervision for persons with disabilities in all institutions under the control of the director of human services.

c. Appoint professional consultants to furnish advice on any matters pertaining to disability services. The consultants shall be paid as provided by an appropriation of the general assembly.

d. Administer a public housing unit within a bureau of the division to apply for, receive, and administer federal assistance, grants, and other public or private funds for purposes related to providing housing in accordance with section 225C.45.

[C50, 54, 58, 62, 66, §218.76; C71, 73, 75, 77, 79, 81, §217.11, 217.12; S81, §225C.3; 81 Acts, ch 78, §4, 20]

83 Acts, ch 96, §157, 159; 85 Acts, ch 122, §1; 90 Acts, ch 1204, §45; 92 Acts, ch 1128, §1; 94 Acts, ch 1170, §13; 95 Acts, ch 82, §2, 13; 95 Acts, ch 206, §7, 12; 96 Acts, ch 1186, §23; 98 Acts, ch 1047, §20; 99 Acts, ch 129, §9; 99 Acts, ch 160, §2, 3; 2000 Acts, ch 1112, §33, 51; 2006 Acts, ch 1115, §4, 5; 2010 Acts, ch 1031, §374; 2010 Acts, ch 1106, §1; 2012 Acts, ch 1019, §63; 2012 Acts, ch 1120, §2, 3, 20, 21; 2013 Acts, ch 18, §15; 2013 Acts, ch 90, §48; 2013 Acts, ch 140, §187, 189; 2019 Acts, ch 61, §3 – 6

Referred to in §217.10, 225C.6B, 331.390

225C.5 Mental health and disability services commission.

1. A mental health and disability services commission is created as the state policy-making body for the provision of services to persons with mental illness, an intellectual disability, other developmental disabilities, or brain injury. The commission's voting members shall be appointed to three-year staggered terms by the governor and are subject to confirmation by the senate. Commission members shall be appointed on the basis of interest and experience in the fields of mental health, intellectual disability, other developmental disabilities, and brain injury, in a manner so as to ensure adequate representation from persons with disabilities and individuals knowledgeable concerning disability services. The department shall provide staff support to the commission, and the commission may utilize staff support and other assistance provided to the commission by other persons. The commission shall meet at least four times per year. The membership of the commission shall consist of the following persons who, at the time of appointment to the commission, are active members of the indicated groups:

a. Three members shall be members of a county board of supervisors selected from

nominees submitted by the county supervisor affiliate of the Iowa state association of counties.

b. Two members shall be selected from nominees submitted by the director.

c. One member shall be an active board member of a community mental health center selected from nominees submitted by the Iowa association of community providers.

d. One member shall be an active board member of an agency serving persons with a developmental disability selected from nominees submitted by the Iowa association of community providers.

e. One member shall be a board member or employee of a provider of mental health or developmental disabilities services to children.

f. Two members shall be staff members of regional administrators selected from nominees submitted by the community services affiliate of the Iowa state association of counties.

g. One member shall be selected from nominees submitted by the state's council of the association of federal, state, county, and municipal employees.

h. Three members shall be service consumers or family members of service consumers. Of these members, one shall be a service consumer, one shall be a parent of a child service consumer, and one shall be a parent or other family member of a person admitted to and living at a state resource center.

i. Two members shall be selected from nominees submitted by service advocates. Of these members, one shall be an active member of a statewide organization for persons with brain injury.

j. One member shall be an active board member of an agency serving persons with a substance abuse problem selected from nominees submitted by the Iowa behavioral health association.

k. One member shall be a military veteran who is knowledgeable concerning the behavioral and mental health issues of veterans.

l. In addition to the voting members, the membership shall include four members of the general assembly with one member designated by each of the following: the majority leader of the senate, the minority leader of the senate, the speaker of the house of representatives, and the minority leader of the house of representatives. A legislative member serves for a term as provided in section 69.16B in an ex officio, nonvoting capacity and is eligible for per diem and expenses as provided in section 2.10.

2. The three-year terms shall begin and end as provided in section 69.19. Vacancies on the commission shall be filled as provided in section 2.32. A member shall not be appointed for more than two consecutive three-year terms.

3. Members of the commission shall qualify by taking the oath of office prescribed by law for state officers. At its first meeting of each year, the commission shall organize by electing a chairperson and a vice chairperson for terms of one year. Commission members are entitled to a per diem as specified in section 7E.6 and reimbursement for actual and necessary expenses incurred while engaged in their official duties, to be paid from funds appropriated to the department.

[C66, 71, 73, 75, 77, §225B.2, 225B.3, 225B.6; C79, 81, §225B.3; S81, §225C.4; 81 Acts, ch 78, §5, 20]

90 Acts, ch 1256, §39; 94 Acts, ch 1170, §14; 2002 Acts, ch 1146, §1; 2002 Acts, 2nd Ex, ch 1003, §238, 262; 2003 Acts, ch 101, §3, 4; 2004 Acts, ch 1090, §5, 33; 2008 Acts, ch 1156, §30, 58; 2008 Acts, ch 1187, §51; 2009 Acts, ch 106, §7, 14; 2010 Acts, ch 1031, §383; 2010 Acts, ch 1106, §2; 2011 Acts, ch 34, §53; 2012 Acts, ch 1019, §64; 2015 Acts, ch 69, §33

Referred to in §135C.23, 227.4, 229.19, 331.388

Confirmation, see §2.32

225C.6 Duties of commission.

1. To the extent funding is available, the commission shall perform the following duties:

a. Advise the administrator on the administration of the overall state disability services system.

b. Pursuant to recommendations made for this purpose by the administrator, adopt necessary rules pursuant to chapter 17A which relate to disability programs and services,

including but not limited to definitions of each disability included within the term “disability services” as necessary for purposes of state, county, and regional planning, programs, and services.

c. Adopt standards for community mental health centers, services, and programs as recommended under section 230A.110. The administrator shall determine whether to grant, deny, or revoke the accreditation of the centers, services, and programs.

d. Adopt standards for the provision under medical assistance of individual case management services.

e. Unless another governmental body sets standards for a service available to persons with disabilities, adopt state standards for that service. The commission shall review the licensing standards used by the department of human services or department of inspections and appeals for those facilities providing disability services.

f. Assure that proper reconsideration and appeal procedures are available to persons aggrieved by decisions, actions, or circumstances relating to accreditation.

g. Adopt necessary rules for awarding grants from the state and federal government as well as other moneys that become available to the division for grant purposes.

h. Annually submit to the governor and the general assembly:

(1) A report concerning the activities of the commission.

(2) Recommendations formulated by the commission for changes in law.

i. By January 1 of each odd-numbered year, submit to the governor and the general assembly an evaluation of:

(1) The extent to which services to persons with disabilities are actually available to persons in each county and mental health and disability services region in the state and the quality of those services.

(2) The effectiveness of the services being provided by disability service providers in this state and by each of the state mental health institutes established under chapter 226 and by each of the state resource centers established under chapter 222.

j. Advise the administrator, the council on human services, the governor, and the general assembly on budgets and appropriations concerning disability services.

k. Coordinate activities with the Iowa developmental disabilities council and the mental health planning council, created pursuant to federal law. The commission shall work with other state agencies on coordinating, collaborating, and communicating concerning activities involving persons with disabilities.

l. Pursuant to a recommendation made by the administrator, identify basic financial eligibility standards for the disability services provided by a mental health and disability services region. The initial standards shall be as specified in chapter 331.

m. Identify disability services outcomes and indicators to support the ability of eligible persons with a disability to live, learn, work, and recreate in communities of the persons’ choice. The identification duty includes but is not limited to responsibility for identifying, collecting, and analyzing data as necessary to issue reports on outcomes and indicators at the county, region, and state levels.

2. Notwithstanding section 217.3, subsection 6, the commission may adopt the rules authorized by subsection 1, pursuant to chapter 17A, without prior review and approval of those rules by the council on human services.

3. If the executive branch creates a committee, task force, council, or other advisory body to consider disability services policy or program options involving children or adult consumers, the commission is designated to receive and consider any report, findings, recommendations, or other work product issued by such body. The commission may address the report, findings, recommendations, or other work product in fulfilling the commission’s functions and to advise the department, council on human services, governor, and general assembly concerning disability services.

4. a. The department shall coordinate with the department of inspections and appeals in the establishment of facility-based and community-based, subacute mental health services.

b. A person shall not provide community-based, subacute mental health services unless the person has been accredited to provide the services. The commission shall adopt standards

for subacute mental health services and for accreditation of providers of community-based, subacute mental health services.

c. As used in this subsection, “*subacute mental health services*” means all of the following:

(1) A comprehensive set of wraparound services for persons who have had or are at imminent risk of having acute or crisis mental health symptoms that do not permit the persons to remain in or threatens removal of the persons from their home and community, but who have been determined by a mental health professional and a licensed health care professional, subject to the professional’s scope of practice, not to need inpatient acute hospital services. For the purposes of this subparagraph, “*mental health professional*” means the same as defined in section 228.1 and “*licensed health care professional*” means a person licensed under chapter 148 to practice medicine and surgery or osteopathic medicine and surgery, an advanced registered nurse practitioner licensed under chapter 152 or 152E, or a physician assistant licensed to practice under the supervision of a physician as authorized in chapters 147 and 148C.

(2) Intensive, recovery-oriented treatment and monitoring of the person with direct or remote access to a psychiatrist or advanced registered nurse practitioner.

(3) An outcome-focused, interdisciplinary approach designed to return the person to living successfully in the community.

(4) Services that may be provided in a wide array of settings ranging from the person’s home to a facility providing subacute mental health services.

(5) Services that are time limited to not more than ten days or another time period determined in accordance with rules adopted for this purpose.

d. Subacute mental health services and the standards for the services shall be established in a manner that allows for accessing federal Medicaid funding.

[C66, 71, 73, 75, 77, §225B.4, 225B.7; C79, 81, §225B.3(2); S81, §225C.5; 81 Acts, ch 78, §6, 20]

83 Acts, ch 96, §157, 159; 88 Acts, ch 1245, §1; 94 Acts, ch 1170, §15; 98 Acts, ch 1181, §15; 99 Acts, ch 160, §4, 5; 2000 Acts, ch 1112, §51; 2001 Acts, ch 74, §14; 2001 Acts, ch 155, §28; 2002 Acts, ch 1146, §2, 3, 25; 2006 Acts, ch 1115, §6, 13; 2007 Acts, ch 218, §118; 2010 Acts, ch 1031, §375; 2011 Acts, ch 34, §54; 2012 Acts, ch 1023, §29; 2012 Acts, ch 1120, §4, 5, 20, 21, 56; 2013 Acts, ch 90, §49; 2015 Acts, ch 56, §15; 2015 Acts, ch 69, §34, 35

Referred to in §135G.1, 225C.6B, 225C.28A, 331.397

225C.6A Disability services system central data repository.

1. The department shall do the following relating to data concerning the disability services system in the state:

a. Plan, collect, and analyze data as necessary to issue cost estimates for serving additional populations and providing core disability services statewide. The department shall maintain compliance with applicable federal and state privacy laws to ensure the confidentiality and integrity of individually identifiable disability services data. The department may periodically assess the status of the compliance in order to assure that data security is protected.

b. Implement a central data repository under this section for collecting and analyzing state, county and region, and private contractor data. The department shall establish a client identifier for the individuals receiving services.

c. Consult on an ongoing basis with regional administrators, service providers, and other stakeholders in implementing the central data repository and operations of the repository. The consultation shall focus on minimizing the state and local costs associated with operating the repository.

d. Engage with other state and local government and nongovernmental entities operating the Iowa health information network under chapter 135 and other data systems that maintain information relating to individuals with information in the central data repository in order to integrate data concerning individuals.

2. A county or region shall not be required to utilize a uniform data operational or transactional system. However, the system utilized shall have the capacity to exchange information with the department, counties and regions, contractors, and others involved

with services to persons with a disability who have authorized access to the central data repository. The information exchanged shall be labeled consistently and share the same definitions. Each regional administrator shall regularly report to the department the following information for each individual served: demographic information, expenditure data, and data concerning the services and other support provided to each individual, as specified by the department.

3. The outcome and performance measures applied to the regional service system shall utilize measurement domains. The department may identify other measurement domains in consultation with system stakeholders to be utilized in addition to the following initial set of measurement domains:

- a. Access to services.
- b. Life in the community.
- c. Person-centeredness.
- d. Health and wellness.
- e. Quality of life and safety.
- f. Family and natural supports.

4. a. The processes used for collecting outcome and performance measures data shall include but are not limited to direct surveys of the individuals and families receiving services and the providers of the services. The department shall involve a workgroup of persons who are knowledgeable about both the regional service system and survey techniques to implement and maintain the processes. The workgroup shall conduct an ongoing evaluation for the purpose of eliminating the collection of information that is not utilized. The surveys shall be conducted with a conflict-free approach in which someone other than a provider of services surveys an individual receiving the services.

b. The outcome and performance measures data shall encompass and provide a means to evaluate both the regional services and the services funded by the medical assistance program provided to the same service populations.

c. The department shall develop and implement an internet-based approach with graphical display of information to provide outcome and performance measures data to the public and those engaged with the regional service system.

d. The department shall include any significant costs for collecting and interpreting outcome and performance measures and other data in the department's operating budget.

2004 Acts, ch 1090, §34; 2006 Acts, ch 1159, §1, 3; 2007 Acts, ch 218, §87, 92; 2010 Acts, ch 1031, §376; 2013 Acts, ch 19, §1; 2013 Acts, ch 140, §188

Referred to in §225C.4

225C.6B Mental health and disability services system — legislative intent — comprehensive plan — state and regional service systems.

1. Intent.

a. The general assembly intends for the state to implement a comprehensive, continuous, and integrated state mental health and disability services plan in accordance with the requirements of sections 225C.4 and 225C.6 and other provisions of this chapter, by increasing the department's responsibilities in the development, funding, oversight, and ongoing leadership of mental health and disability services in this state.

b. In order to further the purposes listed in section 225C.1 and in other provisions of this chapter, the general assembly intends that efforts focus on the goal of making available a comprehensive array of high-quality, evidence-based consumer and family-centered mental health and disability services and other support in the least restrictive, community-based setting appropriate for a consumer.

c. In addition, it is the intent of the general assembly to promote policies and practices that achieve for consumers the earliest possible detection of mental health problems and the need for disability services and for early intervention; to stress that all health care programs address mental health disorders with the same urgency as physical health disorders; to promote the policies of all public programs that serve adults and children with mental disorders or with a need for disability services, including but not limited to child welfare, Medicaid, education, housing, criminal and juvenile justice, substance abuse treatment, and

employment services; to consider the special mental health and disability services needs of adults and children; and to promote recovery and resiliency as expected outcomes for all consumers.

2. *Comprehensive plan.* The division shall develop a comprehensive written five-year state mental health and disability services plan with annual updates and readopt the plan every five years. The plan shall describe the key components of the state's mental health and disability services system, including the services that are community-based, state institution-based, or regional or state-based. The five-year plan and each update shall be submitted annually to the commission on or before October 30 for review and approval.

3. *State and regional disability service systems.* The publicly financed disability services for persons with mental illness, intellectual disability or other developmental disability, or brain injury in this state shall be provided by the department and the counties operating together as regions. The financial and administrative responsibility for such services is as follows:

a. Disability services for children and adults that are covered under the medical assistance program pursuant to chapter 249A are the responsibility of the state.

b. Adult mental health and intellectual disability services that are not covered under the medical assistance program are the responsibility of the county-based regional service system.

c. Children's behavioral health services provided to eligible children that are not covered under the medical assistance program or other third-party payor are the responsibility of the county-based regional service system.

2007 Acts, ch 218, §93; 2010 Acts, ch 1031, §377, 378; 2012 Acts, ch 1120, §8, 20, 21; 2019 Acts, ch 61, §7

Referred to in §225C.4

225C.6C Regional service system — regulatory requirements.

1. The departments of inspections and appeals, human services, and public health shall comply with the requirements of this section in their efforts to improve the regulatory requirements applied to the mental health and disability regional service system administration and service providers.

2. The three departments shall work together to establish a process to streamline accreditation, certification, and licensing standards applied to the regional service system administration and service providers.

3. The departments of human services and inspections and appeals shall jointly review the standards and inspection process applicable to residential care facilities.

4. The three departments shall do all of the following in developing regulatory requirements applicable to the regional service system administration and service providers:

a. Consider the costs to administrators and providers in the development of quality monitoring efforts.

b. Implement the use of uniform, streamlined, and statewide cost reporting standards and tools by the regional service system and the department of human services.

c. Make quality monitoring information, including services, quality, and location information, easily available and understandable to all citizens.

d. Establish standards that are clearly understood and are accompanied by interpretive guidelines to support understanding by those responsible for applying the standards.

e. Develop a partnership with providers in order to improve the quality of services and develop mechanisms for the provision of technical assistance.

f. Develop consistent data collection efforts based on statewide standards and make information available to all providers. The efforts under this paragraph shall be made with representatives of the Iowa state association of counties.

g. Evaluate existing provider qualification and monitoring efforts to identify duplication and gaps, and align the efforts with valued outcomes.

h. Streamline and enhance existing standards.

i. Consider allowing providers to seek accreditation from a national accrediting body in lieu of state accreditation or certification.

2012 Acts, ch 1120, §28

225C.7 Mental health and developmental disabilities community services fund. Repealed by 2014 Acts, ch 1092, §152.

225C.7A Mental health and disability regional services fund.

1. A mental health and disability regional services fund is created in the office of the treasurer of state under the authority of the department, which shall consist of the amounts appropriated to the fund by the general assembly for each fiscal year. Before completion of the department's budget estimate as required by section 8.23, the director of human services, in consultation with the commission, shall determine and include in the estimate the amount, which in order to address the increase in the costs of providing services, should be appropriated to the fund for the succeeding fiscal year.

2. The department shall distribute the moneys appropriated from the fund to mental health and disability services regions for funding of disability services in accordance with performance-based contracts with the regions and in the manner provided in the appropriations. If the allocation methodology includes a population factor, the definition of "population" in section 331.388 shall be applied.

2012 Acts, ch 1120, §9, 20, 21

Referred to in §225C.4, 331.391, 331.398

225C.8 Legal settlement dispute resolution. Repealed by 2012 Acts, ch 1120, §129, 130. See §331.394.

225C.9 through 225C.11 Repealed by 94 Acts, ch 1170, §54.

225C.12 Partial reimbursement to counties for local inpatient mental health care and treatment. Repealed by 2014 Acts, ch 1092, §152.

225C.13 Authority to establish and lease facilities.

1. The administrator assigned, in accordance with section 218.1, to control the state mental health institutes and the state resource centers may enter into agreements under which a facility or portion of a facility administered by the administrator is leased to a department or division of state government, a county or group of counties, a mental health and disability services region, or a private nonprofit corporation organized under chapter 504. A lease executed under this section shall require that the lessee use the leased premises to deliver either disability services or other services normally delivered by the lessee.

2. The division administrator may work with the appropriate administrator of the department's institutions to establish mental health and intellectual disability services for all institutions under the control of the director of human services and to establish an autism unit, following mutual planning and consultation with the medical director of the state psychiatric hospital, at an institution or a facility administered by the department to provide psychiatric and related services and other specific programs to meet the needs of autistic persons, and to furnish appropriate diagnostic evaluation services.

[S81, §225C.12; 81 Acts, ch 78, §14, 20]

94 Acts, ch 1170, §17; 2000 Acts, ch 1112, §34; 2004 Acts, ch 1049, §191; 2004 Acts, ch 1175, §393; 2006 Acts, ch 1115, §25; 2012 Acts, ch 1019, §67; 2015 Acts, ch 69, §36

225C.14 Preliminary diagnostic evaluation.

1. Except in cases of medical emergency, a person shall be admitted to a state mental health institute as an inpatient only after a preliminary diagnostic evaluation performed through the regional administrator for the person's county of residence has confirmed that the admission is appropriate to the person's mental health needs, and that no suitable alternative method of providing the needed services in a less restrictive setting or in or nearer

to the person's home community is currently available. If provided for through the regional administrator, the evaluation may be performed by a community mental health center or by an alternative diagnostic facility. The policy established by this section shall be implemented in the manner and to the extent prescribed by sections 225C.15, 225C.16, and 225C.17.

2. As used in this section and sections 225C.15, 225C.16, and 225C.17, the term "*medical emergency*" means a situation in which a prospective patient is received at a state mental health institute in a condition which, in the opinion of the chief medical officer, or that officer's physician designee, requires the immediate admission of the person notwithstanding the policy stated in subsection 1.

[C79, 81, §225B.4; S81, §225C.13; 81 Acts, ch 78, §15, 20]

94 Acts, ch 1170, §18; 96 Acts, ch 1183, §14; 2004 Acts, ch 1090, §33; 2015 Acts, ch 69, §37; 2016 Acts, ch 1073, §72

Referred to in §225C.15, 225C.16, 331.382

225C.15 County implementation of evaluations.

The regional administrator for a county shall require that the policy stated in section 225C.14 be followed with respect to admission of persons from that county to a state mental health institute. A community mental health center which is supported, directly or in affiliation with other counties, by that county may perform the preliminary diagnostic evaluations for that county, unless the performance of the evaluations is not covered by the agreement entered into by the regional administrator and the center, and the center's director certifies to the regional administrator that the center does not have the capacity to perform the evaluations, in which case the regional administrator shall proceed under section 225C.17.

[C79, 81, §225B.5; S81, §225C.14; 81 Acts, ch 78, §16, 20]

96 Acts, ch 1183, §15; 2013 Acts, ch 90, §50; 2015 Acts, ch 69, §38

Referred to in §225C.14, 331.382

225C.16 Referrals for evaluation.

1. The chief medical officer of a state mental health institute, or that officer's physician designee, shall advise a person residing in that county who applies for voluntary admission, or a person applying for the voluntary admission of another person who resides in that county, in accordance with section 229.41, that the regional administrator for the county has implemented the policy stated in section 225C.14, and shall advise that a preliminary diagnostic evaluation of the prospective patient be sought, if that has not already been done. This subsection does not apply when voluntary admission is sought in accordance with section 229.41 under circumstances which, in the opinion of the chief medical officer or that officer's physician designee, constitute a medical emergency.

2. The clerk of the district court in that county shall refer a person applying for authorization for voluntary admission, or for authorization for voluntary admission of another person, in accordance with section 229.42, to the regional administrator for the person's county of residence under section 225C.14 for the preliminary diagnostic evaluation unless the applicant furnishes a written statement from the appropriate entity which indicates that the evaluation has been performed and that the person's admission to a state mental health institute is appropriate. This subsection does not apply when authorization for voluntary admission is sought under circumstances which, in the opinion of the chief medical officer or that officer's physician designee, constitute a medical emergency.

3. Judges of the district court in that county or the judicial hospitalization referee appointed for that county shall so far as possible arrange for the entity designated through the regional administrator under section 225C.14 to perform a prehearing examination of a respondent required under section 229.8, subsection 3, paragraph "b".

4. The chief medical officer of a state mental health institute shall promptly submit to the appropriate entity designated through the regional administrator under section 225C.14 a report of the voluntary admission of a patient under the medical emergency provisions of subsections 1 and 2. The report shall explain the nature of the emergency which necessitated

the admission of the patient without a preliminary diagnostic evaluation by the designated entity.

[C79, 81, §225B.6; S81, §225C.15; 81 Acts, ch 78, §17, 20]

96 Acts, ch 1183, §16; 2004 Acts, ch 1090, §33; 2012 Acts, ch 1120, §96, 130; 2015 Acts, ch 69, §39; 2016 Acts, ch 1073, §73

Referred to in §225C.14, 331.382, 602.8102(39)

225C.17 Alternative diagnostic facility.

If a county is not served by a community mental health center having the capacity to perform the required preliminary diagnostic evaluations, the regional administrator for the county shall arrange for the evaluations to be performed by an alternative diagnostic facility for the period until the county is served by a community mental health center with the capacity to provide that service. An alternative diagnostic facility may be the outpatient service of a state mental health institute or any other mental health facility or service able to furnish the requisite professional skills to properly perform a preliminary diagnostic evaluation of a person whose admission to a state mental health institute is being sought or considered on either a voluntary or an involuntary basis.

[C79, 81, §225B.7; S81, §225C.16; 81 Acts, ch 78, §18, 20]

2015 Acts, ch 69, §40

Referred to in §225C.14, 225C.15, 331.382

225C.18 Mental health and developmental disabilities regional planning councils. Repealed by 2014 Acts, ch 1092, §152.

225C.19 Emergency mental health crisis services system.

1. For the purposes of this section:

a. “*Emergency mental health crisis services provider*” means a provider accredited or approved by the department to provide emergency mental health crisis services.

b. “*Emergency mental health crisis services system*” or “*services system*” means a coordinated array of crisis services for providing a response to assist an individual adult or child who is experiencing a mental health crisis or who is in a situation that is reasonably likely to cause the individual to have a mental health crisis unless assistance is provided.

2. a. The division shall implement an emergency mental health crisis services system in consultation with counties, and community mental health centers and other mental health and social service providers, in accordance with this section.

b. The purpose of the services system is to provide a statewide array of time-limited intervention services to reduce escalation of crisis situations, relieve the immediate distress of individuals experiencing a crisis situation, reduce the risk of individuals in a crisis situation doing harm to themselves or others, and promote timely access to appropriate services for those who require ongoing mental health services.

c. The services system shall be available twenty-four hours per day, seven days per week to any individual who is in or is determined by others to be in a crisis situation, regardless of whether the individual has been diagnosed with a mental illness or a co-occurring mental illness and substance abuse disorder. The system shall address all ages, income levels, and health coverage statuses.

d. The goals of an intervention offered by a provider under the services system shall include but are not limited to symptom reduction, stabilization of the individual receiving the intervention, and restoration of the individual to a previous level of functioning.

e. The elements of the services system shall be specified in administrative rules adopted by the commission.

3. The services system elements shall include but are not limited to all of the following:

a. Standards for accrediting or approving emergency mental health crisis services providers. Such providers may include but are not limited to a community mental health center designated under chapter 230A, a unit of the department or other state agency, a county, a mental health and disability services region, or any other public or private provider who meets the accreditation or approval standards for an emergency mental health crisis services provider.

b. Identification by the division of geographic regions, groupings of mental health and disability services regions, service areas, or other means of distributing and organizing the emergency mental health crisis services system to ensure statewide availability of the services.

c. Coordination of emergency mental health crisis services with all of the following:

- (1) The district and juvenile courts.
- (2) Law enforcement.
- (3) Judicial district departments of correctional services.
- (4) Mental health and disability services regions.
- (5) Other mental health, substance abuse, and co-occurring mental illness and substance abuse services available through the state and counties to serve both children and adults.

d. Identification of basic services to be provided through each accredited or approved emergency mental health crisis services provider which may include but are not limited to face-to-face crisis intervention, stabilization, support, counseling, preadmission screening for individuals who may require psychiatric hospitalization, transportation, and follow-up services.

e. Identification of operational requirements for emergency mental health crisis services provider accreditation or approval which may include providing a telephone hotline, mobile crisis staff, collaboration protocols, follow-up with community services, information systems, and competency-based training.

4. The division shall initially implement the program through a competitive block grant process. The implementation shall be limited to the extent of the appropriations provided for the program.

2008 Acts, ch 1187, §52; 2009 Acts, ch 41, §88; 2015 Acts, ch 69, §41

Referred to in §225C.19A

225C.19A Crisis stabilization programs.

The department shall accredit, certify, or apply standards of review to authorize the operation of crisis stabilization programs, including crisis stabilization programs operating in a psychiatric medical institution for children pursuant to chapter 135H that provide children with mental health, substance abuse, and co-occurring mental health and substance abuse services. In authorizing the operation of a crisis stabilization program, the department shall apply the relevant requirements for an emergency mental health crisis services provider and system under section 225C.19. A program authorized to operate under this section is not required to be licensed under chapter 135B, 135C, 135G, or 135H, or certified under chapter 231C. The commission shall adopt rules to implement this section. The department shall accept accreditation of a crisis stabilization program by a national accrediting organization in lieu of applying the rules adopted in accordance with this section to the program.

2014 Acts, ch 1044, §1; 2015 Acts, ch 75, §1; 2016 Acts, ch 1073, §74

225C.20 Responsibilities of mental health and disability services regions for individual case management services.

Individual case management services funded under medical assistance shall be provided by the department except when a county or a consortium of counties contracts with the department to provide the services. A regional administrator may contract for one or more counties of the region to be the provider at any time and the department shall agree to the contract so long as the contract meets the standards for case management adopted by the department. The regional administrator may subcontract for the provision of case management services so long as the subcontract meets the same standards. A regional administrator may change the provider of individual case management services at any time. If the current or proposed contract is with the department, the regional administrator shall provide written notification of a change at least ninety days before the date the change will take effect.

88 Acts, ch 1245, §7; 89 Acts, ch 283, §20; 93 Acts, ch 172, §31; 2000 Acts, ch 1112, §53, 58; 2015 Acts, ch 69, §42

225C.21 Supported community living services.

1. As used in this section, “*supported community living services*” means services provided in a noninstitutional setting to adult persons with mental illness, an intellectual disability, or developmental disabilities to meet the persons’ daily living needs.

2. The commission shall adopt rules pursuant to chapter 17A establishing minimum standards for supported community living services. The administrator shall determine whether to grant, deny, or revoke approval for any supported community living service.

3. Approved supported community living services may receive funding from the state, federal and state social services block grant funds, and other appropriate funding sources, consistent with state legislation and federal regulations. The funding may be provided on a per diem, per hour, or grant basis, as appropriate.

85 Acts, ch 141, §1; 91 Acts, ch 38, §1

CS85, §225C.19

C89, §225C.21

94 Acts, ch 1170, §20; 96 Acts, ch 1129, §52; 98 Acts, ch 1181, §12; 99 Acts, ch 160, §6; 2010 Acts, ch 1031, §379; 2012 Acts, ch 1019, §68

Referred to in §135C.6

225C.22 Reserved.**225C.23 Brain injury recognized as disability.**

1. The department of human services, the Iowa department of public health, the department of education and its divisions of special education and vocational rehabilitation services, the department of human rights and its division for persons with disabilities, the department for the blind, and all other state agencies which serve persons with brain injuries, shall recognize brain injury as a distinct disability and shall identify those persons with brain injuries among the persons served by the state agency.

2. For the purposes of this section, “*brain injury*” means the same as defined in section 135.22.

88 Acts, ch 1219, §2; 94 Acts, ch 1068, §7; 94 Acts, ch 1109, §3; 99 Acts, ch 141, §30; 2012 Acts, ch 1120, §67

225C.24 Reserved.

SUBCHAPTER II

BILL OF RIGHTS

225C.25 Short title.

Sections 225C.25 through 225C.28B shall be known as “the bill of rights and service quality standards of persons with an intellectual disability, developmental disabilities, brain injury, or chronic mental illness”.

85 Acts, ch 249, §2; 92 Acts, ch 1241, §63; 2012 Acts, ch 1019, §69

Referred to in §225C.29

225C.26 Scope.

These rights and service quality standards apply to any person with an intellectual disability, a developmental disability, brain injury, or chronic mental illness who receives services which are funded in whole or in part by public funds or services which are permitted under Iowa law.

85 Acts, ch 249, §3; 92 Acts, ch 1241, §64; 2012 Acts, ch 1019, §70

Referred to in §135C.2, 225C.25, 225C.29

225C.27 Purpose. Repealed by 2010 Acts, ch 1031, §381.**225C.28** Repealed by 92 Acts, ch 1241, §79.

225C.28A Service quality standards.

As the state participates more fully in funding services and other support to persons with an intellectual disability, developmental disabilities, brain injury, or chronic mental illness, it is the intent of the general assembly that the state shall seek to attain the following quality standards in the provision of the services:

1. Provide comprehensive evaluation and diagnosis adapted to the cultural background, primary language, and ethnic origin of the person.
2. Provide an individual treatment, habilitation, and program plan.
3. Provide treatment, habilitation, and program services that are individualized, provided to produce results, flexible, and cost-effective, as appropriate.
4. Provide periodic review of the individual plan.
5. Provide for the least restrictive environment and age-appropriate services.
6. Provide appropriate training and employment opportunities so that the person's ability to contribute to and participate in the community is maximized.
7. Provide an ongoing process to determine the degree of access to and the effectiveness of the services and other support in achieving the disability services outcomes and indicators identified by the commission pursuant to section 225C.6.

92 Acts, ch 1241, §66; 2006 Acts, ch 1115, §8; 2012 Acts, ch 1019, §71

Referred to in §225C.25, 225C.29

225C.28B Rights of persons with an intellectual disability, developmental disabilities, brain injury, or chronic mental illness.

All of the following rights shall apply to a person with an intellectual disability, a developmental disability, brain injury, or chronic mental illness:

1. *Wage protection.* A person with an intellectual disability, a developmental disability, brain injury, or chronic mental illness engaged in work programs shall be paid wages commensurate with the going rate for comparable work and productivity.
2. *Insurance protection.* Pursuant to section 507B.4, subsection 3, paragraph "g", a person or designated group of persons shall not be denied insurance coverage by reason of an intellectual disability, a developmental disability, brain injury, or chronic mental illness.
3. *Due process.* A person with an intellectual disability, a developmental disability, brain injury, or chronic mental illness retains the right to citizenship in accordance with the laws of the state.
4. *Participation in planning activities.* If an individual treatment, habilitation, and program plan is developed for a person with an intellectual disability, a developmental disability, brain injury, or chronic mental illness, the person has the right to participate in the formulation of the plan.

92 Acts, ch 1241, §67; 2012 Acts, ch 1019, §72; 2012 Acts, ch 1023, §148

Referred to in §225C.25, 225C.29

225C.29 Compliance.

Except for a violation of section 225C.28B, subsection 2, the sole remedy for violation of a rule adopted by the commission to implement sections 225C.25 through 225C.28B shall be by a proceeding for compliance initiated by request to the division pursuant to chapter 17A. Any decision of the division shall be in accordance with due process of law and is subject to appeal to the Iowa district court pursuant to sections 17A.19 and 17A.20 by any aggrieved party. Either the division or a party in interest may apply to the Iowa district court for an order to enforce the decision of the division. Any rules adopted by the commission to implement sections 225C.25 through 225C.28B do not create any right, entitlement, property or liberty right or interest, or private cause of action for damages against the state or a political subdivision of the state or for which the state or a political subdivision of the state would be responsible. Any violation of section 225C.28B, subsection 2, shall solely be subject to the enforcement by the commissioner of insurance and penalties granted by chapter 507B for a violation of section 507B.4, subsection 3, paragraph "g".

85 Acts, ch 249, §6; 92 Acts, ch 1241, §68; 92 Acts, ch 1247, §17; 2012 Acts, ch 1023, §149

225C.30 and 225C.31 Reserved.

225C.32 Plan appeals process.

The department shall establish an appeals process by which a mental health, intellectual disability, and developmental disabilities coordinating board or an affected party may appeal a decision of the department or of the coordinating board.

88 Acts, ch 1245, §8; 2012 Acts, ch 1019, §73

225C.33 and 225C.34 Reserved.

SUBCHAPTER III FAMILY SUPPORT SUBSIDY

225C.35 Definitions.

For purposes of this subchapter, unless the context otherwise requires:

1. “*Department*” means the department of human services.
 2. “*Family*” means a family member and the parent or legal guardian of the family member.
 3. “*Family member*” means a person less than eighteen years of age who by educational determination has a moderate, severe, or profound educational disability or special health care needs or who otherwise meets the definition of developmental disability in the federal Developmental Disabilities Assistance and Bill of Rights Act, as codified in 42 U.S.C. §15002. The department shall adopt rules establishing procedures for determining whether a child has a developmental disability.

4. “*Legal guardian*” means a person appointed by a court to exercise powers over a family member.

5. “*Medical assistance*” means payment of all or part of the care authorized to be provided pursuant to chapter 249A.

6. “*Parent*” means a biological or adoptive parent.

7. “*Supplemental security income*” means financial assistance provided to individuals pursuant to Tit. XVI of the federal Social Security Act, 42 U.S.C. §1381 – 1383c.

88 Acts, ch 1122, §2; 90 Acts, ch 1114, §1; 96 Acts, ch 1129, §113; 2009 Acts, ch 41, §89; 2014 Acts, ch 1092, §171

Referred to in §225C.37

225C.36 Family support subsidy program.

A family support subsidy program is created as specified in this subchapter. The purpose of the family support subsidy program is to keep families together by defraying some of the special costs of caring for a family member at home. The department shall adopt rules to implement the purposes of this section and sections 225C.37 through 225C.42 which assure that families retain the greatest possible flexibility in determining appropriate use of the subsidy.

88 Acts, ch 1122, §3; 90 Acts, ch 1114, §2; 2009 Acts, ch 41, §90

Referred to in §225C.49

225C.37 Program specifications rules.

1. A parent or legal guardian of a family member may apply to the local office of the department for the family support subsidy program. The application shall include:

a. A statement that the family resides in a county of this state.
 b. Verification that the family member meets the definitional requirements of section 225C.35, subsection 3. Along with the verification, the application shall identify an age when the family member’s eligibility for the family support subsidy under such definitional requirements will end. The age identified is subject to approval by the department.

c. A statement that the family member resides, or is expected to reside, with the parent or legal guardian of the family member or, on a temporary basis, with another relative of the family member.

d. A statement that if the child receives medical assistance, then the family support subsidy shall only be used for the cost of a service which is not covered by medical assistance. The family may receive welfare assistance for which the family is eligible.

e. Verification that the net taxable income for the family for the calendar year immediately preceding the date of application did not exceed forty thousand dollars unless it can be verified that the estimated net taxable income for the family for the year in which the application is made will be less than forty thousand dollars.

2. Within the limits set by the appropriation for this purpose, the department shall approve or disapprove the application based on the family support services plan which identifies the needs of the child and the family and the eligibility criteria required to be included in the application under subsection 1, paragraphs “a” through “e”, and shall notify the parent or legal guardian of the decision.

3. Effective July 1, 2010, the department shall not accept new applications for the family support subsidy program and shall not approve pending applications for the program. Subsidy termination or application denial relating to family members enrolled in the family support subsidy program as of July 1, 2010, is subject to section 225C.40.

88 Acts, ch 1122, §4; 90 Acts, ch 1039, §13; 90 Acts, ch 1114, §3; 2006 Acts, ch 1159, §11; 2009 Acts, ch 41, §263; 2010 Acts, ch 1031, §403

Referred to in §225C.36, 225C.40

225C.38 Payment — amount — reports.

1. If an application for a family support subsidy is approved by the department:

a. A family support subsidy shall be paid to the parent or legal guardian on behalf of the family member. An approved subsidy shall be payable as of the first of the next month after the department approves the written application.

b. A family support subsidy shall be used to meet the special needs of the family. This subsidy is intended to complement but not supplant public assistance or social service benefits based on economic need, available through governmental programs or other means available to the family.

c. Except as provided in section 225C.41, a family support subsidy for a fiscal year shall be in an amount determined by the department. The parent or legal guardian receiving a family support subsidy may elect to receive a payment amount which is less than the amount determined in accordance with this paragraph.

2. The department shall administer the family support subsidy program and the payments made under the program as follows:

a. In each fiscal year, the department shall establish a figure for the number of family members for whom a family support subsidy shall be provided at any one time during the fiscal year. The figure shall be established by dividing the amount appropriated by the general assembly for family support subsidy payments during the fiscal year by the family support subsidy payment amount established in subsection 1, paragraph “c”.

b. On or before July 15 in each fiscal year, the department shall approve the provision of a number of family support subsidies equal to the figure established in paragraph “a”. During any thirty-day period, the number of family members for whom a family support subsidy is provided shall not be less than this figure.

c. Unless there are exceptional circumstances and the family requests and receives approval from the department for an exception to policy, a family is not eligible to receive the family support subsidy if any of the following are applicable to the family or the family member for whom the application was submitted:

(1) The family member is a special needs child who was adopted by the family and the family is receiving financial assistance under section 600.17.

(2) Medical assistance home and community-based waiver services are provided for the family member and the family lives in a county in which comprehensive family support program services are available.

(3) Medical assistance home and community-based waiver services are provided for the family member under a consumer choices option.

3. The parent or legal guardian who receives a family support subsidy shall report, in writing, the following information to the department:

a. Not less than annually, a statement that the family support subsidy was used to meet the special needs of the family.

b. The occurrence of any event listed in section 225C.40.

c. A request to terminate the family support subsidy.

88 Acts, ch 1122, §5; 91 Acts, ch 38, §2, 3; 98 Acts, ch 1218, §71; 2006 Acts, ch 1159, §12, 13, 29; 2013 Acts, ch 138, §86

Referred to in §225C.36, 225C.40

225C.39 Subsidy payments not alienable.

Family support subsidy payments shall not be alienable by action, including but not limited to, assignment, sale, garnishment, or execution, and in the event of bankruptcy shall not pass to or through a trustee or any other person acting on behalf of creditors.

88 Acts, ch 1122, §6

Referred to in §225C.36

225C.40 Termination or denial of subsidy — hearing.

1. The family support subsidy shall terminate if any of the following occur:

a. The family member dies.

b. The family no longer meets the eligibility criteria in section 225C.37.

c. The family member attains the age of eighteen years.

d. The family member is no longer eligible for special education pursuant to section 256B.9, subsection 1, paragraph “c” or “d”.

2. The family support subsidy may be terminated by the department if a report required by section 225C.38, subsection 3, is not timely made or a report required by section 225C.38, subsection 3, paragraph “a”, contains false information.

3. If an application for a family support subsidy is denied, the family member end-of-eligibility age identified in the application is not approved by the department, or a family support subsidy is terminated by the department, the parent or legal guardian of the affected family member may request, in writing, a hearing before an impartial hearing officer.

4. If a family appeals the termination of a family member who has attained the age of eighteen years, family support subsidy payments for that family member shall be withheld pending resolution of the appeal.

88 Acts, ch 1122, §7; 2006 Acts, ch 1159, §14; 2008 Acts, ch 1187, §114

Referred to in §225C.36, 225C.37, 225C.38

225C.41 Appropriations.

1. Family support subsidy payments shall be paid from funds appropriated by the general assembly for this purpose.

2. Notwithstanding section 8.33, funds remaining unexpended on June 30 of any fiscal year shall not revert to the general fund of the state but shall remain available to provide family support subsidy payments or to expand the comprehensive family support program in the succeeding fiscal year.

88 Acts, ch 1122, §8; 91 Acts, ch 38, §4; 2006 Acts, ch 1159, §15; 2020 Acts, ch 1062, §94

Referred to in §225C.36, 225C.38

Code editor directive applied

225C.42 Annual evaluation of program.

1. The department shall conduct an annual evaluation of the family support subsidy program and shall submit the evaluation report with recommendations to the governor and general assembly. The report shall be submitted on or before October 30 and provide an evaluation of the latest completed fiscal year.

2. The evaluation content shall include but is not limited to all of the following items:

a. A statement of the number of children and families served by the program during the period and the number remaining on the waiting list at the end of the period.

b. A description of the children and family needs to which payments were applied.

c. An analysis of the extent to which payments enabled children to remain in their homes. The analysis shall include but is not limited to all of the following items concerning children affected by the payments: the number and percentage of children who remained with their families; the number and percentage of children who returned to their home from an out-of-home placement and the type of placement from which the children returned; and the number of children who received an out-of-home placement during the period and the type of placement.

d. An analysis of parent satisfaction with the program.

e. An analysis of efforts to encourage program participation by eligible families.

f. The results of a survey of families participating in the program in order to assess the adequacy of subsidy payment amounts and the degree of unmet need for services and supports.

3. The evaluation content may include any of the following items:

a. An overview of the reasons families voluntarily terminated participation in the family support subsidy program and the involvement of the department in offering suitable alternatives.

b. The geographic distribution of families receiving subsidy payments.

c. An overview of problems encountered by families in applying for the program, including obtaining documentation of eligibility.

88 Acts, ch 1122, §9; 91 Acts, ch 38, §5; 2004 Acts, ch 1116, §1, 2; 2005 Acts, ch 19, §36; 2006 Acts, ch 1159, §16, 28; 2013 Acts, ch 138, §87

Referred to in §225C.36

225C.43 and 225C.44 Reserved.

SUBCHAPTER IV

PUBLIC HOUSING UNIT

225C.45 Public housing unit.

1. The administrator may establish a public housing unit within a bureau of the division to apply for, receive, and administer federal assistance, grants, and other public or private funds for purposes related to providing housing.

2. In implementing the public housing unit, the division may do all of the following:

a. Prepare, implement, and operate housing projects and provide for the construction, improvement, extension, alteration, or repair of a housing project under the division's jurisdiction.

b. Develop and implement studies, conduct analyses, and engage in research concerning housing and housing needs. The information obtained from these activities shall be made available to the public and to the building, housing, and supply industries.

c. Cooperate with the Iowa finance authority and participate in any of the authority's programs. Use any funds obtained pursuant to subsection 1 to participate in the authority's programs. The division shall comply with rules adopted by the authority as the rules apply to the housing activities of the division.

3. In accepting contributions, grants, or other financial assistance from the federal government relating to a housing activity of the division, including construction, operation, or maintenance, or in managing a housing project or undertaking constructed or owned by the federal government, the division may do any of the following:

a. Comply with federally required conditions or enter into contracts or agreements as may be necessary, convenient, or desirable.

b. Take any other action necessary or desirable in order to secure the financial aid or cooperation of the federal government.

c. Include in a contract with the federal government for financial assistance any provision which the federal government may require as a condition of the assistance that is consistent with the provisions of this section.

4. The division shall not proceed with a housing project pursuant to this section, unless both of the following conditions are met:

a. A study for a report which includes recommendations concerning the housing available within a community is publicly issued by the division. The study shall be included in the division's recommendations for a housing project.

b. The division's recommendations are approved by a majority of the city council or board of supervisors with jurisdiction over the geographic area affected by the recommendations.

5. Property acquired or held pursuant to this section is public property used for essential public purposes and is declared to be exempt from any tax or special assessment of the state or any state public body as defined in section 403A.2. In lieu of taxes on the property, the division may agree to make payments to the state or a state public body, including but not limited to the division, as the division finds necessary to maintain the purpose of providing low-cost housing in accordance with this section.

6. Any property owned or held by the division pursuant to this section is exempt from levy and sale by execution. An execution or other judicial process shall not be issued against the property and a judgment against the division shall not be a lien or charge against the property. However, the provisions of this subsection shall not apply to or limit the right of the federal government to pursue any remedies available under this section. The provisions of this subsection shall also not apply to or limit the right of an obligee to take either of the following actions:

a. Foreclose or otherwise enforce a mortgage or other security executed or issued pursuant to this section.

b. Pursue remedies for the enforcement of a pledge or lien on rents, fees, or revenues.

7. In any contract with the federal government to provide annual payments to the division, the division may obligate itself to convey to the federal government possession of or title to the housing project in the event of a substantial default as defined in the contract and with respect to the covenant or conditions to which the division is subject. The obligation shall be specifically enforceable and shall not constitute a mortgage. The contract may also provide that in the event of a conveyance, the federal government may complete, operate, manage, lease, convey, or otherwise deal with the housing project and funds in accordance with the terms of the contract. However, the contract shall require that, as soon as is practicable after the federal government is satisfied that all defaults with respect to the housing project are cured and the housing project will be operated in accordance with the terms of the contract, the federal government shall reconvey the housing project to the division.

8. The division shall not undertake a housing project pursuant to this section until a public hearing has been held. At the hearing, the division shall notify the public of the proposed project's name, location, number of living units proposed, and approximate cost. Notice of the public hearing shall be published at least once in a newspaper of general circulation at least fifteen days prior to the date set for the hearing.

92 Acts, ch 1128, §2; 94 Acts, ch 1170, §21; 95 Acts, ch 82, §3

Referred to in §225C.4

SUBCHAPTER V

FAMILY SUPPORT SERVICES

Legislative findings, 94 Acts, ch 1041, §1

225C.46 Personal assistance services program. Repealed by 2006 Acts, ch 1159, §27.

225C.47 Comprehensive family support program.

1. For the purposes of this section, unless the context otherwise requires:

a. (1) "Family" means a group of interdependent persons living in the same household. A family consists of an individual with a disability and any of the following:

- (a) The individual's parent.
- (b) The individual's sibling.
- (c) The individual's grandparent, aunt, or uncle.

(d) The individual's legal custodian.

(e) A person who is providing short-term foster care to the individual subject to a case permanency plan which provides for reunification between the individual and the individual's parent.

(2) "Family" does not include a person who is employed to provide services to an individual with a disability in an out-of-home setting, including but not limited to a hospital, nursing facility, personal care home, board and care home, group foster care home, or other institutional setting.

b. "Individual with a disability" means an individual who is less than twenty-two years of age and meets the definition of developmental disability in 42 U.S.C. §15002.

c. "Services and support" means services or other assistance intended to enable an individual with a disability to control the individual's environment, to remain living with the individual's family, to function more independently, and to increase the integration of the individual into the individual's community. Services and support may include but are not limited to funding for purchase of equipment, respite care, supplies, assistive technology, and payment of other costs attributable to the individual's disability which are identified by the individual's family.

2. A comprehensive family support program is created in the department of human services to provide a statewide system of services and support to eligible families. The program shall be implemented in a manner which enables a family member of an individual with a disability to identify the services and support needed to enable the individual to reside with the individual's family, to function more independently, and to increase the individual's integration into the community.

3. Eligibility for the comprehensive family support program is limited to families who meet all of the following conditions:

a. The family resides in the state of Iowa.

b. The family includes an individual with a disability.

c. The family expresses an intent for the family member who is an individual with a disability to remain living in the family's home.

d. The family's taxable income is less than sixty thousand dollars in the most recently completed tax year.

4. A family may apply to the department or to a family support center developed pursuant to this section for assistance under the comprehensive family support program. The department or family support center shall determine eligibility for the program in accordance with the provisions of this section.

5. The department shall design the program. The department shall adopt rules to implement the program which provide for all of the following:

a. (1) An application process incorporating the eligibility determination processes of other disability services programs to the extent possible.

(2) Eligible families maintain control of decisions which affect the families' children who are individuals with a disability.

b. (1) Existing local agencies are utilized to provide facilities and a single entry point for comprehensive family support program applicants.

(2) Services and support are provided in a timely manner and emergency access to needed services and support is provided.

c. Technical assistance is provided to service and support providers and users.

d. State, regional, and local media are utilized to publicize the family support program.

e. A process is available to appeal the department's or family support center's decisions involving families that apply for the comprehensive family support program and are denied services and support under the comprehensive family support program. The department shall make reasonable efforts to utilize telecommunications so that a family initiating an appeal may complete the appeal process in the family's local geographic area.

f. (1) Identification of the services and support and service provider components included in the comprehensive family support program.

(2) Upon request by a family member, provision of assistance in locating a service provider.

g. Identification of payment for services and support directly to families, by voucher, or by other appropriate means to maintain family control over decision making.

h. Implementation of the program in accordance with the funding appropriated for the program.

i. The utilization of a voucher system for payment provisions for the family support center component of the program developed under subsection 7.

6. Services and support provided under the comprehensive family support program shall not be used to supplant other services and support available to a family of an individual with disabilities but shall be used to meet family needs that would not be met without the program.

7. The comprehensive family support program shall include a family support center component developed by the department in accordance with this subsection. Under the component, a family member of an individual with a disability shall be assisted by a family support center in identifying the services and support to be provided to the family under the family support subsidy program or the comprehensive family support program. The identification of services and support shall be based upon the specific needs of the individual and the individual's family which are not met by other service programs available to the individual and the individual's family.

94 Acts, ch 1041, §3; 96 Acts, ch 1084, §1 – 5; 2006 Acts, ch 1159, §17 – 21; 2013 Acts, ch 138, §88; 2014 Acts, ch 1092, §172; 2015 Acts, ch 29, §33

Referred to in §225C.49

225C.48 Comprehensive family support council. Repealed by 2013 Acts, ch 138, §105.

225C.49 Departmental duties concerning services to individuals with a disability.

1. The department shall provide coordination of the programs administered by the department which serve individuals with a disability and the individuals' families, including but not limited to the following juvenile justice and child welfare services: family-centered services described under section 232.102, decategorization of child welfare funding provided for under section 232.188, and foster care services paid under section 234.35, subsection 3. The department shall regularly review administrative rules associated with such programs and make recommendations to the council on human services, governor, and general assembly for revisions to remove barriers to the programs for individuals with a disability and the individuals' families including the following:

a. Eligibility prerequisites which require declaring the individual at risk of abuse, neglect, or out-of-home placement.

b. Time limits on services which restrict addressing ongoing needs of individuals with a disability and their families.

2. The department shall coordinate the department's programs and funding utilized by individuals with a disability and their families with other state and local programs and funding directed to individuals with a disability and their families.

3. In implementing the provisions of this section, the department shall do all of the following:

a. Compile information concerning services and other support available to individuals with a disability and their families. Make the information available to individuals with a disability and their families and department staff.

b. Utilize internal training resources or contract for additional training of staff concerning the information under paragraph "a" and training of families and individuals as necessary to implement the family support subsidy and comprehensive family support programs under this chapter.

4. The department shall designate one individual whose sole duties are to provide central coordination of the programs under sections 225C.36 and 225C.47 and to oversee development and implementation of the programs.

96 Acts, ch 1084, §7; 2006 Acts, ch 1159, §23, 24; 2007 Acts, ch 172, §8; 2013 Acts, ch 138, §89

225C.50 Reserved.

SUBCHAPTER VI
CHILDREN'S BEHAVIORAL
HEALTH SYSTEM

225C.51 Children's behavioral health system state board.

1. A children's behavioral health system state board is created as the state body to provide guidance on the implementation and management of a children's behavioral health system for the provision of services to children with a serious emotional disturbance. State board members shall be appointed on the basis of interest and experience in the fields of children's behavioral health to ensure adequate representation from persons with life experiences and from persons knowledgeable about children's behavioral health services. The department shall provide support to the state board, and the board may utilize staff support and other assistance provided to the state board by other persons. The state board shall meet at least four times per year. The membership of the state board shall consist of the following persons:

- a. The director of the department of human services or the director's designee.
- b. The director of the department of education or the director's designee.
- c. The director of the department of public health or the director's designee.
- d. The director of workforce development or the director's designee.
- e. A member of the mental health and disability services commission.
- f. Members appointed by the governor who are active members of each of the indicated groups:

(1) One member shall be selected from nominees submitted by the state court administrator.

(2) One member shall be selected from nominees submitted by the early childhood Iowa office in the department of management.

(3) One member shall be a board member or an employee of a provider of mental health services to children.

(4) One member shall be a board member or an employee of a provider of child welfare services.

(5) One member shall be an administrator of an area education agency.

(6) One member shall be an educator, counselor, or administrator of a school district.

(7) One member shall be a representative of an established advocacy organization whose mission or purpose it is, in part, to further goals related to children's mental health.

(8) One member shall be a parent or guardian of a child currently utilizing or who has utilized behavioral health services.

(9) One member shall be a sheriff.

(10) One member shall be a pediatrician.

(11) One member shall be a representative from a health care system.

(12) One member shall be a chief executive officer of a mental health and disability services region.

g. In addition to the voting members, the membership shall include four members of the general assembly with one member designated by each of the following: the majority leader of the senate, the minority leader of the senate, the speaker of the house of representatives, and the minority leader of the house of representatives. A legislative member serves for a term as provided in section 69.16B in a nonvoting, ex officio capacity and is not eligible for per diem and expenses as provided in section 2.10.

2. Members appointed by the governor shall serve four-year staggered terms and are subject to confirmation by the senate. The four-year terms shall begin and end as provided in section 69.19. Vacancies on the state board shall be filled as provided in section 2.32. A member shall not be appointed for more than two consecutive four-year terms.

3. The director of the department of human services and the director of the department of education, or their designees, shall serve as co-chairpersons of the state board. Board

members shall not be entitled to a per diem as specified in section 7E.6 and shall not be entitled to actual and necessary expenses incurred while engaged in their official duties.

2019 Acts, ch 61, §8, 22; 2019 Acts, ch 85, §110; 2019 Acts, ch 89, §10, 11

Referred to in §225C.2, 331.388

Former §225C.51 repealed by 2019 Acts, ch 61, §22

225C.52 Children’s behavioral health system state board — duties.

To the extent funding is available, the state board shall perform the following duties:

1. Advise the administrator on the administration of the children’s behavioral health system.

2. Provide consultation services to agencies regarding the development of administrative rules for the children’s behavioral health system.

3. Identify behavioral health outcomes and indicators for eligible children with a serious emotional disturbance to promote children living with their own families and in the community.

4. Submit a written report on or before December 1 of each year to the governor and the general assembly. At a minimum, the report shall include a summary of all activities undertaken by the state board and results from identified behavioral health outcomes and indicators for the children’s behavioral health system.

2019 Acts, ch 61, §9, 22; 2020 Acts, ch 1063, §83

Former §225C.52 repealed by 2019 Acts, ch 61, §22

Subsection 4 amended

225C.53 Role of department and division — transition to adult system. Repealed by 2019 Acts, ch 61, §22.

225C.54 Mental health services system for children and youth — initial implementation. Repealed by 2019 Acts, ch 61, §22.

CHAPTER 225D

AUTISM SUPPORT PROGRAM

225D.1 Definitions.

225D.2 Autism support program — fund.

225D.1 Definitions.

As used in this chapter unless the context otherwise requires:

1. “*Applied behavioral analysis*” means the design, implementation, and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior or to prevent loss of attained skill or function, including the use of direct observation, measurement, and functional analysis of the relations between environment and behavior.

2. “*Autism*” means autism spectrum disorders as defined in section 514C.28.

3. “*Autism service provider*” means a person providing applied behavioral analysis, who meets all of the following criteria:

a. Is any of the following:

(1) Is certified as a behavior analyst by the behavior analyst certification board, is a psychologist licensed under chapter 154B, or is a psychiatrist licensed under chapter 148.

(2) Is a board-certified assistant behavior analyst who performs duties, identified by and based on the standards of the behavior analyst certification board, under the supervision of a board-certified behavior analyst.

b. Is approved as a member of the provider network by the department.

4. “*Autism support fund*” or “*fund*” means the autism support fund created in section 225D.2.

5. “*Clinically relevant*” means medically necessary and resulting in the development,

maintenance, or restoration, to the maximum extent practicable, of the functioning of an individual.

6. “*Department*” means the department of human services.

7. “*Diagnostic assessment of autism*” means medically necessary assessment, evaluations, or tests performed by a licensed child psychiatrist, developmental pediatrician, or clinical psychologist.

8. “*Eligible individual*” means a child less than fourteen years of age who has been diagnosed with autism based on a diagnostic assessment of autism, is not otherwise eligible for coverage for applied behavioral analysis treatment or applied behavior analysis treatment under the medical assistance program, section 514C.28, section 514C.31, or other private insurance coverage, and whose household income does not exceed five hundred percent of the federal poverty level.

9. “*Federal poverty level*” means the most recently revised poverty income guidelines published by the United States department of health and human services.

10. “*Household income*” means household income as determined using the modified adjusted gross income methodology pursuant to section 2002 of the federal Patient Protection and Affordable Care Act, Pub. L. No. 111-148.

11. “*Medical assistance*” or “*Medicaid*” means assistance provided under the medical assistance program pursuant to chapter 249A.

12. “*Regional autism assistance program*” means the regional autism assistance program created in section 256.35.

13. “*Treatment plan*” means a plan for the treatment of autism developed by a licensed physician or licensed psychologist pursuant to a comprehensive evaluation or reevaluation performed in consultation with the patient and the patient’s representative.

2013 Acts, ch 138, §82, 85; 2015 Acts, ch 137, §69, 162, 163; 2016 Acts, ch 1139, §59; 2017 Acts, ch 18, §1, 5; 2017 Acts, ch 170, §35, 44

225D.2 Autism support program — fund.

1. The department shall implement an autism support program beginning January 1, 2014, to provide payment for the provision of applied behavioral analysis treatment for eligible individuals. The department shall adopt rules, including behavioral standards and guidelines pursuant to chapter 17A to implement and administer the program. In adopting the rules, standards, and guidelines for the program, the department shall consult with and incorporate the recommendations of an expert panel convened by the regional autism assistance program to provide expert opinion on clinically relevant practices and guidance on program implementation and administration. The expert panel shall consist of families of individuals with autism; educational, medical, and human services specialists, professionals, and providers; and others with interest in or expertise related to autism. The program shall be implemented and administered in a manner so that payment for services is available throughout the state, including in rural and under-resourced areas.

2. At a minimum, the rules, standards, and guidelines for the program shall address all of the following:

a. A maximum annual benefit amount for an eligible individual of thirty-six thousand dollars.

b. A maximum of twenty-four months of applied behavioral analysis treatment.

c. Notwithstanding the age limitation for an eligible individual, a provision that if an eligible individual reaches fourteen years of age prior to completion of the maximum applied behavioral analysis treatment period specified in paragraph “b”, the individual may complete such treatment in accordance with the individual’s treatment plan, not to exceed the maximum treatment period.

d. A graduated schedule for cost-sharing by an eligible individual based on a percentage of the total benefit amount expended for the eligible individual, annually. Cost-sharing shall be applicable to eligible individuals with household incomes at or above two hundred percent of the federal poverty level in incrementally increased amounts up to a maximum of fifteen percent. The rules shall provide a financial hardship exemption from payment of the cost-sharing based on criteria established by rule of the department.

e. Application, approval, compliance, and appeal processes for eligible individuals as necessary to operate and manage the program.

f. Enrollment, renewal, and reimbursement of claims provisions for autism service providers participating in the program.

g. A requirement of family engagement and participation as part of the eligible individual's treatment plan.

h. A requirement that the autism service provider coordinate interventions with the school in which the eligible individual is enrolled.

i. A requirement that the administrator of the program utilize the regional autism assistance program to coordinate interventions between eligible individuals and their families receiving support through the autism support program with appropriate medical, educational, and treatment providers, including integrated health homes. The regional autism assistance program shall provide for family navigation and coordination and integration of services through the statewide system of regional child health specialty clinics, utilizing the community child health team model. As necessitated by the availability of resources in the community where services are delivered, telehealth may be used in delivering and coordinating interventions with appropriate providers. To the extent available and accessible to an eligible individual, the eligible individual shall be enrolled in an integrated health home that is an approved provider enrolled in the medical assistance program. Health home services that are covered services under the medical assistance program shall be reimbursed under the autism support program at rates consistent with those established under the medical assistance program.

j. Requirements related to review of treatment plans, which may require review once every six months, subject to utilization review requirements established by rule. A more or less frequent review may be agreed upon by the eligible individual and the licensed physician or licensed psychologist developing the treatment plan.

k. Recognition of the results of a diagnostic assessment of autism as valid for a period of not less than twelve months, unless a licensed physician or licensed psychologist determines that a more frequent assessment is necessary.

l. Proof of eligibility for the autism support program that includes a written denial for coverage or a benefits summary indicating that applied behavioral analysis treatment or applied behavior analysis treatment is not a covered benefit for which the applicant is eligible, under the Medicaid program, section 514C.28, section 514C.31, or other private insurance coverage.

3. Moneys in the autism support fund created under subsection 5 shall be expended only for eligible individuals who are not eligible for coverage for applied behavioral analysis treatment or applied behavior analysis treatment under the medical assistance program, section 514C.28, section 514C.31, or other private insurance. Payment for applied behavioral analysis treatment through the fund shall be limited to only applied behavioral analysis treatment that is clinically relevant and only to the extent approved under the guidelines established by rule of the department.

4. This section shall not be construed as granting an entitlement for any program, service, or other support for eligible individuals. Any state obligation to provide a program, service, or other support pursuant to this section is limited to the extent of the funds appropriated for the purposes of the program. The department may establish a waiting list or terminate participation of eligible individuals if the department determines that moneys in the autism support fund are insufficient to cover future claims for reimbursement beyond ninety days.

5. a. An autism support fund is created in the state treasury under the authority of the department. Moneys appropriated to and all other moneys specified for deposit in the fund shall be deposited in the fund and used for the purposes of the program. Notwithstanding section 12C.7, interest or earnings on moneys in the fund shall be credited to the fund. Notwithstanding section 8.33, moneys credited to the fund that remain unexpended or unobligated at the end of a fiscal year shall not revert to any other fund.

b. The department shall adopt rules pursuant to chapter 17A to administer the fund and reimbursements made from the fund.

c. Moneys in the fund are appropriated to the department and shall be used by the

department for the purposes of the autism support program. The department shall be the administrator of the fund for auditing purposes.

d. The department shall submit an annual report to the governor and the general assembly no later than January 1 of each year that includes but is not limited to all of the following:

- (1) The total number of applications received under the program for the immediately preceding fiscal year.
- (2) The number of applications approved and the total amount of funding expended for reimbursements under the program in the immediately preceding fiscal year.
- (3) The cost of administering the program in the immediately preceding fiscal year.
- (4) The number of eligible individuals on a waiting list, if any, and the amount of funding necessary to reduce the existing waiting list.
- (5) Recommendations for any changes to the program.

2013 Acts, ch 138, §83, 85; 2015 Acts, ch 137, §70, 71, 162, 163; 2016 Acts, ch 1139, §60; 2017 Acts, ch 18, §2, 3, 5

Referred to in §225D.1

CHAPTER 226

STATE MENTAL HEALTH INSTITUTES

Referred to in §21.5, 125.2, 225C.6, 229.1, 229.38, 229.42, 476B.1

	SUBCHAPTER I	226.18	Investigation as to mental health.
	GENERAL PROVISIONS	226.19	Discharge — certificate.
		226.20	and 226.21 Reserved.
226.1	Official designation — definitions.	226.22	Clothing furnished.
226.2	Qualifications of superintendent.	226.23	Convalescent leave of patients.
226.3	Assistant physicians.	226.24	and 226.25 Reserved.
226.4	Salary of superintendent.	226.26	Dangerous patients.
226.5	Superintendent as witness.	226.27	Patient accused or acquitted of crime or awaiting judgment.
226.6	Duties of superintendent.		and 226.29 Reserved.
226.7	Order of receiving patients.	226.28	Transfer of dangerous patients.
226.8	Persons with an intellectual disability not receivable — exception.	226.30	Examination by court — notice.
		226.31	Overcrowded conditions.
		226.32	Notice to court.
226.9	Custody of patient.	226.33	Investigation of death — notice.
226.9A	Custody of juvenile patients.	226.34	through 226.39 Reserved.
226.9B	Net general fund appropriation — psychiatric medical institution for children.	226.35	Emergency patients.
		226.40	Charge permitted.
226.9C	Net general fund appropriation — dual diagnosis program. Repealed by 2018 Acts, ch 1165, §77.	226.41	Emergency powers of superintendents.
		226.42	
			SUBCHAPTER II
226.10	Equal treatment.		PATIENTS' PERSONAL FUNDS
226.11	Special care permitted.		
226.12	Monthly reports.	226.43	Fund created.
226.13	Patients allowed to write.	226.44	Deposits.
226.14	Writing material.	226.45	Reimbursement to county or state.
226.15	Letters to administrator.		Deposit of fund.
226.16	Unauthorized departure and retaking.	226.46	Administrator defined. Repealed by 2015 Acts, ch 69, §79.
226.17	Expense attending retaking.	226.47	

SUBCHAPTER I

GENERAL PROVISIONS

226.1 Official designation — definitions.

1. The state hospitals for persons with mental illness shall be designated as follows:

a. Mental Health Institute, Independence, Iowa.

b. Mental Health Institute, Cherokee, Iowa.

2. a. The purpose of the mental health institutes is to operate as regional resource centers providing one or more of the following:

(1) Treatment, training, care, habilitation, and support of persons with mental illness or a substance abuse problem.

(2) Facilities, services, and other support to the communities located in the region being served by a mental health institute so as to maximize the usefulness of the mental health institutes while minimizing overall costs.

(3) A unit for the civil commitment of sexually violent predators committed to the custody of the director of human services pursuant to chapter 229A.

b. In addition, the mental health institutes are encouraged to act as a training resource for community-based program staff, medical students, and other participants in professional education programs.

3. A mental health institute may request the approval of the council on human services to change the name of the institution for use in communication with the public, in signage, and in other forms of communication.

4. For the purposes of this chapter, unless the context otherwise requires:

a. “*Administrator*” means the person assigned by the director of human services to control the state mental health institutes.

b. “*Department*” means the department of human services.

c. “*Mental health and disability services region*” means a mental health and disability services region formed in accordance with section 331.389.

d. “*Regional administrator*” means the regional administrator of a mental health and disability services region, as defined in section 331.388.

[R60, §1471; C73, §1383; C97, §2253; S13, §2253-a; C24, 27, 31, 35, 39, §3483; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §226.1]

96 Acts, ch 1129, §113; 98 Acts, ch 1155, §10; 2001 Acts, 2nd Ex, ch 6, §33, 37; 2009 Acts, ch 41, §263; 2015 Acts, ch 69, §44; 2019 Acts, ch 100, §2

Referred to in §230.20

Unit for civil commitment of sexually violent predators located at the mental health institute at Cherokee; 2002 Acts, 2nd Ex, ch 1003, §131

226.2 Qualifications of superintendent.

The superintendent of each institute must be qualified by experience and training in the administration of human service programs. A physician shall not serve as both superintendent and business manager. A hospital administrator or other person qualified in business management appointed superintendent may also be designated to perform the duties of business manager without additional compensation. A physician appointed superintendent shall be designated clinical director and shall perform the duties imposed on the superintendent by section 226.6, subsection 1, and such other duties of the superintendent as must by their nature be performed by a physician.

[R60, §1430, 1474; C73, §1386, 1391; C97, §2255, 2258; C24, 27, 31, 35, 39, §3484; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §226.2; 81 Acts, ch 79, §1]

226.3 Assistant physicians.

The assistant physicians shall be of such character and qualifications as to be able to perform the ordinary duties of the superintendent during the superintendent’s absence or inability to act.

[R60, §1432; C73, §1394; C97, §2260; C24, 27, 31, 35, 39, §3485; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §226.3]

226.4 Salary of superintendent.

The salary of the superintendent of each hospital shall be determined by the administrator.

[R60, §1469, 1496; C97, §2258; C24, 27, 31, 35, 39, §3486; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §226.4]

226.5 Superintendent as witness.

The superintendents and assistant physicians of said hospitals, when called as witnesses in any court, shall be paid the same mileage which other witnesses are paid and in addition thereto shall be paid a fee of twenty-five dollars per day, said fee to revert to the support fund of the hospital the superintendent or assistant physician serves.

[C73, §1429; C97, §2293; C24, 27, 31, 35, 39, §3487; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §226.5]

Mileage, §622.69

226.6 Duties of superintendent.

The superintendent shall:

1. Have the control of the medical, mental, moral, and dietetic treatment of the patients in the superintendent's custody subject to the approval of the administrator.

2. Require all subordinate officers and employees to perform their respective duties.

3. Have an official seal with the name of the hospital and the word "Iowa" thereon and affix the same to all notices, orders of discharge, or other papers required to be given by the superintendent.

4. Keep proper books in which shall be entered all moneys and supplies received on account of any patient and a detailed account of the disposition of the same.

[R60, §1430, 1431; C73, §1391, 1393, 1430; C97, §2258, 2294; C24, 27, 31, 35, 39, §3488; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §226.6]

Referred to in §226.2

226.7 Order of receiving patients.

1. *a.* Preference in the reception of patients into said hospitals shall be exercised in the following order:

(1) Cases of less duration than one year.

(2) Chronic cases, where the disease is of more than one-year duration, presenting the most favorable prospect for recovery.

(3) Those for whom application has been longest on file, other things being equal.

b. Where cases are equally meritorious in all other respects, the indigent shall have the preference.

2. If the district court commits a patient to a state mental health institute and a bed for the patient is not available, the institute shall assist the court in locating an alternative placement for the patient.

[R60, §1438; C73, §1422; C97, §2286; C24, 27, 31, 35, 39, §3489; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §226.7]

92 Acts, ch 1241, §69; 2009 Acts, ch 41, §263

226.8 Persons with an intellectual disability not receivable — exception.

A person who has an intellectual disability, as defined in section 4.1, shall not be admitted, or transferred pursuant to section 222.7, to a state mental health institute unless a professional diagnostic evaluation indicates that such person will benefit from psychiatric treatment or from some other specific program available at the mental health institute to which it is proposed to admit or transfer the person. Charges for the care of any person with an intellectual disability admitted to a state mental health institute shall be made by the institute in the manner provided by chapter 230, but the liability of any other person to any county for the cost of care of such person with an intellectual disability shall be as prescribed by section 222.78.

[R60, §1468, 1491; C73, §1434; C97, §2298; C24, 27, 31, 35, 39, §3490; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §226.8]

96 Acts, ch 1129, §113; 2012 Acts, ch 1019, §75

226.9 Custody of patient.

The superintendent, upon the receipt of a duly executed order of admission of a patient into the hospital for persons with mental illness, pursuant to section 229.13, shall take such patient into custody and restrain the patient as provided by law and the rules of the administrator,

without liability on the part of such superintendent and all other officers of the hospital to prosecution of any kind on account thereof, but no person shall be detained in the hospital who is found by the superintendent to be in good mental health.

[C73, §1411; C97, §2278; C24, 27, 31, 35, 39, §3491; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §226.9]

96 Acts, ch 1129, §113

226.9A Custody of juvenile patients.

Effective January 1, 1991, a juvenile who is committed to a state mental health institute shall not be placed in a secure ward with adults.

89 Acts, ch 283, §21

226.9B Net general fund appropriation — psychiatric medical institution for children.

1. The psychiatric medical institution for children beds operated by the state at the state mental health institute at Independence, as authorized in section 135H.6, shall operate on the basis of a net appropriation from the general fund of the state. The allocation made by the department from the annual appropriation to the state mental health institute at Independence for the purposes of the beds shall be the net amount of state moneys projected to be needed for the beds for the fiscal year of the appropriation.

2. Revenues received that are attributed to the psychiatric medical institution for children beds during a fiscal year shall be credited to the mental health institute's account and shall be considered repayment receipts as defined in section 8.2, including but not limited to all of the following:

- a. The federal share of medical assistance program revenue received under chapter 249A.
- b. Moneys received through client financial participation.
- c. Other revenues directly attributable to the psychiatric medical institution for children beds.

2005 Acts, ch 175, §95

226.9C Net general fund appropriation — dual diagnosis program. Repealed by 2018 Acts, ch 1165, §77.

226.10 Equal treatment.

The patients of the state mental health institutes, according to their different conditions of mind and body, and their respective needs, shall be provided for and treated with equal care. If in addition to mental illness a patient has a co-occurring intellectual disability, brain injury, or substance abuse disorder, the care provided shall also address the co-occurring needs.

[C73, §1420; C97, §2284; C24, 27, 31, 35, 39, §3492; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §226.10]

2012 Acts, ch 1120, §64

226.11 Special care permitted.

Patients may have such special care as may be agreed upon with the superintendent, if the friends or relatives of the patient will pay the expense thereof. Charges for such special care and attendance shall be paid quarterly in advance.

[C73, §1420, 1421; C97, §2284, 2285; C24, 27, 31, 35, 39, §3493; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §226.11]

226.12 Monthly reports.

The administrator shall assure that the superintendent of each institute provides monthly reports concerning the programmatic, environmental, and fiscal condition of the institute. The administrator or the administrator's designee shall periodically visit each institute to validate the information.

[C73, §1435, 1441; C97, §2299; SS15, §2727-a11; C24, 27, 31, 35, 39, §3494; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §226.12]

91 Acts, ch 38, §6

226.13 Patients allowed to write.

The name and address of the administrator shall be kept posted in every ward in each hospital. Every patient shall be allowed to write once a week what the patient pleases to said administrator and to any other person. The superintendent may send letters addressed to other parties to the administrator for inspection before forwarding them to the individual addressed.

[C73, §1436; C97, §2300; C24, 27, 31, 35, 39, §3495; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §226.13]

226.14 Writing material.

Every patient shall be furnished by the superintendent or party having charge of such person, at least once in each week, with suitable materials for writing, enclosing, sealing, and mailing letters, if the patient requests and uses the same.

[C73, §1437; C97, §2301; C24, 27, 31, 35, 39, §3496; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §226.14]

226.15 Letters to administrator.

The superintendent or other officer in charge of a patient shall, without reading the same, receive all letters addressed to the administrator, if so requested, and shall properly mail the same, and deliver to such patient all letters or other writings addressed to the patient. Letters written to the person so confined may be examined by the superintendent, and if, in the superintendent's opinion, the delivery of such letters would be injurious to the person so confined, the superintendent shall return the letters to the writer with the superintendent's reasons for not delivering them.

[C73, §1438; C97, §2302; C24, 27, 31, 35, 39, §3497; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §226.15]

226.16 Unauthorized departure and retaking.

It shall be the duty of the superintendent and of all other officers and employees of any of said hospitals, in case of the unauthorized departure of any involuntarily hospitalized patient, to exercise all due diligence to take into protective custody and return said patient to the hospital. A notification by the superintendent of such unauthorized departure to any peace officer of the state or to any private person shall be sufficient authority to such officer or person to take and return such patient to the hospital.

[R60, §1445; C73, §1423; C97, §2287; S13, §2287; C24, 27, 31, 35, 39, §3498; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §226.16]

226.17 Expense attending retaking.

All actual and necessary expenses incurred in the taking into protective custody, restraint, and return to the hospital of the patient shall be paid on itemized vouchers, sworn to by the claimants and approved by the business manager and the administrator, from any moneys in the state treasury not otherwise appropriated.

[R60, §1445; C73, §1423; C97, §2287; S13, §2287; C24, 27, 31, 35, 39, §3499; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §226.17]

2019 Acts, ch 24, §104

226.18 Investigation as to mental health.

The administrator may investigate the mental condition of any patient and shall discharge any person, if, in the administrator's opinion, such person is not mentally ill, or can be cared for after such discharge without danger to others, and with benefit to the patient; but in determining whether such patient shall be discharged, the recommendation of the superintendent shall be secured. If the administrator orders the discharge of an involuntarily hospitalized patient, the discharge shall be by the procedure prescribed in section 229.16. The power to investigate the mental condition of a patient is merely permissive, and does

not repeal or alter any statute respecting the discharge or commitment of patients of the state hospitals.

[S13, §2727-a25; C24, 27, 31, 35, 39, §3500; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §226.18]

226.19 Discharge — certificate.

1. Every patient shall be discharged in accordance with the procedure prescribed in section 229.3 or section 229.16, whichever is applicable, immediately on regaining the patient's good mental health.

2. If a patient's care is the financial responsibility of the state or a county, as part of the patient's discharge planning the state mental health institute shall provide assistance to the patient in obtaining eligibility for the federal state supplemental security income program.

[R60, §1485; C73, §1424; C97, §2288; C24, 27, 31, 35, 39, §3501; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §226.19]

2005 Acts, ch 175, §97; 2006 Acts, ch 1010, §68

226.20 and 226.21 Reserved.

226.22 Clothing furnished.

Upon such discharge the business manager shall furnish such person, unless otherwise supplied, with suitable clothing and a sum of money not exceeding twenty dollars, which shall be charged with the other expenses of such patient in the hospital.

[R60, §1485; C73, §1424; C97, §2288; C24, 27, 31, 35, 39, §3504; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §226.22]

226.23 Convalescent leave of patients.

Upon the recommendation of the superintendent and in accordance with section 229.15, subsection 5, in the case of an involuntary patient, the administrator may place on convalescent leave said patient for a period not to exceed one year, under such conditions as are prescribed by said administrator.

[C73, §1424; C97, §2288; C24, 27, 31, 35, 39, §3505; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §226.23]

226.24 and 226.25 Reserved.

226.26 Dangerous patients.

The administrator, on the recommendation of the superintendent, and on the application of the relatives or friends of a patient who is not cured and who cannot be safely allowed to go at liberty, may release the patient when fully satisfied that the relatives or friends will provide and maintain all necessary supervision, care, and restraint over the patient. If the patient being released was involuntarily hospitalized, the consent of the district court which ordered the patient's hospitalization placement shall be obtained in advance in substantially the manner prescribed by section 229.14.

[R60, §1482; C73, §1408; C97, §2276; C24, 27, 31, 35, 39, §3508; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §226.26]

2001 Acts, ch 155, §42

226.27 Patient accused or acquitted of crime or awaiting judgment.

If a patient was committed to a state hospital for evaluation or treatment under chapter 812 or the rules of criminal procedure, further proceedings shall be had under chapter 812 or the applicable rule when the evaluation has been completed or the patient has regained mental capacity, as the case may be.

[R60, §1460; C73, §1413; C97, §2280; C24, 27, 31, 35, 39, §3509; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §226.27]

84 Acts, ch 1323, §1

226.28 and 226.29 Reserved.

226.30 Transfer of dangerous patients.

When a patient of any hospital for persons with mental illness becomes incorrigible and unmanageable to such an extent that the patient is dangerous to the safety of others in the hospital, the administrator, with the consent of the director of the Iowa department of corrections, may apply in writing to the district court or to any judge thereof, of the county in which the hospital is situated, for an order to transfer the patient to the Iowa medical and classification center and if the order is granted the patient shall be so transferred. The county attorney of the county shall appear in support of the application on behalf of the administrator.

[C24, 27, 31, 35, 39, §3512; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §226.30; 82 Acts, ch 1100, §6]

96 Acts, ch 1129, §113; 2019 Acts, ch 100, §3

Referred to in §226.31, 331.756(39)

See also §218.92

226.31 Examination by court — notice.

Before granting the order authorized in section 226.30, the court or judge shall investigate the allegations of the petition and before proceeding to a hearing on the allegations shall require notice to be served on the attorney who represented the patient in any prior proceedings under sections 229.6 through 229.15 or the advocate appointed under section 229.19, or in the case of a patient who entered the hospital voluntarily, on any relative, friend, or guardian of the person in question of the filing of the application. At the hearing the court or judge shall appoint a guardian ad litem for the person, if the court or judge deems such action necessary to protect the rights of the person. The guardian ad litem shall be a practicing attorney.

[C24, 27, 31, 35, 39, §3513; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §226.31]

90 Acts, ch 1271, §1503; 2020 Acts, ch 1063, §84

Section amended

226.32 Overcrowded conditions.

The administrator shall order the discharge or removal from the hospital of incurable and harmless patients whenever it is necessary to make room for recent cases. If a patient who is to be so discharged entered the hospital voluntarily, the administrator shall notify the regional administrator for the county interested at least ten days in advance of the day of actual discharge.

[R60, §1483; C73, §1425; C97, §2289; C24, 27, 31, 35, 39, §3514; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §226.32]

2015 Acts, ch 69, §46

Referred to in §226.33

226.33 Notice to court.

When a patient who was hospitalized involuntarily and who has not fully recovered is discharged from the hospital by the administrator under section 226.32, notice of the order shall at once be sent to the court which ordered the patient's hospitalization, in the manner prescribed by section 229.14.

[R60, §1484; C73, §1426; C97, §2290; C24, 27, 31, 35, 39, §3515; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §226.33]

2001 Acts, ch 155, §43

226.34 Investigation of death — notice.

1. Upon the death of a patient, the county medical examiner shall conduct a preliminary investigation as required by section 218.64, in accordance with section 331.802.

2. If a patient in a mental health institute dies from any cause, the superintendent of the institute shall within three days of the date of death, send by certified mail a written notice of death to all of the following:

- a. The decedent's nearest relative.
 - b. The clerk of the district court of the county from which the patient was committed.
 - c. The sheriff of the county from which the patient was committed.
 - d. The regional administrator for the county from which the patient was committed.
- [C73, §1439; C97, §2303; C24, 27, 31, 35, 39, §3516; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §226.34]
2008 Acts, ch 1187, §136; 2015 Acts, ch 69, §47

226.35 through 226.39 Reserved.

226.40 Emergency patients.

In case of emergency disaster, with the infliction of numerous casualties among the civilian population, the mental health institutes are authorized to accept sick and wounded persons without commitment or any other formalities.

[C62, 66, 71, 73, 75, 77, 79, 81, §226.40]
Referred to in §226.41

226.41 Charge permitted.

The hospital is authorized to make a charge for patients admitted under section 226.40, in the manner provided by law and subject to the changes provided in section 226.42.

[C62, 66, 71, 73, 75, 77, 79, 81, §226.41]
2019 Acts, ch 59, §65

226.42 Emergency powers of superintendents.

In case the mental health institutes lose contact with the statehouse, due to enemy action or otherwise, the superintendents of the institutes are hereby delegated the following powers and duties:

1. May collect moneys due the state treasury from the counties and from responsible persons or other relatives, these funds to be collected monthly, instead of quarterly, and to be deposited for use in operating the institutes.
2. The superintendent shall have the power to requisition supplies, such as food, fuel, drugs and medical equipment, from any source available, in the name of the state, with the power to enter into contracts binding the state for payment at an indefinite future time.
3. The superintendent shall be authorized to employ personnel in all categories and for whatever remuneration the superintendent deems necessary, without regard to existing laws, rules or regulations, in order to permit the institute to continue its old functions, as well as meet its additional responsibilities.

[C62, 66, 71, 73, 75, 77, 79, 81, §226.42]
Referred to in §226.41

SUBCHAPTER II

PATIENTS' PERSONAL FUNDS

226.43 Fund created.

There is hereby established at each hospital a fund known as the "patients' personal deposit fund".

[C66, 71, 73, 75, 77, 79, 81, §226.43]
Referred to in §222.84

226.44 Deposits.

Any funds, including social security benefits, coming into the possession of the superintendent or any employee of the hospital belonging to any patient in that hospital, shall be deposited in the name of that patient in the patients' personal deposit fund, except that if a guardian of the property of that patient has been appointed, the guardian shall have the right to demand and receive such funds. Funds belonging to a patient deposited in the

patients' personal deposit fund may be used for the purchase of personal incidentals, desires and comforts for the patient.

[C66, 71, 73, 75, 77, 79, 81, §226.44]

Referred to in §222.84

226.45 Reimbursement to county or state.

If a patient is not receiving medical assistance under chapter 249A and the amount in the account of any patient in the patients' personal deposit fund exceeds two hundred dollars, the business manager of the hospital may apply any of the excess to reimburse the county of residence or the state when the patient is a resident in another state or in a foreign country, or when the patient's residence is unknown, for liability incurred by the county or the state for the payment of care, support, and maintenance of the patient, when billed by the county of residence or by the administrator when the patient is a resident in another state or in a foreign country, or when the patient's residence is unknown.

[C66, 71, 73, 75, 77, 79, 81, S81, §226.45; 81 Acts, ch 11, §16]

2012 Acts, ch 1120, §98, 130; 2018 Acts, ch 1165, §68

Referred to in §222.84

226.46 Deposit of fund.

The business manager shall deposit the patients' personal deposit fund in a commercial account of a bank of reputable standing. When deposits in the commercial account exceed average monthly withdrawals, the business manager may deposit the excess at interest. The savings account shall be in the name of the patients' personal deposit fund and interest paid thereon may be used for recreational purposes at the hospital.

[C66, 71, 73, 75, 77, 79, 81, §226.46]

Referred to in §222.84

226.47 Administrator defined. Repealed by 2015 Acts, ch 69, §79.

CHAPTER 227

FACILITIES FOR PERSONS WITH MENTAL ILLNESS OR AN INTELLECTUAL DISABILITY

Referred to in §225C.4, 229.38, 331.381

227.1	Definitions — supervision.	227.9	Investigating mental health.
227.2	Inspection.	227.10	Transfers from county or private institutions.
227.3	Residents to have hearing.	227.11	Transfers from state hospitals.
227.4	Standards for care of persons with mental illness or an intellectual disability in county care facilities.	227.12	Difference of opinion.
		227.13	Discharge of transferred patient.
		227.14	Caring for persons with mental illness from other counties.
227.5	Reserved.	227.15	Authority to confine in hospital.
227.6	Removal of residents.	227.16	through 227.18 Reserved.
227.7	Cost — collection from county.	227.19	Administrator defined.
227.8	Notification to guardians.		

227.1 Definitions — supervision.

1. For the purposes of this chapter, unless the context otherwise requires:
 - a. "Administrator" means the person assigned by the director of human services in the appropriate division of the department to administer mental health and disability services.
 - b. "Department" means the department of human services.
 - c. "Mental health and disability services region" means a mental health and disability services region formed in accordance with section 331.389.
 - d. "Regional administrator" means the regional administrator of a mental health and disability services region, as defined in section 331.388.
2. The regulatory requirements for county and private institutions where persons with

mental illness or an intellectual disability are admitted, committed, or placed shall be administered by the administrator.

[S13, §2727-a58; C24, 27, 31, 35, 39, §3517; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §227.1]

96 Acts, ch 1129, §113; 2015 Acts, ch 69, §48; 2016 Acts, ch 1073, §76

227.2 Inspection.

1. The director of inspections and appeals shall make, or cause to be made, at least one licensure inspection each year of every county care facility. Either the administrator of the division or the director of the department of inspections and appeals, in cooperation with each other, upon receipt of a complaint or for good cause, may make, or cause to be made, a review of a county care facility or of any other private or county institution where persons with mental illness or an intellectual disability reside. A licensure inspection or a review shall be made by a competent and disinterested person who is acquainted with and interested in the care of persons with mental illness and persons with an intellectual disability. The objective of a licensure inspection or a review shall be an evaluation of the programming and treatment provided by the facility. After each licensure inspection of a county care facility, the person who made the inspection shall consult with the regional administrator for the county in which the facility is located on plans and practices that will improve the care given patients. The person shall also make recommendations to the administrator of the division and the director of public health for coordinating and improving the relationships between the administrators of county care facilities, the administrator of the division, the director of public health, the superintendents of state mental health institutes and resource centers, community mental health centers, mental health and disability services regions, and other cooperating agencies, to cause improved and more satisfactory care of patients. A written report of each licensure inspection of a county care facility under this section shall be filed by the person with the administrator of the division and the director of public health and shall include:

- a. The capacity of the institution for the care of residents.
- b. The number, sex, ages, and primary diagnoses of the residents.
- c. The care of residents, their food, clothing, treatment plan, employment, and opportunity for recreational activities and for productive work intended primarily as therapeutic activity.
- d. The number, job classification, sex, duties, and salaries of all employees.
- e. The cost to the state or county of maintaining residents in a county care facility.
- f. The recommendations given to and received from the regional administrator on methods and practices that will improve the conditions under which the county care facility is operated.

g. Any failure to comply with standards adopted under section 227.4 for care of persons with mental illness and persons with an intellectual disability in county care facilities, which is not covered in information submitted pursuant to paragraphs "a" to "f", and any other matters which the director of public health, in consultation with the administrator of the division, may require.

2. A copy of the written report prescribed by subsection 1 shall be furnished to the county board of supervisors, to the regional administrator for the county, to the administrator of the county care facility inspected and to its certified volunteer long-term care ombudsman, and to the department on aging.

3. The department of inspections and appeals shall inform the administrator of the division of an action by the department to suspend, revoke, or deny renewal of a license issued by the department of inspections and appeals to a county care facility, and the reasons for the action.

4. In addition to the licensure inspections required or authorized by this section, the administrator of the division shall cause to be made an evaluation of each person cared for in a county care facility at least once each year by one or more qualified mental health, intellectual disability, or medical professionals, whichever is appropriate.

a. It is the responsibility of the state to secure the annual evaluation for each person who is on convalescent leave or who has not been discharged from a state mental health institute.

It is the responsibility of the county to secure the annual evaluation for all other persons with mental illness in the county care facility.

b. It is the responsibility of the state to secure the annual evaluation for each person who is on leave and has not been discharged from a state resource center. It is the responsibility of the county to secure the annual evaluation for all other persons with an intellectual disability in the county care facility.

c. It is the responsibility of the county to secure an annual evaluation of each resident of a county care facility to whom neither paragraph “a” nor paragraph “b” is applicable.

5. The evaluations required by subsection 4 shall include an examination of each person which shall reveal the person’s condition of mental and physical health and the likelihood of improvement or discharge and other recommendations concerning the care of those persons as the evaluator deems pertinent. One copy of the evaluation shall be filed with the administrator of the division and one copy shall be filed with the administrator of the county care facility.

[S13, §2727-a59; C24, 27, 31, 35, 39, §3518; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, S81, §227.2; 81 Acts, ch 78, §20, 32]

96 Acts, ch 1129, §53 – 55; 99 Acts, ch 129, §10; 2000 Acts, ch 1112, §51; 2009 Acts, ch 23, §11; 2012 Acts, ch 1019, §77; 2013 Acts, ch 18, §16; 2015 Acts, ch 69, §49 – 51

Referred to in §227.3, 229.15

227.3 Residents to have hearing.

The inspector conducting any licensure inspection or review under section 227.2 shall give each resident an opportunity to converse with the inspector out of the hearing of any officer or employee of the institution, and shall fully investigate all complaints and report the result in writing to the administrator of the division. The administrator before acting on the report adversely to the institution, shall give the persons in charge a copy of the report and an opportunity to be heard.

[S13, §2727-a60; C24, 27, 31, 35, 39, §3519; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, S81, §227.3; 81 Acts, ch 78, §20, 33]

227.4 Standards for care of persons with mental illness or an intellectual disability in county care facilities.

The administrator, in cooperation with the department of inspections and appeals, shall recommend and the mental health and disability services commission created in section 225C.5 shall adopt, or amend and adopt, standards for the care of and services to persons with mental illness or an intellectual disability residing in county care facilities. The standards shall be enforced by the department of inspections and appeals as a part of the licensure inspection conducted pursuant to chapter 135C. The objective of the standards is to ensure that persons with mental illness or an intellectual disability who are residents of county care facilities are not only adequately fed, clothed, and housed, but are also offered reasonable opportunities for productive work and recreational activities suited to their physical and mental abilities and offering both a constructive outlet for their energies and, if possible, therapeutic benefit. When recommending standards under this section, the administrator shall designate an advisory committee representing administrators of county care facilities, regional administrators, mental health and disability services region governing boards, and county care facility certified volunteer long-term care ombudsmen to assist in the establishment of standards.

[S81, §227.4; 81 Acts, ch 78, §20, 34]

85 Acts, ch 122, §2; 94 Acts, ch 1170, §37; 99 Acts, ch 129, §11; 2004 Acts, ch 1090, §7; 2005 Acts, ch 175, §98; 2010 Acts, ch 1031, §389; 2012 Acts, ch 1019, §78; 2013 Acts, ch 18, §17; 2015 Acts, ch 69, §52

Referred to in §225C.4, 227.2

227.5 Reserved.

227.6 Removal of residents.

If a county care facility fails to comply with rules and standards adopted under this chapter, the administrator may remove all persons with mental illness and all persons with an intellectual disability cared for in the county care facility at public expense, to the proper state mental health institute or resource center, or to some private or county institution or hospital for the care of persons with mental illness or an intellectual disability that has complied with the rules prescribed by the administrator. Residents being transferred to a state mental health institute or resource center shall be accompanied by an attendant or attendants sent from the institute or resource center. If a resident is transferred under this section, at least one attendant shall be of the same sex. If the administrator finds that the needs of residents with mental illness and residents with an intellectual disability of any other county or private institution are not being adequately met, those residents may be removed from that institution upon order of the administrator.

[S13, §2727-a63; C24, 27, 31, 35, 39, §3522; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, S81, §227.6; 81 Acts, ch 78, §20, 35]

90 Acts, ch 1204, §46; 96 Acts, ch 1129, §56; 2000 Acts, ch 1112, §51; 2012 Acts, ch 1019, §79

Referred to in §229.15

227.7 Cost — collection from county.

The cost of such removal, including all expenses of said attendant, shall be certified by the superintendent of the hospital receiving the patient, to the director of the department of administrative services, who shall draw a warrant upon the treasurer of state for said sum, which shall be credited to the support fund of said hospital and charged against the general revenues of the state and collected by the director of the department of administrative services from the county which sent said patient to said institution.

[S13, §2727-a63; C24, 27, 31, 35, 39, §3523; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §227.7]

2003 Acts, ch 145, §286

Referred to in §227.10

227.8 Notification to guardians.

The administrator shall notify the guardian, or one or more of the relatives, of patients kept at private expense, of all violations of said rules by said private or county institutions, and of the action of the administrator as to all other patients.

[S13, §2727-a63; C24, 27, 31, 35, 39, §3524; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §227.8]

227.9 Investigating mental health.

Should the administrator believe that any person in any such county or private institution is in good mental health, or illegally restrained of liberty, the administrator shall institute and prosecute proceedings in the name of the state, before the proper officer, board, or court, for the discharge of such person.

[S13, §2727-a63; C24, 27, 31, 35, 39, §3525; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §227.9]

227.10 Transfers from county or private institutions.

Patients who have been admitted at public expense to any institution to which this chapter is applicable may be involuntarily transferred to the proper state hospital for persons with mental illness in the manner prescribed by sections 229.6 to 229.13. The application required by section 229.6 may be filed by the administrator of the division or the administrator's designee, or by the administrator of the institution where the patient is then being maintained or treated. If the patient was admitted to that institution involuntarily, the administrator of the division may arrange and complete the transfer, and shall report it as required of a chief medical officer under section 229.15, subsection 5. The transfer shall be made at the mental health and disability services region's expense, and the expense recovered, as provided in section 227.7. However, transfer under this section of a patient

whose expenses are payable in whole or in part by the mental health and disability services region is subject to an authorization for the transfer through the regional administrator for the patient's county of residence.

[S13, §2727-a64; C24, 27, 31, 35, 39, §3526; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §227.10]

96 Acts, ch 1129, §113; 96 Acts, ch 1183, §17; 2004 Acts, ch 1090, §33; 2015 Acts, ch 69, §53; 2015 Acts, ch 138, §27, 161, 162

Referred to in §227.12

227.11 Transfers from state hospitals.

A regional administrator for the county chargeable with the expense of a patient in a state hospital for persons with mental illness shall transfer the patient to a county or private institution for persons with mental illness that is in compliance with the applicable rules when the administrator of the division or the administrator's designee orders the transfer on a finding that the patient is suffering from a serious mental illness and will receive equal benefit by being so transferred. A mental health and disability services region shall transfer to a county care facility any patient in a state hospital for persons with mental illness upon request of the superintendent of the state hospital in which the patient is confined pursuant to the superintendent's authority under section 229.15, subsection 5, and approval by the regional administrator for the county of the patient's residence. In no case shall a patient be thus transferred except upon compliance with section 229.14A or without the written consent of a relative, friend, or guardian if such relative, friend, or guardian pays the expense of the care of such patient in a state hospital. Patients transferred to a public or private facility under this section may subsequently be placed on convalescent or limited leave or transferred to a different facility for continued full-time custody, care, and treatment when, in the opinion of the attending physician or the chief medical officer of the hospital from which the patient was so transferred, the best interest of the patient would be served by such leave or transfer. For any patient who is involuntarily committed, any transfer made under this section is subject to the placement hearing requirements of section 229.14A.

[S13, §2727-a64; C24, 27, 31, 35, §3527, 3528; C39, §3527; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §227.11]

96 Acts, ch 1129, §113; 2001 Acts, ch 155, §44; 2015 Acts, ch 69, §54

Referred to in §227.12, 230.15, 331.381

227.12 Difference of opinion.

When a difference of opinion exists between the administrator of the division and the authorities in charge of any private or county hospital in regard to the transfer of a patient as provided in sections 227.10 and 227.11, the matter shall be submitted to the district court of the county in which such hospital is situated and shall be summarily tried as an equitable action, and the judgment of the district court shall be final.

[S13, §2727-a68; C24, 27, 31, 35, 39, §3529; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §227.12]

2015 Acts, ch 69, §55

227.13 Discharge of transferred patient.

Patients transferred from a state hospital to such county or private institutions shall not be discharged, when not cured, without the consent of the administrator of the division.

[S13, §2727-a64; C24, 27, 31, 35, 39, §3530; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §227.13]

227.14 Caring for persons with mental illness from other counties.

The regional administrator for a county that does not have proper facilities for caring for persons with mental illness may, with the consent of the administrator of the division, provide for such care at the expense of the mental health and disability services region

in any convenient and proper county or private institution for persons with mental illness which is willing to receive the persons.

[S13, §2727-a65; C24, 27, 31, 35, 39, §3531; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §227.14]

96 Acts, ch 1129, §113; 2015 Acts, ch 69, §56; 2015 Acts, ch 138, §28, 161, 162
 Referred to in §331.381

227.15 Authority to confine in hospital.

No person shall be involuntarily confined and restrained in any private institution or hospital or county hospital or other general hospital with a psychiatric ward for the care or treatment of persons with mental illness, except by the procedure prescribed in sections 229.6 to 229.15.

[S13, §2727-a66; C24, 27, 31, 35, 39, §3532; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §227.15]

96 Acts, ch 1129, §113

227.16 through 227.18 Reserved.

227.19 Administrator defined.

For the purpose of this chapter, “*administrator*” or “*administrator of the division*” means the person assigned, in accordance with section 218.1, to control the state mental health institutes or that person’s designee.

[C71, 73, 75, 77, 79, 81, S81, §227.19; 81 Acts, ch 78, §20, 36]

83 Acts, ch 96, §157, 159; 94 Acts, ch 1170, §38; 2000 Acts, ch 1112, §36

CHAPTER 228

DISCLOSURE OF MENTAL HEALTH AND PSYCHOLOGICAL INFORMATION

Referred to in §235A.15, 331.394

228.1	Definitions.	228.7	Disclosures for claims
228.2	Mental health information disclosure prohibited — exceptions — record of disclosure.		administration and peer review — safeguards — penalty.
228.3	Voluntary disclosures.	228.7A	Disclosures to law enforcement professionals.
228.4	Revocation of disclosure authorization.	228.8	Disclosures to family members.
228.5	Administrative disclosures.	228.9	Disclosure of psychological test material.
228.6	Compulsory disclosures.		

228.1 Definitions.

As used in this chapter:

1. “*Administrative information*” means an individual’s name, identifying number, age, sex, address, dates and character of professional services provided to the individual, fees for the professional services, third-party payor name and payor number of a patient, if known, name and location of the facility where treatment is received, the date of the individual’s admission to the facility, and the name of the individual’s attending physician or attending mental health professional.

2. “*Data collector*” means a person, other than a mental health professional or an employee of or agent for a mental health facility, who regularly assembles or evaluates mental health information.

3. “*Diagnostic information*” means a therapeutic characterization of the type found in the diagnostic and statistical manual of mental disorders of the American psychiatric association or in a comparable professionally recognized diagnostic manual.

4. “*Law enforcement professional*” means a law enforcement officer as defined in section 80B.3, county attorney as defined in section 331.101, probation or parole officer, or jailer.

5. “*Mental health facility*” means a community mental health center, hospital, clinic, office, health care facility, infirmary, or similar place in which professional services are provided.

6. “*Mental health information*” means oral, written, or recorded information which indicates the identity of an individual receiving professional services and which relates to the diagnosis, course, or treatment of the individual’s mental or emotional condition.

7. “*Mental health professional*” means an individual who has either of the following qualifications:

a. The individual meets all of the following requirements:

(1) The individual holds at least a master’s degree in a mental health field, including but not limited to psychology, counseling and guidance, nursing, and social work, or is an advanced registered nurse practitioner, a physician assistant, or a physician and surgeon or an osteopathic physician and surgeon.

(2) The individual holds a current Iowa license if practicing in a field covered by an Iowa licensure law.

(3) The individual has at least two years of post-degree clinical experience, supervised by another mental health professional, in assessing mental health needs and problems and in providing appropriate mental health services.

b. The individual holds a current Iowa license if practicing in a field covered by an Iowa licensure law and is a psychiatrist, an advanced registered nurse practitioner who holds a national certification in psychiatric mental health care and is licensed by the board of nursing, a physician assistant practicing under the supervision of a psychiatrist, or an individual who holds a doctorate degree in psychology and is licensed by the board of psychology.

8. “*Peer review organization*” means a utilization and quality control peer review organization that has a contract with the federal secretary of health and human services pursuant to Tit. XI, part B, of the federal Social Security Act to review health care services paid for in whole or in part under the Medicare program established by Tit. XVIII of the federal Social Security Act, or another organization of licensed health care professionals performing utilization and quality control review functions.

9. “*Professional services*” means diagnostic or treatment services for a mental or emotional condition provided by a mental health professional.

10. “*Self-insured employer*” means a person which provides accident and health benefits or medical, surgical, or hospital benefits on a self-insured basis to its own employees or to employees of an affiliated company or companies and which does not otherwise provide accident and health benefits or medical, surgical, or hospital benefits.

11. “*Third-party payor*” means a person which provides accident and health benefits or medical, surgical, or hospital benefits, whether on an indemnity, reimbursement, service, or prepaid basis, including but not limited to, insurers, nonprofit health service corporations, health maintenance organizations, governmental agencies, and self-insured employers.

86 Acts, ch 1082, §1; 88 Acts, ch 1226, §2, 3; 95 Acts, ch 120, §2; 2010 Acts, ch 1061, §180; 2012 Acts, ch 1079, §5; 2015 Acts, ch 56, §16; 2016 Acts, ch 1073, §77; 2018 Acts, ch 1056, §5
Referred to in §125.2, 135G.1, 225.15, 225C.6, 229.1, 229.15, 229.24, 230A.108, 235A.17, 280A.1, 331.394

228.2 Mental health information disclosure prohibited — exceptions — record of disclosure.

1. Except as specifically authorized in subsection 4, section 228.3, 228.5, 228.6, 228.7, or 228.8, or for the purposes of care coordination as defined in section 135D.2 if not otherwise restricted by federal law or regulation, a mental health professional, data collector, or employee or agent of a mental health professional, of a data collector, or of or for a mental health facility shall not disclose or permit the disclosure of mental health information.

2. a. Upon disclosure of mental health information pursuant to subsection 4, section 228.3, 228.5, 228.6, 228.7, or 228.8, or for the purposes of care coordination as defined in section 135D.2 if not otherwise restricted by federal law or regulation, the person disclosing the mental health information shall enter a notation on and maintain the notation with the

individual's record of mental health information, stating the date of the disclosure and the name of the recipient of mental health information.

b. The person disclosing the mental health information shall give the recipient of the information a statement which informs the recipient that disclosures may only be made pursuant to the written authorization of an individual or an individual's legal representative, or as otherwise provided in this chapter, that the unauthorized disclosure of mental health information is unlawful, and that civil damages and criminal penalties may be applicable to the unauthorized disclosure of mental health information.

3. A recipient of mental health information shall not disclose the information received, except as specifically authorized for initial disclosure in subsection 4, section 228.3, 228.5, 228.6, 228.7, or 228.8, or for the purposes of care coordination as defined in section 135D.2 if not otherwise restricted by federal law or regulation.

4. Mental health information may be transferred at any time to another facility, physician, or mental health professional in cases of a medical emergency or if the individual or the individual's legal representative requests the transfer in writing for the purposes of receipt of medical or mental health professional services, at which time the requirements of subsection 2 shall be followed.

86 Acts, ch 1082, §2; 88 Acts, ch 1226, §4, 5; 90 Acts, ch 1079, §2; 2009 Acts, ch 41, §263; 2016 Acts, ch 1055, §2, 3, 5, 6

Referred to in §228.5

See also §217.30 and 622.10

228.3 Voluntary disclosures.

1. An individual eighteen years of age or older or an individual's legal representative may consent to the disclosure of mental health information relating to the individual by a mental health professional, data collector, or employee or agent of a mental health professional, of a data collector, or of or for a mental health facility, by signing a voluntary written authorization. The authorization shall:

a. Specify the nature of the mental health information to be disclosed, the persons or type of persons authorized to disclose the information, and the purposes for which the information may be used both at the time of the disclosure and in the future.

b. Advise the individual of the individual's right to inspect the disclosed mental health information at any time.

c. State that the authorization is subject to revocation and state the conditions of revocation.

d. Specify the length of time for which the authorization is valid.

e. Contain the date on which the authorization was signed.

2. A copy of the authorization shall:

a. Be provided to the individual or to the legal representative of the individual authorizing the disclosure.

b. Be included in the individual's record of mental health information.

86 Acts, ch 1082, §3; 88 Acts, ch 1226, §6, 7, 9

Referred to in §228.2, 228.9

228.4 Revocation of disclosure authorization.

An individual or an individual's legal representative may revoke a prior authorization by providing a written revocation to the recipient named in the authorization and to the mental health professional, data collector, or employee or agent of a mental health professional, of a data collector, or of or for a mental health facility previously authorized to disclose the mental health information. The revocation is effective upon receipt of the written revocation by the person previously authorized to disclose the mental health information. After the effective revocation date, mental health information shall not be disclosed pursuant to the revoked authorization. However, mental health information previously disclosed pursuant to the revoked authorization may be used for the purposes stated in the original written authorization.

86 Acts, ch 1082, §4

228.5 Administrative disclosures.

1. An individual or an individual's legal representative shall be informed that mental health information relating to the individual may be disclosed to employees or agents of or for the same mental health facility or to other providers of professional services or their employees or agents if and to the extent necessary to facilitate the provision of administrative and professional services to the individual.

2. *a.* If an individual eighteen years of age or older or an individual's legal representative has received a written notification that a fee is due a mental health professional or a mental health facility and has failed to arrange for payment of the fee within a reasonable time after the notification, the mental health professional or mental health facility may disclose administrative information necessary for the collection of the fee to a person or agency providing collection services.

b. If a civil action is filed for the collection of the fee, additional mental health information shall not be disclosed in the litigation, except to the extent necessary to respond to a motion of the individual or the individual's legal representative for greater specificity or to dispute a defense or counterclaim.

3. A mental health professional or an employee of or agent for a mental health facility may disclose mental health information if necessary for the purpose of conducting scientific and data research, management audits, or program evaluations of the mental health professional or mental health facility, to persons who have demonstrated and provided written assurances of their ability to ensure compliance with the requirements of this chapter. The persons shall not identify, directly or indirectly, an individual in any report of the research, audits, or evaluations, or otherwise disclose individual identities in any manner. A disclosure under this section is not subject to the requirements of section 228.2, subsection 2, with the exception that a person receiving mental health information under this section shall be provided a statement prohibiting redisclosure of information unless otherwise authorized by this chapter.

4. Mental health information relating to an individual may be disclosed to other providers of professional services or their employees or agents if and to the extent necessary to facilitate the provision of administrative and professional services to the individual.

86 Acts, ch 1082, §5; 88 Acts, ch 1226, §8; 96 Acts, ch 1213, §33, 34; 2009 Acts, ch 41, §263
Referred to in §228.2

228.6 Compulsory disclosures.

1. A mental health professional or an employee of or agent for a mental health facility may disclose mental health information if and to the extent necessary, to meet the requirements of section 229.24, 229.25, 230.20, 230.21, 230.25, 230.26, 230A.108, 232.74, or 232.147, or to meet the compulsory reporting or disclosure requirements of other state or federal law relating to the protection of human health and safety.

2. Mental health information acquired by a mental health professional pursuant to a court-ordered examination may be disclosed pursuant to court rules.

3. Mental health information may be disclosed by a mental health professional if and to the extent necessary, to initiate or complete civil commitment proceedings under chapter 229.

4. *a.* Mental health information may be disclosed in a civil or administrative proceeding in which an individual eighteen years of age or older or an individual's legal representative or, in the case of a deceased individual, a party claiming or defending through a beneficiary of the individual, offers the individual's mental or emotional condition as an element of a claim or a defense.

b. Mental health information may be disclosed in a criminal proceeding pursuant to section 622.10, subsection 4.

5. An individual eighteen years of age or older or an individual's legal representative or any other party in a civil, criminal, or administrative action, in which mental health information has been or will be disclosed, may move the court to denominate, style,

or caption the names of all parties as “JOHN OR JANE DOE” or otherwise protect the anonymity of all of the parties.

86 Acts, ch 1082, §6; 2011 Acts, ch 8, §1, 3; 2013 Acts, ch 90, §51

Referred to in §228.2, 237.21

228.7 Disclosures for claims administration and peer review — safeguards — penalty.

1. Mental health information may be disclosed, in accordance with the prior written consent of the patient or the patient’s legal representative, by a mental health professional, data collector, or employee or agent of a mental health professional, a data collector, or a mental health facility to a third-party payor or to a peer review organization if the third-party payor or the peer review organization has filed a written statement with the commissioner of insurance in which the filer agrees to:

a. Instruct its employees and agents to maintain the confidentiality of mental health information and of the penalty for unauthorized disclosure.

b. Comply with the limitations on use and disclosure of the information specified in subsection 2 of this section.

c. Destroy the information when it is no longer needed for the purposes specified in subsection 2 of this section.

2. a. An employee or agent of a third-party payor or of a peer review organization shall not use mental health information or disclose mental health information to any person, except to the extent necessary to administer claims submitted or to be submitted for payment to the third-party payor, to conduct a utilization and quality control review of mental health care services provided or proposed to be provided, to conduct an audit of claims paid, or as otherwise authorized by law.

b. Employees of a self-insured employer, and agents of a self-insured employer which have not filed a statement with the commissioner of insurance pursuant to subsection 1, shall not be granted routine or ongoing access to mental health information unless the employees or agents have signed a statement indicating that they are aware that the information shall not be used or disclosed except as provided in this subsection and that they are aware of the penalty for unauthorized disclosure.

3. An employee or agent of a third-party payor or a peer review organization who willfully uses or discloses mental health information in violation of subsection 2 of this section is guilty of a serious misdemeanor, and, notwithstanding section 903.1, the sentence for a person convicted under this subsection is a fine not to exceed five hundred dollars in the case of a first offense, and not to exceed five thousand dollars in the case of each subsequent offense.

88 Acts, ch 1226, §1; 2009 Acts, ch 41, §263

Referred to in §228.2

228.7A Disclosures to law enforcement professionals.

1. Mental health information relating to an individual may be disclosed by a mental health professional, at the minimum consistent with applicable laws and standards of ethical conduct, to a law enforcement professional if all of the following apply:

a. The disclosure is made in good faith.

b. The disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of the individual or to a clearly identifiable victim or victims.

c. The individual has the apparent intent and ability to carry out the threat.

2. A mental health professional shall not be held criminally or civilly liable for failure to disclose mental health information relating to an individual to a law enforcement professional except in circumstances where the individual has communicated to the mental health professional an imminent threat of physical violence against the individual’s self or against a clearly identifiable victim or victims.

3. A mental health professional discharges the professional’s duty to disclose pursuant to subsection 1 by making reasonable efforts to communicate the threat to a law enforcement professional.

2018 Acts, ch 1056, §6

228.8 Disclosures to family members.

1. A mental health professional or an employee of or agent for a mental health facility may disclose mental health information to the spouse, parent, adult child, or adult sibling of an individual who has chronic mental illness, if all of the following conditions are met:

- a. The disclosure is necessary to assist in the provision of care or monitoring of the individual’s treatment.
- b. The spouse, parent, adult child, or adult sibling is directly involved in providing care to or monitoring the treatment of the individual.
- c. The involvement of the spouse, parent, adult child, or adult sibling is verified by the individual’s attending physician, attending mental health professional, or a person other than the spouse, parent, adult child, or adult sibling who is responsible for providing treatment to the individual.

2. A request for mental health information by a person authorized to receive such information under this section shall be in writing, except in an emergency as determined by the mental health professional verifying the involvement of the spouse, parent, adult child, or adult sibling.

3. Unless the individual has been adjudged incompetent, the person verifying the involvement of the spouse, parent, adult child, or adult sibling shall notify the individual of the disclosure of the individual’s mental health information under this section.

4. Mental health information disclosed under this section is limited to the following:

- a. A summary of the individual’s diagnosis and prognosis.
- b. A listing of the medication which the individual has received and is receiving and the individual’s record of compliance in taking medication prescribed for the previous six months.
- c. A description of the individual’s treatment plan.

90 Acts, ch 1079, §1
 Referred to in §228.2

228.9 Disclosure of psychological test material.

Except as otherwise provided in this section, a person in possession of psychological test material shall not disclose the material to any other person, including the individual who is a subject of the test. In addition, the test material shall not be disclosed in any administrative, judicial, or legislative proceeding. However, upon the request of an individual who is the subject of a test, all records associated with a psychological test of that individual shall be disclosed to a psychologist licensed pursuant to chapter 154B designated by the individual. An individual’s request for the records shall be in writing and shall comply with the requirements of section 228.3, relating to voluntary disclosures of mental health information, except that the individual shall not have the right to inspect the test materials.

94 Acts, ch 1159, §1

CHAPTER 229

HOSPITALIZATION OF PERSONS WITH MENTAL ILLNESS

Referred to in §125.75, 228.6, 229A.1, 230.6, 230.7, 232.49, 232.51, 232.52, 235B.2, 235B.3, 235E.1, 235E.2, 235F.1, 237.15, 331.381, 331.394, 602.6306, 602.6405, 602.8102(41), 902.10

229.1	Definitions.	229.5	Departure without notice.
229.1A	Legislative intent.	229.5A	Preapplication screening assessment — program.
229.1B	Regional administrator.	229.6	Application for order of involuntary hospitalization.
229.2	Application for voluntary admission — authority to receive voluntary patients.	229.6A	Hospitalization of minors — jurisdiction — due process.
229.2A	Dual filings. Repealed by 2013 Acts, ch 130, §55.	229.7	Service of notice upon respondent.
229.3	Discharge of voluntary patients.		
229.4	Right to release on application.		

229.8	Procedure after application is filed.	229.24	Records of involuntary hospitalization proceeding to be confidential.
229.9	Respondent's attorney informed.	229.25	Medical records to be confidential — exceptions.
229.9A	Advocate informed.	229.26	Exclusive procedure for involuntary hospitalization.
229.10	Physicians' or mental health professionals' examination — report.	229.27	Hospitalization not to equate with incompetency — procedure for finding incompetency due to mental illness.
229.11	Judge may order immediate custody.	229.28	Hospitalization in certain federal facilities.
229.12	Hearing procedure.	229.29	Transfer to certain federal facilities.
229.13	Evaluation order — treatment — unauthorized departure or failure to appear.	229.30	Orders of courts in other states.
229.14	Chief medical officer's report.	229.31	Commission of inquiry.
229.14A	Placement order — notice and hearing.	229.32	Duty of commission.
229.14B	Escape from custody.	229.33	Hearing.
229.15	Periodic reports required.	229.34	Finding and order filed.
229.16	Discharge and termination of proceeding.	229.35	Compensation — payment.
229.17	Status of respondent during appeal.	229.36	Limitation on proceedings.
229.18	Status of respondent if hospitalization is delayed.	229.37	Habeas corpus.
229.19	Advocates — appointment — duties — employment and compensation.	229.38	Cruelty or official misconduct.
229.20	Reserved.	229.39	Status of persons hospitalized under former law.
229.21	Judicial hospitalization referee — appeals to district court.	229.40	Rules for proceedings.
229.22	Hospitalization — emergency procedure.	229.41	Voluntary admission.
229.23	Rights and privileges of hospitalized persons.	229.42	Costs paid by county.
		229.43	Nonresident patients.
		229.44	Venue.
		229.45	Provision of summary of procedures to applicant in involuntary commitment.

229.1 Definitions.

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

1. "Administrator" means the administrator of the department of human services assigned, in accordance with section 218.1, to control the state mental health institutes, or that administrator's designee.
2. "Advocate" means a mental health advocate.
3. "Auditor" means the county auditor or the auditor's designee.
4. "Chemotherapy" means treatment of an individual by use of a drug or substance which cannot legally be delivered or administered to the ultimate user without a physician's prescription or medical order.
5. "Chief medical officer" means the medical director in charge of a public or private hospital, or that individual's physician-designee. This chapter does not negate the authority otherwise reposed by law in the respective superintendents of each of the state hospitals for persons with mental illness, established by chapter 226, to make decisions regarding the appropriateness of admissions or discharges of patients of that hospital, however it is the intent of this chapter that if the superintendent is not a licensed physician the decisions by the superintendent shall be corroborated by the chief medical officer of the hospital.
6. "Clerk" means the clerk of the district court.
7. "Hospital" means either a public hospital or a private hospital.
8. "Licensed physician" means an individual licensed under the provisions of chapter 148 to practice medicine and surgery or osteopathic medicine and surgery.
9. "Mental health and disability services region" means a mental health and disability services region formed in accordance with section 331.389.
10. "Mental health professional" means the same as defined in section 228.1.
11. "Mental illness" means every type of mental disease or mental disorder, except that it does not refer to an intellectual disability as defined in section 4.1, or to insanity, diminished

responsibility, or mental incompetency as the terms are defined and used in the Iowa criminal code or in the rules of criminal procedure, Iowa court rules.

12. “*Patient*” means a person who has been hospitalized or ordered hospitalized to receive treatment pursuant to section 229.14.

13. “*Private hospital*” means any hospital or institution not directly supported by public funds, or a part thereof, which is equipped and staffed to provide inpatient care to persons with mental illness.

14. “*Psychiatric advanced registered nurse practitioner*” means an individual currently licensed as a registered nurse under chapter 152 or 152E who holds a national certification in psychiatric mental health care and who is licensed by the board of nursing as an advanced registered nurse practitioner.

15. “*Public hospital*” means:

- a. A state mental health institute established by chapter 226; or
- b. The state psychiatric hospital established by chapter 225; or
- c. Any other publicly supported hospital or institution, or part of such hospital or institution, which is equipped and staffed to provide inpatient care to persons with mental illness, except the Iowa medical and classification center established by chapter 904.

16. “*Region*” means a mental health and disability services region formed in accordance with section 331.389.

17. “*Regional administrator*” means the regional administrator of a mental health and disability services region, as defined in section 331.388.

18. “*Respondent*” means any person against whom an application has been filed under section 229.6, but who has not been finally ordered committed for full-time custody, care, and treatment in a hospital.

19. “*Serious emotional injury*” is an injury which does not necessarily exhibit any physical characteristics, but which can be recognized and diagnosed by a licensed physician or other mental health professional and which can be causally connected with the act or omission of a person who is, or is alleged to be, mentally ill.

20. “*Seriously mentally impaired*” or “*serious mental impairment*” describes the condition of a person with mental illness and because of that illness lacks sufficient judgment to make responsible decisions with respect to the person’s hospitalization or treatment, and who because of that illness meets any of the following criteria:

a. Is likely to physically injure the person’s self or others if allowed to remain at liberty without treatment.

b. Is likely to inflict serious emotional injury on members of the person’s family or others who lack reasonable opportunity to avoid contact with the person with mental illness if the person with mental illness is allowed to remain at liberty without treatment.

c. Is unable to satisfy the person’s needs for nourishment, clothing, essential medical care, or shelter so that it is likely that the person will suffer physical injury, physical debilitation, or death.

d. Has a history of lack of compliance with treatment and any of the following apply:

(1) Lack of compliance has been a significant factor in the need for emergency hospitalization.

(2) Lack of compliance has resulted in one or more acts causing serious physical injury to the person’s self or others or an attempt to physically injure the person’s self or others.

[R60, §1468; C73, §1434; C97, §2298; C24, 27, 31, 35, 39, §3580; C46, 50, 54, 58, 62, 66, §229.40; C71, 73, 75, §229.40, 229.44; C77, §229.1, 229.44; C79, 81, §229.1; 82 Acts, ch 1100, §7]

83 Acts, ch 96, §157, 159; 84 Acts, ch 1323, §2; 85 Acts, ch 21, §35; 87 Acts, ch 90, §1; 89 Acts, ch 275, §1; 95 Acts, ch 24, §1; 96 Acts, ch 1035, §12; 96 Acts, ch 1129, §57, 113; 96 Acts, ch 1183, §18; 97 Acts, ch 169, §15; 2000 Acts, ch 1112, §37; 2002 Acts, ch 1119, §107; 2004 Acts, ch 1090, §33; 2008 Acts, ch 1082, §4; 2008 Acts, ch 1088, §112; 2011 Acts, ch 121, §52, 62; 2012 Acts, ch 1019, §80; 2012 Acts, ch 1079, §6 – 8; 2015 Acts, ch 56, §17; 2015 Acts, ch 69, §57, 58; 2015 Acts, ch 76, §1; 2018 Acts, ch 1056, §7; 2020 Acts, ch 1063, §85

Referred to in §125.75, 229.6

Subsection 20, paragraph d, subparagraph (2) amended

229.1A Legislative intent.

As mental illness is often a continuing condition which is subject to wide and unpredictable changes in condition and fluctuations in reoccurrence and remission, this chapter shall be liberally construed to give recognition to these medical facts.

89 Acts, ch 275, §2

229.1B Regional administrator.

Notwithstanding any provision of this chapter to the contrary, any person whose hospitalization expenses are payable in whole or in part by a mental health and disability services region shall be subject to all administrative requirements of the regional administrator for the county.

96 Acts, ch 1183, §19; 2004 Acts, ch 1090, §33; 2015 Acts, ch 69, §59; 2015 Acts, ch 138, §29, 161, 162

229.2 Application for voluntary admission — authority to receive voluntary patients.

1. a. An application for admission to a public or private hospital for observation, diagnosis, care, and treatment as a voluntary patient may be made by any person who is mentally ill or has symptoms of mental illness.

b. In the case of a minor, the parent, guardian, or custodian may make application for admission of the minor as a voluntary patient.

(1) Upon receipt of an application for voluntary admission of a minor, the chief medical officer shall provide separate prescreening interviews and consultations with the parent, guardian or custodian and the minor to assess the family environment and the appropriateness of the application for admission.

(2) During the interview and consultation the chief medical officer shall inform the minor orally and in writing that the minor has a right to object to the admission. If the chief medical officer of the hospital to which application is made determines that the admission is appropriate but the minor objects to the admission, the parent, guardian or custodian must petition the juvenile court for approval of the admission before the minor is actually admitted.

(3) As soon as is practicable after the filing of a petition for juvenile court approval of the admission of the minor, the juvenile court shall determine whether the minor has an attorney to represent the minor in the hospitalization proceeding, and if not, the court shall assign to the minor an attorney. If the minor is financially unable to pay for an attorney, the attorney shall be compensated by the mental health and disability services region at an hourly rate to be established by the regional administrator for the county in which the proceeding is held in substantially the same manner as provided in section 815.7.

(4) The juvenile court shall determine whether the admission is in the best interest of the minor and is consistent with the minor's rights.

(5) The juvenile court shall order hospitalization of a minor, over the minor's objections, only after a hearing in which it is shown by clear and convincing evidence that:

(a) The minor needs and will substantially benefit from treatment.

(b) No other setting which involves less restriction of the minor's liberties is feasible for the purposes of treatment.

(6) Upon approval of the admission of a minor over the minor's objections, the juvenile court shall appoint an individual to act as an advocate representing the interests of the minor in the same manner as an advocate representing the interests of patients involuntarily hospitalized pursuant to section 229.19.

2. Upon receiving an application for admission as a voluntary patient, made pursuant to subsection 1:

a. The chief medical officer of a public hospital shall receive and may admit the person whose admission is sought, subject in cases other than medical emergencies to availability of suitable accommodations and to the provisions of sections 229.41 and 229.42.

b. The chief medical officer of a private hospital may receive and may admit the person whose admission is sought.

[R60, §1480; C73, §1399; C97, §2264; C24, 27, 31, 35, 39, §3544; C46, §229.1; C50, 54, 58, 62, 66, 71, 73, 75, §229.1, 229.41; C77, 79, 81, §229.2]

87 Acts, ch 90, §2; 99 Acts, ch 135, §17; 2009 Acts, ch 41, §263; 2015 Acts, ch 69, §60; 2015 Acts, ch 138, §30, 161, 162

Referred to in §229.4, 229.6A, 229.41, 331.910

229.2A Dual filings. Repealed by 2013 Acts, ch 130, §55.

229.3 Discharge of voluntary patients.

Any voluntary patient who has recovered, or whose hospitalization the chief medical officer of the hospital determines is no longer advisable, shall be discharged. Any voluntary patient may be discharged if to do so would in the judgment of the chief medical officer contribute to the most effective use of the hospital in the care and treatment of that patient and of other persons with mental illness.

[C77, 79, 81, §229.3]

96 Acts, ch 1129, §113

Referred to in §226.19

229.4 Right to release on application.

A voluntary patient who requests release or whose release is requested, in writing, by the patient's legal guardian, parent, spouse or adult next of kin shall be released from the hospital forthwith, except that:

1. If the patient was admitted on the patient's own application and the request for release is made by some other person, release may be conditioned upon the agreement of the patient.

2. If the patient is a minor who was admitted on the application of the patient's parent, guardian or custodian pursuant to section 229.2, subsection 1, the patient's release prior to becoming eighteen years of age may be conditioned upon the consent of the parent, guardian or custodian, or upon the approval of the juvenile court if the admission was approved by the juvenile court; and

3. If the chief medical officer of the hospital, not later than the end of the next secular day on which the office of the clerk of the district court for the county in which the hospital is located is open and which follows the submission of the written request for release of the patient, files with that clerk a certification that in the chief medical officer's opinion the patient is seriously mentally impaired, the release may be postponed for the period of time the court determines is necessary to permit commencement of judicial procedure for involuntary hospitalization. That period of time may not exceed five days, exclusive of days on which the clerk's office is not open unless the period of time is extended by order of a district court judge for good cause shown. Until disposition of the application for involuntary hospitalization of the patient, if one is timely filed, the chief medical officer may detain the patient in the hospital and may provide treatment which is necessary to preserve the patient's life, or to appropriately control behavior by the patient which is likely to result in physical injury to the patient or to others if allowed to continue, but may not otherwise provide treatment to the patient without the patient's consent.

[C50, 54, 58, 62, 66, 71, 73, 75, §229.41; C77, 79, 81, §229.4]

Referred to in §229.23

229.5 Departure without notice.

If a voluntary patient departs from the hospital without notice, and in the opinion of the chief medical officer the patient is seriously mentally impaired, the chief medical officer may file an application on the departed voluntary patient pursuant to section 229.6, and request that an order for immediate custody be entered by the court pursuant to section 229.11.

[C77, 79, 81, §229.5]

2013 Acts, ch 130, §42

229.5A Preapplication screening assessment — program.

Prior to filing an application pursuant to section 229.6, the clerk of the district court or the clerk's designee shall inform the interested person referred to in section 229.6, subsection 1, about the option of requesting a preapplication screening assessment through a preapplication screening assessment program, if available.

2012 Acts, ch 1079, §9; 2013 Acts, ch 130, §43; 2018 Acts, ch 1165, §133

Referred to in §229.6

229.6 Application for order of involuntary hospitalization.

1. Proceedings for the involuntary hospitalization of an individual pursuant to this chapter or for the involuntary commitment or treatment of a person with a substance-related disorder to a facility pursuant to chapter 125 may be commenced by any interested person by filing a verified application with the clerk of the district court of the county where the respondent is presently located, or which is the respondent's place of residence. The clerk, or the clerk's designee, shall assist the applicant in completing the application.

2. The application shall:

a. State the applicant's belief that the respondent is a person who presents a danger to self or others and lacks judgmental capacity due to either of the following:

(1) A substance-related disorder as defined in section 125.2.

(2) A serious mental impairment as defined in section 229.1.

b. State facts in support of each belief described in paragraph "a".

c. Be accompanied by any of the following:

(1) A written statement of a licensed physician or mental health professional in support of the application.

(2) One or more supporting affidavits otherwise corroborating the application.

(3) Corroborative information obtained and reduced to writing by the clerk or the clerk's designee, but only when circumstances make it infeasible to comply with, or when the clerk considers it appropriate to supplement the information supplied pursuant to, either subparagraph (1) or (2).

3. Prior to the filing of an application pursuant to this section, the clerk or the clerk's designee shall inform the interested person referred to in subsection 1 about the option of requesting a preapplication screening assessment pursuant to section 229.5A.

4. The supreme court shall prescribe rules and establish forms as necessary to carry out the provisions of this section.

[R60, §1480; C73, §1399; C97, §2264; C24, 27, 31, 35, 39, §3544; C46, 50, 54, 58, 62, 66, 71, 73, 75, §229.1; C77, 79, 81, §229.6]

2012 Acts, ch 1079, §10; 2013 Acts, ch 130, §44; 2017 Acts, ch 34, §12

Referred to in §218.92, 222.7, 225.11, 226.31, 227.10, 227.15, 229.1, 229.5, 229.5A, 229.6A, 229.7, 229.8, 229.9, 229.19, 229.21, 229.22, 229.24, 229.26, 229.27, 229.38, 331.910

Summary of involuntary commitment procedures available from clerk; see §229.45

229.6A Hospitalization of minors — jurisdiction — due process.

1. Notwithstanding section 229.11, the juvenile court has exclusive original jurisdiction in proceedings concerning a minor for whom an application is filed under section 229.6 or for whom an application for voluntary admission is made under section 229.2, subsection 1, to which the minor objects. In proceedings under this chapter concerning a minor, notwithstanding section 229.11, the term "court", "judge", or "clerk" means the juvenile court, judge, or clerk.

2. The procedural requirements of this chapter are applicable to minors involved in hospitalization proceedings pursuant to subsection 1 and placement proceedings pursuant to section 229.14A.

3. It is the intent of this chapter that when a minor is involuntarily or voluntarily hospitalized or hospitalized with juvenile court approval over the minor's objection the minor's family shall be included in counseling sessions offered during the minor's stay in a hospital when feasible. Prior to the discharge of the minor the juvenile court may, after

a hearing, order that the minor's family be evaluated and therapy ordered if necessary to facilitate the return of the minor to the family setting.

87 Acts, ch 90, §3; 92 Acts, ch 1124, §2; 2001 Acts, ch 155, §29; 2013 Acts, ch 130, §45

Referred to in §218.92, 222.7, 226.31, 227.10, 227.15, 229.19, 229.22, 229.24, 229.26, 229.38, 602.6405

229.7 Service of notice upon respondent.

Upon the filing of an application pursuant to section 229.6, the clerk shall docket the case and immediately notify a district court judge, district associate judge, or magistrate who is admitted to the practice of law in this state, who shall review the application and accompanying documentation. If the application is adequate as to form, the court may set a time and place for a hearing on the application, if feasible, but the hearing shall not be held less than forty-eight hours after notice to the respondent unless the respondent waives such minimum prior notice requirement. The court shall direct the clerk to send copies of the application and supporting documentation, together with a notice informing the respondent of the procedures required by this chapter, to the sheriff or the sheriff's deputy for immediate service upon the respondent. If the respondent is taken into custody under section 229.11, service of the application, documentation and notice upon the respondent shall be made at the time the respondent is taken into custody.

[R60, §1480; C73, §1400; C97, §2265; C24, 27, 31, 35, 39, §3545; C46, 50, 54, 58, 62, 66, 71, 73, 75, §229.2; C77, 79, 81, §229.7]

91 Acts, ch 108, §4; 2013 Acts, ch 130, §46

Referred to in §218.92, 222.7, 226.31, 227.10, 227.15, 229.19, 229.21, 229.22, 229.24, 229.26, 229.38, 229.45, 331.653

229.8 Procedure after application is filed.

As soon as practicable after the filing of an application pursuant to section 229.6, the court shall:

1. Determine whether the respondent has an attorney who is able and willing to represent the respondent in the hospitalization proceeding, and if not, whether the respondent is financially able to employ an attorney and capable of meaningfully assisting in selecting one. In accordance with those determinations, the court shall if necessary allow the respondent to select, or shall assign to the respondent, an attorney. If the respondent is financially unable to pay an attorney, the attorney shall be compensated by the mental health and disability services region at an hourly rate to be established by the regional administrator for the county in which the proceeding is held in substantially the same manner as provided in section 815.7.

2. Cause copies of the application and supporting documentation to be sent to the county attorney or the county attorney's attorney-designate for review.

3. Issue a written order which shall:

- a. If not previously done, set a time and place for a hospitalization hearing, which shall be at the earliest practicable time not less than forty-eight hours after notice to the respondent, unless the respondent waives such minimum prior notice requirement; and

- b. Order an examination of the respondent, prior to the hearing, by one or more licensed physicians or mental health professionals who shall submit a written report on the examination to the court as required by section 229.10.

[C73, §1400; C97, §2265; C24, 27, 31, 35, 39, §3548, 3549; C46, 50, 54, 58, 62, 66, 71, 73, 75, §229.5, 229.6; C77, 79, 81, §229.8]

99 Acts, ch 135, §18; 2013 Acts, ch 130, §47; 2015 Acts, ch 69, §61; 2015 Acts, ch 138, §31, 161, 162; 2017 Acts, ch 34, §13

Referred to in §218.92, 222.7, 225C.16, 226.31, 227.10, 227.15, 229.9, 229.9A, 229.14A, 229.19, 229.21, 229.22, 229.24, 229.26, 229.38

229.9 Respondent's attorney informed.

The court shall direct the clerk to furnish at once to the respondent's attorney copies of the application filed pursuant to section 229.6 and the supporting documentation, and of the court's order issued pursuant to section 229.8, subsection 3. If the respondent is taken into custody under section 229.11, the attorney shall also be advised of that fact. The respondent's

attorney shall represent the respondent at all stages of the proceedings, and shall attend the hospitalization hearing.

[C77, 79, 81, §229.9]

2013 Acts, ch 130, §48

Referred to in §218.92, 222.7, 226.31, 227.10, 227.15, 229.19, 229.21, 229.22, 229.24, 229.26, 229.38

229.9A Advocate informed.

The clerk shall furnish the advocate appointed for the county in which an application is completed a copy of the application and any order issued pursuant to section 229.8, subsection 3. The advocate may attend the hospitalization hearing of any respondent for whom the advocate has received notice of a hospitalization hearing.

94 Acts, ch 1027, §1; 2012 Acts, ch 1120, §99, 130; 2015 Acts, ch 76, §2

Referred to in §218.92, 222.7, 226.31, 227.10, 227.15, 229.19, 229.21, 229.22, 229.24, 229.26, 229.38

229.10 Physicians' or mental health professionals' examination — report.

1. *a.* An examination of the respondent shall be conducted by one or more licensed physicians or mental health professionals, as required by the court's order, within a reasonable time. If the respondent is detained pursuant to section 229.11, subsection 1, paragraph "b", the examination shall be conducted within twenty-four hours. If the respondent is detained pursuant to section 229.11, subsection 1, paragraph "a" or "c", the examination shall be conducted within forty-eight hours. If the respondent so desires, the respondent shall be entitled to a separate examination by a licensed physician or mental health professional of the respondent's own choice. The reasonable cost of the examinations shall, if the respondent lacks sufficient funds to pay the cost, be paid by the regional administrator from mental health and disability services region funds upon order of the court.

b. Any licensed physician or mental health professional conducting an examination pursuant to this section may consult with or request the participation in the examination of any consulting mental health professional, and may include with or attach to the written report of the examination any findings or observations by any consulting mental health professional who has participated in the examination.

c. If the respondent is not taken into custody under section 229.11, but the court is subsequently informed that the respondent has declined to be examined by one or more licensed physicians or mental health professionals pursuant to the court order, the court may order such limited detention of the respondent as is necessary to facilitate the examination of the respondent by one or more licensed physicians or mental health professionals.

2. A written report of the examination by one or more court-designated physicians or mental health professionals shall be filed with the clerk prior to the time set for hearing. A written report of any examination by a physician chosen by the respondent may be similarly filed. The clerk shall immediately do all of the following:

a. Cause the report or reports to be shown to the judge who issued the order.

b. Cause the respondent's attorney to receive a copy of the report or reports.

3. If the report of one or more of the court-designated physicians or mental health professionals is to the effect that the individual is not seriously mentally impaired, the court shall without taking further action terminate the proceeding and dismiss the application on its own motion and without notice.

4. If the report of one or more of the court-designated physicians or mental health professionals is to the effect that the respondent is seriously mentally impaired, the court shall schedule a hearing on the application as soon as possible. The hearing shall be held not more than forty-eight hours after the report is filed, excluding Saturdays, Sundays and holidays, unless an extension for good cause is requested by the respondent, or as soon thereafter as possible if the court considers that sufficient grounds exist for delaying the hearing.

[C77, 79, 81, §229.10]

2006 Acts, ch 1116, §2; 2009 Acts, ch 41, §224; 2012 Acts, ch 1079, §11; 2015 Acts, ch 69, §62; 2015 Acts, ch 138, §32, 161, 162; 2017 Acts, ch 34, §14; 2018 Acts, ch 1056, §8

Referred to in §218.92, 222.7, 225.30, 226.31, 227.10, 227.15, 229.8, 229.14, 229.19, 229.21, 229.22, 229.24, 229.26, 229.38

229.11 Judge may order immediate custody.

1. If the applicant requests that the respondent be taken into immediate custody and the judge, upon reviewing the application and accompanying documentation, finds probable cause to believe that the respondent has a serious mental impairment and is likely to injure the respondent or other persons if allowed to remain at liberty, the judge may enter a written order directing that the respondent be taken into immediate custody by the sheriff or the sheriff's deputy and be detained until the hospitalization hearing. The hospitalization hearing shall be held no more than five days after the date of the order, except that if the fifth day after the date of the order is a Saturday, Sunday, or a holiday, the hearing may be held on the next succeeding business day. If the expenses of a respondent are payable in whole or in part by a mental health and disability services region, for a placement in accordance with paragraph "a", the judge shall give notice of the placement to the regional administrator for the county in which the court is located, and for a placement in accordance with paragraph "b" or "c", the judge shall order the placement in a hospital or facility designated through the regional administrator. The judge may order the respondent detained for the period of time until the hearing is held, and no longer, in accordance with paragraph "a", if possible, and if not then in accordance with paragraph "b", or, only if neither of these alternatives is available, in accordance with paragraph "c". Detention may be:

a. In the custody of a relative, friend or other suitable person who is willing to accept responsibility for supervision of the respondent, and the respondent may be placed under such reasonable restrictions as the judge may order including but not limited to restrictions on or a prohibition of any expenditure, encumbrance or disposition of the respondent's funds or property; or

b. In a suitable hospital the chief medical officer of which shall be informed of the reasons why immediate custody has been ordered and may provide treatment which is necessary to preserve the respondent's life, or to appropriately control behavior by the respondent which is likely to result in physical injury to the respondent or to others if allowed to continue, but may not otherwise provide treatment to the respondent without the respondent's consent; or

c. In the nearest facility in the community which is licensed to care for persons with mental illness or substance abuse, provided that detention in a jail or other facility intended for confinement of those accused or convicted of crime shall not be ordered.

2. A respondent shall be released from detention prior to the hospitalization hearing if a licensed physician or mental health professional examines the respondent and determines the respondent no longer meets the criteria for detention under subsection 1 and provides notification to the court.

3. If a respondent is detained pursuant to subsection 1, paragraph "b" or "c", the sheriff or the sheriff's deputy that took the respondent into immediate custody may inform the hospital or facility that an arrest warrant has been issued for or charges are pending against the respondent and may request the hospital or facility to notify the sheriff or the sheriff's deputy about the discharge of the respondent prior to discharge.

4. The clerk shall furnish copies of any orders to the respondent and to the applicant if the applicant files a written waiver signed by the respondent.

[C77, 79, 81, §229.11]

89 Acts, ch 275, §3; 92 Acts, ch 1072, §3; 92 Acts, ch 1165, §2; 96 Acts, ch 1183, §20; 2004 Acts, ch 1090, §33; 2009 Acts, ch 41, §225; 2015 Acts, ch 69, §63; 2015 Acts, ch 138, §33, 161, 162; 2017 Acts, ch 109, §2, 20, 21; 2018 Acts, ch 1056, §9

Referred to in §218.92, 222.7, 226.31, 227.10, 227.15, 229.5, 229.6A, 229.7, 229.9, 229.10, 229.12, 229.14, 229.17, 229.18, 229.19, 229.21, 229.22, 229.23, 229.24, 229.26, 229.38, 229.45, 331.653

2017 amendment adding subsection 3 takes effect May 5, 2017, and applies to fiscal years beginning on or after July 1, 2017; 2017 Acts, ch 109, §20, 21

229.12 Hearing procedure.

1. At the hospitalization hearing, evidence in support of the contentions made in the application shall be presented by the county attorney. During the hearing the applicant and the respondent shall be afforded an opportunity to testify and to present and cross-examine witnesses, and the court may receive the testimony of any other interested person. The respondent has the right to be present at the hearing. If the respondent exercises that right

and has been medicated within twelve hours, or such longer period of time as the court may designate, prior to the beginning of the hearing or an adjourned session thereof, the judge shall be informed of that fact and of the probable effects of the medication upon convening of the hearing.

2. All persons not necessary for the conduct of the proceeding shall be excluded, except that the court may admit persons having a legitimate interest in the proceeding and shall permit the advocate from the county where the respondent is located to attend the hearing. Upon motion of the county attorney, the judge may exclude the respondent from the hearing during the testimony of any particular witness if the judge determines that witness's testimony is likely to cause the respondent severe emotional trauma.

3. a. The respondent's welfare shall be paramount and the hearing shall be conducted in as informal a manner as may be consistent with orderly procedure, but consistent therewith the issue shall be tried as a civil matter. The hearing may be held by video conference at the discretion of the court. Such discovery as is permitted under the Iowa rules of civil procedure shall be available to the respondent. The court shall receive all relevant and material evidence which may be offered and need not be bound by the rules of evidence. There shall be a presumption in favor of the respondent, and the burden of evidence in support of the contentions made in the application shall be upon the applicant.

b. The licensed physician or mental health professional who examined the respondent shall be present at the hearing unless the court for good cause finds that the licensed physician's or mental health professional's presence or testimony is not necessary. The applicant, respondent, and the respondent's attorney may waive the presence or the telephonic appearance of the licensed physician or mental health professional who examined the respondent and agree to submit as evidence the written report of the licensed physician or mental health professional. The respondent's attorney shall inform the court if the respondent's attorney reasonably believes that the respondent, due to diminished capacity, cannot make an adequately considered waiver decision. "Good cause" for finding that the testimony of the licensed physician or mental health professional who examined the respondent is not necessary may include but is not limited to such a waiver. If the court determines that the testimony of the licensed physician or mental health professional is necessary, the court may allow the licensed physician or the mental health professional to testify by telephone.

c. If upon completion of the hearing the court finds that the contention that the respondent is seriously mentally impaired has not been sustained by clear and convincing evidence, it shall deny the application and terminate the proceeding.

4. If the respondent is not taken into custody under section 229.11, but the court subsequently finds good cause to believe that the respondent is about to depart from the jurisdiction of the court, the court may order such limited detention of the respondent as is authorized by section 229.11 and is necessary to insure that the respondent will not depart from the jurisdiction of the court without the court's approval until the proceeding relative to the respondent has been concluded.

5. The clerk shall furnish copies of any orders to the respondent and to the applicant if the applicant files a written waiver signed by the respondent.

[R60, §1480; C73, §1400; C97, §2265; C24, 27, 31, 35, 39, §3547; C46, 50, 54, 58, 62, 66, 71, 73, 75, §229.4; C77, 79, 81, §229.12]

89 Acts, ch 275, §4; 94 Acts, ch 1027, §2; 2006 Acts, ch 1116, §3; 2006 Acts, ch 1159, §31; 2009 Acts, ch 41, §226; 2012 Acts, ch 1079, §12; 2012 Acts, ch 1120, §100, 130; 2015 Acts, ch 76, §3; 2018 Acts, ch 1056, §10

Referred to in §218.92, 222.7, 225.11, 226.31, 227.10, 227.15, 229.13, 229.14, 229.19, 229.21, 229.22, 229.24, 229.26, 229.38, 331.756(40), 602.8103

229.13 Evaluation order — treatment — unauthorized departure or failure to appear.

1. If upon completion of the hospitalization hearing the court finds by clear and convincing evidence that the respondent has a serious mental impairment, the court shall order the respondent committed as expeditiously as possible for a complete psychiatric evaluation and appropriate treatment as follows:

a. The court shall order a respondent whose expenses are payable in whole or in part by a mental health and disability services region placed under the care of an appropriate hospital or facility designated through the regional administrator for the county on an inpatient or outpatient basis.

b. The court shall order any other respondent placed under the care of an appropriate hospital or facility licensed to care for persons with mental illness or substance abuse on an inpatient or outpatient basis.

c. If the court orders evaluation and treatment of the respondent on an inpatient basis under this section, the court may order the respondent placed under the care of an appropriate subacute care facility licensed under chapter 135G.

2. The court shall provide notice to the respondent and the respondent's attorney of the placement order under subsection 1. The court shall advise the respondent and the respondent's attorney that the respondent has a right to request a placement hearing held in accordance with the requirements of section 229.14A.

3. If the respondent is ordered at a hearing to undergo outpatient treatment, the outpatient treatment provider must be notified and agree to provide the treatment prior to placement of the respondent under the treatment provider's care.

4. The court shall furnish to the chief medical officer of the hospital or facility at the time the respondent arrives at the hospital or facility for inpatient or outpatient treatment a written finding of fact setting forth the evidence on which the finding is based. If the respondent is ordered to undergo outpatient treatment, the order shall also require the respondent to cooperate with the treatment provider and comply with the course of treatment.

5. The chief medical officer of the hospital or facility at which the respondent is placed shall report to the court no more than fifteen days after the respondent is placed, making a recommendation for disposition of the matter. An extension of time may be granted, not to exceed seven days upon a showing of cause. A copy of the report shall be sent to the respondent's attorney, who may contest the need for an extension of time if one is requested. An extension of time shall be granted upon request unless the request is contested, in which case the court shall make such inquiry as it deems appropriate and may either order the respondent's release from the hospital or facility or grant an extension of time for psychiatric evaluation. If the chief medical officer fails to report to the court within fifteen days after the individual is placed under the care of the hospital or facility, and an extension of time has not been requested, the chief medical officer is guilty of contempt and shall be punished under chapter 665. The court shall order a rehearing on the application to determine whether the respondent should continue to be detained at or placed under the care of the hospital or facility.

6. If, after placement of a respondent in or under the care of a hospital or other suitable facility for inpatient treatment, the respondent departs from the hospital or facility or fails to appear for treatment as ordered without prior proper authorization from the chief medical officer, upon receipt of notification of the respondent's departure or failure to appear by the chief medical officer, a peace officer of the state shall without further order of the court exercise all due diligence to take the respondent into protective custody and return the respondent to the hospital or facility.

7. a. If the respondent is ordered to undergo outpatient treatment and the respondent's failure to comply with the course of treatment results in behavior by the respondent which, in the opinion of the respondent's mental health professional acting within the scope of the mental health professional's practice, is likely to result in physical injury to the respondent's self or others if allowed to continue, all of the following shall occur:

(1) The respondent's mental health professional acting within the scope of the mental health professional's practice shall notify the committing court, with preference given to the committing judge, if available, in the appropriate county and the court shall enter a written order directing that the respondent be taken into immediate custody by the appropriate sheriff or sheriff's deputy. The appropriate sheriff or sheriff's deputy shall exercise all due diligence in taking the respondent into protective custody to a hospital or other suitable facility.

(2) Once in protective custody, the respondent shall be given the choice of being treated by the appropriate medication which may include the use of oral medicine or injectable

antipsychotic medicine by a mental health professional acting within the scope of the mental health professional's practice at an outpatient psychiatric clinic, hospital, or other suitable facility or being placed for treatment under the care of a hospital or other suitable facility for inpatient treatment.

(3) If the respondent chooses to be treated by the appropriate medication which may include the use of oral medicine or injectable antipsychotic medicine but the mental health professional acting within the scope of the mental health professional's practice at the outpatient psychiatric clinic, hospital, or other suitable facility determines that the respondent's behavior continues to be likely to result in physical injury to the respondent's self or others if allowed to continue, the mental health professional acting within the scope of the mental health professional's practice shall comply with the provisions of subparagraph (1) and, following notice and hearing held in accordance with the procedures in section 229.12, the court may order the respondent treated on an inpatient basis requiring full-time custody, care, and treatment in a hospital until such time as the chief medical officer reports that the respondent does not require further treatment for serious mental impairment or has indicated the respondent is willing to submit to treatment on another basis as ordered by the court.

b. A region shall contract with mental health professionals to provide the appropriate treatment including treatment by the use of oral medicine or injectable antipsychotic medicine pursuant to this section.

[R60, §1479; C73, §1401; C97, §2266; C24, 27, 31, 35, 39, §3552, 3553; C46, 50, 54, 58, 62, 66, 71, 73, 75, §229.9, 229.10; C77, 79, 81, §229.13]

90 Acts, ch 1020, §3; 91 Acts, ch 108, §5; 92 Acts, ch 1165, §3; 96 Acts, ch 1183, §21; 2001 Acts, ch 155, §30; 2004 Acts, ch 1090, §33; 2013 Acts, ch 90, §52; 2015 Acts, ch 61, §2; 2015 Acts, ch 69, §64; 2015 Acts, ch 138, §34, 161, 162; 2016 Acts, ch 1073, §78; 2016 Acts, ch 1094, §1; 2016 Acts, ch 1138, §23; 2018 Acts, ch 1056, §11; 2020 Acts, ch 1063, §86

Referred to in §218.92, 222.7, 225.11, 225.15, 225.17, 226.9, 226.31, 227.10, 227.15, 229.14, 229.14A, 229.14B, 229.17, 229.18, 229.19, 229.21, 229.22, 229.23, 229.24, 229.26, 229.27, 229.38, 229.44, 229.45, 230.5

Subsection 7, paragraph b amended

229.14 Chief medical officer's report.

1. The chief medical officer's report to the court on the psychiatric evaluation of the respondent shall be made not later than the expiration of the time specified in section 229.13. At least two copies of the report shall be filed with the clerk, who shall dispose of them in the manner prescribed by section 229.10, subsection 2. The report shall state one of the four following alternative findings:

a. That the respondent does not, as of the date of the report, require further treatment for serious mental impairment. If the report so states, the court shall order the respondent's immediate release from involuntary hospitalization and terminate the proceedings.

b. That the respondent is seriously mentally impaired and in need of full-time custody, care and inpatient treatment in a hospital, and is considered likely to benefit from treatment. The report shall include the chief medical officer's recommendation for further treatment.

c. That the respondent is seriously mentally impaired and in need of treatment, but does not require full-time hospitalization. If the report so states, it shall include the chief medical officer's recommendation for treatment of the respondent on an outpatient or other appropriate basis.

d. The respondent is seriously mentally impaired and in need of full-time custody and care, but is unlikely to benefit from further inpatient treatment in a hospital. The report shall include the chief medical officer's recommendation for an appropriate alternative placement for the respondent.

2. Following receipt of the chief medical officer's report under subsection 1, paragraph "b", "c", or "d", the court shall issue an order for appropriate treatment as follows:

a. For a respondent whose expenses are payable in whole or in part by a mental health and disability services region, placement as designated through the regional administrator for the county in the care of an appropriate hospital or facility on an inpatient or outpatient basis, or other appropriate treatment, or in an appropriate alternative placement.

b. For any other respondent, placement in the care of an appropriate hospital or facility on

an inpatient or outpatient basis, or other appropriate treatment, or an appropriate alternative placement.

c. For a respondent who is an inmate in the custody of the department of corrections, the court may order the respondent to receive mental health services in a correctional program.

d. If the court orders treatment of the respondent on an outpatient or other appropriate basis as described in the chief medical officer's report pursuant to subsection 1, paragraph "c", the order shall provide that, should the respondent fail or refuse to submit to treatment in accordance with the court's order, the court may order that the respondent be taken into immediate custody as provided by section 229.11 and, following notice and hearing held in accordance with the procedures of section 229.12, may order the respondent treated on an inpatient basis requiring full-time custody, care, and treatment in a hospital until such time as the chief medical officer reports that the respondent does not require further treatment for serious mental impairment or has indicated the respondent is willing to submit to treatment on another basis as ordered by the court. If a patient is transferred for treatment to another provider under this paragraph, the treatment provider who will be providing the outpatient or other appropriate treatment shall be provided with copies of relevant court orders by the former treatment provider.

e. If the court orders placement and treatment of the respondent on an inpatient basis under this section, the court may order the respondent placed under the care of an appropriate subacute care facility licensed under chapter 135G.

[C77, 79, 81, §229.14; 82 Acts, ch 1228, §1]

90 Acts, ch 1020, §4; 91 Acts, ch 219, §2; 92 Acts, ch 1165, §4; 2001 Acts, ch 155, §31; 2002 Acts, ch 1119, §32; 2004 Acts, ch 1090, §33; 2015 Acts, ch 61, §3; 2015 Acts, ch 69, §65; 2015 Acts, ch 138, §35, 161, 162; 2016 Acts, ch 1073, §79

Referred to in §218.92, 222.7, 225.15, 225.17, 225.27, 226.26, 226.31, 226.33, 227.15, 229.1, 229.14A, 229.14B, 229.15, 229.16, 229.17, 229.19, 229.21, 229.23, 229.26, 229.27, 229.28, 229.38, 229.44

229.14A Placement order — notice and hearing.

1. With respect to a chief medical officer's report made pursuant to section 229.14, subsection 1, paragraph "b", "c", or "d", or any other provision of this chapter related to involuntary commitment for which the court issues a placement order or a transfer of placement is authorized, the court shall provide notice to the respondent and the respondent's attorney or mental health advocate pursuant to section 229.19 concerning the placement order and the respondent's right to request a placement hearing to determine if the order for placement or transfer of placement is appropriate.

2. The notice shall provide that a request for a placement hearing must be in writing and filed with the clerk within seven days of issuance of the placement order.

3. A request for a placement hearing may be signed by the respondent, the respondent's next friend, guardian, or attorney.

4. The court, on its own motion, may order a placement hearing to be held.

5. a. A placement hearing shall be held no sooner than four days and no later than seven days after the request for the placement hearing is filed unless otherwise agreed to by the parties.

b. The respondent may be transferred to the placement designated by the court's placement order and receive treatment unless a request for hearing is filed prior to the transfer. If the request for a placement hearing is filed prior to the transfer, the court shall determine where the respondent shall be detained and treated until the date of the hearing.

c. If the respondent's attorney has withdrawn pursuant to section 229.19, the court shall appoint an attorney for the respondent in the manner described in section 229.8, subsection 1.

6. Time periods shall be calculated for the purposes of this section excluding weekends and official holidays.

7. If a respondent's expenses are payable in whole or in part by a mental health and disability services region through the regional administrator for the county, notice of a placement hearing shall be provided to the county attorney and the regional administrator. At the hearing, the county may present evidence regarding appropriate placement.

8. In a placement hearing, the court shall determine a placement for the respondent in accordance with the requirements of section 229.23, taking into consideration the evidence presented by all the parties.

9. A placement made pursuant to an order entered under section 229.13 or 229.14 or this section shall be considered to be authorized through the regional administrator for the county.

2001 Acts, ch 155, §33, 40; 2004 Acts, ch 1090, §33; 2015 Acts, ch 69, §66; 2015 Acts, ch 138, §36, 161, 162; 2016 Acts, ch 1073, §80

Referred to in §218.92, 222.7, 225.15, 225.17, 226.31, 227.11, 227.15, 229.6A, 229.13, 229.15, 229.17, 229.21, 229.26, 229.38

229.14B Escape from custody.

A person who is placed in a hospital or other suitable facility for evaluation under section 229.13 or who is required to remain hospitalized for treatment under section 229.14 shall remain at that hospital or facility unless discharged or otherwise permitted to leave by the court or the chief medical officer of the hospital or facility. If a person placed at a hospital or facility or required to remain at a hospital or facility leaves the facility without permission or without having been discharged, the chief medical officer may notify the sheriff of the person's absence and the sheriff shall take the person into custody and return the person promptly to the hospital or facility.

92 Acts, ch 1072, §4

C93, §229.14A

2001 Acts, ch 155, §32, 40

CS2001, §229.14B

Referred to in §218.92, 222.7, 225.15, 225.17, 226.31, 227.15, 229.17, 229.21, 229.26, 229.38

229.15 Periodic reports required.

1. Not more than thirty days after entry of an order for continued hospitalization of a patient under section 229.14, subsection 1, paragraph "b", and thereafter at successive intervals of not more than sixty days continuing so long as involuntary hospitalization of the patient continues, the chief medical officer of the hospital shall report to the court which entered the order. The report shall be submitted in the manner required by section 229.14, shall state whether the patient's condition has improved, remains unchanged, or has deteriorated, and shall indicate if possible the further length of time the patient will be required to remain at the hospital. The chief medical officer may at any time report to the court a finding as stated in section 229.14, subsection 1, and the court shall act upon the finding as required by section 229.14, subsection 2.

2. Not more than sixty days after the entry of a court order for treatment of a patient pursuant to a report issued under section 229.14, subsection 1, paragraph "c", and thereafter at successive intervals as ordered by the court but not to exceed ninety days so long as that court order remains in effect, the medical director of the facility or the psychiatrist or psychiatric advanced registered nurse practitioner treating the patient shall report to the court which entered the order. The report shall state whether the patient's condition has improved, remains unchanged, or has deteriorated, and shall indicate if possible the further length of time the patient will require treatment by the facility. If at any time the patient without good cause fails or refuses to submit to treatment as ordered by the court, the medical director shall at once so notify the court, which shall order the patient hospitalized as provided by section 229.14, subsection 2, paragraph "d", unless the court finds that the failure or refusal was with good cause and that the patient is willing to receive treatment as provided in the court's order, or in a revised order if the court sees fit to enter one. If at any time the medical director reports to the court that in the director's opinion the patient requires full-time custody, care, and treatment in a hospital, and the patient is willing to be admitted voluntarily to the hospital for these purposes, the court may enter an order approving hospitalization for appropriate treatment upon consultation with the chief medical officer of the hospital in which the patient is to be hospitalized. If the patient is unwilling to be admitted voluntarily to the hospital, the procedure for determining involuntary hospitalization, as set out in section 229.14, subsection 2, paragraph "d", shall be followed.

3. a. A psychiatric advanced registered nurse practitioner treating a patient previously

hospitalized under this chapter may complete periodic reports pursuant to this section on the patient if the patient has been recommended for treatment on an outpatient or other appropriate basis pursuant to section 229.14, subsection 1, paragraph “c”.

b. An advanced registered nurse practitioner who is not certified as a psychiatric advanced registered nurse practitioner but who meets the qualifications set forth in the definition of a mental health professional in section 228.1, may complete periodic reports pursuant to paragraph “a”.

4. When a patient has been placed in an alternative facility other than a hospital pursuant to a report issued under section 229.14, subsection 1, paragraph “d”, a report on the patient’s condition and prognosis shall be made to the court which placed the patient, at least once every six months, unless the court authorizes annual reports. If an evaluation of the patient is performed pursuant to section 227.2, subsection 4, a copy of the evaluation report shall be submitted to the court within fifteen days of the evaluation’s completion. The court may in its discretion waive the requirement of an additional report between the annual evaluations. If the administrator exercises the authority to remove residents from a county care facility or other county or private institution under section 227.6, the administrator shall promptly notify each court which placed in that facility any resident so removed.

5. a. When in the opinion of the chief medical officer the best interest of a patient would be served by a convalescent or limited leave, the chief medical officer may authorize the leave and, if authorized, shall promptly report the leave to the court. When in the opinion of the chief medical officer the best interest of a patient would be served by a transfer to a different hospital for continued full-time custody, care, and treatment, the chief medical officer shall promptly send a report to the court. The court shall act upon the report in accordance with section 229.14A.

b. This subsection shall not be construed to add to or restrict the authority otherwise provided by law for transfer of patients or residents among various state institutions administered by the department of human services. If a patient is transferred under this subsection, the treatment provider to whom the patient is transferred shall be provided with copies of relevant court orders by the former treatment provider.

6. Upon receipt of any report required or authorized by this section the court shall furnish a copy to the patient’s attorney, or alternatively to the advocate appointed as required by section 229.19. The court shall examine the report and take the action thereon which it deems appropriate. Should the court fail to receive any report required by this section or section 229.14 at the time the report is due, the court shall investigate the reason for the failure to report and take whatever action may be necessary in the matter.

[C77, 79, 81, §229.15; 81 Acts, ch 78, §20, 37; 82 Acts, ch 1228, §2]

83 Acts, ch 96, §157, 159; 92 Acts, ch 1165, §5; 2000 Acts, ch 1112, §38; 2001 Acts, ch 155, §34, 35; 2008 Acts, ch 1082, §5, 6; 2009 Acts, ch 133, §85; 2011 Acts, ch 121, §53, 62; 2013 Acts, ch 90, §53

Referred to in §218.92, 222.7, 225.15, 225.17, 226.23, 226.31, 227.10, 227.11, 227.15, 229.17, 229.19, 229.21, 229.26, 229.29, 229.38, 229.43

229.16 Discharge and termination of proceeding.

When the condition of a patient who is hospitalized pursuant to a report issued under section 229.14, subsection 1, paragraph “b”, or is receiving treatment pursuant to a report issued under section 229.14, subsection 1, paragraph “c”, or is in full-time care and custody pursuant to a report issued under section 229.14, subsection 1, paragraph “d”, is such that in the opinion of the chief medical officer the patient no longer requires treatment or care for serious mental impairment, the chief medical officer shall tentatively discharge the patient and immediately report that fact to the court which ordered the patient’s hospitalization or care and custody. Upon receiving the report, the court shall issue an order confirming the patient’s discharge from the hospital or from care and custody, as the case may be, and shall terminate the proceedings pursuant to which the order was issued. Copies of the order shall

be sent by regular mail to the hospital, the patient, and the applicant if the applicant has filed a written waiver signed by the patient.

[C77, 79, 81, §229.16]

89 Acts, ch 275, §5; 99 Acts, ch 144, §2; 2001 Acts, ch 155, §36

Referred to in §225.15, 225.17, 225.27, 226.18, 226.19, 229.17, 229.21, 229.26

229.17 Status of respondent during appeal.

If a respondent appeals to the supreme court from a finding that the contention the respondent is seriously mentally impaired has been sustained, and the respondent was previously ordered taken into immediate custody under section 229.11 or has been hospitalized for psychiatric evaluation and appropriate treatment under section 229.13 before the court is informed of intent to appeal its finding, the respondent shall remain in custody as previously ordered by the court, the time limit stated in section 229.11 notwithstanding, or shall remain in the hospital subject to compliance by the hospital with sections 229.13 to 229.16, as the case may be, unless the supreme court orders otherwise. If a respondent appeals to the supreme court regarding a placement order, the respondent shall remain in placement unless the supreme court orders otherwise.

[C77, 79, 81, §229.17]

2001 Acts, ch 155, §37

Referred to in §229.21, 229.26

229.18 Status of respondent if hospitalization is delayed.

When the court directs that a respondent who was previously ordered taken into immediate custody under section 229.11 be placed in a hospital for psychiatric evaluation and appropriate treatment under section 229.13, and no suitable hospital can immediately admit the respondent, the respondent shall remain in custody as previously ordered by the court, the time limit stated in section 229.11 notwithstanding, until a suitable hospital can admit the respondent. The court shall take appropriate steps to expedite the admission of the respondent to a suitable hospital at the earliest feasible time.

[R60, §1436; C73, §1403; C97, §2271; S13, §2271; C24, 27, 31, 35, 39, §3564; C46, 50, 54, 58, 62, 66, 71, 73, 75, §229.24; C77, 79, 81, §229.18]

Referred to in §229.21, 229.26

229.19 Advocates — appointment — duties — employment and compensation.

1. *a.* In each county the board of supervisors shall appoint an individual who has demonstrated by prior activities an informed concern for the welfare and rehabilitation of persons with mental illness, and who is not an officer or employee of the department of human services, an officer or employee of a region, an officer or employee of a county performing duties for a region, or an officer or employee of any agency or facility providing care or treatment to persons with mental illness, to act as an advocate representing the interests of patients involuntarily hospitalized by the court, in any matter relating to the patients' hospitalization or treatment under section 229.14 or 229.15.

b. The committing court shall assign the advocate for the county where the patient is located. A county or region may seek reimbursement from the patient's county of residence or from the region in which the patient's county of residence is located.

c. The advocate's responsibility with respect to any patient shall begin at whatever time the attorney employed or appointed to represent that patient as respondent in hospitalization proceedings, conducted under sections 229.6 to 229.13, reports to the court that the attorney's services are no longer required and requests the court's approval to withdraw as counsel for that patient. However, if the patient is found to be seriously mentally impaired at the hospitalization hearing, the attorney representing the patient shall automatically be relieved of responsibility in the case and an advocate shall be assigned to the patient at the conclusion of the hearing unless the attorney indicates an intent to continue the attorney's services and the court so directs. If the court directs the attorney to remain on the case, the attorney shall assume all the duties of an advocate. The clerk shall furnish the advocate with a copy of the court's order approving the withdrawal and shall inform the patient of the name of the patient's advocate.

d. With regard to each patient whose interests the advocate is required to represent pursuant to this section, the advocate's duties shall include all of the following:

- (1) To review each report submitted pursuant to sections 229.14 and 229.15.
- (2) If the advocate is not an attorney, to advise the court at any time it appears that the services of an attorney are required to properly safeguard the patient's interests.
- (3) To be readily accessible to communications from the patient and to originate communications with the patient within five days of the patient's commitment.
- (4) To visit the patient within fifteen days of the patient's commitment and periodically thereafter.
- (5) To communicate with medical personnel treating the patient and to review the patient's medical records pursuant to section 229.25.
- (6) To file with the court reports as the advocate feels necessary or as required by the court.
- (7) To utilize the related best practices for the duties identified in this paragraph "d" developed and promulgated by the judicial council.

e. An advocate may also be assigned pursuant to this section for an individual who has been diagnosed with a co-occurring mental illness and substance-related disorder.

2. The hospital or facility to which a patient is committed shall grant all reasonable requests of the advocate to visit the patient, to communicate with medical personnel treating the patient, and to review the patient's medical records pursuant to section 229.25. An advocate shall not disseminate information from a patient's medical records to any other person unless done for official purposes in connection with the advocate's duties pursuant to this chapter or when required by law.

3. The county board of supervisors shall prescribe reasonable compensation for the services of the advocate. The compensation shall be based upon the duties performed by the advocate and in accordance with the personnel policies set forth by the board for county employees. The advocate is an employee of the county, including for purposes of chapters 97B and 670.

4. The state mental health and disability services commission created in section 225C.5, in consultation with advocates and county and judicial branch representatives, shall adopt rules pursuant to chapter 17A relating to advocates that include but are not limited to all of the following topics:

- a. Quarterly and annual reports.
- b. Data collection requirements.
- c. Juvenile patient representation.
- d. Grievance procedures.
- e. Conflict of interest provisions.
- f. Workforce coverage.
- g. Confidentiality.
- h. Minimum professional qualifications and educational requirements.
- i. Caseload criteria.
- j. Caseload audits.
- k. Quality assurance measures.
- l. Territory assignments.

5. An advocate appointed by the chief judge of a judicial district or by the county board of supervisors prior to July 1, 2015, shall be considered to be appointed by the county board of supervisors on July 1, 2015, as required in subsection 1. Such an advocate shall be compensated at a minimum at the advocate's wage and benefit level in place immediately prior to July 1, 2015.

[C77, 79, 81, §229.19]

83 Acts, ch 96, §157, 159; 83 Acts, ch 123, §85, 209; 85 Acts, ch 62, §1; 87 Acts, ch 57, §1; 93 Acts, ch 83, §1; 94 Acts, ch 1173, §10; 96 Acts, ch 1129, §113; 99 Acts, ch 135, §19; 2006 Acts, ch 1030, §22; 2007 Acts, ch 22, §53, 54; 2007 Acts, ch 86, §3; 2012 Acts, ch 1079, §13, 14; 2012 Acts, ch 1120, §101, 130; 2015 Acts, ch 76, §4; 2017 Acts, ch 97, §1

Referred to in §225C.4, 226.31, 229.2, 229.14A, 229.15, 229.21, 229.26

229.20 Reserved.

229.21 Judicial hospitalization referee — appeals to district court.

1. The chief judge of each judicial district may appoint at least one judicial hospitalization referee for each county within the district. The judicial hospitalization referee shall be an attorney, licensed to practice law in this state, who shall be chosen with consideration to any training, experience, interest, or combination of those factors, which are pertinent to the duties of the office. The referee shall hold office at the pleasure of the chief judge of the judicial district and receive compensation at a rate fixed by the supreme court. If the referee expects to be absent for any significant length of time, the referee shall inform the chief judge who may appoint a temporary substitute judicial hospitalization referee having the qualifications set forth in this subsection.

2. When an application for involuntary hospitalization under section 229.6 or for involuntary commitment or treatment of persons with substance-related disorders under section 125.75 is filed with the clerk of the district court in any county for which a judicial hospitalization referee has been appointed, and no district judge, district associate judge, or magistrate who is admitted to the practice of law in this state is accessible, the clerk shall immediately notify the referee in the manner required by section 229.7 or section 125.77. The referee shall discharge all of the duties imposed upon the court by sections 229.7 to 229.22 or sections 125.75 to 125.94 in the proceeding so initiated. Subject to the provisions of subsection 4, orders issued by a referee, in discharge of duties imposed under this section, shall have the same force and effect as if ordered by a district judge. However, any commitment to a facility regulated and operated under chapter 135C shall be in accordance with section 135C.23.

3. *a.* Any respondent with respect to whom the magistrate or judicial hospitalization referee has found the contention that the respondent is seriously mentally impaired or a person with a substance-related disorder sustained by clear and convincing evidence presented at a hearing held under section 229.12 or section 125.82, may appeal from the magistrate's or referee's finding to a judge of the district court by giving the clerk notice in writing, within ten days after the magistrate's or referee's finding is made, that an appeal is taken. The appeal may be signed by the respondent or by the respondent's next friend, guardian, or attorney.

b. An order of a magistrate or judicial hospitalization referee with a finding that the respondent is seriously mentally impaired or a person with a substance-related disorder shall include the following notice, located conspicuously on the face of the order:

NOTE: The respondent may appeal from this order to a judge of the district court by giving written notice of the appeal to the clerk of the district court within ten days after the date of this order. The appeal may be signed by the respondent or by the respondent's next friend, guardian, or attorney. For a more complete description of the respondent's appeal rights, consult section 229.21 of the Code of Iowa or an attorney.

c. When appealed, the matter shall stand for trial de novo. Upon appeal, the court shall schedule a hospitalization or commitment hearing before a district judge at the earliest practicable time.

d. Any respondent with respect to whom the magistrate or judicial hospitalization referee has held a placement hearing and has entered a placement order may appeal the order to a judge of the district court. The request for appeal must be given to the clerk in writing within ten days of the entry of the magistrate's or referee's order. The request for appeal shall be signed by the respondent, or the respondent's next friend, guardian, or attorney.

4. If the appellant is in custody under the jurisdiction of the district court at the time of service of the notice of appeal, the appellant shall be discharged from custody unless an order that the appellant be taken into immediate custody has previously been issued under section 229.11 or section 125.81, in which case the appellant shall be detained as provided in that section until the hospitalization or commitment hearing before the district judge. If

the appellant is in the custody of a hospital or facility at the time of service of the notice of appeal, the appellant shall be discharged from custody pending disposition of the appeal unless the chief medical officer, not later than the end of the next secular day on which the office of the clerk is open and which follows service of the notice of appeal, files with the clerk a certification that in the chief medical officer's opinion the appellant is seriously mentally ill or a person with a substance-related disorder. In that case, the appellant shall remain in custody of the hospital or facility until the hospitalization or commitment hearing before the district court.

5. The hospitalization or commitment hearing before the district judge shall be held, and the judge's finding shall be made and an appropriate order entered, as prescribed by sections 229.12 and 229.13 or sections 125.82 and 125.83. If the judge orders the appellant hospitalized or committed for a complete psychiatric or substance abuse evaluation, jurisdiction of the matter shall revert to the judicial hospitalization referee.

[C97, §2267, 2268; C24, 27, 31, 35, 39, §3560, 3561; C46, 50, 54, 58, 62, 66, 71, 73, 75, §229.17, 229.18; C77, 79, 81, §229.21; 82 Acts, ch 1212, §27]

85 Acts, ch 195, §25; 87 Acts, ch 190, §2; 90 Acts, ch 1085, §20; 91 Acts, ch 108, §6; 92 Acts, ch 1165, §6; 98 Acts, ch 1181, §23; 99 Acts, ch 144, §3, 4; 2001 Acts, ch 155, §38; 2011 Acts, ch 121, §54 – 56, 62; 2013 Acts, ch 130, §49; 2014 Acts, ch 1026, §47

Referred to in §97B.1A, 125.90

229.22 Hospitalization — emergency procedure.

1. The procedure prescribed by this section shall be used when it appears that a person should be immediately detained due to serious mental impairment, but an application has not been filed naming the person as the respondent pursuant to section 229.6, and the person cannot be ordered into immediate custody and detained pursuant to section 229.11.

2. a. (1) In the circumstances described in subsection 1, any peace officer who has reasonable grounds to believe that a person is mentally ill, and because of that illness is likely to physically injure the person's self or others if not immediately detained, may without a warrant take or cause that person to be taken to the nearest available facility or hospital as defined in section 229.11, subsection 1, paragraphs "b" and "c". A person believed mentally ill, and likely to injure the person's self or others if not immediately detained, may be delivered to a facility or hospital by someone other than a peace officer.

(2) Upon delivery of the person believed mentally ill to the facility or hospital, the examining physician, examining physician assistant, examining mental health professional, or examining psychiatric advanced registered nurse practitioner may order treatment of that person, including chemotherapy, but only to the extent necessary to preserve the person's life or to appropriately control behavior by the person which is likely to result in physical injury to that person or others if allowed to continue.

(3) The peace officer who took the person into custody, or other party who brought the person to the facility or hospital, shall describe the circumstances of the matter to the examining physician, examining physician assistant, examining mental health professional, or examining psychiatric advanced registered nurse practitioner. If the person is a peace officer, the peace officer may do so either in person or by written report.

(4) If the examining physician, examining physician assistant, examining mental health professional, or examining psychiatric advanced registered nurse practitioner finds that there is reason to believe that the person is seriously mentally impaired, and because of that impairment is likely to physically injure the person's self or others if not immediately detained, the examining physician, examining physician assistant, examining mental health professional, or examining psychiatric advanced registered nurse practitioner shall at once communicate with the nearest available magistrate as defined in section 801.4, subsection 10.

(5) The magistrate shall, based upon the circumstances described by the examining physician, examining physician assistant, examining mental health professional, or examining psychiatric advanced registered nurse practitioner, give the examining physician, examining physician assistant, examining mental health professional, or examining psychiatric advanced registered nurse practitioner oral instructions either directing that

the person be released forthwith or authorizing the person's detention in an appropriate facility. A peace officer from the law enforcement agency that took the person into custody, if available, during the communication with the magistrate, may inform the magistrate that an arrest warrant has been issued for or charges are pending against the person and request that any oral or written order issued under this subsection require the facility or hospital to notify the law enforcement agency about the discharge of the person prior to discharge. The magistrate may also give oral instructions and order that the detained person be transported to an appropriate facility.

b. If the magistrate orders that the person be detained, the magistrate shall, by the close of business on the next working day, file a written order with the clerk in the county where it is anticipated that an application may be filed under section 229.6. The order may be filed by facsimile if necessary. A peace officer from the law enforcement agency that took the person into custody, if no request was made under paragraph "a", may inform the magistrate that an arrest warrant has been issued for or charges are pending against the person and request that any written order issued under this paragraph require the facility or hospital to notify the law enforcement agency about the discharge of the person prior to discharge. The order shall state the circumstances under which the person was taken into custody or otherwise brought to a facility or hospital, and the grounds supporting the finding of probable cause to believe that the person is seriously mentally impaired and likely to injure the person's self or others if not immediately detained. The order shall also include any law enforcement agency notification requirements if applicable. The order shall confirm the oral order authorizing the person's detention including any order given to transport the person to an appropriate facility or hospital. A peace officer from the law enforcement agency that took the person into custody may also request an order, separate from the written order, requiring the facility or hospital to notify the law enforcement agency about the discharge of the person prior to discharge. The clerk shall provide a copy of the written order or any separate order to the chief medical officer of the facility or hospital to which the person was originally taken, to any subsequent facility to which the person was transported, and to any law enforcement department, ambulance service, or transportation service under contract with a mental health and disability services region that transported the person pursuant to the magistrate's order. A transportation service that contracts with a mental health and disability services region for purposes of this paragraph shall provide a secure transportation vehicle and shall employ staff that has received or is receiving mental health training.

c. If an arrest warrant has been issued for or charges are pending against the person, but no court order exists requiring notification to a law enforcement agency under paragraph "a" or "b", and if the peace officer delivers the person to a facility or hospital and the peace officer notifies the facility or hospital in writing on a form prescribed by the department of public safety that the facility or hospital notify the law enforcement agency about the discharge of the person prior to discharge, the facility or hospital shall do all of the following:

(1) Notify the dispatch of the law enforcement agency that employs the peace officer by telephone prior to the discharge of the person from the facility or hospital.

(2) Notify the law enforcement agency that employs the peace officer by electronic mail prior to the discharge of the person from the facility or hospital.

3. The chief medical officer of the facility or hospital shall examine and may detain and care for the person taken into custody under the magistrate's order for a period not to exceed forty-eight hours from the time such order is dated, excluding Saturdays, Sundays and holidays, unless the order is sooner dismissed by a magistrate. The facility or hospital may provide treatment which is necessary to preserve the person's life, or to appropriately control behavior by the person which is likely to result in physical injury to the person's self or others if allowed to continue, but may not otherwise provide treatment to the person without the person's consent. The person shall be discharged from the facility or hospital and released from custody not later than the expiration of that period, unless an application is sooner filed with the clerk pursuant to section 229.6. Prior to such discharge the facility or hospital shall, if required by this section, notify the law enforcement agency requesting such notification about the discharge of the person. The law enforcement agency shall retrieve the person no later than six hours after notification from the facility or hospital but

in no circumstances shall the detention of the person exceed the period of time prescribed for detention by this subsection. The detention of any person by the procedure and not in excess of the period of time prescribed by this section shall not render the peace officer, physician, mental health professional, facility, or hospital so detaining that person liable in a criminal or civil action for false arrest or false imprisonment if the peace officer, physician, mental health professional, facility, or hospital had reasonable grounds to believe the person so detained was mentally ill and likely to physically injure the person's self or others if not immediately detained, or if the facility or hospital was required to notify a law enforcement agency by this section, and the law enforcement agency requesting notification prior to discharge retrieved the person no later than six hours after the notification, and the detention prior to the retrieval of the person did not exceed the period of time prescribed for detention by this subsection.

4. The cost of hospitalization at a public hospital of a person detained temporarily by the procedure prescribed in this section shall be paid in the same way as if the person had been admitted to the hospital by the procedure prescribed in sections 229.6 to 229.13.

5. The department of public safety shall prescribe the form to be used when a law enforcement agency desires notification under this section from a facility or hospital prior to discharge of a person admitted to the facility or hospital and for whom an arrest warrant has been issued or against whom charges are pending. The form shall be consistent with all laws, regulations, and rules relating to the confidentiality or privacy of personal information or medical records, including but not limited to the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, and regulations promulgated in accordance with that Act and published in 45 C.F.R. pts. 160 – 164.

6. A facility or hospital, which has been notified by a peace officer or a law enforcement agency by delivery of a form as prescribed by the department of public safety indicating that an arrest warrant has been issued for or charges are pending against a person admitted to the facility or hospital, that does not notify the law enforcement agency about the discharge of the person as required by subsection 2, paragraph "c", shall pay a civil penalty as provided in section 805.8C, subsection 9.

[C77, 79, 81, §229.22]

95 Acts, ch 24, §2; 2003 Acts, ch 68, §3, 4; 2009 Acts, ch 41, §227; 2010 Acts, ch 1103, §1, 2; 2011 Acts, ch 34, §55; 2012 Acts, ch 1079, §15; 2013 Acts, ch 90, §54; 2013 Acts, ch 130, §50, 51; 2014 Acts, ch 1092, §173; 2015 Acts, ch 37, §1; 2017 Acts, ch 34, §15, 16; 2018 Acts, ch 1056, §12

Referred to in §229.21, 229.23, 229.24, 602.6405, 805.8C(9)

229.23 Rights and privileges of hospitalized persons.

Every person who is hospitalized or detained under this chapter shall have the right to:

1. Prompt evaluation, necessary psychiatric services, and additional care and treatment as indicated by the patient's condition. A comprehensive, individualized treatment plan shall be timely developed following issuance of the court order requiring involuntary hospitalization. The plan shall be consistent with current standards appropriate to the facility to which the person has been committed and with currently accepted standards for psychiatric treatment of the patient's condition, including chemotherapy, psychotherapy, counseling and other modalities as may be appropriate.

2. The right to refuse treatment by shock therapy or chemotherapy, unless the use of these treatment modalities is specifically consented to by the patient's next of kin or guardian. The patient's right to refuse treatment by chemotherapy shall not apply during any period of custody authorized by section 229.4, subsection 3, section 229.11 or section 229.22, but this exception shall extend only to chemotherapy treatment which is, in the chief medical officer's judgment, necessary to preserve the patient's life or to appropriately control behavior by the person which is likely to result in physical injury to that person or others if allowed to continue. The patient's right to refuse treatment by chemotherapy shall also not apply during any period of custody authorized by the court pursuant to section 229.13 or 229.14. In any other situation in which, in the chief medical officer's judgment, chemotherapy is appropriate for the patient but the patient refuses to consent thereto and there is no next of kin or guardian

to give consent, the chief medical officer may request an order authorizing treatment of the patient by chemotherapy from the district court which ordered the patient's hospitalization.

3. In addition to protection of the person's constitutional rights, enjoyment of other legal, medical, religious, social, political, personal and working rights and privileges which the person would enjoy if the person were not so hospitalized or detained, so far as is possible consistent with effective treatment of that person and of the other patients of the hospital. If the patient's rights are restricted, the physician's or mental health professional's direction to that effect shall be noted on the patient's record. The department of human services shall, in accordance with chapter 17A establish rules setting forth the specific rights and privileges to which persons so hospitalized or detained are entitled under this section, and the exceptions provided by section 17A.2, subsection 11, paragraphs "a" and "k", shall not be applicable to the rules so established. The patient or the patient's next of kin or friend shall be advised of these rules and be provided a written copy upon the patient's admission to or arrival at the hospital.

[C77, 79, 81, §229.23]

83 Acts, ch 96, §157, 159; 89 Acts, ch 275, §6; 2017 Acts, ch 34, §17

Referred to in §229.14A

229.24 Records of involuntary hospitalization proceeding to be confidential.

1. All papers and records pertaining to any involuntary hospitalization or application pursuant to section 229.6 of any person under this chapter, whether part of the permanent record of the court or of a file in the department of human services, are subject to inspection only upon an order of the court for good cause shown.

2. If authorized in writing by a person who has been the subject of any proceeding or report under sections 229.6 to 229.13 or section 229.22, or by the parent or guardian of that person, information regarding that person which is confidential under subsection 1 may be released to any designated person.

3. If all or part of the costs associated with hospitalization of an individual under this chapter are chargeable to a county of residence, the clerk of the district court shall provide to the regional administrator for the county of residence and to the regional administrator for the county in which the hospitalization order is entered the following information pertaining to the individual which would be confidential under subsection 1:

a. Administrative information, as defined in section 228.1.

b. An evaluation order under this chapter and the location of the individual's placement under the order.

c. A hospitalization or placement order under this chapter and the location of the individual's placement under the order.

d. The date, location, and disposition of any hearing concerning the individual held under this chapter.

e. Any payment source available for the costs of the individual's care.

4. This section shall not prohibit any of the following:

a. A hospital from complying with the requirements of this chapter and of chapter 230 relative to financial responsibility for the cost of care and treatment provided a patient in that hospital or from properly billing any responsible relative or third-party payer for such care or treatment.

b. A court or the department of public safety from forwarding to the federal bureau of investigation information that a person has been disqualified from possessing, shipping, transporting, or receiving a firearm pursuant to section 724.31.

[C77, 79, 81, §229.24]

83 Acts, ch 96, §157, 159; 95 Acts, ch 120, §3; 96 Acts, ch 1183, §22; 2002 Acts, ch 1146, §4; 2004 Acts, ch 1090, §8; 2010 Acts, ch 1031, §362; 2010 Acts, ch 1178, §1, 2, 19; 2012 Acts, ch 1120, §102, 130; 2013 Acts, ch 130, §52; 2015 Acts, ch 69, §67

Referred to in §228.6, 230.20

229.25 Medical records to be confidential — exceptions.

1. a. The records maintained by a hospital or other facility relating to the examination,

custody, care and treatment of any person in that hospital or facility pursuant to this chapter shall be confidential, except that the chief medical officer shall release appropriate information under any of the following circumstances:

(1) The information is requested by a licensed physician or mental health professional, attorney, or advocate who provides the chief medical officer with a written waiver signed by the person about whom the information is sought.

(2) The information is sought by a court order.

(3) The person who is hospitalized or that person's guardian, if the person is a minor or is not legally competent to do so, signs an informed consent to release information. Each signed consent shall designate specifically the person or agency to whom the information is to be sent, and the information may be sent only to that person or agency.

b. Such records may be released by the chief medical officer when requested for the purpose of research into the causes, incidence, nature and treatment of mental illness, however information shall not be provided in a way that discloses patients' names or which otherwise discloses any patient's identity.

2. When the chief medical officer deems it to be in the best interest of the patient and the patient's next of kin to do so, the chief medical officer may release appropriate information during a consultation which the hospital or facility shall arrange with the next of kin of a voluntary or involuntary patient, if requested by the patient's next of kin.

[C77, 79, 81, §229.25; 82 Acts, ch 1135, §1]

89 Acts, ch 275, §7; 2009 Acts, ch 41, §263; 2017 Acts, ch 34, §18

Referred to in §228.6, 229.19

229.26 Exclusive procedure for involuntary hospitalization.

Sections 229.6 through 229.19 constitute the exclusive procedure for involuntary hospitalization of persons by reason of serious mental impairment in this state, except that this chapter does not negate the provisions of section 904.503 relating to transfer of prisoners with mental illness to state hospitals for persons with mental illness and does not apply to commitments of persons under chapter 812 or the rules of criminal procedure, Iowa court rules, or negate the provisions of section 232.51 relating to disposition of children with mental illness.

[C77, 79, 81, §229.26]

84 Acts, ch 1323, §3; 85 Acts, ch 21, §36; 87 Acts, ch 90, §4; 88 Acts, ch 1134, §45; 96 Acts, ch 1129, §58; 2002 Acts, ch 1119, §108; 2003 Acts, ch 108, §125, 132; 2012 Acts, ch 1019, §81; 2015 Acts, ch 30, §72

229.27 Hospitalization not to equate with incompetency — procedure for finding incompetency due to mental illness.

1. Hospitalization of a person under this chapter, either voluntarily or involuntarily, does not constitute a finding of nor equate with nor raise a presumption of incompetency, nor cause the person so hospitalized to be deemed a person of unsound mind nor a person under legal disability for any purpose, including but not limited to any circumstances to which sections 6B.15, 447.7, section 488.603, subsection 6, paragraph "c", sections 488.704, 597.6, 600B.21, 614.8, 614.19, 614.22, 614.24, 614.27, and 633.244 are applicable.

2. The applicant may, in initiating a petition under section 229.6 or at any subsequent time prior to conclusion of the involuntary hospitalization proceeding, also petition the court for a finding that the person is incompetent by reason of mental illness. The test of competence for the purpose of this section shall be whether the person possesses sufficient mind to understand in a reasonable manner the nature and effect of the act in which the person is engaged; the fact that a person is mentally ill and in need of treatment for that illness but because of the illness lacks sufficient judgment to make responsible decisions with respect to the person's hospitalization or treatment does not necessarily mean that that person is incapable of transacting business on any subject.

3. A hearing limited to the question of the person's competence and conducted in substantially the manner prescribed in sections 633.552, 633.556, 633.558, and 633.560 shall be held when:

a. The court is petitioned or proposes upon its own motion to find incompetent by reason of mental illness a person whose involuntary hospitalization has been ordered under section 229.13 or 229.14, and who contends that the person is not incompetent; or

b. A person previously found incompetent by reason of mental illness under subsection 2 petitions the court for a finding that the person is no longer incompetent and, after notice to the applicant who initiated the petition for hospitalization of the person and to any other party as directed by the court, an objection is filed with the court. The court may order a hearing on its own motion before acting on a petition filed under this paragraph. A petition by a person for a finding that the person is no longer incompetent may be filed at any time without regard to whether the person is at that time hospitalized for treatment of mental illness.

4. Nothing in this chapter shall preclude use of any other procedure authorized by law for declaring any person legally incompetent for reasons which may include mental illness, without regard to whether that person is or has been hospitalized for treatment of mental illness.

[C77, 79, 81, §229.27; 82 Acts, ch 1103, §1109]

91 Acts, ch 93, §1; 96 Acts, ch 1034, §9; 98 Acts, ch 1181, §24; 2004 Acts, ch 1175, §368, 400; 2004 Acts, ch 1021, §118, 119; 2004 Acts, ch 1175, §369, 400; 2013 Acts, ch 130, §53; 2019 Acts, ch 57, §2, 43, 44

Referred to in §4.1, 218.95, 229.39

2019 amendment to subsection 3, unnumbered paragraph 1 takes effect January 1, 2020, and applies to guardianships and guardianship proceedings for adults and conservatorships and conservatorship proceedings for adults and minors established or pending before, on, or after that date; 2019 Acts, ch 57, §43, 44

229.28 Hospitalization in certain federal facilities.

1. When a court finds that the contention that a respondent is seriously mentally impaired has been sustained or proposes to order continued hospitalization of any person, or an alternative placement, as described under section 229.14, subsection 1, paragraph “b” or “d”, and the court is furnished evidence that the respondent or patient is eligible for care and treatment in a facility operated by the United States department of veterans affairs or another agency of the United States government and that the facility is willing to receive the respondent or patient, the court may so order.

a. The respondent or patient, when so hospitalized or placed in a facility operated by the United States department of veterans affairs or another agency of the United States government within or outside of this state, shall be subject to the rules of the United States department of veterans affairs or other agency, but shall not thereby lose any procedural rights afforded the respondent or patient by this chapter.

b. The chief officer of the facility shall have, with respect to the person so hospitalized or placed, the same powers and duties as the chief medical officer of a hospital in this state would have in regard to submission of reports to the court, retention of custody, transfer, convalescent leave or discharge.

2. Jurisdiction is retained in the court to maintain surveillance of the person’s treatment and care, and at any time to inquire into that person’s mental condition and the need for continued hospitalization or care and custody.

[C27, 31, 35, §3562-b1; C39, §3562.1; C46, 50, 54, 58, 62, 66, 71, 73, 75, §229.20; C77, 79, 81, §229.28]

2001 Acts, ch 155, §39; 2009 Acts, ch 26, §10

Referred to in §229.30

229.29 Transfer to certain federal facilities.

1. Upon receipt of a certificate stating that any person involuntarily hospitalized under this chapter is eligible for care and treatment in a facility operated by the United States department of veterans affairs or another agency of the United States government which is willing to receive the person without charge to the state of Iowa or any county in the state, the chief medical officer may transfer the person to that facility. Upon so doing, the chief medical officer shall notify the court which ordered the person’s hospitalization in the same manner as would be required in the case of a transfer under section 229.15, subsection 5, and

the person transferred shall be entitled to the same rights as the person would have under that subsection.

2. No person shall be transferred under this section who is confined pursuant to conviction of a public offense or whose hospitalization was ordered upon contention of incompetence to stand trial by reason of mental illness, without prior approval of the court which ordered that person's hospitalization.

[C27, 31, 35, §3562-b1; C39, §3562.1; C46, 50, 54, 58, 62, 66, 71, 73, 75, §229.20; C77, 79, 81, §229.29]

2009 Acts, ch 26, §11

229.30 Orders of courts in other states.

A judgment or order of hospitalization or commitment by a court of competent jurisdiction of another state or the District of Columbia, under which any person is hospitalized or placed in a facility operated by the United States department of veterans affairs or another agency of the United States government, shall have the same force and effect with respect to that person while the person is in this state as the judgment or order would have if the person were in the jurisdiction of the court which issued it. That court shall be deemed to have retained jurisdiction of the person so hospitalized or placed for the purpose of inquiring into that person's mental condition and the need for continued hospitalization or care and custody, as do courts in this state under section 229.28. Consent is hereby given to the application of the law of the state or district in which is situated the court which issued the judgment or order as regards authority of the chief officer of any facility, operated in this state by the United States department of veterans affairs or another agency of the United States government, to retain custody, transfer, place on convalescent leave or discharge the person so hospitalized or committed.

[C27, 31, 35, §3562-b1; C39, §3562.1; C46, 50, 54, 58, 62, 66, 71, 73, 75, §229.20; C77, 79, 81, §229.30]

2009 Acts, ch 26, §12

229.31 Commission of inquiry.

A sworn complaint, alleging that a named person is not seriously mentally impaired and is unjustly deprived of liberty in any hospital in the state, may be filed by any person with the clerk of the district court of the county in which such named person is so confined, or of the county in which such named person is a resident. Upon receiving the complaint, a judge of that court shall appoint a commission of not more than three persons to inquire into the truth of the allegations. One of the commissioners shall be a physician and if additional commissioners are appointed, one of the additional commissioners shall be a lawyer.

[C73, §1442; C97, §2304; C24, 27, 31, 35, 39, §3571; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §229.31]

2012 Acts, ch 1120, §103, 130

Referred to in §229.36

229.32 Duty of commission.

Said commission shall at once proceed to the place where said person is confined and make a thorough and discreet examination for the purpose of determining the truth of said allegations and shall promptly report its findings to said judge in writing. Said report shall be accompanied by a written statement of the case signed by the chief medical officer of the hospital in which the person is confined.

[C73, §1442; C97, §2304; C24, 27, 31, 35, 39, §3572; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §229.32]

Referred to in §229.36

229.33 Hearing.

If, on such report and statement, and the hearing of testimony if any is offered, the judge shall find that such person is not seriously mentally impaired, the judge shall order the

person's discharge; if the contrary, the judge shall so state, and authorize the continued detention of the person, subject to all applicable requirements of this chapter.

[C73, §1442; C97, §2304; C24, 27, 31, 35, 39, §3573; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §229.33]

97 Acts, ch 23, §17

Referred to in §229.36

229.34 Finding and order filed.

The finding and order of the judge, with the report and other papers, shall be filed in the office of the clerk of the court where the complaint was filed. Said clerk shall enter a memorandum thereof on the appropriate record, and forthwith notify the chief medical officer of the hospital of the finding and order of the judge, and the chief medical officer shall carry out the order.

[C73, §1442; C97, §2304; C24, 27, 31, 35, 39, §3574; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §229.34]

Referred to in §229.36

229.35 Compensation — payment.

Said commissioners shall be entitled to their necessary expenses and a reasonable compensation, to be allowed by the judge, who shall certify the same to the director of the department of administrative services who shall thereupon draw the proper warrants on any funds in the state treasury not otherwise appropriated. The applicant shall pay said costs and expenses if the judge shall so order on a finding that the complaint was filed without probable cause.

[C73, §1442; C97, §2304; C24, 27, 31, 35, 39, §3575; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §229.35]

2003 Acts, ch 145, §286

Referred to in §8.59, 229.36

Appropriation limited for fiscal years beginning on or after July 1, 1993; see §8.59

229.36 Limitation on proceedings.

The proceeding authorized in sections 229.31 through 229.35 shall not be had more often than once in six months regarding the same person; nor regarding any patient within six months after the patient's admission to the hospital.

[C73, §1443; C97, §2305; C24, 27, 31, 35, 39, §3576; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §229.36]

2005 Acts, ch 3, §52; 2020 Acts, ch 1063, §87

Section amended

229.37 Habeas corpus.

All persons confined as seriously mentally impaired shall be entitled to the benefit of the writ of habeas corpus, and the question of serious mental impairment shall be decided at the hearing. If the judge shall decide that the person is seriously mentally impaired, such decision shall be no bar to the issuing of the writ a second time, whenever it shall be alleged that such person is no longer seriously mentally impaired.

[R60, §1441; C73, §1444; C97, §2306; C24, 27, 31, 35, 39, §3577; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §229.37]

Constitutional provision, Iowa Constitution, Art. I, §13

Habeas corpus, chapter 663

229.38 Cruelty or official misconduct.

If any person having the care of a person with mental illness who has voluntarily entered a hospital or other facility for treatment or care, or who is responsible for psychiatric examination care, treatment, and maintenance of any person involuntarily hospitalized under sections 229.6 through 229.15, whether in a hospital or elsewhere, with or without proper authority, shall treat such patient with unnecessary severity, harshness, or cruelty, or in any way abuse the patient or if any person unlawfully detains or deprives of liberty any person with mental illness or any person who is alleged to have mental illness, or if any

officer required by the provisions of this chapter and chapters 226 and 227, to perform any act shall willfully refuse or neglect to perform the same, the offending person shall, unless otherwise provided, be guilty of a serious misdemeanor.

[C73, §1415, 1416, 1440, 1445; C97, §2307; C24, 27, 31, 35, 39, §3578; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §229.38]

96 Acts, ch 1129, §59; 2020 Acts, ch 1063, §88

Section amended

229.39 Status of persons hospitalized under former law.

1. Each person admitted or committed to a hospital for treatment of mental illness on or before December 31, 1975 who remained so hospitalized, or was on convalescent leave or was receiving care in another facility on transfer from such hospitalization, on or after January 1, 1976 shall be considered to have been hospitalized under this chapter, and its provisions shall apply to each such person on and after the effective date of this section, except as otherwise provided by subsection 3.

2. Hospitalization of a person for treatment of mental illness, either voluntary or involuntary, on or before December 31, 1975 does not constitute a finding nor equate with nor raise a presumption of incompetency, nor cause the person hospitalized to be deemed a person of unsound mind nor a person under legal disability for any purpose, including but not limited to the circumstances enumerated in section 229.27, subsection 1. This subsection does not invalidate any specific declaration of incompetence of a person hospitalized if the declaration was made pursuant to a separate procedure authorized by law for that purpose, and did not result automatically from the person's hospitalization.

3. Where a person was hospitalized involuntarily for treatment of mental illness on or before December 31, 1975 and remained so hospitalized, or was on convalescent leave or was receiving care in another facility on transfer from such hospitalization, on or after January 1, 1976, but was subsequently discharged prior to July 1, 1978, this section shall not be construed to require:

a. The filing after July 1, 1978, of any report relative to that person's status which would have been required to be filed prior to said date if that person had initially been hospitalized under this chapter as amended by 1975 Iowa Acts, ch. 139, §1 to 30.

b. That legal proceedings be taken under this chapter, as so amended, to clarify the status of the person so hospitalized, unless that person or the district court considers such proceedings necessary in a particular case to appropriately conclude the matter.

[C79, 81, §229.39]

2011 Acts, ch 34, §56; 2014 Acts, ch 1026, §143

229.40 Rules for proceedings.

Proceedings under this chapter are subject to rules prescribed by the supreme court under section 602.4201.

[C79, 81, §229.40]

83 Acts, ch 186, §10053, 10201

Rules adopted by the supreme court are published in the compilation "Iowa Court Rules"

229.41 Voluntary admission.

Persons making application pursuant to section 229.2 on their own behalf or on behalf of another person who is under eighteen years of age, if the person whose admission is sought is received for observation and treatment on the application, shall be required to pay the costs of hospitalization at rates established by the administrator. The costs may be collected weekly in advance and shall be payable at the business office of the hospital. The collections shall be remitted to the department of human services monthly to be credited to the general fund of the state.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §229.41]

2000 Acts, ch 1112, §39; 2001 Acts, ch 155, §21

Referred to in §225C.16, 229.2, 229.42

229.42 Costs paid by county.

1. If a person wishing to make application for voluntary admission to a mental hospital established by chapter 226 is unable to pay the costs of hospitalization or those responsible for the person are unable to pay the costs, application for authorization of voluntary admission must be made through a regional administrator before application for admission is made to the hospital. The person's county of residence shall be determined through the regional administrator and if the admission is approved through the regional administrator, the person's admission to a mental health hospital shall be authorized as a voluntary case. The authorization shall be issued on forms provided by the department of human services' administrator. The costs of the hospitalization shall be paid by the county of residence through the regional administrator to the department of human services and credited to the general fund of the state, provided that the mental health hospital rendering the services has certified to the county auditor of the county of residence and the regional administrator the amount chargeable to the mental health and disability services region and has sent a duplicate statement of the charges to the department of human services. A mental health and disability services region shall not be billed for the cost of a patient unless the patient's admission is authorized through the regional administrator. The mental health institute and the regional administrator shall work together to locate appropriate alternative placements and services, and to educate patients and family members of patients regarding such alternatives.

2. All the provisions of chapter 230 shall apply to such voluntary patients so far as is applicable.

3. The provisions of this section and of section 229.41 shall apply to all voluntary inpatients or outpatients receiving mental health services either away from or at the institution.

4. If a county fails to pay the billed charges within forty-five days from the date the county auditor received the certification statement from the superintendent, the department of human services shall charge the delinquent county the penalty of one percent per month on and after forty-five days from the date the county received the certification statement until paid. The penalties received shall be credited to the general fund of the state.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §229.42]

96 Acts, ch 1183, §23; 97 Acts, ch 169, §6; 98 Acts, ch 1218, §73; 2001 Acts, ch 155, §22; 2002 Acts, ch 1050, §21; 2004 Acts, ch 1090, §33; 2012 Acts, ch 1120, §104, 130; 2015 Acts, ch 69, §68; 2015 Acts, ch 138, §37, 161, 162

Referred to in §225C.16, 229.2, 331.381, 331.502

229.43 Nonresident patients.

The administrator may place patients of mental health institutes who are nonresidents on convalescent leave to a private sponsor or in a health care facility licensed under chapter 135C, when in the opinion of the administrator the placement is in the best interests of the patient and the state of Iowa. If the patient was involuntarily hospitalized, the district court which ordered hospitalization of the patient must be informed when the patient is placed on convalescent leave, as required by section 229.15, subsection 5.

[C24, 27, 31, 35, 39, §3446; C46, 50, 54, 58, 62, §222.36; C66, 71, 73, 75, 77, 79, 81, §229.43]
2000 Acts, ch 1112, §40; 2012 Acts, ch 1120, §105, 130

229.44 Venue.

1. Venue for hospitalization proceedings shall be in the county where the respondent is found, unless the matter is transferred pursuant to Iowa court rule 12.15 for the involuntary hospitalization of persons with mental illness, in which case venue shall be in the county where the matter is transferred for hearing.

2. After an order is entered pursuant to section 229.13 or 229.14, the court may transfer proceedings to the court of any county having venue at any further stage in the proceeding as follows:

a. When it appears that the best interests of the respondent or the convenience of the

parties will be served by a transfer, the court may transfer the case to the court of the county of the respondent's residence.

b. When it appears that the best interests of the respondent or the convenience of the parties will be served by a transfer, the court may transfer the case to the court of the county where the respondent is found.

3. If a proceeding is transferred, the court shall contact the court in the county which is to be the recipient of the transfer before entering the order to transfer the case. The court shall then transfer the case by ordering a transfer of the matter to the recipient county, by ordering a continuance of the matter in the transferring county, and by forwarding to the clerk of the receiving court a certified copy of all papers filed, together with the order of transfer. The referee of the receiving court may accept the filings of the transferring court or may direct the filing of a new application and may hear the case anew.

92 Acts, ch 1165, §7; 96 Acts, ch 1079, §9; 96 Acts, ch 1129, §113

229.45 Provision of summary of procedures to applicant in involuntary commitment.

The department of human services, in consultation with the office of attorney general, shall develop a summary of the procedures involved in an involuntary commitment and information concerning the participation of an applicant in the proceedings. The summary shall be provided by the department, at the department's expense, to the clerks of the district court who shall make the summary available to all applicants prior to the filing of a verified application, or to any other person upon request, and who shall attach a copy of the summary to the notice of hearing which is served upon the respondent under section 125.77 or 229.7. The summary may include, but is not limited to, the following:

1. The statutory criteria for ordering that a person be involuntarily committed under chapter 125 or sections 229.11 and 229.13.
 2. A description of the hearing process.
 3. An explanation of the applicant's right to testify and examples of the kinds of relevant information which may be introduced at the hearing.
 4. An explanation of the duties of the county attorney in civil commitment proceedings.
- 94 Acts, ch 1024, §1

CHAPTER 229A

COMMITMENT OF SEXUALLY VIOLENT PREDATORS

Referred to in §13B.4, 81.2, 158.2, 226.1, 232.55, 235A.15, 235A.18, 692A.114, 811.1, 815.9, 815.10, 815.11, 901A.2, 915.45

Notice to victims of discharge of committed person, see §915.45

229A.1	Legislative findings.	229A.6	Counsel and experts — indigent persons.
229A.2	Definitions.	229A.6A	Transport orders.
229A.3	Notice of discharge of sexually violent predator — immunity from liability — multidisciplinary team — prosecutor's review committee — assessment of person.	229A.7	Trial — determination — commitment procedure — chapter 28E agreements — mistrials.
229A.4	Petition — time — contents.	229A.8	Annual examinations and review — discharge or transitional release petitions by persons committed.
229A.5	Person taken into custody — determination of probable cause — hearing — evaluation.	229A.8A	Transitional release.
229A.5A	Powers of investigative personnel before a petition is filed.	229A.8B	Violations of transitional release.
229A.5B	Escape from custody — penalty.	229A.9	Detention and commitment to conform to constitutional requirements.
229A.5C	Criminal offenses committed while detained or subject to an order of commitment.	229A.9A	Release with supervision.
229A.5D	Medical treatment.	229A.9B	Violations of release with supervision.

229A.10	Petition for discharge — procedure.	229A.13	Severability.
229A.11	Subsequent discharge or transitional release petitions — limitations.	229A.14	Release of confidential or privileged information and records.
229A.12	Director of human services — responsibility for costs — reimbursement.	229A.15	Court records — sealed and opened by court order.
229A.12A	Director of the department of corrections — responsibility for safekeeper.	229A.15A	Civil protective order.
		229A.15B	Rulemaking authority.
		229A.16	Short title.

229A.1 Legislative findings.

1. The general assembly finds that a small but extremely dangerous group of sexually violent predators exists which is made up of persons who do not have a mental disease or defect that renders them appropriate for involuntary treatment pursuant to the treatment provisions for mentally ill persons under chapter 229, since that chapter is intended to provide short-term treatment to persons with serious mental disorders and then return them to the community. In contrast to persons appropriate for civil commitment under chapter 229, sexually violent predators generally have antisocial personality features that are unamenable to existing mental illness treatment modalities and that render them likely to engage in sexually violent behavior.

2. The general assembly finds that sexually violent predators' likelihood of engaging in repeat acts of predatory sexual violence is high and that the existing involuntary commitment procedure under chapter 229 is inadequate to address the risk these sexually violent predators pose to society.

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

4. Therefore, the general assembly finds that a civil commitment procedure for the long-term care and treatment of the sexually violent predator is necessary. The procedures regarding sexually violent predators should reflect legitimate public safety concerns, while providing treatment services designed to benefit sexually violent predators who are civilly committed. The procedures should also reflect the need to protect the public, to respect the needs of the victims of sexually violent offenses, and to encourage full, meaningful participation of sexually violent predators in treatment programs.

98 Acts, ch 1171, §1; 2002 Acts, ch 1139, §1, 27; 2019 Acts, ch 24, §19

229A.2 Definitions.

As used in this chapter:

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

2. "Appropriate secure facility" means a state facility that is designed to confine but not necessarily to treat a sexually violent predator.

3. "Convicted" means found guilty of, pleads guilty to, or is sentenced or adjudicated delinquent for an act which is an indictable offense in this state or in another jurisdiction including in a federal, military, tribal, or foreign court, including but not limited to a juvenile who has been adjudicated delinquent, whether or not the juvenile court records have been sealed under section 232.150, and a person who has received a deferred sentence or a deferred judgment or has been acquitted by reason of insanity. "Convicted" includes the conviction of a juvenile prosecuted as an adult. "Convicted" also includes a conviction for an attempt or conspiracy to commit an offense. "Convicted" does not mean a plea, sentence,

adjudication, deferred sentence, or deferred judgment which has been reversed or otherwise set aside.

4. “*Discharge*” means an unconditional discharge from the sexually violent predator program. A person released from a secure facility into a transitional release program or released with supervision is not considered to be discharged.

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

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

7. “*Predatory*” means acts directed toward a person with whom a relationship has been established or promoted for the primary purpose of victimization.

8. “*Presently confined*” means incarceration or detention in a correctional facility, a rehabilitation camp, a residential facility, a county jail, a halfway house, or any other comparable facility, including but not limited to placement at such a facility as a condition of probation, parole, or special sentence following conviction for a sexually violent offense.

9. “*Recent overt act*” means any act that has either caused harm of a sexually violent nature or creates a reasonable apprehension of such harm.

10. “*Safekeeper*” means a person who is confined in an appropriate secure facility pursuant to this chapter but who is not subject to an order of commitment pursuant to this chapter.

11. “*Sexually motivated*” means that one of the purposes for commission of a crime is the purpose of sexual gratification of the perpetrator of the crime.

12. “*Sexually violent offense*” means:

a. A violation of any provision of chapter 709.

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

(1) Murder as defined in section 707.1.

(2) Kidnapping as defined in section 710.1.

(3) Burglary as defined in section 713.1.

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

c. Sexual exploitation of a minor in violation of section 728.12.

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

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

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

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

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

14. “*Transitional release*” means a conditional release from a secure facility operated by the department of human services with the conditions of such release set by the court or the department of human services.

98 Acts, ch 1171, §2; 99 Acts, ch 61, §1, 14; 2002 Acts, ch 1139, §2, 27; 2007 Acts, ch 91, §1; 2010 Acts, ch 1074, §1; 2014 Acts, ch 1059, §1; 2018 Acts, ch 1165, §96; 2019 Acts, ch 17, §1, 2

Referred to in §272C.15, 671A.2, 692A.101, 901A.1

229A.3 Notice of discharge of sexually violent predator — immunity from liability — multidisciplinary team — prosecutor’s review committee — assessment of person.

1. When it appears that a person who is confined may meet the definition of a sexually

violent predator, the agency with jurisdiction shall give written notice to the attorney general and the multidisciplinary team established in subsection 4, no later than ninety days prior to any of the following events:

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

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

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

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

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

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

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

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

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

6. This section shall not be construed as a limit on persons subject to commitment under this chapter.

98 Acts, ch 1171, §3; 2019 Acts, ch 17, §3

Referred to in §229A.5A, 229A.14

229A.4 Petition — time — contents.

1. If it appears that a person presently confined may be a sexually violent predator and the prosecutor's review committee has determined that the person meets the definition of a sexually violent predator, the attorney general may file a petition alleging that the person is a sexually violent predator and stating sufficient facts to support such an allegation.

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

a. The person was convicted of a sexually violent offense and is no longer presently confined for that offense.

b. The person was charged with, but was acquitted of, a sexually violent offense by reason of insanity and has been released from confinement or any supervision.

c. The person was charged with, but was found to be incompetent to stand trial for, a sexually violent offense and has been released from confinement or any supervision.

98 Acts, ch 1171, §4; 99 Acts, ch 61, §2, 14; 2019 Acts, ch 17, §4

Referred to in §229A.5, 229A.6

229A.5 Person taken into custody — determination of probable cause — hearing — evaluation.

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

2. Within seventy-two hours after being taken into custody or being transferred to an appropriate secure facility, a hearing shall be held to determine whether probable cause exists to believe the detained person is a sexually violent predator. The hearing may be waived by the respondent. The hearing may be continued upon the request of either party and a showing of good cause, or by the court on its own motion in the due administration of justice, and if the respondent is not substantially prejudiced. At the probable cause hearing, the detained person shall have the following rights:

a. To be provided with prior notice of date, time, and location of the probable cause hearing.

b. To respond to the preliminary finding of probable cause.

c. To appear in person at the hearing.

d. To be represented by counsel.

e. To present evidence on the respondent's own behalf.

f. To cross-examine witnesses who testify against the respondent.

g. To view and copy all petitions and reports in the possession of the court.

3. At the hearing, the rules of evidence do not apply, and the state may rely solely upon the petition filed under subsection 1, but the state may also supplement the petition with additional documentary evidence or live testimony.

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

a. Verifies the respondent's identity.

b. Determines whether probable cause exists to believe that the respondent is a sexually violent predator.

5. If the court determines that probable cause does exist, the court shall direct that the respondent be transferred to an appropriate secure facility for an evaluation as to whether the respondent is a sexually violent predator. The evaluation shall be conducted by a person deemed to be professionally qualified to conduct such an examination.

98 Acts, ch 1171, §5; 99 Acts, ch 61, §3, 4, 14; 2002 Acts, ch 1139, §3, 27

Referred to in §229A.5B, 229A.5C, 229A.6A, 229A.7, 229A.12A, 811.1

229A.5A Powers of investigative personnel before a petition is filed.

1. The prosecuting attorney or attorney general is authorized upon the occurrence of a recent overt act, or upon receiving written notice pursuant to section 229A.3, or before the filing of a petition under this chapter, to subpoena and compel the attendance of witnesses, examine the witnesses under oath, and require the production of documentary evidence for inspection, reproduction, or copying. Except as otherwise provided by this section, the prosecuting attorney or attorney general shall have the same powers and limitations, subject to judicial oversight and enforcement, as provided by this chapter and by the Iowa rules of civil procedure. Any person compelled to appear under a demand for oral testimony under this section may be accompanied, represented, and advised by counsel at the person's own expense.

2. The examination of all witnesses under this section shall be conducted by the prosecuting attorney or attorney general before an officer authorized to administer oaths under section 63A.1. The testimony shall be taken by a certified shorthand reporter or by a sound recording device and shall be transcribed or otherwise preserved in the same manner

as provided for the preservation of depositions under the Iowa rules of civil procedure. The prosecuting attorney or attorney general may exclude from the examination all persons except the witness, witness's counsel, the officer before whom the testimony is to be taken, law enforcement officials, and a certified shorthand reporter. Prior to oral examination, the person shall be advised by the prosecuting attorney or attorney general of the person's right to refuse to answer any questions on the basis of the privilege against self-incrimination. The examination shall be conducted in a manner consistent with the rules dealing with the taking of depositions.

99 Acts, ch 61, §5, 14; 2000 Acts, ch 1058, §23

229A.5B Escape from custody — penalty.

1. A person who is detained pursuant to section 229A.5 or is subject to an order of civil commitment under this chapter shall remain in custody unless released by court order or discharged under section 229A.8 or 229A.10. A person who has been placed in a transitional release program or who is under release with supervision is considered to be in custody. A person in custody under this chapter shall not do any of the following:

a. Leave or attempt to leave a facility without the accompaniment of authorized personnel or leave or attempt to leave a facility without authorization.

b. Knowingly and voluntarily be absent from a place where the person is required to be present.

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

2. A person who violates subsection 1 commits a serious misdemeanor or may be subject to punishment for contempt.

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

4. This section shall not be construed to prohibit the use of other lawful means for the return of the person.

2001 Acts, ch 27, §1; 2002 Acts, ch 1139, §4, 27; 2015 Acts, ch 12, §1; 2018 Acts, ch 1165, §97

Referred to in §229A.8A

229A.5C Criminal offenses committed while detained or subject to an order of commitment.

1. If a person who is detained pursuant to section 229A.5 or who is subject to an order of civil commitment under this chapter commits a public offense, the civil commitment proceedings or treatment process shall be suspended until the criminal proceedings, including any term of confinement, are completed. The person shall also not be eligible for bail pursuant to section 811.1.

2. Upon the filing of a complaint, indictment, or information, the person shall be transferred to the county jail in the county where the public offense occurred until the criminal proceedings have been completed. If the person is sentenced to a term of confinement in a county jail, the person shall serve the sentence at the county jail. If the person is sentenced to the custody of the director of the department of corrections, the person shall serve the sentence at a correctional institution.

3. A person who is subject to an order of civil commitment under this chapter shall not be released from jail or paroled or released to a facility or program located outside the county jail or correctional institution other than to a secure facility operated by the department of human services.

4. A person who committed a public offense while in a transitional release program or on release with supervision may be returned to a secure facility operated by the department of human services upon completion of any term of confinement that resulted from the commission of the public offense.

5. If the civil commitment proceedings for a person are suspended due to the commission of a public offense by the person, the ninety-day trial demand lapses. Upon completion of any term of confinement that resulted from the commission of the public offense, a new ninety-day trial demand automatically begins.

2002 Acts, ch 1139, §5, 27; 2018 Acts, ch 1165, §98

229A.5D Medical treatment.

A safekeeper is entitled to necessary medical treatment.

2002 Acts, ch 1139, §6, 27

229A.6 Counsel and experts — indigent persons.

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

2. If a respondent is subjected to an examination under this chapter, the respondent may retain experts or professional persons to perform an independent examination on the respondent's behalf. If the respondent wishes to be examined by a qualified expert or professional person of the respondent's own choice, the examiner of the respondent's choice shall be given reasonable access to the respondent for the purpose of the examination, as well as access to all relevant medical and psychological records and reports. If the respondent is indigent, the court, upon the respondent's request, shall determine whether the services are necessary and the reasonable compensation for the services. If the court determines that the services are necessary and the requested compensation for the services is reasonable, the court shall assist the respondent in obtaining an expert or professional person to perform an examination or participate in the trial on the respondent's behalf. The court shall approve payment for such services upon the filing of a certified claim for compensation supported by a written statement specifying the time expended, services rendered, expenses incurred on behalf of the respondent, and compensation received in the same case or for the same services from any other source.

98 Acts, ch 1171, §6

229A.6A Transport orders.

1. A person who has been detained prior to trial pursuant to section 229A.5 or who has been civilly committed may be transported for the following purposes:

a. To trial and any other court proceedings if the court has authorized a transport order. A transport order may only be requested by the court, the person's attorney, or the attorney general. Transportation shall be provided by the sheriff of the county in which the action has been brought, unless the court specifies otherwise or the parties agree to a different transportation arrangement. If a transport order is not authorized, the person may appear at any court proceedings other than trial by telephone or electronic means.

b. To a medical facility for medical treatment, if necessary medical treatment is not available at the facility where the person is confined. A transport order is not required to transport the person for medical treatment. However, the person is not entitled to choose the medical facility where treatment is to be obtained or the medical personnel to provide the treatment. Transportation of a committed person shall be provided by the sheriff of the county in which the person is confined if requested by the department of human services.

c. To a medical, psychological, or psychiatric evaluation. A person shall not be transported to another facility for evaluation without a court order. When a transportation order is requested under this paragraph, notice must be provided to the opposing party, and the opposing party must be given a reasonable amount of time to object to the issuance of such an order. The cost of the transportation shall be paid by the party who requests the order.

d. To a facility for placement or treatment in a transitional release program or for release with supervision. A transport order is not required under this paragraph.

2. This section shall not be construed to grant a person the right to personally appear at all court proceedings under this chapter.

2002 Acts, ch 1139, §7, 27; 2018 Acts, ch 1165, §99

229A.7 Trial — determination — commitment procedure — chapter 28E agreements — mistrials.

1. If the person charged with a sexually violent offense has been found incompetent to stand trial and the person is about to be released pursuant to chapter 812, or if a petition has been filed seeking the person's commitment under this chapter, the court shall first hear evidence and determine whether the person did commit the act or acts charged. At the hearing on this issue, the rules of evidence applicable in criminal cases shall apply, and all constitutional rights available to defendants at criminal trials, other than the right not to be tried while incompetent, shall apply. After hearing evidence on this issue, the court shall make specific findings on whether the person did commit the act or acts charged, the extent to which the person's incompetence affected the outcome of the hearing, including its effect on the person's ability to consult with and assist counsel and to testify on the person's own behalf, the extent to which the evidence could be reconstructed without the assistance of the person, and the strength of the prosecution's case. If, after the conclusion of the hearing on this issue, the court finds, beyond a reasonable doubt, that the person did commit the act or acts charged, the court shall enter a final order, appealable by the person, on that issue, and may proceed to consider whether the person should be committed pursuant to this chapter.

2. If a person has been found not guilty by reason of insanity, the court shall determine whether the acts charged were proven as a matter of law. If as a matter of law the finding of not guilty by reason of insanity requires a finding that the underlying elements of the charged offense were proven, then no further fact-finding is required. If as a matter of law the finding of not guilty by reason of insanity does not require a finding that the underlying elements of the charged offense be proven, the case shall proceed in the same manner as if the person were found to be incompetent to stand trial as provided in subsection 1.

3. Within ninety days after either the entry of the order waiving the probable cause hearing or completion of the probable cause hearing held under section 229A.5, the court shall conduct a trial to determine whether the respondent is a sexually violent predator. The respondent or the attorney for the respondent may waive the ninety-day trial requirement as provided in this section; however, the respondent or the attorney for the respondent may reassert a demand and the trial shall be held within ninety days from the date of filing the demand with the clerk of court. The trial may be continued upon the request of either party and a showing of good cause, or by the court on its own motion in the due administration of justice, and when the respondent will not be substantially prejudiced. In determining what constitutes good cause, the court shall consider the length of the pretrial detention of the respondent.

4. The respondent, the attorney general, or the judge shall have the right to demand that the trial be before a jury. Such demand for the trial to be before a jury shall be filed, in writing, at least ten days prior to trial. If no demand is made, the trial shall be before the court. Except as otherwise provided, the Iowa rules of evidence and the Iowa rules of civil procedure shall apply to all civil commitment proceedings initiated pursuant to this chapter.

5. a. At trial, the court or jury shall determine whether, beyond a reasonable doubt, the respondent is a sexually violent predator. If the case is before a jury, the verdict shall be unanimous that the respondent is a sexually violent predator.

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

c. At trial, the court shall admit, and the fact finder may rely on, the findings of an administrative parole judge or other agency fact finder.

6. If the court or jury determines that the respondent is a sexually violent predator, the

court shall order the respondent to submit a DNA sample for DNA profiling pursuant to section 81.4.

7. The control, care, and treatment of a person determined to be a sexually violent predator shall be provided at a facility operated by the department of human services. At all times prior to placement in a transitional release program or release with supervision, persons committed for control, care, and treatment by the department of human services pursuant to this chapter shall be kept in a secure facility and those patients shall be segregated at all times from any other patient under the supervision of the department of human services. A person committed pursuant to this chapter to the custody of the department of human services may be kept in a facility or building separate from any other patient under the supervision of the department of human services. The department of human services may enter into a chapter 28E agreement with the department of corrections or other appropriate agency in this state or another state for the confinement of patients who have been determined to be sexually violent predators. Patients who are in the custody of the director of the department of corrections pursuant to a chapter 28E agreement and who have not been placed in a transitional release program or released with supervision shall be housed and managed separately from criminal offenders in the custody of the director of the department of corrections, and except for occasional instances of supervised incidental contact, shall be segregated from those offenders.

8. If the court makes the determination or the jury determines that the respondent is not a sexually violent predator, the court shall direct the respondent's release. Upon release, the respondent shall comply with any requirements to register as a sex offender as provided in chapter 692A. Upon a mistrial, the court shall direct that the respondent be held at an appropriate secure facility until another trial is conducted. Any subsequent trial following a mistrial shall be held within ninety days of the previous trial, unless such subsequent trial is continued or the ninety days are waived as provided in subsection 3.

98 Acts, ch 1171, §7; 99 Acts, ch 61, §6, 7, 14; 2000 Acts, ch 1058, §24; 2002 Acts, ch 1139, §8, 9, 27; 2004 Acts, ch 1060, §1, 2; 2004 Acts, ch 1084, §2; 2005 Acts, ch 158, §11, 19; 2009 Acts, ch 41, §228; 2018 Acts, ch 1165, §100; 2019 Acts, ch 17, §5

Referred to in §9E.2, 81.1

229A.8 Annual examinations and review — discharge or transitional release petitions by persons committed.

1. Upon civil commitment of a person pursuant to this chapter, a rebuttable presumption exists that the commitment should continue. The presumption may be rebutted when facts exist to warrant a hearing to determine whether a committed person no longer suffers from a mental abnormality which makes the person likely to engage in predatory acts constituting sexually violent offenses if discharged, or the committed person is suitable for placement in a transitional release program.

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

3. The annual report shall be provided to the court that committed the person under this chapter. The court shall conduct an annual review and, if warranted, set a final hearing on the status of the committed person. The annual review may be based only on written records.

4. Nothing contained in this chapter shall prohibit the person from otherwise petitioning the court for discharge or placement in a transitional release program at the annual review. The director of human services shall provide the committed person with an annual written notice of the person's right to petition the court for discharge or placement in a transitional release program without authorization from the director. The notice shall contain a waiver of rights. The director shall forward the notice and waiver form to the court with the annual report.

5. The following provisions apply to an annual review:

a. The committed person shall have a right to have an attorney represent the person but the person is not entitled to be present at the hearing, if a hearing is held.

b. The Iowa rules of evidence do not apply.

c. The committed person may waive an annual review or may stipulate that the commitment should continue for another year.

d. The court shall review the annual report of the state and the report of any qualified expert or professional person retained by or appointed for the committed person and may receive arguments from the attorney general and the attorney for the committed person if either requests a hearing. The request for a hearing must be in writing, within thirty days of the notice of annual review being provided to counsel for the committed person, or on motion by the court. Such a hearing may be conducted in writing without any attorneys present.

e. (1) The court shall consider all evidence presented by both parties at the annual review. The burden is on the committed person to prove by a preponderance of the evidence that there is relevant and reliable evidence to rebut the presumption of continued commitment, which would lead a reasonable person to believe a final hearing should be held to determine either of the following:

(a) The mental abnormality of the committed person has so changed that the person is not likely to engage in predatory acts constituting sexually violent offenses if discharged.

(b) The committed person is suitable for placement in a transitional release program pursuant to section 229A.8A.

(2) (a) If the committed person shows by a preponderance of the evidence that a final hearing should be held on either determination under subparagraph (1), subparagraph division (a) or (b), or both, the court shall set a final hearing within sixty days of the determination that a final hearing be held.

(b) The committed person may waive the sixty-day final hearing requirement under subparagraph subdivision (a); however, the committed person or the attorney for the committed person may reassert the requirement by filing a demand that the final hearing be held within sixty days from the date of the filing of the demand with the clerk of court.

(c) The final hearing may be continued upon request of either party and a showing of good cause, or by the court on its own motion in the due administration of justice, and if the committed person is not substantially prejudiced. In determining what constitutes good cause, the court shall consider the length of the pretrial detention of the committed person.

f. If at the time for the annual review the committed person has filed a petition for discharge or placement in a transitional release program with authorization from the director of human services, the court shall set a final hearing within ninety days of the authorization by the director, and no annual review shall be held.

g. If the committed person has not filed a petition, or has filed a petition for discharge or for placement in a transitional release program without authorization from the director of human services, the court shall first conduct the annual review as provided in this subsection.

h. Any petition can summarily be dismissed by the court as provided in section 229A.11.

i. If at the time of the annual review the committed person is in a secure facility and not in the transitional release program, the state shall have the right to demand that both determinations in paragraph "e", subparagraph (1), be submitted to the court or jury.

6. The following provisions shall apply to a final hearing:

a. The committed person shall be entitled to an attorney and is entitled to the benefit of all constitutional protections that were afforded the person at the original commitment proceeding. The committed person shall be entitled to a jury trial, if such a demand is made in writing and filed with the clerk of court at least ten days prior to the final hearing.

b. The committed person shall have the right to have experts evaluate the person on the person's behalf. The court shall appoint an expert if the person is indigent and requests an appointment.

c. The attorney general shall represent the state and shall have a right to demand a jury trial. The jury demand shall be filed, in writing, at least ten days prior to the final hearing.

d. The burden of proof at the final hearing shall be upon the state to prove beyond a reasonable doubt either of the following:

(1) The committed person's mental abnormality remains such that the person is likely to engage in predatory acts that constitute sexually violent offenses if discharged.

(2) The committed person is not suitable for placement in a transitional release program pursuant to section 229A.8A.

e. If the director of human services has authorized the committed person to petition for discharge or for placement in a transitional release program and the case is before a jury, testimony by a victim of a prior sexually violent offense committed by the person is not admissible. If the director has not authorized the petition or the case is before the court, testimony by a victim of a sexually violent offense committed by the person may be admitted.

f. If a mistrial is declared, the confinement or placement status of the committed person shall not change. After a mistrial has been declared, a new trial must be held within ninety days of the mistrial.

7. The state and the committed person may stipulate to a transfer to a transitional release program if the court approves the stipulation.

98 Acts, ch 1171, §8; 2002 Acts, ch 1139, §10, 27; 2009 Acts, ch 41, §229; 2009 Acts, ch 116, §1; 2018 Acts, ch 1172, §62; 2019 Acts, ch 24, §20; 2019 Acts, ch 59, §66

Referred to in §229A.5B, 229A.9A

229A.8A Transitional release.

1. The department of human services is authorized to establish a transitional release program and provide control, care, and treatment, and supervision of committed persons placed in such a program.

2. A committed person is suitable for placement in the transitional release program if the court finds that all of the following apply:

a. The committed person's mental abnormality is no longer such that the person is a high risk to reoffend.

b. The committed person has achieved and demonstrated significant insights into the person's sex offending cycle.

c. The committed person has accepted responsibility for past behavior and understands the impact sexually violent crimes have upon a victim.

d. A detailed relapse prevention plan has been developed and accepted by the treatment provider which is appropriate for the committed person's mental abnormality and sex offending history.

e. No major discipline reports have been issued for the committed person for a period of six months.

f. The committed person is not likely to escape or attempt to escape custody pursuant to section 229A.5B.

g. The committed person is not likely to engage in predatory acts constituting sexually violent offenses while in the program.

h. The placement is in the best interest of the committed person.

i. The committed person has demonstrated a willingness to agree to and abide by all rules of the program.

3. If the committed person does not agree to the conditions of release, the person is not eligible for the transitional release program.

4. A committed person who refuses to register as a sex offender is not eligible for placement in a transitional release program.

5. Committed persons in the transitional release program are not necessarily required to be segregated from other persons.

6. The department of human services shall be responsible for establishing and implementing the rules and directives regarding the location of the transitional release program, staffing needs, restrictions on confinement and the movement of committed persons, and for assessing the progress of committed persons in the program. The court may also impose conditions on a committed person placed in the program.

7. The department of human services may contract with other government or private

agencies, including the department of corrections, to implement and administer the transitional release program.

2002 Acts, ch 1139, §11, 27; 2003 Acts, ch 44, §47; 2004 Acts, ch 1175, §463, 468
Referred to in §229A.8

229A.8B Violations of transitional release.

1. The treatment staff in a transitional release program may remove the committed person from the program for a violation of any rule or directive, and return the person to a secure facility. The treatment staff may request the district court to issue an emergency ex parte order directing any law enforcement officer to take the committed person into custody so that the person can be returned to a secure facility. The request for an ex parte order may be made orally or by telephone, but the original written request or a facsimile copy of the original request shall be filed with the clerk of court no later than 4:30 p.m. on the next business day the office of the clerk of court is open.

2. If a committed person absconds from a transitional release program in violation of the rules or directives, a presumption arises that the person poses a risk to public safety. The department of human services, in cooperation with local law enforcement agencies, may make a public announcement about the absconder. The public announcement may include a description of the committed person, that the person is in transitional release from the sexually violent predator program, and any other information important to public safety.

3. Upon the return of the committed person to a secure facility, the director of human services or the director's designee shall notify the court that issued the ex parte order that the absconder has been returned to a secure facility, and the court shall set a hearing to determine if a violation occurred. If a court order was not issued, the director or the director's designee shall contact the nearest district court with jurisdiction to set a hearing to determine whether a violation of the rules or directives occurred. The court shall schedule a hearing after receiving notice that the committed person has been returned from the transitional release program to a secure facility.

4. At the hearing, the burden shall be upon the attorney general to show by a preponderance of the evidence that a violation of the rules or directives occurred. The hearing shall be to the court.

5. If the court determines a violation occurred, the court shall either order the committed person to be returned to the transitional release program or to be confined in a secure facility. The court may impose further conditions upon the committed person if returned to the transitional release program. If the court determines no violation occurred, the committed person shall be returned to the transitional release program.

2002 Acts, ch 1139, §12, 27; 2018 Acts, ch 1165, §101

229A.9 Detention and commitment to conform to constitutional requirements.

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

98 Acts, ch 1171, §9

229A.9A Release with supervision.

1. In any proceeding under section 229A.8, the court may order the committed person released with supervision if any of the following apply:

a. The attorney general stipulates to the release with supervision.

b. The court or jury has determined that the person should be released from a secure facility or a transitional release program, but the court has determined the person suffers from a mental abnormality and it is in the best interest of the community to order release with supervision before the committed person is discharged.

2. If release with supervision is ordered, the department of human services shall prepare within sixty days of the order of the court a release plan addressing the person's needs for counseling, medication, community support services, residential services, vocational services, alcohol or other drug abuse treatment, sex offender treatment, or any other treatment or supervision necessary.

3. The court shall set a hearing on the release plan prepared by the department of human services before the committed person is released from a secure facility or a transitional release program.

4. If the court orders release with supervision, the court shall order supervision by an agency with jurisdiction that is familiar with the placement of criminal offenders in the community. The agency with jurisdiction shall be responsible for initiating proceedings for violations of the release plan as provided in section 229A.9B.

5. A committed person may not petition the court for release with supervision.

6. A committed person released with supervision is not considered discharged from civil commitment under this chapter.

7. After being released with supervision, the person may petition the court for discharge as provided in section 229A.8.

8. The court shall retain jurisdiction over the committed person who has been released with supervision until the person is discharged from the program. The department of human services or a judicial district department of correctional services shall not be held liable for any acts committed by a committed person who has been ordered released with supervision.

2002 Acts, ch 1139, §13, 27; 2014 Acts, ch 1059, §2; 2018 Acts, ch 1165, §102

229A.9B Violations of release with supervision.

1. If a committed person violates the release plan, the agency with jurisdiction over the person may request the court to issue an emergency ex parte order directing any law enforcement officer to take the person into custody so that the person can be returned to a secure facility. The request for an ex parte order may be made orally or by telephone, but the original written request or a facsimile copy of the request shall be filed with the clerk of court no later than 4:30 p.m. on the next business day the office of the clerk of court is open.

2. If a committed person has absconded in violation of the conditions of the person's release plan, a presumption arises that the person poses a risk to public safety. The department of human services or contracting agency, in cooperation with local law enforcement agencies, may make a public announcement about the absconder. The public announcement may include a description of the committed person, that the committed person is on release with supervision from the sexually violent predator program, and any other information pertinent to public safety.

3. Upon the return of the committed person to a secure facility, the director of human services or the director's designee shall notify the court that issued the ex parte order that the committed person has been returned to a secure facility, and the court shall set hearing to determine if a violation occurred. If a court order was not issued, the director or the director's designee shall contact the nearest district court with jurisdiction to set a hearing to determine whether a violation of the conditions of the release plan occurred. The court shall schedule a hearing after receiving notice that the committed person has been returned to a secure facility.

4. At the hearing, the burden shall be upon the attorney general to show by a preponderance of the evidence that a violation of the release plan occurred.

5. If the court determines a violation occurred, the court shall receive release recommendations from the department of human services and either order that the committed person be returned to release with supervision or placed in a transitional release program, or be confined in a secure facility. The court may impose further conditions upon the committed person if returned to release with supervision or placed in the transitional release program. If the court determines no violation occurred, the committed person shall be returned to release with supervision.

2002 Acts, ch 1139, §14, 27; 2018 Acts, ch 1165, §103

Referred to in §229A.9A

229A.10 Petition for discharge — procedure.

1. If the director of human services determines that the person's mental abnormality has so changed that the person is not likely to engage in predatory acts that constitute sexually violent offenses if discharged, the director shall authorize the person to petition the court

for discharge. The petition shall be served upon the court and the attorney general. The court, upon receipt of the petition for discharge, shall order a hearing within thirty days. The attorney general shall represent the state, and shall have the right to have the petitioner examined by an expert or professional person of the attorney general's choice. The hearing shall be before a jury if demanded by either the petitioner or the attorney general. If the attorney general objects to the petition for discharge, the burden of proof shall be upon the attorney general to show beyond a reasonable doubt that the petitioner's mental abnormality or personality disorder remains such that the petitioner is likely to engage in predatory acts that constitute sexually violent offenses if discharged.

2. Upon a finding that the state has failed to meet its burden of proof under this section, the court shall authorize the committed person to be discharged.

98 Acts, ch 1171, §10; 99 Acts, ch 61, §8, 14; 2002 Acts, ch 1139, §15, 27; 2003 Acts, ch 44, §48

Referred to in §229A.5B

229A.11 Subsequent discharge or transitional release petitions — limitations.

Nothing in this chapter shall prohibit a person from filing a petition for discharge or placement in a transitional release program, pursuant to this chapter. However, if a person has previously filed a petition for discharge or for placement in a transitional release program without the authorization of the director of human services, and the court determines either upon review of the petition or following a hearing that the petition was frivolous or that the petitioner's condition had not so changed that the person was not likely to engage in predatory acts constituting sexually violent offenses if discharged, or was not suitable for placement in the transitional release program, then the court shall summarily deny the subsequent petition unless the petition contains facts upon which a court could find the condition of the petitioner had so changed that a hearing was warranted. Upon receipt of a first or subsequent petition from a committed person without the director's authorization, the court shall endeavor whenever possible to review the petition and determine if the petition is based upon frivolous grounds. If the court determines that a petition is frivolous, the court shall dismiss the petition without a hearing.

98 Acts, ch 1171, §11; 2002 Acts, ch 1139, §16, 27

Referred to in §229A.8

229A.12 Director of human services — responsibility for costs — reimbursement.

The director of human services shall be responsible for all costs relating to the evaluation, treatment, and services provided to a person that are incurred after the person is committed to the director's custody after the court or jury determines that the respondent is a sexually violent predator and pursuant to commitment under any provision of this chapter. If placement in a transitional release program or supervision is ordered, the director shall also be responsible for all costs related to the transitional release program or to the supervision and treatment of any person. Reimbursement may be obtained by the director from the patient and any person legally liable or bound by contract for the support of the patient for the cost of confinement or of care and treatment provided. To the extent allowed by the United States social security administration, any benefit payments received by the person pursuant to the federal Social Security Act shall be used for the costs incurred. As used in this section, "*any person legally liable*" does not include a political subdivision.

98 Acts, ch 1171, §12; 98 Acts, ch 1181, §26; 99 Acts, ch 61, §9, 14; 2002 Acts, ch 1139, §17, 27; 2005 Acts, ch 175, §99

229A.12A Director of the department of corrections — responsibility for safekeeper.

The director of the department of corrections shall have authority, once a person is detained pursuant to section 229A.5, to make a determination as to the appropriate secure facility within the department of corrections in which the safekeeper is to be placed, taking into consideration the safekeeper's medical needs and ability to interact with offenders who have been committed to the custody of the director of the department of corrections. The director has authority to determine the safekeeper's degree of segregation from offenders, including whether total segregation is appropriate under the circumstances or whether

the safekeeper should be permitted to participate in normal confinement activities in the presence of offenders.

2002 Acts, ch 1139, §18, 27

229A.13 Severability.

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

98 Acts, ch 1171, §14

229A.14 Release of confidential or privileged information and records.

Notwithstanding any provision in the Code regarding confidentiality to the contrary, any relevant information and records which would otherwise be confidential or privileged, except information subject to attorney-client privilege and attorney work product, shall be released to the agency with jurisdiction or the attorney general for the purpose of meeting the notice requirement provided in section 229A.3 and determining whether a person is or continues to be a sexually violent predator.

98 Acts, ch 1171, §15; 2002 Acts, ch 1139, §19, 27

229A.15 Court records — sealed and opened by court order.

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

2. The documents described in subsection 1 shall be available to the prosecuting attorney or attorney general, the committed person, and the attorney for the committed person without an order of the court.

98 Acts, ch 1171, §16; 2018 Acts, ch 1172, §63

229A.15A Civil protective order.

A victim of a crime that was committed before the filing of a petition under this chapter by a safekeeper or by a person subjected to an order of civil commitment pursuant to this chapter, may obtain a protective order against the safekeeper or person using the procedures set out in section 915.22.

2002 Acts, ch 1139, §20, 27

229A.15B Rulemaking authority.

The department of human services shall adopt rules pursuant to chapter 17A necessary to administer this chapter.

2002 Acts, ch 1139, §21, 27

229A.16 Short title.

This chapter shall be known and may be cited as the “*Sexually Violent Predator Act*”.

98 Acts, ch 1171, §17

CHAPTER 230

SUPPORT OF PERSONS WITH MENTAL ILLNESS

Referred to in §125.43, 226.8, 229.24, 229.42, 331.381, 331.394, 904.201

230.1	Definitions.	230.19	Nonresidents liable to state — presumption.
230.1A	Liability of county and state.	230.20	Billing of patient charges — computation of actual costs — cost settlement.
230.2	Finding of residence.	230.21	Notice to county of residence.
230.3	Certification of residence.	230.22	Penalty.
230.4	Certification to regional administrator.	230.23	and 230.24 Reserved.
230.5	Nonresidents.	230.25	Financial investigation by supervisors.
230.6	Investigation by administrator.	230.26	Regional administrator to keep record.
230.7	Transfer of nonresidents.	230.27	Board and county attorney to collect.
230.8	Transfers of persons with mental illness — expenses.	230.28	and 230.29 Reserved.
230.9	Subsequent discovery of residence.	230.30	Claim against estate.
230.10	Payment of costs.	230.31	Departures from other states.
230.11	Recovery of costs from state.	230.32	Support of nonresident patients on leave.
230.12	Residency disputes.	230.33	Reciprocal agreements.
230.13	and 230.14 Repealed by 2004 Acts, ch 1090, §55.	230.34	Definitions. Repealed by 2018 Acts, ch 1137, §19.
230.15	Personal liability.	230.35	Releasing liens.
230.16	Presumption.		
230.17	Board may compromise lien.		
230.18	Expense in county or private hospitals.		

230.1 Definitions.

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

1. “*Administrator*” means the administrator of the department of human services assigned, in accordance with section 218.1, to control the state mental health institutes, or that administrator’s designee.
2. “*Book*”, “*list*”, “*record*”, or “*schedule*” kept by a county auditor, assessor, treasurer, recorder, sheriff, or other county officer means the county system as defined in section 445.1.
3. “*Department*” means the department of human services.
4. “*Region*” means a mental health and disability services region formed in accordance with section 331.389.
5. “*Regional administrator*” means the same as defined in section 331.388.

2018 Acts, ch 1137, §1

Former §230.1 transferred to §230.1A

230.1A Liability of county and state.

1. The necessary and legal costs and expenses attending the taking into custody, care, investigation, admission, commitment, and support of a person with mental illness admitted or committed to a state hospital shall be paid by the regional administrator on behalf of the person’s county of residence or by the state as follows:

a. If the person is eighteen years of age or older, as follows:

- (1) The costs attributed to mental illness shall be paid by the regional administrator on behalf of the person’s county of residence.
- (2) The costs attributed to a substance-related disorder shall be paid by the person’s county of residence.
- (3) The costs attributable to a dual diagnosis of mental illness and a substance-related disorder may be split as provided in section 226.9C.*

b. By the state if such person has no residence in this state, if the person’s residence is unknown, or if the person is under eighteen years of age.

2. The county of residence of any person with mental illness who is a patient of any state institution shall be the person’s county of residence existing at the time of admission to the institution.

3. A region or county of residence is not liable for costs and expenses associated with a person with mental illness unless the costs and expenses are for services and other support authorized for the person through the regional administrator for the county.

[C73, §1402; C97, §2270; S13, §2270; C24, 27, 31, 35, 39, §3581; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §230.1]

96 Acts, ch 1129, §113; 96 Acts, ch 1183, §24; 98 Acts, ch 1181, §6, 7, 10; 2004 Acts, ch 1090, §33; 2012 Acts, ch 1120, §106, 130; 2014 Acts, ch 1140, §73; 2015 Acts, ch 69, §69; 2015 Acts, ch 138, §38, 161, 162; 2016 Acts, ch 1073, §81; 2018 Acts, ch 1137, §2; 2018 Acts, ch 1165, §69 C2019, §230.1A

*Section 226.9C repealed by 2018 Acts, ch 1165, §77; corrective legislation is pending

230.2 Finding of residence.

If a person's residency status is disputed, the residency shall be determined in accordance with section 331.394. Otherwise, the district court may, when the person is ordered placed in a hospital for psychiatric examination and appropriate treatment, or as soon thereafter as the court obtains the proper information, make one of the following determinations and enter of record whether the residence of the person is in a county or the person is a resident in another state or in a foreign country, or when the person's residence is unknown, as follows:

1. That the person's residence is in the county from which the person was placed in the hospital.

2. That the person's residence is in another county of the state.

3. That the person's residence is in a foreign state or country.

4. That the person's residence is unknown.

[C24, 27, 31, 35, 39, §3582; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §230.2]

2004 Acts, ch 1090, §44; 2012 Acts, ch 1120, §107, 130; 2014 Acts, ch 1092, §47; 2018 Acts, ch 1165, §70

Referred to in §230.4, 230.5

230.3 Certification of residence.

If a person's county of residence is determined by the regional administrator for a county to be in another county of this state, the regional administrator making the determination shall certify the determination to the superintendent of the hospital to which the person is admitted or committed. The certification shall be accompanied by a copy of the evidence supporting the determination. Upon receiving the certification, the superintendent shall charge the expenses already incurred and unadjusted, and all future expenses of the person, to the regional administrator for the county determined to be the county of residence.

[C73, §1417; C97, §2281; C24, 27, 31, 35, 39, §3583; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §230.3]

2004 Acts, ch 1090, §33, 45; 2012 Acts, ch 1120, §108, 130; 2015 Acts, ch 69, §70; 2016 Acts, ch 1073, §82

Referred to in §230.4, 230.5, 331.502

230.4 Certification to regional administrator.

A determination of a person's county of residence made in accordance with section 230.2 or 230.3 shall be sent by the court or the county to the regional administrator of the person's county of residence. The certification shall be accompanied by a copy of the evidence supporting the determination. The regional administrator shall provide the certification to the region's governing board, and it shall be conclusively presumed that the person has residence in a county in the notified region unless that regional administrator disputes the finding of residence as provided in section 331.394.

[C73, §1402; C97, §2270; S13, §2270; C24, 27, 31, 35, 39, §3584; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §230.4]

2004 Acts, ch 1090, §46; 2012 Acts, ch 1120, §109, 130; 2018 Acts, ch 1137, §3

230.5 Nonresidents.

If a person's residence is determined in accordance with section 230.2 or 230.3 to be in a foreign state or country, or is unknown, the court or the regional administrator of the

person's county of residence shall immediately certify the determination to the department's administrator. The certification shall be accompanied by a copy of the evidence supporting the determination. A court order issued pursuant to section 229.13 shall direct that the patient be hospitalized at the appropriate state hospital for persons with mental illness.

[C73, §1402; C97, §2270; S13, §2270, 2727-a28a; C24, 27, 31, 35, 39, §3585; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §230.5]

96 Acts, ch 1129, §113; 2000 Acts, ch 1112, §41; 2004 Acts, ch 1090, §47; 2012 Acts, ch 1120, §110, 130; 2018 Acts, ch 1137, §4

230.6 Investigation by administrator.

The administrator shall immediately investigate the residency of a patient and proceed as follows:

1. If the administrator concurs with a certified determination of residency concerning the patient, the administrator shall cause the patient either to be transferred to a state hospital for persons with mental illness at the expense of the state, or to be transferred, with approval of the court as required by chapter 229 to the place of foreign residence.

2. If the administrator disputes a certified legal residency determination, the administrator shall order the patient to be maintained at a state hospital for persons with mental illness at the expense of the state until the dispute is resolved.

3. If the administrator disputes a residency determination, the administrator shall utilize the procedure provided in section 331.394 to resolve the dispute. A determination of the person's residency status made pursuant to section 331.394 is conclusive.

[S13, §2727-a28a; C24, 27, 31, 35, 39, §3586; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §230.6]

96 Acts, ch 1129, §113; 97 Acts, ch 23, §18; 2004 Acts, ch 1090, §48; 2012 Acts, ch 1120, §111, 130

230.7 Transfer of nonresidents.

Upon determining that a patient in a state hospital who has been involuntarily hospitalized under chapter 229 or admitted voluntarily at public expense was not a resident of this state at the time of the involuntary hospitalization or admission, the administrator may cause that patient to be conveyed to the patient's place of residence. However, a transfer under this section may be made only if the patient's condition so permits and other reasons do not render the transfer inadvisable. If the patient was involuntarily hospitalized, prior approval of the transfer must be obtained from the court which ordered the patient hospitalized.

[C73, §1419; C97, §2283; S13, §2283, 2727-a28a; C24, 27, 31, 35, 39, §3587; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §230.7]

97 Acts, ch 23, §19

230.8 Transfers of persons with mental illness — expenses.

The transfer to any state hospitals or to the places of their residence of persons with mental illness who have no residence in this state or whose residence is unknown, shall be made according to the directions of the administrator, and when practicable by employees of the state hospitals. The actual and necessary expenses of such transfers shall be paid by the department on itemized vouchers sworn to by the claimants and approved by the administrator.

[S13, §2308-a, 2727-a28b; C24, 27, 31, 35, 39, §3588; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §230.8]

96 Acts, ch 1129, §113; 2012 Acts, ch 1120, §112, 130; 2016 Acts, ch 1138, §5; 2018 Acts, ch 1165, §71

Referred to in §8.59, 230.31

Appropriation limited for fiscal years beginning on or after July 1, 1993; see §8.59

230.9 Subsequent discovery of residence.

If, after a person has been received by a state hospital for persons with mental illness whose residence is supposed to be outside this state, the administrator determines that the residence of the person was, at the time of admission or commitment, in a county of

this state, the administrator shall certify the determination and charge all legal costs and expenses pertaining to the admission or commitment and support of the person to the regional administrator of the person's county of residence. The certification shall be sent to the regional administrator of the person's county of residence. The certification shall be accompanied by a copy of the evidence supporting the determination. The costs and expenses shall be collected as provided by law in other cases. If the person's residency status has been determined in accordance with section 331.394, the legal costs and expenses shall be charged in accordance with that determination.

[S13, §2727-a28a; C24, 27, 31, 35, 39, §3589; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §230.9]

96 Acts, ch 1129, §113; 2004 Acts, ch 1090, §49; 2012 Acts, ch 1120, §113, 130; 2018 Acts, ch 1137, §5; 2018 Acts, ch 1165, §72

230.10 Payment of costs.

All legal costs and expenses attending the taking into custody, care, investigation, and admission or commitment of a person to a state hospital for persons with mental illness under a finding that the person has residency in another county of this state shall be charged against the regional administrator of the person's county of residence.

[S13, §2308-a; C24, 27, 31, 35, 39, §3590; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §230.10]

87 Acts, ch 36, §1; 96 Acts, ch 1129, §113; 2012 Acts, ch 1120, §114, 130; 2018 Acts, ch 1137, §6

230.11 Recovery of costs from state.

Costs and expenses attending the taking into custody, care, and investigation of a person who has been admitted or committed to a state hospital, United States department of veterans affairs hospital, or other agency of the United States government, for persons with mental illness and who has no residence in this state or whose residence is unknown, including cost of commitment, if any, shall be paid as approved by the administrator. The amount of the costs and expenses approved by the administrator is appropriated to the department from any moneys in the state treasury not otherwise appropriated. Payment shall be made by the department on itemized vouchers executed by the regional administrator of the person's county which has paid them, and approved by the administrator.

[S13, §2308-a; C24, 27, 31, 35, 39, §3591; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §230.11]

96 Acts, ch 1129, §113; 2009 Acts, ch 26, §13; 2012 Acts, ch 1120, §115, 130; 2014 Acts, ch 1092, §48; 2015 Acts, ch 30, §73; 2018 Acts, ch 1137, §7; 2018 Acts, ch 1165, §73; 2019 Acts, ch 24, §104

Referred to in §8.59, 331.502

Appropriation limited for fiscal years beginning on or after July 1, 1993; see §8.59

230.12 Residency disputes.

If a dispute arises between different counties or between the administrator and a regional administrator for a county as to the residence of a person admitted or committed to a state hospital for persons with mental illness, the dispute shall be resolved as provided in section 331.394.

[C73, §1418; C97, §2270, 2282; S13, §2270; C24, 27, 31, 35, 39, §3592; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §230.12]

91 Acts, ch 267, §141; 94 Acts, ch 1170, §4; 95 Acts, ch 119, §1, 5; 96 Acts, ch 1129, §113; 2004 Acts, ch 1090, §50; 2012 Acts, ch 1120, §116, 130; 2018 Acts, ch 1137, §8

230.13 and 230.14 Repealed by 2004 Acts, ch 1090, §55.

230.15 Personal liability.

1. A person with mental illness and a person legally liable for the person's support remain liable for the support of the person with mental illness as provided in this section. Persons legally liable for the support of a person with mental illness include the spouse

of the person, and any person bound by contract for support of the person. The regional administrator of the person's county of residence, subject to the direction of the region's governing board, shall enforce the obligation created in this section as to all sums advanced by the regional administrator. The liability to the regional administrator incurred by a person with mental illness or a person legally liable for the person's support under this section is limited to an amount equal to one hundred percent of the cost of care and treatment of the person with mental illness at a state mental health institute for one hundred twenty days of hospitalization. This limit of liability may be reached by payment of the cost of care and treatment of the person with mental illness subsequent to a single admission or multiple admissions to a state mental health institute or, if the person is not discharged as cured, subsequent to a single transfer or multiple transfers to a county care facility pursuant to section 227.11. After reaching this limit of liability, a person with mental illness or a person legally liable for the person's support is liable to the regional administrator for the care and treatment of the person with mental illness at a state mental health institute or, if transferred but not discharged as cured, at a county care facility in an amount not in excess of the average minimum cost of the maintenance of an individual who is physically and mentally healthy residing in the individual's own home, which standard shall be established and may from time to time be revised by the department of human services. A lien imposed by section 230.25 shall not exceed the amount of the liability which may be incurred under this section on account of a person with mental illness.

2. A person with a substance-related disorder is legally liable for the total amount of the cost of providing care, maintenance, and treatment for the person with a substance-related disorder while a voluntary or committed patient. When a portion of the cost is paid by a county, the person with a substance-related disorder is legally liable to the county for the amount paid. The person with a substance-related disorder shall assign any claim for reimbursement under any contract of indemnity, by insurance or otherwise, providing for the person's care, maintenance, and treatment in a state hospital to the state. Any payments received by the state from or on behalf of a person with a substance-related disorder shall be in part credited to the county in proportion to the share of the costs paid by the county.

3. Nothing in this section shall be construed to prevent a relative or other person from voluntarily paying the full actual cost or any portion of the care and treatment of any person with mental illness or a substance-related disorder as established by the department of human services.

[R60, §1488; C73, §1433; C97, §2297; C24, 27, 31, 35, 39, §3595; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §230.15; 82 Acts, ch 1260, §114 – 116]

83 Acts, ch 96, §157, 159; 86 Acts, ch 1001, §17; 90 Acts, ch 1085, §21; 96 Acts, ch 1129, §60; 2011 Acts, ch 121, §57, 62; 2013 Acts, ch 30, §43; 2018 Acts, ch 1137, §9

Referred to in §230.16, 230.25, 234.39, 331.502

230.16 Presumption.

In actions to enforce the liability imposed by section 230.15, the certificate from the superintendent to the regional administrator of the person's county of residence stating the sums charged in such cases, shall be presumptively correct.

[R60, §1488; C73, §1433; C97, §2297; C24, 27, 31, 35, 39, §3596; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §230.16]

2018 Acts, ch 1137, §10

230.17 Board may compromise lien.

The board of supervisors of the person's county of residence is hereby empowered to compromise any and all liabilities to the county created by this chapter, when compromise is deemed to be in the best interests of the county.

[C73, §1433; C97, §2297; C24, 27, 31, 35, 39, §3597; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §230.17]

2018 Acts, ch 1137, §11; 2019 Acts, ch 24, §21

230.18 Expense in county or private hospitals.

The estates of persons with mental illness who may be treated or confined in any county hospital or home, or in any private hospital or sanatorium, and the estates of persons legally bound for their support, shall be liable to the regional administrator of the person's county of residence for the reasonable cost of such support.

[R60, §1488; C73, §1433; C97, §2297; C24, 27, 31, 35, 39, §3598; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §230.18]

96 Acts, ch 1129, §113; 2018 Acts, ch 1137, §12

230.19 Nonresidents liable to state — presumption.

The estates of all nonresident patients provided for and treated in state hospitals for persons with mental illness in this state, and all persons legally bound for the support of such patients, shall be liable to the state for the reasonable value of the care, maintenance, and treatment of such patients while in such hospitals. The certificate of the superintendent of the state hospital in which any nonresident is or has been a patient, showing the amounts drawn from the state treasury or due therefrom as provided by law on account of such nonresident patient, shall be presumptive evidence of the reasonable value of the care, maintenance, and treatment furnished such patient.

[S13, §2297-a; C24, 27, 31, 35, 39, §3599; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §230.19]

96 Acts, ch 1129, §113

230.20 Billing of patient charges — computation of actual costs — cost settlement.

1. The superintendent of each mental health institute shall compute by February 1 the average daily patient charges and other service charges for which each regional administrator of a person's county of residence will be billed for services provided to the person and chargeable to the county of residence during the fiscal year beginning the following July 1. The department shall certify the amount of the charges and notify the regional administrator of the person's county of residence of the billing charges.

a. The superintendent shall separately compute by program the average daily patient charge for a mental health institute for services provided in the following fiscal year, in accordance with generally accepted accounting procedures, by totaling the expenditures of the program for the immediately preceding calendar year, by adjusting the expenditures by a percentage not to exceed the percentage increase in the consumer price index for all urban consumers for the immediately preceding calendar year, and by dividing the adjusted expenditures by the total inpatient days of service provided in the program during the immediately preceding calendar year. However, the superintendent shall not include the following in the computation of the average daily patient charge:

(1) The costs of food, lodging, and other maintenance provided to persons not patients of the hospital.

(2) The costs of certain direct medical services identified in administrative rule, which may include but need not be limited to X-ray, laboratory, and dental services.

(3) The costs of outpatient and state placement services.

(4) The costs of the psychiatric residency program.

(5) The costs of the chaplain intern program.

b. The department shall compute the direct medical services, outpatient, and state placement services charges, in accordance with generally accepted accounting procedures, on the basis of the actual cost of the services provided during the immediately preceding calendar year. The direct medical services, outpatient, and state placement services shall be billed directly against the patient who received the services.

2. a. The superintendent shall certify to the department the billings to the regional administrator of the person's county of residence for services provided to the person and chargeable to the county of residence during the preceding calendar quarter. The county of residence billings shall be based on the average daily patient charge and other service charges computed pursuant to subsection 1, and the number of inpatient days and other service units chargeable to the regional administrator of the person's county of

residence. However, a county of residence billing shall be decreased by an amount equal to reimbursement by a third party payor or estimation of such reimbursement from a claim submitted by the superintendent to the third party payor for the preceding calendar quarter. When the actual third party payor reimbursement is greater or less than estimated, the difference shall be reflected in the billing in the calendar quarter the actual third party payor reimbursement is determined.

b. The per diem costs billed to each region shall not exceed the per diem costs billed to the region in the fiscal year beginning July 1, 2016.

3. The superintendent shall compute in January the actual per-patient-per-day cost for each mental health institute for the immediately preceding calendar year, in accordance with generally accepted accounting procedures, by totaling the actual expenditures of the mental health institute for the calendar year and by dividing the total actual expenditures by the total inpatient days of service provided during the calendar year.

4. The department shall certify to the regional administrator by February 1 the actual per-patient-per-day costs, as computed pursuant to subsection 3, and the actual costs owed by each regional administrator itemized for each county in the region for the immediately preceding calendar year for patients chargeable to the regional administrator. If the actual costs owed by the regional administrator are greater than the charges billed to the regional administrator pursuant to subsection 2, the department shall bill the regional administrator for the difference itemized for each county in the region with the billing for the quarter ending June 30. If the actual costs owed by the regional administrator are less than the charges billed to the regional administrator pursuant to subsection 2, the department shall credit the regional administrator for the difference itemized for each county in the region starting with the billing for the quarter ending June 30.

5. An individual statement shall be prepared for a patient on or before the fifteenth day of the month following the month in which the patient leaves the mental health institute, and a general statement shall be prepared at least quarterly for each regional administrator itemized for each county in the region to which charges are made under this section. Except as otherwise required by sections 125.33 and 125.34, the general statement shall list the name of each patient chargeable to a county in the region who was served by the mental health institute during the preceding month or calendar quarter, the amount due on account of each patient, and the specific dates for which any third party payor reimbursement received by the state is applied to the statement and billing, and the regional administrator shall be billed for eighty percent of the stated charge for each patient specified in this subsection. The statement prepared for each regional administrator shall be certified by the department.

6. All or any reasonable portion of the charges incurred for services provided to a patient, to the most recent date for which the charges have been computed, may be paid at any time by the patient or by any other person on the patient's behalf. Any payment made by the patient or other person, and any federal financial assistance received pursuant to Tit. XVIII or XIX of the federal Social Security Act for services rendered to a patient, shall be credited against the patient's account and, if the charges paid as described in this subsection have previously been billed to a regional administrator on behalf of the person's county of residence, reflected in the mental health institute's next general statement to that regional administrator.

7. A superintendent of a mental health institute may request that the director of human services enter into a contract with a person for the mental health institute to provide consultation or treatment services or for fulfilling other purposes which are consistent with the purposes stated in section 226.1. The contract provisions shall include charges which reflect the actual cost of providing the services or fulfilling the other purposes. Any income from a contract authorized under this subsection may be retained by the mental health institute to defray the costs of providing the services. Except for a contract voluntarily entered into by a county under this subsection, the costs or income associated with a contract authorized under this subsection shall not be considered in computing charges and per diem costs in accordance with the provisions of subsections 1 through 6.

8. The department shall provide a regional administrator with information, which is not otherwise confidential under law, in the department's possession concerning a patient

whose cost of care is chargeable to the regional administrator, including but not limited to the information specified in section 229.24, subsection 3.

[R60, §1487; C73, §1428; C97, §2292; S13, §2292; C24, 27, 31, 35, 39, §3600; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, S81, §230.20; 81 Acts, ch 78, §20, 38, 39]

83 Acts, ch 96, §157, 159; 86 Acts, ch 1169, §2; 87 Acts, ch 37, §1; 88 Acts, ch 1249, §9; 88 Acts, ch 1276, §39; 95 Acts, ch 82, §5; 95 Acts, ch 120, §4; 96 Acts, ch 1183, §25, 26; 98 Acts, ch 1155, §11; 2001 Acts, ch 155, §23 – 25; 2005 Acts, ch 167, §31, 32, 66; 2010 Acts, ch 1061, §180; 2010 Acts, ch 1141, §25, 26; 2015 Acts, ch 69, §71; 2015 Acts, ch 138, §39, 161, 162; 2017 Acts, ch 109, §3, 20, 21; 2018 Acts, ch 1137, §13

Referred to in §218.78, 228.6, 230.22, 904.201

2017 amendment to subsection 2, paragraph b, takes effect May 5, 2017, and applies to fiscal years beginning on or after July 1, 2017; 2017 Acts, ch 109, §20, 21

230.21 Notice to county of residence.

The regional administrator shall furnish to the board of supervisors of the county of residence a list of the names of the persons who are residents of that county and eligible for mental health and disability services funding.

[R60, §1487; C73, §1428; C97, §2292; S13, §2292; C24, 27, 31, 35, 39, §3601; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §230.21]

83 Acts, ch 123, §86, 209; 2018 Acts, ch 1137, §14

Referred to in §228.6, 230.25, 331.502, 331.552

230.22 Penalty.

If a regional administrator fails to pay the amount billed by a statement submitted pursuant to section 230.20 within forty-five days from the date the statement is received by the regional administrator, the department shall charge the delinquent regional administrator the penalty of one percent per month on and after forty-five days from the date the statement is received by the regional administrator until paid. Provided, however, that the penalty shall not be imposed if the regional administrator has notified the department of error or questionable items in the billing, in which event, the department shall suspend the penalty only during the period of negotiation.

[C97, §2292; S13, §2292; C24, 27, 31, 35, 39, §3602; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §230.22]

98 Acts, ch 1218, §74; 2001 Acts, ch 155, §26; 2018 Acts, ch 1137, §15

Referred to in §331.502

230.23 and 230.24 Reserved.

230.25 Financial investigation by supervisors.

1. Upon receipt from the regional administrator for mental health and disability services of the list of names furnished pursuant to section 230.21, the board of supervisors of the county of residence shall make an investigation to determine the ability of each person whose name appears on the list, and also the ability of any person liable under section 230.15 for the support of that person, to pay the expenses of that person's hospitalization. If the board finds that neither the hospitalized person nor any person legally liable for the person's support is able to pay those expenses, the board shall direct the regional administrator not to index the names of any of those persons as would otherwise be required by section 230.26. However the board may review its finding with respect to any person at any subsequent time at which another list is furnished by the regional administrator upon which that person's name appears. If the board finds upon review that that person or those legally liable for the person's support are presently able to pay the expenses of that person's hospitalization, that finding shall apply only to charges stated upon the certificate from which the list was drawn up and any subsequent charges similarly certified, unless and until the board again changes its finding.

2. All liens created under section 230.25, as that section appeared in the Code of 1975 and prior editions of the Code, are abolished effective January 1, 1977, except as otherwise provided by subsection 1. The board of supervisors of each county shall, as soon as

practicable after July 1, 1976, review all liens resulting from the operation of said section 230.25, Code 1975, and make a determination as to the ability of the person against whom the lien exists to pay the charges represented by the lien, and if they find that the person is able to pay those charges they shall direct the county attorney of that county to take immediate action to enforce the lien. If action is commenced under this section on any lien prior to the effective date of the abolition thereof, that lien shall not be abolished but shall continue until the action is completed. The board of supervisors shall release any such lien when the charge on which the lien is based is fully paid or is compromised and settled by the board in such manner as its members deem to be in the best interest of the county, or when the estate affected by the lien has been probated and the proceeds allowable have been applied on the lien.

[C39, §3604.1; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §230.25]
2018 Acts, ch 1137, §16; 2019 Acts, ch 59, §67
Referred to in §228.6, 230.15, 230.30, 331.381, 331.502, 331.756(41)

230.26 Regional administrator to keep record.

The regional administrator shall keep an accurate account of the cost of the maintenance of any patient kept in any institution as provided for in this chapter and keep an index of the names of the persons admitted or committed from each county in the region. The name of the spouse of the person admitted or committed shall also be indexed in the same manner as the names of the persons admitted or committed are indexed. The book shall be designated as an account book or index, and shall have no reference in any place to a lien.

[C39, §3604.2; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §230.26]
2018 Acts, ch 1137, §17
Referred to in §228.6, 230.25, 331.502, 331.508

230.27 Board and county attorney to collect.

It shall be the duty of the board of supervisors to collect said claims and direct the county attorney to proceed with the collection of said claims as a part of the duties of the county attorney's office.

[C39, §3604.3; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §230.27]
Referred to in §331.381, 331.756(41)

230.28 and 230.29 Reserved.

230.30 Claim against estate.

On the death of a person receiving or who has received assistance under the provisions of this chapter, and whom the board has previously found, under section 230.25, is able to pay there shall be allowed against the estate of such decedent a claim of the sixth class for that portion of the total amount paid for that person's care which exceeds the total amount of all claims of the first through the fifth classes, inclusive, as defined in section 633.425, which are allowed against that estate.

[C39, §3604.6; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §230.30]

230.31 Departers from other states.

If a person with mental illness departs without proper authority from an institution in another state and is found in this state, a peace officer in the county in which the patient is found may take and detain the patient without order and shall report the detention to the administrator who shall provide for the return of the patient to the authorities of the state where the unauthorized leave was made. Pending such return, the patient may be detained temporarily at one of the institutions of this state under the control of the administrator or any other administrator of the department of human services. Expenses incurred under this section shall be paid in the same manner as is provided for transfers in section 230.8.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §230.31]
83 Acts, ch 96, §157, 159; 96 Acts, ch 1129, §113; 2000 Acts, ch 1112, §42

230.32 Support of nonresident patients on leave.

The cost of support of patients without residence in this state, who are placed on convalescent leave or removed from a state mental institute to any health care facility licensed under chapter 135C for rehabilitation purposes, shall be paid from the hospital support fund and shall be charged on abstract in the same manner as state inpatients, until such time as the patient becomes self-supporting or qualifies for support under existing statutes.

[C66, 71, 73, 75, 77, 79, 81, §230.32]
2012 Acts, ch 1120, §117, 130

230.33 Reciprocal agreements.

1. The administrator may enter into agreements with other states, through their duly constituted authorities, to effect the reciprocal return of persons with mental illness and persons with an intellectual disability to the contracting states, and to effect the reciprocal supervision of persons on convalescent leave.

2. However, in the case of a proposed transfer of a person with mental illness or an intellectual disability from this state, final action shall not be taken without the approval of the district court of the county of admission or commitment.

[C66, 71, 73, 75, 77, 79, 81, §230.33]

96 Acts, ch 1129, §61; 2000 Acts, ch 1112, §43; 2012 Acts, ch 1019, §82; 2013 Acts, ch 90, §55; 2018 Acts, ch 1137, §18

230.34 Definitions. Repealed by 2018 Acts, ch 1137, §19. See §230.1.

230.35 Releasing liens.

A lien obtained pursuant to an action to collect any claim arising under this chapter shall be released by the board of supervisors when the claim or claims on which the lien is based have been fully paid or compromised and settled by the board, or when the estate of which the real estate subject to the lien is a part has been probated and the proceeds allowable have been applied to the claim or claims on which the lien is based.

[C79, 81, §230.35]
Referred to in §331.381

CHAPTER 230A

COMMUNITY MENTAL HEALTH CENTERS

Referred to in §11.6, 225C.4, 225C.19, 232.78, 232.83, 235A.15, 331.382

230A.1	through 230A.18 Repealed by 2011 Acts, ch 121, §22, 23.	230A.106	Services offered.
230A.101	Services system roles.	230A.107	Form of organization.
230A.102	Definitions.	230A.108	Administrative, diagnostic, and demographic information.
230A.103	Designation of community mental health centers.	230A.109	Funding — legislative intent.
230A.104	Catchment areas.	230A.110	Standards.
230A.105	Target population — eligibility.	230A.111	Review and evaluation.

230A.1 through 230A.18 Repealed by 2011 Acts, ch 121, §22, 23.

230A.101 Services system roles.

1. The role of the department of human services, through the division of the department designated as the state mental health authority with responsibility for state policy concerning mental health and disability services, is to develop and maintain policies for the mental health and disability services system. The policies shall address the service needs of individuals of all ages with disabilities in this state, regardless of the individuals' places of residence or

economic circumstances, and shall be consistent with the requirements of chapter 225C and other applicable law.

2. The role of community mental health centers in the mental health and disability services system is to provide an organized set of services in order to adequately meet the mental health needs of this state's citizens based on organized catchment areas.

2011 Acts, ch 121, §11, 23

230A.102 Definitions.

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

1. "Administrator", "commission", "department", "disability services", and "division" mean the same as defined in section 225C.2.

2. "Catchment area" means a community mental health center catchment area identified in accordance with this chapter.

3. "Community mental health center" or "center" means a community mental health center designated in accordance with this chapter.

2011 Acts, ch 121, §12, 23

230A.103 Designation of community mental health centers.

1. The division, subject to agreement by any community mental health center that would provide services for the catchment area and approval by the commission, shall designate at least one community mental health center under this chapter for addressing the mental health needs of the county or counties comprising the catchment area. The designation process shall provide for the input of potential service providers regarding designation of the initial catchment area or a change in the designation.

2. The division shall utilize objective criteria for designating a community mental health center to serve a catchment area and for withdrawing such designation. The commission shall adopt rules outlining the criteria. The criteria shall include but are not limited to provisions for meeting all of the following requirements:

a. An appropriate means shall be used for determining which prospective designee is best able to serve all ages of the targeted population within the catchment area with minimal or no service denials.

b. An effective means shall be used for determining the relative ability of a prospective designee to appropriately provide mental health services and other support to consumers residing within a catchment area as well as consumers residing outside the catchment area. The criteria shall address the duty for a prospective designee to arrange placements outside the catchment area when such placements best meet consumer needs and to provide services within the catchment area to consumers who reside outside the catchment area when the services are necessary and appropriate.

3. The board of directors for a designated community mental health center shall enter into an agreement with the division. The terms of the agreement shall include but are not limited to all of the following:

a. The period of time the agreement will be in force.

b. The services and other support the center will offer or provide for the residents of the catchment area.

c. The standards to be followed by the center in determining whether and to what extent the persons seeking services from the center shall be considered to be able to pay the costs of the services.

d. The policies regarding availability of the services offered by the center to the residents of the catchment area as well as consumers residing outside the catchment area.

e. The requirements for preparation and submission to the division of annual audits, cost reports, program reports, performance measures, and other financial and service accountability information.

4. This section does not limit the authority of the board or the boards of supervisors of any county or group of counties to continue to expend money to support operation of a center.

2011 Acts, ch 121, §13, 23

230A.104 Catchment areas.

1. The division shall collaborate with affected counties in identifying community mental health center catchment areas in accordance with this section.

2. *a.* Unless the division has determined that exceptional circumstances exist, a catchment area shall be served by one community mental health center. The purpose of this general limitation is to clearly designate the center responsible and accountable for providing core mental health services to the target population in the catchment area and to protect the financial viability of the centers comprising the mental health services system in the state.

b. A formal review process shall be used in determining whether exceptional circumstances exist that justify designating more than one center to serve a catchment area. The criteria for the review process shall include but are not limited to a means of determining whether the catchment area can support more than one center.

c. Criteria shall be provided that would allow the designation of more than one center for all or a portion of a catchment area if designation or approval for more than one center was provided by the division as of October 1, 2010. The criteria shall require a determination that all such centers would be financially viable if designation is provided for all.

2011 Acts, ch 121, §14, 23

230A.105 Target population — eligibility.

1. The target population residing in a catchment area to be served by a community mental health center shall include but is not limited to all of the following:

a. Individuals of any age who are experiencing a mental health crisis.

b. Individuals of any age who have a mental health disorder.

c. Adults who have a serious mental illness or chronic mental illness.

d. Children and youth who are experiencing a serious emotional disturbance.

e. Individuals described in paragraph “*a*”, “*b*”, “*c*”, or “*d*” who have a co-occurring disorder, including but not limited to substance abuse, intellectual disability, a developmental disability, brain injury, autism spectrum disorder, or another disability or special health care need.

2. Specific eligibility criteria for members of the target population shall be identified in administrative rules adopted by the commission. The eligibility criteria shall address both clinical and financial eligibility.

2011 Acts, ch 121, §15, 23; 2013 Acts, ch 90, §56

230A.106 Services offered.

1. A community mental health center designated in accordance with this chapter shall offer core services and support addressing the basic mental health and safety needs of the target population and other residents of the catchment area served by the center and may offer other services and support. The core services shall be identified in administrative rules adopted by the commission for this purpose.

2. The initial core services identified shall include all of the following:

a. Outpatient services. Outpatient services shall consist of evaluation and treatment services provided on an ambulatory basis for the target population. Outpatient services include psychiatric evaluations, medication management, and individual, family, and group therapy. In addition, outpatient services shall include specialized outpatient services directed to the following segments of the target population: children, elderly, individuals who have serious and persistent mental illness, and residents of the service area who have been discharged from inpatient treatment at a mental health facility. Outpatient services shall provide elements of diagnosis, treatment, and appropriate follow-up. The provision of only screening and referral services does not constitute outpatient services.

b. Twenty-four-hour emergency services. Twenty-four-hour emergency services shall be provided through a system that provides access to a clinician and appropriate disposition with follow-up documentation of the emergency service provided. A patient shall have access to evaluation and stabilization services after normal business hours. The range of emergency services that shall be available to a patient may include but are not limited to direct contact

with a clinician, medication evaluation, and hospitalization. The emergency services may be provided directly by the center or in collaboration or affiliation with other appropriately accredited providers.

c. Day treatment, partial hospitalization, or psychosocial rehabilitation services. Day treatment, partial hospitalization, or psychosocial rehabilitation services shall be provided as structured day programs in segments of less than twenty-four hours using a multidisciplinary team approach to develop treatment plans that vary in intensity of services and the frequency and duration of services based on the needs of the patient. These services may be provided directly by the center or in collaboration or affiliation with other appropriately accredited providers.

d. Admission screening for voluntary patients. Admission screening services shall be available for patients considered for voluntary admission to a state mental health institute to determine the patient's appropriateness for admission.

e. Community support services. Community support services shall consist of support and treatment services focused on enhancing independent functioning and assisting persons in the target population who have a serious and persistent mental illness to live and work in their community setting, by reducing or managing mental illness symptoms and the associated functional disabilities that negatively impact such persons' community integration and stability.

f. Consultation services. Consultation services may include provision of professional assistance and information about mental health and mental illness to individuals, service providers, or groups to increase such persons' effectiveness in carrying out their responsibilities for providing services. Consultations may be case-specific or program-specific.

g. Education services. Education services may include information and referral services regarding available resources and information and training concerning mental health, mental illness, availability of services and other support, the promotion of mental health, and the prevention of mental illness. Education services may be made available to individuals, groups, organizations, and the community in general.

3. A community mental health center shall be responsible for coordinating with associated services provided by other unaffiliated agencies to members of the target population in the catchment area and to integrate services in the community with services provided to the target population in residential or inpatient settings.

2011 Acts, ch 121, §16, 23; 2012 Acts, ch 1021, §50

230A.107 Form of organization.

1. Except as authorized in subsection 2, a community mental health center designated in accordance with this chapter shall be organized and administered as a nonprofit corporation.

2. A for-profit corporation, nonprofit corporation, or county hospital providing mental health services to county residents pursuant to a waiver approved under section 225C.7, subsection 3, Code 2011, as of October 1, 2010, may also be designated as a community mental health center.

2011 Acts, ch 121, §17, 23

230A.108 Administrative, diagnostic, and demographic information.

Release of administrative and diagnostic information, as defined in section 228.1, and demographic information necessary for aggregated reporting to meet the data requirements established by the division, relating to an individual who receives services from a community mental health center, may be made a condition of support of that center by the division.

2011 Acts, ch 121, §18, 23

Referred to in §228.6

230A.109 Funding — legislative intent.

1. It is the intent of the general assembly that public funding for community mental health centers designated in accordance with this chapter shall be provided as a combination of all funding sources.

2. It is the intent of the general assembly that the state funding provided to centers be a sufficient amount for the core services and support addressing the basic mental health and safety needs of the residents of the catchment area served by each center to be provided regardless of individual ability to pay for the services and support.

3. While a community mental health center must comply with the core services requirements and other standards associated with designation, provision of services is subject to the availability of a payment source for the services.

2011 Acts, ch 121, §19, 23

230A.110 Standards.

1. The division shall recommend and the commission shall adopt standards for designated community mental health centers and comprehensive community mental health programs, with the overall objective of ensuring that each center and each affiliate providing services under contract with a center furnishes high-quality mental health services within a framework of accountability to the community it serves. The standards adopted shall conform with federal standards applicable to community mental health centers and shall be in substantial conformity with the applicable behavioral health standards adopted by the joint commission, formerly known as the joint commission on accreditation of health care organizations, or other recognized national standards for evaluation of psychiatric facilities unless in the judgment of the division, with approval of the commission, there are sound reasons for departing from the standards.

2. When recommending standards under this section, the division shall designate an advisory committee representing boards of directors and professional staff of designated community mental health centers to assist in the formulation or revision of standards. The membership of the advisory committee shall include representatives of professional and nonprofessional staff and other appropriate individuals.

3. The standards recommended under this section shall include requirements that each community mental health center designated under this chapter do all of the following:

a. Maintain and make available to the public a written statement of the services the center offers to residents of the catchment area being served. The center shall employ or contract for services with affiliates to employ staff who are appropriately credentialed or meet other qualifications in order to provide services.

b. If organized as a nonprofit corporation, be governed by a board of directors which adequately represents interested professions, consumers of the center's services, socioeconomic, cultural, and age groups, and various geographical areas in the catchment area served by the center. If organized as a for-profit corporation, the corporation's policy structure shall incorporate such representation.

c. Arrange for the financial condition and transactions of the community mental health center to be audited once each year by the auditor of state. However, in lieu of an audit by the auditor of state, the local governing body of a community mental health center organized under this chapter may contract with or employ certified public accountants to conduct the audit, pursuant to the applicable terms and conditions prescribed by sections 11.6 and 11.19 and audit format prescribed by the auditor of state. Copies of each audit shall be furnished by the auditor or accountant to the administrator of the division of mental health and disability services.

d. Comply with the accreditation standards applicable to the center.

2011 Acts, ch 121, §20, 23; 2012 Acts, ch 1120, §29; 2013 Acts, ch 90, §57

Referred to in §225C.4, 225C.6, 331.321

230A.111 Review and evaluation.

1. The review and evaluation of designated centers shall be performed through a formal accreditation review process as recommended by the division and approved by the commission. The accreditation process shall include all of the following:

a. Specific time intervals for full accreditation reviews based upon levels of accreditation.

b. Use of random or complaint-specific, on-site limited accreditation reviews in the interim

between full accreditation reviews, as a quality review approach. The results of such reviews shall be presented to the commission.

c. Use of center accreditation self-assessment tools to gather data regarding quality of care and outcomes, whether used during full or limited reviews or at other times.

2. The accreditation process shall include but is not limited to addressing all of the following:

a. Measures to address centers that do not meet standards, including authority to revoke accreditation.

b. Measures to address noncompliant centers that do not develop a corrective action plan or fail to implement steps included in a corrective action plan accepted by the division.

c. Measures to appropriately recognize centers that successfully complete a corrective action plan.

d. Criteria to determine when a center's accreditation should be denied, revoked, suspended, or made provisional.

2011 Acts, ch 121, §21, 23

Referred to in §225C.4

SUBTITLE 4

ELDERS

Referred to in §714.8

CHAPTER 231

DEPARTMENT ON AGING — OLDER IOWANS

	SUBCHAPTER I	231.42	Office of long-term care ombudsman — duties — penalties for violations.
	POLICY AND DEFINITIONS		
231.1	Short title.	231.43	Authority and responsibilities of the commission. Repealed by 2010 Acts, ch 1062, §10.
231.2	Legislative findings and declaration. Repealed by 2018 Acts, ch 1049, §18.	231.44	Utilization of resources — assistance and advocacy related to long-term services and supports under the Medicaid program.
231.3	State policy and objectives.		
231.4	Definitions.	231.45	Certified volunteer long-term care ombudsman program.
231.5	through 231.10 Reserved.	231.46	through 231.50 Reserved.
	SUBCHAPTER II		
	COMMISSION ON AGING		
231.11	Commission established.		
231.12	Terms.		
231.13	Meetings — officers.		
231.14	Commission duties and authority.	231.51	Older American community service employment program.
231.15	through 231.20 Reserved.	231.52	Senior internship program. Repealed by 2013 Acts, ch 18, §34.
	SUBCHAPTER III		
	DEPARTMENT ON AGING		
231.21	Department on aging.	231.53	Coordination with Workforce Innovation and Opportunity Act.
231.22	Director — assistant director.	231.54	Elderlaw education program. Repealed by 2003 Acts, ch 141, §16.
231.23	Department on aging — duties and authority.	231.55	Retired senior volunteer programs. Repealed by 2005 Acts, ch 42, §6.
231.23A	Programs and services.	231.56	Services and programs.
231.24	Certified retirement communities. Repealed by 2012 Acts, ch 1086, §16.	231.56A	Prevention of elder abuse, neglect, and exploitation program.
231.25	through 231.30 Reserved.		
	SUBCHAPTER IV		
	PLANNING AND SERVICE DELIVERY		
231.31	State plan on aging.	231.57	Coordination of advocacy.
231.32	Criteria for designation of area agencies on aging.	231.58	Long-term living coordination.
231.33	Area agencies on aging duties.	231.59	and 231.60 Repealed by 2003 Acts, ch 141, §16.
231.34	Limitation of funds used for administrative purposes.	231.61	Adult day services requirements — oversight. Repealed by 2003 Acts, ch 165, §20.
231.35	through 231.40 Reserved.	231.62	Alzheimer's disease services and assistance.
		231.63	End-of-life care information. Repealed by 2012 Acts, ch 1086, §16.
		231.64	Aging and disability resource center.
	SUBCHAPTER V	231.65	Legal assistance development program.
	LONG-TERM CARE OMBUDSMAN	231.66	Nutrition and health promotion program.
231.41	Purpose.		

SUBCHAPTER I
POLICY AND DEFINITIONS

231.1 Short title.

This chapter, entitled the “*Older Iowans Act*”, sets forth the state’s commitment to its older individuals, their dignity, independence, and rights.

86 Acts, ch 1245, §1001

C87, §249D.1

C93, §231.1

2009 Acts, ch 23, §12

231.2 Legislative findings and declaration. Repealed by 2018 Acts, ch 1049, §18.

231.3 State policy and objectives.

The general assembly declares that it is the policy of the state to work toward attainment of the following objectives for Iowa’s older individuals:

1. An adequate income.
 2. Access to physical and mental health care and long-term living and community support services without regard to economic status.
 3. Suitable and affordable housing that reflects the needs of older individuals.
 4. Access to comprehensive information and a community navigation system providing all available options related to long-term living and community support services that assist older individuals in the preservation of personal assets and the ability to entirely avoid or significantly delay reliance on entitlement programs.
 5. Full restorative services for those who require institutional care, and a comprehensive array of long-term living and community support services adequate to sustain older people in their communities and, whenever possible, in their homes, including support for caregivers.
 6. Pursuit of meaningful activity within the widest range of civic, cultural, educational, recreational, and employment opportunities.
 7. Suitable community transportation systems to assist in the attainment of independent movement.
 8. Freedom, independence, and the free exercise of individual initiative in planning and managing their own lives.
 9. Freedom from abuse, neglect, and exploitation.
- 86 Acts, ch 1245, §1003
C87, §249D.3
C93, §231.3
2003 Acts, ch 141, §1; 2005 Acts, ch 45, §2; 2009 Acts, ch 23, §14; 2018 Acts, ch 1049, §1, 2
Referred to in §16.47

231.4 Definitions.

1. For purposes of this chapter, unless the context otherwise requires:
 - a. “*Administrative action*” means an action or decision made by an owner, employee, or agent of a long-term care facility, assisted living program, elder group home, or by a governmental agency, which affects the service provided to residents or tenants covered in this chapter.
 - b. “*Assisted living program*” means a program which provides assisted living as defined pursuant to section 231C.2 and which is certified under chapter 231C.
 - c. “*Certified volunteer long-term care ombudsman*” or “*certified volunteer*” means a volunteer long-term care ombudsman certified pursuant to section 231.45.
 - d. “*Commission*” means the commission on aging.
 - e. “*Department*” means the department on aging.
 - f. “*Director*” means the director of the department on aging.
 - g. “*Elder group home*” means elder group home as defined in section 231B.1 which is certified under chapter 231B.

h. “*Equivalent support*” means in-kind contributions of services, goods, volunteer support time, administrative support, or other support reasonably determined by the department as equivalent to a dollar amount.

i. “*Federal Act*” means the Older Americans Act of 1965, 42 U.S.C. §3001 et seq., as amended.

j. “*Home and community-based services*” means a continua of services available in an individual’s home or community which include but are not limited to case management services, options counseling, family caregiving, homemaker services, personal care services, adult day services, respite services, congregate and home delivered meals, nutrition counseling, nutrition education, and other medical and social services which contribute to the health and well-being of individuals and their ability to reside in a home or community-based care setting.

k. “*Legal representative*” means a tenant’s legal representative as defined in section 231B.1 or 231C.2, or a resident’s guardian, conservator, representative payee, or agent under a power of attorney.

l. “*Long-term care facility*” means a long-term care unit of a hospital or a facility licensed under section 135C.1 whether the facility is public or private.

m. “*Long-term care ombudsman*” means an advocate for residents and tenants of long-term care facilities, assisted living programs, and elder group homes who carries out duties as specified in this chapter.

n. “*Older individual*” means an individual who is sixty years of age or older.

o. “*Options counseling*” means a service involving an interactive process, which may include a needs assessment, directed by the recipient individual and which may include other participants of the individual’s choosing and the individual’s legal representative, in which the individual receives guidance to make informed choices about long-term living and community support services in order to sustain independent living.

p. “*Resident*” means an individual residing in a long-term care facility, excluding facilities licensed primarily to serve persons with an intellectual disability or mental illness.

q. “*Tenant*” means an individual who receives assisted living services through an assisted living program or an individual who receives elder group home services through an elder group home.

r. “*Unit of general purpose local government*” means the governing body of a city, county, township, metropolitan area, or region within the state that has a population of one hundred thousand or more, that is recognized for areawide planning, and that functions as a political subdivision of the state whose authority is general and not limited to only one function or combination of related functions, or a tribal organization.

2. For the purposes of this chapter, “*aging and disability resource center*”, “*area agency on aging*”, “*focal point*”, “*greatest economic need*”, “*greatest social need*”, “*planning and service area*”, and “*tribal organization*” mean as those terms are defined in the federal Act.

86 Acts, ch 1245, §1004

C87, §249D.4

C93, §231.4

2003 Acts, ch 141, §2; 2005 Acts, ch 45, §3; 2009 Acts, ch 23, §15; 2010 Acts, ch 1062, §3, 4; 2011 Acts, ch 25, §143; 2012 Acts, ch 1019, §83; 2012 Acts, ch 1086, §2, 3; 2013 Acts, ch 18, §18; 2018 Acts, ch 1049, §3

Referred to in §235B.6

231.5 through 231.10 Reserved.

SUBCHAPTER II
COMMISSION ON AGING

231.11 Commission established.

The commission on aging is established which shall consist of eleven members. One member each shall be appointed by the president of the senate, after consultation with the majority leader of the senate, and by the minority leader of the senate, from the members of the senate to serve as ex officio, nonvoting members. One member each shall be appointed by the speaker of the house of representatives and by the minority leader of the house of representatives, from the members of the house of representatives to serve as ex officio, nonvoting members. Seven members shall be appointed by the governor subject to confirmation by the senate. Not more than a simple majority of the governor's appointees shall belong to the same political party. At least four of the seven members appointed by the governor shall be fifty-five years of age or older when appointed.

86 Acts, ch 1245, §1005

C87, §249D.11

90 Acts, ch 1223, §22

C93, §231.11

2008 Acts, ch 1156, §32, 58; 2009 Acts, ch 23, §16

Confirmation, see §2.32

231.12 Terms.

All members of the commission appointed by the governor shall be appointed for terms of four years, with staggered expiration dates. The terms of office of members appointed by the governor shall commence and end as provided by section 69.19. Legislative members of the commission shall serve terms of office as provided in section 69.16B. A vacancy on the commission shall be filled for the unexpired term of the vacancy in the same manner as the original appointment was made. If a legislative member ceases to be a member of the general assembly the legislative member may continue to serve until a successor is appointed.

86 Acts, ch 1245, §1006

C87, §249D.12

88 Acts, ch 1134, §59

C93, §231.12

2008 Acts, ch 1156, §33, 58

231.13 Meetings — officers.

Members of the commission shall elect from the commission's membership a chairperson, and other officers as commission members deem necessary, who shall serve for a period of two years. The commission shall meet at regular intervals at least four times each year and may hold special meetings at the call of the chairperson or at the request of a majority of the commission membership. The commission shall meet at the seat of government or such other place as the commission may designate. Members shall be paid a per diem as specified in section 7E.6 and shall receive reimbursement for actual expenses for their official duties.

86 Acts, ch 1245, §1007

C87, §249D.13

90 Acts, ch 1256, §42

C93, §231.13

2003 Acts, ch 141, §3

231.14 Commission duties and authority.

1. The commission is the policymaking body of the sole state agency responsible for administration of the federal Act. The commission shall:

- a. Approve state and area plans on aging.
- b. Adopt policies to coordinate state activities related to the purposes of this chapter.
- c. Serve as an effective and visible advocate for older individuals by establishing policies

for reviewing and commenting upon all state plans, budgets, and policies which affect older individuals and for providing technical assistance to any agency, organization, association, or individual representing the needs of older individuals.

d. Divide the state into distinct planning and service areas after considering the geographical distribution of older individuals in the state, the incidence of the need for supportive services, nutrition services, multipurpose senior centers, and legal services, the distribution of older individuals who have low incomes residing in such areas, the distribution of resources available to provide such services or centers, the boundaries of existing areas within the state which are drawn for the planning or administration of supportive services programs, the location of units of general purpose, local government within the state, and any other relevant factors.

e. Designate for each planning and service area a public or private nonprofit agency or organization as the area agency on aging for that area. The commission may revoke the designation of an area agency on aging pursuant to section 231.32.

f. Adopt policies to assure that the department will take into account the views of older individuals in the development of policy.

g. Adopt a method for the distribution of federal Act and state funds taking into account, to the maximum extent feasible, the best available data on the geographic distribution of older individuals in the state, and publish the method for review and comment.

h. Adopt policies and measures to assure that preference will be given to providing services to older individuals with the greatest economic or social needs, with particular attention to low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas.

i. Adopt policies to administer state programs authorized by this chapter.

j. Adopt policies and administrative rules pursuant to chapter 17A that support the capabilities of the area agencies on aging and the aging and disabilities resource centers to serve older individuals and persons with disabilities experiencing Alzheimer's disease or related dementias.

2. The commission shall adopt administrative rules pursuant to chapter 17A to administer the duties specified in this chapter and in all other chapters under the department's jurisdiction.

86 Acts, ch 1245, §1008

C87, §249D.14

88 Acts, ch 1073, §1

C93, §231.14

2003 Acts, ch 141, §4; 2005 Acts, ch 45, §4, 5; 2009 Acts, ch 23, §17; 2009 Acts, ch 41, §263; 2012 Acts, ch 1086, §4, 5; 2018 Acts, ch 1049, §4

231.15 through 231.20 Reserved.

SUBCHAPTER III

DEPARTMENT ON AGING

231.21 Department on aging.

An Iowa department on aging is established which shall administer this chapter under the policy direction of the commission on aging. The department on aging shall be administered by a director.

86 Acts, ch 1245, §1009

C87, §249D.21

C93, §231.21

2009 Acts, ch 23, §18

Referred to in §7E.5, 231E.3

231.22 Director — assistant director.

1. The governor, subject to confirmation by the senate, shall appoint a director of the department on aging who shall, subject to chapter 8A, subchapter IV, employ and direct staff as necessary to carry out the powers and duties created by this chapter. The director shall serve at the pleasure of the governor. However, the director is subject to reconfirmation by the senate as provided in section 2.32, subsection 4. The governor shall set the salary for the director within the range set by the general assembly.

2. The director shall have the following qualifications and training:

a. Training in the field of gerontology, social work, public health, public administration, or other related fields.

b. Direct experience or extensive knowledge of programs and services related to older individuals.

c. Demonstrated understanding and concern for the welfare of older individuals.

d. Demonstrated competency and recent working experience in an administrative, supervisory, or management position.

3. The director may appoint an assistant director who shall be in charge of the department in the absence of the director. The appointment shall be based on the appointee's training, experience, and capabilities.

86 Acts, ch 1245, §1010

C87, §249D.22

C93, §231.22

2003 Acts, ch 145, §214; 2008 Acts, ch 1031, §107; 2009 Acts, ch 23, §19; 2012 Acts, ch 1086, §6

231.23 Department on aging — duties and authority.

The department on aging director shall:

1. Develop and administer a state plan on aging.

2. Assist the commission in the review and approval of area plans.

3. Pursuant to commission policy, coordinate state activities related to the purposes of this chapter and all other chapters under the department's jurisdiction.

4. Advocate for older individuals by reviewing and commenting upon all state plans, budgets, laws, rules, regulations, and policies which affect older individuals and by providing technical assistance to any agency, organization, association, or individual representing the needs of older individuals.

5. Assist the commission in dividing the state into distinct planning and service areas.

6. Assist the commission in designating for each area a public or private nonprofit agency or organization as the area agency on aging for that area.

7. Pursuant to commission policy, take into account the views of older Iowans.

8. Assist the commission in adopting a method for the distribution of funds available from the federal Act and state appropriations and allocations.

9. Assist the commission in assuring that preference will be given to providing services to older individuals with the greatest economic or social needs, with particular attention to low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas.

10. Assist the commission in developing, adopting, and enforcing administrative rules, by issuing necessary forms and procedures.

11. Apply for, receive, and administer grants, devises, donations, gifts, or bequests of real or personal property from any source to conduct projects consistent with the purposes of the department. Notwithstanding section 8.33, moneys received by the department pursuant to this section are not subject to reversion to the general fund of the state.

12. Administer state authorized programs.

13. Establish a procedure for an area agency on aging to use in selection of members of the agency's board of directors. The selection procedure shall be incorporated into the bylaws of the board of directors.

86 Acts, ch 1245, §1011

C87, §249D.23

C93, §231.23

2003 Acts, ch 141, §5; 2005 Acts, ch 45, §6; 2006 Acts, ch 1184, §106; 2007 Acts, ch 81, §1; 2009 Acts, ch 23, §20, 21; 2012 Acts, ch 1086, §7; 2018 Acts, ch 1049, §5

Referred to in §231.33

231.23A Programs and services.

The department on aging shall provide or administer, but is not limited to providing or administering, all of the following programs and services:

1. Services for older individuals, persons with disabilities eighteen years of age and older, family caregivers, and veterans as defined by the department in the most current version of the department’s reporting manual and pursuant to the federal Act and regulations.

2. The older American community service employment program.

3. Case management services.

4. The aging and disability resource center.

5. The legal assistance development program.

6. The nutrition and health promotion program.

7. The Iowa family caregiver program.

8. Elder abuse prevention, detection, intervention, and awareness including neglect and exploitation.

9. Other programs and services authorized by law.

2003 Acts, ch 141, §6; 2005 Acts, ch 42, §5; 2005 Acts, ch 45, §7; 2006 Acts, ch 1010, §69; 2009 Acts, ch 23, §22; 2010 Acts, ch 1062, §5; 2012 Acts, ch 1086, §8; 2013 Acts, ch 18, §19, 20; 2014 Acts, ch 1026, §48; 2018 Acts, ch 1049, §6

Older American community service employment program, see §231.51, 231.53

Prevention of elder abuse, neglect, and exploitation program, see §231.56A

Aging and disability resource center, see §231.64

Legal assistance development program, see §231.65

Nutrition and health promotion program, see §231.66

231.24 Certified retirement communities. Repealed by 2012 Acts, ch 1086, §16.

231.25 through 231.30 Reserved.

SUBCHAPTER IV

PLANNING AND SERVICE DELIVERY

231.31 State plan on aging.

The department on aging shall develop, and submit to the commission on aging for approval, a multiyear state plan on aging. The state plan on aging shall meet all applicable federal requirements.

86 Acts, ch 1245, §1012

C87, §249D.31

C93, §231.31

2003 Acts, ch 141, §7; 2009 Acts, ch 23, §23

231.32 Criteria for designation of area agencies on aging.

1. The commission shall designate an area agency on aging for each planning and service area. The commission shall continue the designation until an area agency on aging’s designation is removed for cause as determined by the commission, until the time of renewal or the annual update of an area plan, until the agency voluntarily withdraws as an area agency on aging, or until a change in the designation of planning and service areas or area agencies on aging is required by state or federal law. In that event, the commission shall proceed in accordance with subsections 2, 3, and 4. Designated area agencies on aging shall comply with the requirements of the federal Act.

2. The commission shall designate an area agency to serve each planning and service

area, after consideration of the views offered by units of general purpose local government. An area agency may be:

a. An established office of aging which is operating within a planning and service area designated by the commission.

b. Any office or agency of a unit of general purpose local government, which is designated to function only for the purpose of serving as an area agency on aging by the chief elected official of such unit.

c. Any office or agency designated by the appropriate chief elected officials of any combination of units of general purpose local government to act only on behalf of such combination for such purpose.

d. Any public or nonprofit private agency in a planning and service area or any separate organizational unit within such agency which is under the supervision or direction for this purpose of the department on aging and which can and will engage only in the planning or provision of a broad range of long-term living and community support services or nutrition services within the planning and service area.

3. When the commission designates a new area agency on aging the commission shall give the right of first refusal to a unit of general purpose local government if:

a. Such unit can meet the requirements of subsection 1.

b. The boundaries of such a unit and the boundaries of the area are reasonably contiguous.

4. Each area agency shall provide assurance, determined adequate by the commission, that the area agency has the ability to develop an area plan and to carry out, directly or through contractual or other arrangements, a program in accordance with the plan within the planning and service area. In designating an area agency on aging within the planning and service area, the commission shall give preference to an established office of aging, unless the commission finds that no such office within the planning and service area has the capacity to carry out the area plan.

5. Upon designation, an area agency on aging shall be considered an instrumentality of the state and shall adhere to all state and federal mandates applicable to an instrumentality of the state.

86 Acts, ch 1245, §1013

C87, §249D.32

C93, §231.32

2003 Acts, ch 141, §8; 2009 Acts, ch 23, §24; 2009 Acts, ch 41, §230; 2009 Acts, ch 133, §218, 219; 2010 Acts, ch 1069, §66, 147; 2012 Acts, ch 1028, §1, 3; 2013 Acts, ch 18, §21; 2018 Acts, ch 1049, §7, 8

Referred to in §231.14

231.33 Area agencies on aging duties.

Each area agency on aging shall:

1. Develop and administer an area plan on aging approved by the commission.

2. Assess the types and levels of services needed by older individuals and their caregivers in the planning and service area, and the effectiveness of other public or private programs serving those needs.

3. Enter into contracts to provide services under the plan.

4. Provide technical assistance as needed, document quarterly monitoring, and provide a written report of an annual on-site assessment of all service providers funded by the area agency.

5. Coordinate the administration of its plan with federal programs and with other federal, state, and local resources in order to develop a comprehensive and coordinated service system.

6. Establish an advisory council.

7. Give preference in the delivery of services under the area plan to older individuals with the greatest economic or social need, with particular attention to low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas.

8. Assure that older individuals and their caregivers in the planning and service area have reasonably convenient access to information and assistance services.

9. Provide adequate and effective opportunities for older individuals to express their views to the area agency on policy development and program implementation under the area plan.

10. Designate community focal points.

11. Conduct outreach efforts to identify older individuals with the greatest economic or social needs, with particular attention to low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas, and inform them of the availability of services under the area plan.

12. Develop and publish the methods that the agency uses to establish preferences and priorities for services.

13. Submit all fiscal and performance reports in accordance with the policies of the commission.

14. Monitor, evaluate, and comment on laws, rules, regulations, policies, programs, hearings, levies, and community actions which significantly affect the lives of older individuals.

15. Conduct public hearings on the needs of older individuals and their caregivers.

16. Represent the interests of older individuals and their caregivers to public officials, public and private agencies, or organizations.

17. Coordinate planning with other agencies and organizations to promote new or expanded benefits and opportunities for older individuals.

18. Coordinate planning with other agencies for assuring the safety of older individuals in a natural disaster or other safety threatening situation.

19. Incorporate into the bylaws of the area agency's board of directors and comply with the procedure established by the department for selection of members to the board of directors as provided in section 231.23.

20. Provide the opportunity for older individuals residing in the planning and service area to offer substantive suggestions regarding the employment practices of the area agency on aging.

21. Comply with all applicable requirements of the Iowa public employees' retirement system established pursuant to chapter 97B. Notwithstanding any provision to the contrary, an employee of an area agency on aging that was enrolled in an alternative qualified plan prior to July 1, 2012, may continue participation in that alternative qualified plan in lieu of mandatory participation in the Iowa public employees' retirement system.

22. Encourage the development of public and private partnerships, entrepreneurial activities, and other mutually collaborative efforts.

86 Acts, ch 1245, §1014

C87, §249D.33

89 Acts, ch 241, §6

C93, §231.33

99 Acts, ch 129, §12; 2003 Acts, ch 141, §9; 2005 Acts, ch 45, §8, 9; 2006 Acts, ch 1184, §107; 2007 Acts, ch 218, §38; 2009 Acts, ch 23, §25; 2010 Acts, ch 1192, §51, 73; 2012 Acts, ch 1086, §9; 2013 Acts, ch 18, §22; 2013 Acts, ch 138, §48, 54, 55; 2018 Acts, ch 1049, §9, 10

231.34 Limitation of funds used for administrative purposes.

Of the state funds appropriated or allocated to the department for programs of the area agencies on aging, not more than seven and one-half percent of the total amount shall be used for area agencies on aging administrative purposes.

2005 Acts, ch 175, §100

231.35 through 231.40 Reserved.

SUBCHAPTER V
LONG-TERM CARE OMBUDSMAN

231.41 Purpose.

The purpose of this subchapter is to establish and provide for the operation of the office of long-term care ombudsman; to carry out, through the office, a state long-term care ombudsman program within the department in accordance with the requirements of the federal Act; and to adopt the supporting federal regulations and guidelines for its operation.

86 Acts, ch 1245, §1015

C87, §249D.41

C93, §231.41

2003 Acts, ch 141, §10; 2009 Acts, ch 23, §26; 2010 Acts, ch 1062, §6; 2013 Acts, ch 18, §23

231.42 Office of long-term care ombudsman — duties — penalties for violations.

1. *Office established.* The office of long-term care ombudsman is established within the department, in accordance with the federal Act, and state law. The office shall consist of the state long-term care ombudsman, any local long-term care ombudsmen, and any certified volunteer long-term care ombudsmen.

2. *State long-term care ombudsman.* The director of the department shall appoint the state long-term care ombudsman who shall do all of the following:

a. Establish and implement a statewide confidential uniform reporting system for receiving, analyzing, referring, investigating, and resolving complaints about administrative actions and the health, safety, welfare, and rights of residents or tenants of long-term care facilities, assisted living programs, and elder group homes, excluding facilities licensed primarily to serve persons with an intellectual disability or mental illness.

b. Publicize the office of long-term care ombudsman and provide information and education to consumers, the public, and other agencies about issues related to long-term care in Iowa.

c. Monitor the development and implementation of federal, state, and local laws, regulations, and policies that relate to long-term care in Iowa.

d. Annually report to the governor and general assembly on the activities of the office and make recommendations for improving the health, safety, welfare, and rights of residents and tenants.

e. Cooperate with persons and public or private agencies with regard to, and participate in, inquiries, meetings, or studies that may lead to improvements in the health, safety, welfare, and rights of residents and tenants.

3. *Local long-term care ombudsmen.* The local long-term care ombudsmen established pursuant to this section shall do all of the following:

a. Accept, investigate, verify, and work to resolve complaints relating to any action or inaction that may adversely affect the health, safety, welfare, or rights of residents or tenants.

b. Provide information about long-term care, the rights of residents and tenants, payment sources for care, and selection of a long-term care facility, assisted living program, or elder group home to providers, consumers, family members, volunteers, and the public.

c. Make referrals to appropriate licensing, certifying, and enforcement agencies to assure appropriate investigation of abuse complaints and corrective actions.

d. Assist in the training and education of certified volunteers associated with the office of long-term care ombudsman.

e. Make non-complaint-related visits to long-term care facilities, assisted living programs, and elder group homes to observe daily routines, meals, and activities, and work to resolve complaints if any are identified during these visits.

4. *Referrals of abuse, neglect, or exploitation.*

a. If abuse, neglect, or exploitation of a resident or tenant is suspected, the state or a local long-term care ombudsman shall, with the permission of the resident or tenant as applicable under federal law, make an immediate referral to the department of inspections

and appeals, the department of human services, the department on aging, or the appropriate law enforcement agency, as applicable.

b. If the department of inspections and appeals responds to a complaint referred by the state or a local long-term care ombudsman against a long-term care facility, assisted living program, elder group home, or an employee of such entity, copies of related inspection reports, plans of correction, and notice of any citations and sanctions levied against the facility, program, or home shall be forwarded to the office of long-term care ombudsman.

5. *Access to long-term care facility, assisted living program, or elder group home and residents and tenants.* The state or a local long-term care ombudsman or a certified volunteer may enter any long-term care facility, assisted living program, or elder group home at any time with or without prior notice or complaint and shall be granted access to residents and tenants at all times for the purpose of carrying out the duties specified in this section. As used in this section, “access” means the right to do all of the following:

a. Enter any long-term care facility, assisted living program, or elder group home and provide identification.

b. Seek consent from the resident, tenant, or legal representative to communicate privately and without restriction with any resident, tenant, or legal representative.

c. Communicate privately and without restriction with any resident, tenant, or legal representative.

d. Review the medical, social, or other records of a resident or tenant.

e. Observe all resident or tenant areas of a long-term care facility, assisted living program, or elder group home except the living area of any resident or tenant who protests the observation.

6. *Access to medical and social records.*

a. The state or a local long-term care ombudsman or certified volunteer long-term care ombudsman shall have access to the medical and social records of a resident or tenant, if any of the following applies:

(1) The state or local long-term care ombudsman or certified volunteer long-term care ombudsman has the permission of the resident or tenant, or the legal representative of the resident or tenant.

(2) The resident or tenant is unable to consent to the access and has no legal representative.

(3) Access to the records is necessary to investigate a complaint if all of the following apply:

(a) A legal representative of the resident or tenant refuses to give the permission.

(b) The state or local long-term care ombudsman or a certified volunteer long-term care ombudsman has reasonable cause to believe that the legal representative is not acting in the best interest of the resident or tenant.

(c) The local long-term care ombudsman or a certified volunteer long-term care ombudsman obtains the approval of the state long-term care ombudsman.

b. Records may be reproduced by the state or a local long-term care ombudsman or by a certified volunteer long-term care ombudsman.

c. Upon request of the state or a local long-term care ombudsman, a long-term care facility, assisted living program, or elder group home shall provide the name, address, and telephone number of the legal representative or next of kin of any resident or tenant.

d. A long-term care facility, assisted living program, or elder group home or personnel of such a facility, program, or home who discloses records in compliance with this section and the procedures adopted pursuant to this section shall not be liable for such disclosure.

7. *Access to administrative records.*

a. Pursuant to the federal Act, the state or a local long-term care ombudsman or a certified volunteer shall have access to the administrative records, policies, and documents of the long-term care facility, assisted living program, or elder group home, which are accessible to residents, tenants, or the general public.

b. Pursuant to the federal Act, the state or a local long-term care ombudsman or a certified volunteer shall have access to, and upon request, copies of, all licensing and

certification records maintained by the state with respect to a long-term care facility, assisted living program, or elder group home.

8. *Interference prohibited — penalties.*

a. An officer, owner, director, or employee of a long-term care facility, assisted living program, or elder group home who intentionally prevents, interferes with, or attempts to impede the work of the state or a local long-term care ombudsman or a certified volunteer is subject to a penalty imposed by the director of not more than one thousand five hundred dollars for each violation. If the director imposes a penalty for a violation under this paragraph, no other state agency shall impose a penalty for the same interference violation. Any moneys collected pursuant to this subsection shall be deposited in the general fund of the state.

b. The office of long-term care ombudsman shall adopt rules specifying procedures for notice and appeal of penalties imposed pursuant to this subsection.

c. The director, in consultation with the office of long-term care ombudsman, shall notify the county attorney of the county in which the long-term care facility, assisted living program, or elder group home is located, or the attorney general, of any violation of this subsection.

9. *Retaliation prohibited — penalties.* An officer, owner, director, or employee of a long-term care facility, assisted living program, or elder group home shall not retaliate against any person for having filed a complaint with, or provided information to, the state or a local long-term care ombudsman or a certified volunteer. A person who retaliates or discriminates in violation of this subsection is guilty of a simple misdemeanor.

10. *Change in operations.* A long-term care facility, assisted living program, or elder group home shall inform the office of long-term care ombudsman in writing at least thirty days prior to any change in operations, programs, services, licensure, or certification that affects residents or tenants, including but not limited to the intention to close, decertify, or change ownership. In an emergency situation, or when a long-term care facility, assisted living program, or elder group home is evacuated, the department of inspections and appeals shall notify the office of long-term care ombudsman.

11. *Immunity.* The state or a local long-term care ombudsman, certified volunteer, or any representative of the office participating in the good faith performance of their official duties shall have immunity from any civil or criminal liability that otherwise might result by reason of taking, investigating, or pursuing a complaint under this section.

12. *Confidentiality.*

a. Information relating to any complaint made to or investigation by the state or a local long-term care ombudsman or certified volunteer that discloses the identity of a complainant, resident, or tenant; information related to a resident's or tenant's social or medical records; or files maintained by the state long-term care ombudsman program that disclose the identity of a complainant, resident, or tenant, shall remain confidential and shall not be disclosed unless any of the following applies:

(1) The complainant, resident, tenant, or a legal representative consents to the disclosure and the consent is given in writing.

(2) The complainant, resident, or tenant gives consent orally and the consent is documented contemporaneously in a writing made by the state long-term care ombudsman or a local long-term care ombudsman.

(3) The disclosure is required by a court order.

b. The department shall adopt rules pursuant to chapter 17A to administer this subsection.

13. *Posting of state long-term care ombudsman information.* Every long-term care facility, assisted living program, and elder group home shall post information in a prominent location that includes the name, address, and telephone number, and a brief description of the services provided by the office of long-term care ombudsman. The information posted shall be approved or provided by the office of long-term care ombudsman.

86 Acts, ch 1245, §1016

C87, §249D.42

C93, §231.42

99 Acts, ch 129, §13; 2003 Acts, ch 141, §11; 2005 Acts, ch 45, §10; 2009 Acts, ch 23, §27 – 29; 2009 Acts, ch 41, §93; 2010 Acts, ch 1062, §7; 2012 Acts, ch 1019, §84; 2013 Acts, ch 18, §24; 2018 Acts, ch 1049, §11 – 13; 2019 Acts, ch 24, §22

Referred to in §22.7(62), 135C.1, 231.45, 231B.1, 231C.2

231.43 Authority and responsibilities of the commission. Repealed by 2010 Acts, ch 1062, §10.

231.44 Utilization of resources — assistance and advocacy related to long-term services and supports under the Medicaid program.

1. The office of long-term care ombudsman may utilize its available resources to provide assistance and advocacy services to eligible recipients, or the families or legal representatives of such eligible recipients, of long-term services and supports provided through the Medicaid program. Such assistance and advocacy shall include but is not limited to all of the following:

a. Assisting recipients in understanding the services, coverage, and access provisions and their rights under Medicaid managed care.

b. Developing procedures for the tracking and reporting of the outcomes of individual requests for assistance, the obtaining of necessary services and supports, and other aspects of the services provided to eligible recipients.

c. Providing advice and assistance relating to the preparation and filing of complaints, grievances, and appeals of complaints or grievances, including through processes available under managed care plans and the state appeals process, relating to long-term services and supports under the Medicaid program.

2. A representative of the office of long-term care ombudsman providing assistance and advocacy services authorized under this section for an individual, shall be provided access to the individual, and shall be provided access to the individual's medical and social records as authorized by the individual or the individual's legal representative, as necessary to carry out the duties specified in this section.

3. A representative of the office of long-term care ombudsman providing assistance and advocacy services authorized under this section for an individual, shall be provided access to administrative records related to the provision of the long-term services and supports to the individual, as necessary to carry out the duties specified in this section.

4. The office of long-term care ombudsman and representatives of the office, when providing assistance and advocacy services under this section, shall be considered a health oversight agency as defined in 45 C.F.R. §164.501 for the purposes of health oversight activities as described in 45 C.F.R. §164.512(d). Recipient information available to the office of long-term care ombudsman and representatives of the office under this subsection shall be limited to the recipient's protected health information as defined in 45 C.F.R. §160.103 for the purpose of recipient case resolution. When providing assistance and advocacy services under this section, the office of long-term care ombudsman shall act as an independent agency, and the office of long-term care ombudsman and representatives of the office shall be free of any undue influence that restrains the ability of the office or the office's representatives from providing such services and assistance. The office of long-term care ombudsman shall adopt rules applicable to long-term care ombudsmen providing assistance and advocacy services under this section to authorize such ombudsmen to function in a manner consistent with long-term care ombudsmen under the federal Act.

5. For the purposes of this section:

a. "*Institutional setting*" includes a long-term care facility, an elder group home, or an assisted living program.

b. "*Long-term services and supports*" means the broad range of health, health-related, and personal care assistance services and supports, provided in both institutional settings and home and community-based settings, necessary for older individuals and persons with disabilities who experience limitations in their capacity for self-care due to a physical, cognitive, or mental disability or condition.

2015 Acts, ch 137, §65, 162, 163; 2016 Acts, ch 1139, §98

231.45 Certified volunteer long-term care ombudsman program.

1. The department shall establish a certified volunteer long-term care ombudsman program in accordance with the federal Act to provide assistance to the state and local long-term care ombudsmen.

2. The department shall develop and implement a certification process for volunteer long-term care ombudsmen including but not limited to an application process, provision for background checks, classroom or on-site training, orientation, and continuing education.

3. Unless specifically excluded, the provisions of section 231.42 relating to local long-term care ombudsmen shall apply to certified volunteer long-term care ombudsmen.

4. The department shall adopt rules pursuant to chapter 17A to administer this section.

2012 Acts, ch 1133, §97; 2013 Acts, ch 18, §25

Referred to in §135C.1, 225C.4, 231.4

231.46 through 231.50 Reserved.

SUBCHAPTER VI

PROGRAMS

231.51 Older American community service employment program.

1. The department shall direct and administer the older American community service employment program as authorized by the federal Act in coordination with the department of workforce development.

2. The purpose of the program is to foster individual economic self-sufficiency and to increase the number of participants placed in unsubsidized employment in the public and private sectors while maintaining the community service focus of the program.

3. Funds appropriated to the department from the United States department of labor shall be distributed to subgrantees in accordance with federal requirements.

4. The department shall require such uniform reporting and financial accounting by subgrantees as may be necessary to fulfill the purposes of this section.

86 Acts, ch 1245, §1019

C87, §249D.51

C93, §231.51

96 Acts, ch 1186, §23; 2002 Acts, ch 1058, §1; 2005 Acts, ch 45, §13; 2011 Acts, ch 118, §85, 89; 2013 Acts, ch 18, §26

231.52 Senior internship program. Repealed by 2013 Acts, ch 18, §34.

231.53 Coordination with Workforce Innovation and Opportunity Act.

The older American community service employment program shall be coordinated with the federal Workforce Innovation and Opportunity Act administered by the department of workforce development.

2002 Acts, ch 1058, §3; 2009 Acts, ch 23, §33; 2013 Acts, ch 18, §27; 2018 Acts, ch 1049, §14

231.54 Elderlaw education program. Repealed by 2003 Acts, ch 141, §16.

231.55 Retired senior volunteer programs. Repealed by 2005 Acts, ch 42, §6. See §15H.2.

231.56 Services and programs.

The department shall administer long-term living and community support services and programs that allow older individuals to secure and maintain maximum independence and dignity in a home environment that provides for self-care with appropriate supportive services, assist in removing individual and social barriers to economic and personal independence for older individuals, and provide a continuum of care for older individuals and individuals with disabilities. Funds appropriated for this purpose shall be allocated

based on administrative rules adopted by the commission. The department shall require such records as needed to administer this section.

86 Acts, ch 1245, §1024

C87, §249D.56

C93, §231.56

2005 Acts, ch 45, §14; 2009 Acts, ch 23, §34; 2012 Acts, ch 1086, §11; 2013 Acts, ch 90, §58; 2018 Acts, ch 1049, §15

231.56A Prevention of elder abuse, neglect, and exploitation program.

1. The department shall administer the prevention of elder abuse, neglect, and exploitation program in accordance with the requirements of the federal Act. The purpose of the program is to carry out activities for intervention in and response to elder abuse, neglect, and exploitation including financial exploitation.

2. The department shall adopt rules to implement this section.

2003 Acts, ch 98, §1; 2003 Acts, ch 179, §67; 2009 Acts, ch 23, §35; 2012 Acts, ch 1086, §12; 2013 Acts, ch 18, §28; 2018 Acts, ch 1049, §16

231.57 Coordination of advocacy.

The department shall administer a program for the coordination of information and assistance provided within the state to assist older individuals and their caregivers in obtaining and protecting their rights and benefits. State and local agencies providing information and assistance to older individuals and their caregivers in seeking their rights and benefits shall cooperate with the department in administering this program.

86 Acts, ch 1245, §1025

C87, §249D.57

C93, §231.57

2003 Acts, ch 141, §13; 2009 Acts, ch 23, §36

231.58 Long-term living coordination.

The director may convene meetings, as necessary, of the director and the directors of human services, public health, and inspections and appeals, to assist in the coordination of policy, service delivery, and long-range planning relating to the long-term living system and older Iowans in the state. The group may consult with individuals, institutions and entities with expertise in the area of the long-term living system and older Iowans, as necessary, to facilitate the group's efforts.

86 Acts, ch 1245, §1026

C87, §249D.58

89 Acts, ch 52, §1

C93, §231.58

2000 Acts, ch 1004, §13, 22; 2003 Acts, ch 141, §14; 2003 Acts, ch 145, §215; 2005 Acts, ch 45, §15; 2008 Acts, ch 1156, §34, 58; 2009 Acts, ch 23, §37, 38; 2009 Acts, ch 182, §90

231.59 and 231.60 Repealed by 2003 Acts, ch 141, §16.

231.61 Adult day services requirements — oversight. Repealed by 2003 Acts, ch 165, §20. See chapter 231D.

231.62 Alzheimer's disease services and assistance.

Pursuant to the federal Act, the department shall direct the area agencies on aging to use outreach efforts to identify older individuals with Alzheimer's disease and related disorders and to establish supportive services for those individuals and their families. The department shall regularly review trends and initiatives to address the long-term living needs of Iowans to determine how the needs of persons with Alzheimer's disease and related disorders can be appropriately met.

2008 Acts, ch 1140, §2; 2011 Acts, ch 34, §57; 2012 Acts, ch 1086, §13

231.63 End-of-life care information. Repealed by 2012 Acts, ch 1086, §16.

231.64 Aging and disability resource center.

1. The aging and disability resource center shall be administered by the department consistent with the federal Act. The department shall designate area agencies on aging to establish, in consultation with other stakeholders including organizations representing the disability community, a coordinated system for providing all of the following:

a. Comprehensive information, referral, and assistance regarding the full range of available public and private long-term living and community support services, options, service providers, and resources within a community, including information on the availability of integrated long-term care.

b. Options counseling to assist individuals in assessing their existing or anticipated long-term care needs and developing and implementing a plan for long-term living and community support services designed to meet their specific needs and circumstances. The plan for long-term living and community support services may include support with person-centered care transitions to assist consumers and family caregivers with transitions between home and care settings.

c. Consumer access to the range of publicly-supported long-term living and community support services for which consumers may be eligible, by serving as a convenient point of entry for such services. The aging and disability resource center shall offer information online and be available via a toll-free telephone number, electronic communications, and in person.

2. The aging and disability resource center shall assist older individuals, persons with disabilities age eighteen or older, family caregivers, and people who inquire about or request assistance on behalf of members of these groups, as they seek long-term living and community support services.

2009 Acts, ch 23, §39; 2012 Acts, ch 1086, §14; 2013 Acts, ch 18, §29; 2013 Acts, ch 140, §19; 2018 Acts, ch 1049, §17; 2019 Acts, ch 59, §68

231.65 Legal assistance development program.

A legal assistance development program shall be administered by the department in accordance with the requirements of the federal Act. The purpose of the program is to provide leadership for improving the quality and quantity of legal advocacy assistance as a means of ensuring a comprehensive elder rights system for Iowa's older individuals. The extent of implementation of this program shall be based on available resources.

2009 Acts, ch 23, §40

231.66 Nutrition and health promotion program.

A nutrition and health promotion program shall be administered by the department, in accordance with the requirements of the federal Act, including congregate and home-delivered nutrition programs, nutrition screening, nutrition education, nutrition counseling, and evidence-based health promotion programs to promote health and well-being, reduce food insecurity, promote socialization, and maximize independence of older individuals.

2009 Acts, ch 23, §41; 2012 Acts, ch 1086, §15

CHAPTER 231A
ELDER FAMILY HOMES

Repealed by 2003 Acts, ch 166, §28

CHAPTER 231B ELDER GROUP HOMES

Referred to in §135C.33, 231.4, 235E.2, 483A.24

231B.1	Definitions.	231B.12	Department notified of casualties.
231B.1A	Findings — purpose.	231B.13	Retaliation by elder group home prohibited.
231B.2	Certification of elder group homes — rules.	231B.14	Civil penalties.
231B.3	Referral to uncertified elder group home prohibited.	231B.15	Criminal penalties and injunctive relief.
231B.4	Zoning — fire and safety standards.	231B.16	Coordination of the long-term care system — transitional provisions.
231B.5	Written occupancy agreement required.	231B.17	Iowa elder group home fees.
231B.6	Involuntary transfer.	231B.18	Application of landlord and tenant Act.
231B.7	Complaints.	231B.19	Resident advocate committees. Repealed by 2013 Acts, ch 18, §34.
231B.8	Exit interview — issuance of findings.	231B.20	Nursing assistant and medication aide — certification.
231B.9	Disclosure of findings.	231B.21	Medication setup — administration and storage of medications.
231B.9A	Informal conference — formal contest — judicial review.		
231B.10	Denial, suspension, or revocation — conditional operation.		
231B.11	Notice — appeal — emergency provisions.		

231B.1 Definitions.

1. “*Department*” means the department of inspections and appeals or the department’s designee.

2. “*Elder*” means a person sixty years of age or older.

3. “*Elder group home*” means a single-family residence that is operated by a person who is providing room, board, and personal care and may provide health-related services to three through five elders who are not related to the person providing the service within the third degree of consanguinity or affinity, and which is staffed by an on-site manager twenty-four hours per day, seven days per week.

4. “*Governmental unit*” means the state, or any county, municipality, or other political subdivision or any department, division, board, or other agency of any of these entities.

5. “*Health-related care*” means services provided by a registered nurse or a licensed practical nurse, on a part-time or intermittent basis, and services provided by other licensed health care professionals, on a part-time or intermittent basis.

6. “*Medication setup*” means assistance with various steps of medication administration to support a tenant’s autonomy, which may include but is not limited to routine prompting, cueing and reminding, opening containers or packaging at the direction of the tenant, reading instructions or other label information, or transferring medications from the original container into suitable medication dispensing containers, reminder containers, or medication cups.

7. “*Occupancy agreement*” means a written agreement entered into between an elder group home and a tenant that clearly describes the rights and responsibilities of the elder group home and the tenant, and other information required by rule. “*Occupancy agreement*” may include a separate signed lease and signed service agreement.

8. “*Personal care*” means assistance with the essential activities of daily living which may include but are not limited to transferring, bathing, personal hygiene, dressing, grooming, and housekeeping that are essential to the health and welfare of a tenant.

9. “*Tenant*” means an individual who receives elder group home services through a certified elder group home.

10. “*Tenant advocate*” means the office of long-term care ombudsman established in section 231.42.

11. “*Tenant’s legal representative*” means a person appointed by the court to act on behalf of a tenant, or a person acting pursuant to a power of attorney.

93 Acts, ch 72, §2; 2003 Acts, ch 166, §3; 2005 Acts, ch 62, §1; 2007 Acts, ch 215, §135; 2013 Acts, ch 18, §30

Referred to in §142D.2, 144C.2, 144D.1, 144F.1, 231.4, 235E.1, 441.21

231B.1A Findings — purpose.

1. The general assembly finds that elder group homes are an important part of the long-term care continua in this state. Elder group homes emphasize the independence and dignity of the individual while providing housing in a cost-effective manner.

2. The purposes of establishing and regulating elder group homes include all of the following:

a. To encourage the establishment and maintenance of a safe and homelike environment for individuals of all income levels who require assistance with personal care to live independently but who require health-related care only on a part-time or intermittent basis.

b. To establish standards for elder group homes that allow flexibility in design, which promotes a model of service delivery by focusing on individual independence, needs and desires, and consumer-driven quality of service.

c. To encourage public participation in the development of elder group home programs for individuals of all income levels.

2005 Acts, ch 62, §2; 2007 Acts, ch 215, §136

231B.2 Certification of elder group homes — rules.

1. The department shall establish by rule, in accordance with chapter 17A, minimum standards for certification and monitoring of elder group homes. The department may adopt by reference, with or without amendment, nationally recognized standards and rules for elder group homes. The standards and rules shall be formulated in consultation with affected state agencies and affected industry, professional, and consumer groups; shall be designed to accomplish the purposes of this chapter; and shall include but not be limited to rules relating to all of the following:

a. Provisions to ensure, to the greatest extent possible, the health, safety, well-being, and appropriate treatment of tenants.

b. Requirements that elder group homes furnish the department with specified information necessary to administer this chapter. All information related to the provider application for an elder group home presented to the department shall be considered a public record pursuant to chapter 22.

c. Standards for tenant evaluation or assessment, which may vary in accordance with the nature of the services provided or the status of the tenant.

d. Provisions for granting short-term waivers for tenants who exceed occupancy criteria.

2. Each elder group home operating in this state shall be certified by the department.

3. The owner or manager of a certified elder group home shall comply with the rules adopted by the department for an elder group home. A person, including a governmental unit, shall not represent an elder group home to the public as an elder group home or as a certified elder group home unless and until the program is certified pursuant to this chapter.

4. a. Services provided by a certified elder group home may be provided directly by staff of the elder group home, by individuals contracting with the elder group home to provide services, or by individuals employed by the tenant or with whom the tenant contracts if the tenant agrees to assume the responsibility and risk of the employment or the contractual relationship.

b. If a tenant is terminally ill and has elected to receive hospice services under the federal Medicare program from a Medicare-certified hospice program, the elder group home and the Medicare-certified hospice program shall enter into a written agreement under which the hospice program retains professional management responsibility for those services.

5. The department may enter into contracts to provide certification and monitoring of elder group homes. The department shall:

a. Have full access at reasonable times to all records, materials, and common areas

pertaining to the provision of services and care to the tenants of a program during certification, monitoring, and complaint investigations of programs seeking certification, currently certified, or alleged to be uncertified.

b. With the consent of the tenant, visit the tenant's unit.

6. A department, agency, or officer of this state or of any governmental unit shall not pay or approve for payment from public funds any amount to an elder group home for an actual or prospective tenant, unless the program holds a current certificate issued by the department and meets all current requirements for certification.

7. The department shall adopt rules regarding the conducting or operating of another business or activity in the distinct part of the physical structure in which the elder group home is operated, if the business or activity serves persons who are not tenants. The rules shall be developed in consultation with affected state agencies and affected industry, professional, and consumer groups.

8. An elder group home shall comply with section 135C.33.

9. The department shall conduct training sessions for personnel responsible for conducting monitoring evaluations and complaint investigations of elder group homes.

10. Certification shall be for two years unless revoked for good cause by the department.

93 Acts, ch 72, §3; 99 Acts, ch 129, §16; 2003 Acts, ch 166, §4, 5; 2005 Acts, ch 62, §3; 2006 Acts, ch 1010, §70; 2007 Acts, ch 215, §137 – 141

231B.3 Referral to uncertified elder group home prohibited.

1. A person shall not place, refer, or recommend the placement of another person in an elder group home that is not certified pursuant to this chapter.

2. A person who has knowledge that an elder group home is operating without certification shall report the name and address of the home to the department. The department shall investigate a report made pursuant to this section.

93 Acts, ch 72, §4; 2003 Acts, ch 166, §6; 2007 Acts, ch 215, §142

231B.4 Zoning — fire and safety standards.

An elder group home shall be located in an area zoned for single-family or multiple-family housing or in an unincorporated area and shall be constructed in compliance with applicable local housing codes and the rules adopted for the special classification by the state fire marshal. In the absence of local building codes, the facility shall comply with the state plumbing code established pursuant to section 135.11 and the state building code established pursuant to section 103A.7 and the rules adopted for the special classification by the state fire marshal. The rules adopted for the special classification by the state fire marshal regarding second floor occupancy shall be adopted in consultation with the department and shall take into consideration the mobility of the tenants.

93 Acts, ch 72, §5; 2005 Acts, ch 62, §4; 2007 Acts, ch 215, §143

Referred to in §335.33, 414.31

231B.5 Written occupancy agreement required.

1. An elder group home shall not operate in this state unless a written occupancy agreement, as prescribed in subsection 2, is executed between the elder group home and each tenant or the tenant's legal representative prior to the tenant's occupancy, and unless the elder group home operates in accordance with the terms of the occupancy agreement. The elder group home shall deliver to the tenant or the tenant's legal representative a complete copy of the occupancy agreement and all supporting documents and attachments and shall deliver, at least thirty days prior to any changes, a written copy of changes to the occupancy agreement if any changes to the copy originally delivered are subsequently made, unless otherwise provided in this section.

2. An elder group home occupancy agreement shall clearly describe the rights and responsibilities of the tenant and the elder group home. The occupancy agreement shall also include but is not limited to inclusion of all of the following information in the body of the agreement or in the supporting documents and attachments:

- a. A description of all fees, charges, and rates describing tenancy and basic services covered, and any additional and optional services and their related costs.
- b. A statement regarding the impact of the fee structure on third-party payments, and whether third-party payments and resources are accepted by the elder group home.
- c. The procedure followed for nonpayment of fees.
- d. Identification of the party responsible for payment of fees and identification of the tenant's legal representative, if any.
- e. The term of the occupancy agreement.
- f. A statement that the elder group home shall notify the tenant or the tenant's legal representative, as applicable, in writing at least thirty days prior to any change being made in the occupancy agreement with the following exceptions:
 - (1) When the tenant's health status or behavior constitutes a substantial threat to the health or safety of the tenant, other tenants, or others, including when the tenant refuses to consent to relocation.
 - (2) When an emergency or a significant change in the tenant's condition results in the need for the provision of services that exceed the type or level of services included in the occupancy agreement and the necessary services cannot be safely provided by the elder group home.
- g. A statement that all tenant information shall be maintained in a confidential manner to the extent required under state and federal law.
- h. Occupancy, involuntary transfer, and transfer criteria and procedures, which ensure a safe and orderly transfer.
 - i. The internal appeals process provided relative to an involuntary transfer.
 - j. The program's policies and procedures for addressing grievances between the elder group home and the tenants, including grievances relating to transfer and occupancy.
 - k. A statement of the prohibition against retaliation as prescribed in section 231B.13.
 - l. The emergency response policy.
 - m. The staffing policy which specifies if nurse delegation will be used, and how staffing will be adapted to meet changing tenant needs.
 - n. The refund policy.
 - o. A statement regarding billing and payment procedures.
- 3. Occupancy agreements and related documents executed by each tenant or tenant's legal representative shall be maintained by the elder group home from the date of execution until three years from the date the occupancy agreement is terminated. A copy of the most current occupancy agreement shall be provided to members of the general public, upon request. Occupancy agreements and related documents shall be made available for on-site inspection to the department upon request and at reasonable times.

2005 Acts, ch 62, §5; 2007 Acts, ch 215, §144

231B.6 Involuntary transfer.

- 1. If an elder group home initiates the involuntary transfer of a tenant and the action is not a result of a monitoring evaluation or complaint investigation by the department, and if the tenant or tenant's legal representative contests the transfer, the following procedure shall apply:
 - a. The elder group home shall notify the tenant or tenant's legal representative, in accordance with the occupancy agreement, of the need to transfer, the reason for the transfer, and the contact information of the tenant advocate.
 - b. The elder group home shall provide the tenant advocate with a copy of the notification to the tenant.
 - c. The tenant advocate shall offer the notified tenant or tenant's legal representative assistance with the program's internal appeals process. The tenant is not required to accept the assistance of the tenant advocate.
 - d. If, following the internal appeals process, the elder group home upholds the transfer decision, the tenant or the tenant's legal representative may utilize other remedies authorized by law to contest the transfer.
- 2. The department, in consultation with affected state agencies and affected industry,

professional, and consumer groups, shall establish by rule, in accordance with chapter 17A, procedures to be followed, including the opportunity for hearing, when the transfer of a tenant results from a monitoring evaluation or complaint investigation conducted by the department.

2005 Acts, ch 62, §6; 2007 Acts, ch 215, §145, 146

231B.7 Complaints.

1. Any person with concerns regarding the operations or service delivery of an elder group home may file a complaint with the department. The name of the person who files a complaint with the department and any personal identifying information of the person or any tenant identified in the complaint shall be kept confidential and shall not be subject to discovery, subpoena, or other means of legal compulsion for its release to a person other than department employees involved with the complaint.

2. The department shall establish procedures for the disposition of complaints received in accordance with this section.

2005 Acts, ch 62, §7; 2007 Acts, ch 215, §147

231B.8 Exit interview — issuance of findings.

1. The department shall provide an elder group home an exit interview at the conclusion of a monitoring evaluation or complaint investigation, and the department shall inform the home's representative of all issues and areas of concern related to the insufficient practices. The department may conduct the exit interview in person or by telephone, and the department shall provide a second exit interview if any additional issues or areas of concern are identified. The home shall have two working days from the date of the exit interview to submit additional or rebuttal information to the department.

2. The department shall issue the final findings of a monitoring evaluation or complaint investigation within ten working days after completion of the on-site monitoring evaluation or complaint investigation. The final findings shall be served upon the home personally, by electronic mail, or by certified mail.

2005 Acts, ch 62, §8; 2007 Acts, ch 215, §148; 2014 Acts, ch 1040, §19, 28

231B.9 Disclosure of findings.

Upon completion of a monitoring evaluation or complaint investigation of an elder group home by the department pursuant to this chapter, the department's final findings with respect to compliance by the elder group home with requirements for certification shall be made available to the public in a readily available form and place. Other information relating to an elder group home that is obtained by the department which does not constitute the department's final findings from a monitoring evaluation or complaint investigation of the elder group home shall not be made available to the public except in proceedings involving the assessment of a civil penalty pursuant to section 231B.14 or the denial, suspension, or revocation of a certificate under this chapter.

2005 Acts, ch 62, §9; 2007 Acts, ch 215, §149; 2008 Acts, ch 1048, §1, 4; 2014 Acts, ch 1040, §20, 28; 2015 Acts, ch 80, §7

231B.9A Informal conference — formal contest — judicial review.

1. Within twenty business days after issuance of the final findings, the elder group home shall notify the director if the home desires to contest the findings and do either of the following:

a. Request an informal conference with an independent reviewer pursuant to subsection 2. Upon the conclusion of an informal conference, if the elder group home desires to further contest an affirmed or modified regulatory insufficiency, it may do so by giving notice of intent to formally contest the regulatory insufficiency, in writing, to the department within five days after receipt of the written decision of the independent reviewer.

b. Request a contested case hearing in the manner provided by chapter 17A for contested cases. The formal hearing shall be conducted in accordance with chapter 17A and rules adopted by the department.

2. a. The department shall provide an independent reviewer to hold an informal conference with an elder group home within ten working days after receiving a request from the home pursuant to subsection 1, paragraph “a”. At the conclusion of the informal conference, the independent reviewer may affirm, modify, or dismiss a contested regulatory insufficiency. The independent reviewer shall state in writing the specific reasons for the affirmation, modification, or dismissal and immediately transmit copies of the statement to the department and to the home.

b. An independent reviewer shall be licensed as an attorney in the state of Iowa and shall not be employed or have been employed by the department in the past eight years or have appeared in front of the department on behalf of an elder group home in the past eight years. Preference shall be given to an attorney with background knowledge, experience, or training in long-term care. The department may issue a request for proposals to enter into a contract for the purpose of providing one or more independent reviewers for informal conferences.

3. An elder group home that has exhausted all adequate administrative remedies and is aggrieved by the final action of the department may petition for judicial review in the manner provided by chapter 17A.

2014 Acts, ch 1040, §21, 28; 2015 Acts, ch 80, §8

231B.10 Denial, suspension, or revocation — conditional operation.

1. The department may deny, suspend, or revoke a certificate in any case where the department finds that there has been a substantial or repeated failure on the part of the elder group home to comply with this chapter or minimum standards adopted under this chapter or for any of the following reasons:

a. Appropriation or conversion of the property of an elder group home tenant without the tenant’s written consent or the written consent of the tenant’s legal representative.

b. Permitting, aiding, or abetting the commission of any illegal act in the elder group home.

c. Obtaining or attempting to obtain or retain a certificate by fraudulent means, misrepresentation, or by submitting false information.

d. Habitual intoxication or addiction to the use of drugs by the applicant, administrator, executive director, manager, or supervisor of the elder group home.

e. Securing the devise or bequest of the property of a tenant of an elder group home by undue influence.

f. Founded dependent adult abuse as defined in section 235E.1.

g. In the case of any officer, member of the board of directors, trustee, or designated manager of the elder group home or any stockholder, partner, or individual who has greater than a five percent equity interest in the elder group home, having or having had an ownership interest in an elder group home, assisted living or adult day services program, home health agency, residential care facility, or licensed nursing facility in this or any state which has been closed due to removal of program, agency, or facility licensure or certification or involuntary termination from participation in either the medical assistance or Medicare programs, or having been found to have failed to provide adequate protection or services for tenants to prevent abuse or neglect.

h. In the case of a certificate applicant or an existing certified owner or operator who is an entity other than an individual, the person is in a position of control or is an officer of the entity and engages in any act or omission proscribed by this chapter.

i. In the case of an application for a new or newly acquired elder group home, continuing or repeated failure of the certificate holder to operate any previously certified elder group home or homes in compliance with the provisions of this chapter, the rules adopted pursuant to this chapter, or equivalent provisions that the elder group home is subject to in this state or any other state.

j. Intentionally preventing or interfering with or attempting to prevent or interfere in any way with the performance by any duly authorized representative of the department of the lawful enforcement of this chapter or of the rules adopted pursuant to this chapter. As used in this paragraph, “*lawful enforcement*” includes but is not limited to the following:

(1) Contacting or interviewing any tenant of an elder group home in private at any reasonable hour and without advance notice.

(2) Examining any relevant books or records of an elder group home unless otherwise protected from disclosure by operation of law.

(3) Preserving evidence of any violation of this chapter or of the rules adopted pursuant to this chapter.

k. For any other reason as provided by law or administrative rule.

2. The department may as an alternative to denial, suspension, or revocation conditionally issue or continue a certificate dependent upon the performance by the elder group home of reasonable conditions within a reasonable period of time as set by the department so as to permit the program to commence or continue the operation of the elder group home pending full compliance with this chapter or the rules adopted pursuant to this chapter. If the elder group home does not make diligent efforts to comply with the conditions prescribed, the department may, under the proceedings prescribed by this chapter, deny, suspend, or revoke the certificate. An elder group home shall not be operated on a conditional certificate for more than one year.

2005 Acts, ch 62, §10; 2006 Acts, ch 1030, §23; 2007 Acts, ch 215, §150, 151; 2014 Acts, ch 1040, §22; 2015 Acts, ch 80, §9

231B.11 Notice — appeal — emergency provisions.

1. The denial, suspension, or revocation of a certificate shall be effected by delivering to the applicant or certificate holder by restricted certified mail or by personal service a notice setting forth the particular reasons for such action. Such denial, suspension, or revocation shall become effective thirty days after the mailing or service of the notice, unless the applicant or certificate holder, within such thirty-day period, requests a hearing, in writing, of the department, in which case the notice shall be deemed to be suspended.

2. The denial, suspension, or revocation of a certificate may be appealed in accordance with rules adopted by the department in accordance with chapter 17A.

3. When the department finds that an imminent danger to the health or safety of a tenant of an elder group home exists which requires action on an emergency basis, the department may direct removal of all tenants of the elder group home and suspend the certificate prior to a hearing.

2005 Acts, ch 62, §11; 2007 Acts, ch 215, §152

231B.12 Department notified of casualties.

The department shall be notified within twenty-four hours, by the most expeditious means available, of any accident causing substantial injury or death to a tenant, and any substantial fire or natural or other disaster occurring at or near an elder group home.

2005 Acts, ch 62, §12; 2007 Acts, ch 215, §153

231B.13 Retaliation by elder group home prohibited.

An elder group home shall not discriminate or retaliate in any way against a tenant, a tenant's family, or an employee of the elder group home who has initiated or participated in any proceeding authorized by this chapter. An elder group home that violates this section is subject to a penalty as established by administrative rule in accordance with chapter 17A, to be assessed and collected by the department, paid into the state treasury, and credited to the general fund of the state.

2005 Acts, ch 62, §13; 2006 Acts, ch 1010, §71; 2007 Acts, ch 215, §154

Referred to in §231B.5

231B.14 Civil penalties.

The department may establish by rule, in accordance with chapter 17A, civil penalties for the following violations by an elder group home:

1. Noncompliance with any regulatory requirements which presents an imminent danger or a substantial probability of resultant death or physical harm to a tenant.

2. Following receipt of notice from the department, continued failure or refusal to comply

within a prescribed time frame with regulatory requirements that have a direct relationship to the health, safety, or security of elder group home tenants.

3. Preventing or interfering with or attempting to impede in any way any duly authorized representative of the department in the lawful enforcement of this chapter or of the rules adopted pursuant to this chapter. As used in this subsection, “*lawful enforcement*” includes but is not limited to:

a. Contacting or interviewing any tenant of an elder group home in private at any reasonable hour and without advance notice.

b. Examining any relevant records of an elder group home.

c. Preserving evidence of any violation of this chapter or of the rules adopted pursuant to this chapter.

2005 Acts, ch 62, §14; 2007 Acts, ch 215, §155, 156

Referred to in §231B.9

231B.15 Criminal penalties and injunctive relief.

A person establishing, conducting, managing, or operating an elder group home without a certificate is guilty of a serious misdemeanor. Each day of continuing violation after conviction or notice from the department by certified mail of a violation shall be considered a separate offense. A person establishing, conducting, managing, or operating an elder group home without a certificate may be temporarily or permanently restrained by a court of competent jurisdiction from such activity in an action brought by the state.

2005 Acts, ch 62, §15; 2007 Acts, ch 215, §157

231B.16 Coordination of the long-term care system — transitional provisions.

1. A hospital licensed pursuant to chapter 135B, a health care facility licensed pursuant to chapter 135C, an assisted living program certified pursuant to chapter 231C, or an adult day services program certified pursuant to chapter 231D may operate an elder group home, if the elder group home is certified pursuant to this chapter.

2. This chapter shall not be construed to require that a facility licensed as a different type of facility also comply with the requirements of this chapter, unless the facility is represented to the public as an elder group home.

3. A certified elder group home that complies with the requirements of this chapter shall not be required to be licensed or certified as a different type of facility, unless the elder group home is represented to the public as another type of facility.

2005 Acts, ch 62, §16

231B.17 Iowa elder group home fees.

1. The department shall collect elder group home certification and related fees. Fees collected and retained pursuant to this section shall be deposited in the general fund of the state.

2. The following certification and related fees shall apply to elder group homes:

a. For a two-year initial certification, seven hundred fifty dollars.

b. For a two-year recertification, one thousand dollars.

c. For a blueprint plan review, nine hundred dollars.

d. For an optional preliminary plan review, five hundred dollars.

2005 Acts, ch 62, §17; 2007 Acts, ch 215, §158

231B.18 Application of landlord and tenant Act.

Chapter 562A, the uniform residential landlord and tenant Act, shall apply to elder group homes under this chapter.

2005 Acts, ch 62, §18

231B.19 Resident advocate committees. Repealed by 2013 Acts, ch 18, §34.

231B.20 Nursing assistant and medication aide — certification.

The department, in cooperation with other appropriate agencies, shall establish a procedure to allow nursing assistants or medication aides to claim work within an elder group home as credit toward sustaining the nursing assistant's or medication aide's certification.

2005 Acts, ch 62, §20; 2007 Acts, ch 215, §159

231B.21 Medication setup — administration and storage of medications.

1. An elder group home may provide for medication setup if requested by a tenant or the tenant's legal representative. If medication setup is provided following such request, the elder group home shall be responsible for the specific task requested and the tenant shall retain responsibility for those tasks not requested to be provided.

2. If medications are administered or stored by an elder group home, or if the elder group home provides for medication setup, all of the following shall apply:

a. If administration of medications is delegated to the elder group home by the tenant or tenant's legal representative, the medications shall be administered by a registered nurse, licensed practical nurse, advanced registered nurse practitioner licensed in Iowa, or by the individual to whom such licensed individuals may properly delegate administration of medications.

b. Medications, other than those self-administered by the tenant or provided through medication setup, shall be stored in locked storage that is not accessible to persons other than employees responsible for administration or storage of medications.

c. Medications shall be labeled and maintained in compliance with label instructions and state and federal law.

d. A person, other than a person authorized to prescribe prescription drugs under state and federal law, shall not alter the prescription of a tenant.

e. Medications shall be stored in their originally received containers.

f. If medication setup is provided by the elder group home at the request of the tenant or tenant's legal representative, or if medication administration is delegated to the elder group home by the tenant or tenant's legal representative, appropriate staff of the elder group home may transfer the medications in the tenant's presence from the original prescription container to medication dispensing containers, reminder containers, or medication cups.

g. Elder group home assistance with medication administration as specified in the occupancy agreement shall not require the elder group home to provide assistance with the storage of medications.

2005 Acts, ch 62, §21; 2015 Acts, ch 56, §18

CHAPTER 231C

ASSISTED LIVING PROGRAMS

Referred to in §105.11, 135C.33, 135P.1, 144C.2, 225C.19A, 231.4, 231B.16, 231D.16, 235E.2, 483A.24, 514H.1

Retirement facilities, see chapter 523D

231C.1	Findings, purpose, and intent.	231C.11A	Voluntary cessation of program operations — decertification.
231C.2	Definitions.	231C.12	Department notified of casualties.
231C.3	Certification of assisted living programs.	231C.13	Retaliation by assisted living program prohibited.
231C.3A	Monitoring — conflicts of interest.	231C.14	Civil penalties.
231C.4	Fire and safety standards.	231C.15	Criminal penalties and injunctive relief.
231C.5	Written occupancy agreement required.	231C.16	Nursing assistant and medication aide — certification.
231C.5A	Assessment of tenants — program eligibility.	231C.16A	Medication setup — administration and storage of medications.
231C.6	Involuntary transfer.	231C.17	Coordination of the long-term care system — transitional provisions.
231C.7	Complaints.	231C.18	Iowa assisted living fees.
231C.8	Exit interview — issuance of findings.	231C.19	Application of landlord and tenant Act.
231C.9	Disclosure of findings.	231C.20	Limitation on penalties.
231C.9A	Informal conference — formal contest — judicial review.	231C.21	Certification list to county commissioner of elections.
231C.10	Denial, suspension, or revocation — conditional operation.		
231C.11	Notice — appeal — emergency provisions.		

231C.1 Findings, purpose, and intent.

1. The general assembly finds that assisted living is an important part of the long-term care continua in this state. Assisted living emphasizes the independence and dignity of the individual while providing services in a cost-effective manner.

2. The purposes of establishing an assisted living program include all of the following:

a. To encourage the establishment and maintenance of a safe and homelike environment for individuals of all income levels who require assistance to live independently but who do not require health-related care on a continuous twenty-four-hour per day basis.

b. To establish standards for assisted living programs that allow flexibility in design which promotes a social model of service delivery by focusing on independence, individual needs and desires, and consumer-driven quality of service.

c. To encourage public participation in the development of assisted living programs for individuals of all income levels.

3. It is the intent of the general assembly that the department promote a social model for assisted living programs and a consultative process to assist with compliance by assisted living programs.

96 Acts, ch 1192, §1; 2003 Acts, ch 166, §7; 2005 Acts, ch 60, §1, 2, 21; 2007 Acts, ch 215, §160

231C.2 Definitions.

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

1. “*Adult day services*” means adult day services as defined in section 231D.1.

2. “*Assisted living*” means provision of housing with services which may include but are not limited to health-related care, personal care, and assistance with instrumental activities of daily living to three or more tenants in a physical structure which provides a homelike environment. “*Assisted living*” also includes encouragement of family involvement, tenant self-direction, and tenant participation in decisions that emphasize choice, dignity, privacy, individuality, shared risk, and independence. “*Assisted living*” includes the provision of housing and assistance with instrumental activities of daily living only if personal care or health-related care is also included. “*Assisted living*” includes twenty-four hours per day

response staff to meet scheduled and unscheduled or unpredictable needs in a manner that promotes maximum dignity and independence and provides supervision, safety, and security.

3. “Assisted living program” or “program” means an entity that provides assisted living.

4. “Department” means the department of inspections and appeals or the department’s designee.

5. “Governmental unit” means the state, or any county, municipality, or other political subdivision or any department, division, board, or other agency of any of these entities.

6. “Health-related care” means services provided by a registered nurse or a licensed practical nurse, on a part-time or intermittent basis, and services provided by other licensed health care professionals, on a part-time or intermittent basis.

7. “Instrumental activities of daily living” means those activities that reflect the tenant’s ability to perform household and other tasks necessary to meet the tenant’s needs within the community, which may include but are not limited to shopping, cooking, housekeeping, chores, and traveling within the community.

8. “Medication setup” means assistance with various steps of medication administration to support a tenant’s autonomy, which may include but is not limited to routine prompting, cueing and reminding, opening containers or packaging at the direction of the tenant, reading instructions or other label information, or transferring medications from the original container into suitable medication dispensing containers, reminder containers, or medication cups.

9. “Occupancy agreement” means a written agreement entered into between an assisted living program and a tenant that clearly describes the rights and responsibilities of the assisted living program and a tenant, and other information required by rule. “Occupancy agreement” may include a separate signed lease and signed service agreement.

10. “Personal care” means assistance with the essential activities of daily living which may include but are not limited to transferring, bathing, personal hygiene, dressing, grooming, and housekeeping that are essential to the health and welfare of the tenant.

11. “Recognized accrediting entity” means a nationally recognized accrediting entity that the department recognizes as having specific assisted living program standards equivalent to the standards established by the department for assisted living programs.

12. “Significant change” means a major decline or improvement in the tenant’s status which does not normally resolve itself without further interventions by staff or by implementing standard disease-related clinical interventions that have an impact on the tenant’s mental, physical, or functional health status.

13. “Substantial compliance” means a level of compliance with this chapter and rules adopted pursuant to this chapter such that any identified insufficiencies pose no greater risk to tenant health or safety than the potential for causing minimal harm. “Substantial compliance” constitutes compliance with the rules of this chapter.

14. “Tenant” means an individual who receives assisted living services through a certified assisted living program.

15. “Tenant advocate” means the office of long-term care ombudsman established in section 231.42.

16. “Tenant’s legal representative” means a person appointed by the court to act on behalf of a tenant or a person acting pursuant to a power of attorney.

96 Acts, ch 1192, §2; 2000 Acts, ch 1004, §14, 22; 2003 Acts, ch 165, §19; 2003 Acts, ch 166, §8, 9; 2005 Acts, ch 60, §3 – 5, 21; 2005 Acts, ch 179, §121; 2007 Acts, ch 215, §161; 2009 Acts, ch 156, §11; 2011 Acts, ch 83, §1; 2013 Acts, ch 18, §31

Referred to in §135C.33, 142D.2, 144D.1, 144F.1, 231.4, 231C.11A, 441.21

231C.3 Certification of assisted living programs.

1. The department shall establish by rule in accordance with chapter 17A minimum standards for certification and monitoring of assisted living programs. The department may adopt by reference with or without amendment, nationally recognized standards and rules for assisted living programs. The rules shall include specification of recognized accrediting entities and provisions related to dementia-specific programs. The standards and rules shall be formulated in consultation with affected state agencies and affected industry,

professional, and consumer groups; shall be designed to accomplish the purposes of this chapter; and shall include but are not limited to rules relating to all of the following:

a. Provisions to ensure, to the greatest extent possible, the health, safety, and well-being and appropriate treatment of tenants.

b. Requirements that assisted living programs furnish the department with specified information necessary to administer this chapter. All information related to a provider application for an assisted living program submitted to the department shall be considered a public record pursuant to chapter 22.

c. Standards for tenant evaluation or assessment, and service plans, which may vary in accordance with the nature of the services provided or the status of the tenant. When a tenant needs personal care or health-related care, the service plan shall be updated within thirty days of occupancy and as needed with significant change, but not less than annually.

d. Provisions for granting short-term waivers for tenants who exceed occupancy criteria.

2. Each assisted living program operating in this state shall be certified by the department. If an assisted living program is voluntarily accredited by a recognized accrediting entity, the department shall certify the assisted living program on the basis of the voluntary accreditation. An assisted living program that is certified by the department on the basis of voluntary accreditation shall not be subject to payment of the certification fee prescribed in section 231C.18, but shall be subject to an administrative fee as prescribed by rule. An assisted living program certified under this section is exempt from the requirements of section 135.63 relating to certificate of need requirements.

3. The owner or manager of a certified assisted living program shall comply with the rules adopted by the department for an assisted living program. A person including a governmental unit shall not represent an assisted living program to the public as an assisted living program or as a certified assisted living program unless and until the program is certified pursuant to this chapter.

4. a. Services provided by a certified assisted living program may be provided directly by staff of the assisted living program, by individuals contracting with the assisted living program to provide services, or by individuals employed by the tenant or with whom the tenant contracts if the tenant agrees to assume the responsibility and risk of the employment or the contractual relationship.

b. If a tenant is terminally ill and has elected to receive hospice services under the federal Medicare program from a Medicare-certified hospice program, the assisted living program and the Medicare-certified hospice program shall enter into a written agreement under which the hospice program retains professional management responsibility for those services.

5. The department may enter into contracts to provide certification and monitoring of assisted living programs. The department shall:

a. Have full access at reasonable times to all records, materials, and common areas pertaining to the provision of services and care to the tenants of a program during certification, monitoring, and complaint investigations of programs seeking certification, currently certified, or alleged to be uncertified.

b. With the consent of the tenant, visit the tenant's unit.

c. Require that the recognized accrediting entity providing accreditation for a program provide copies to the department of all materials related to the accreditation, monitoring, and complaint process.

6. The department may also establish by rule in accordance with chapter 17A minimum standards for subsidized and dementia-specific assisted living programs. The rules shall be formulated in consultation with affected state agencies and affected industry, professional, and consumer groups.

7. A department, agency, or officer of this state or of any governmental unit shall not pay or approve for payment from public funds any amount to an assisted living program for an actual or prospective tenant, unless the program holds a current certificate issued by the department and meets all current requirements for certification.

8. The department shall adopt rules regarding the conducting or operating of another business or activity in the distinct part of the physical structure in which the assisted living program is provided, if the business or activity serves nontenants. The rules shall be

developed in consultation with affected state agencies and affected industry, professional, and consumer groups.

9. An assisted living program shall comply with section 135C.33.

10. The department shall conduct training sessions for personnel responsible for conducting monitoring evaluations and complaint investigations of assisted living programs.

11. Certification of an assisted living program shall be for two years unless certification is revoked for good cause by the department.

96 Acts, ch 1192, §3; 2003 Acts, ch 166, §10; 2005 Acts, ch 60, §6 – 10, 21; 2006 Acts, ch 1010, §72; 2007 Acts, ch 215, §162 – 166; 2009 Acts, ch 156, §12

Referred to in §53.8, 53.22, 235E.1

231C.3A Monitoring — conflicts of interest.

1. Any of the following circumstances disqualifies a monitor from inspecting a particular assisted living program under this chapter:

a. The monitor currently works or, within the past two years, has worked as an employee or employment agency staff at the program, or as an officer, consultant, or agent for the program to be monitored.

b. The monitor has any financial interest or any ownership interest in the program. For purposes of this paragraph, indirect ownership, such as through a broad-based mutual fund, does not constitute financial or ownership interest.

c. The monitor has an immediate family member who has a relationship with the program as described in paragraph “a” or “b”.

d. The monitor has an immediate family member who currently resides in the program.

2. For purposes of this section, “*immediate family member*” means a husband or wife; natural or adoptive parent, child, or sibling; stepparent, stepchild, or stepsibling; father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law; or grandparent or grandchild.

2009 Acts, ch 156, §13

231C.4 Fire and safety standards.

The state fire marshal shall adopt rules, in coordination with the department, relating to the certification and monitoring of the fire and safety standards of certified assisted living programs.

96 Acts, ch 1192, §4; 97 Acts, ch 23, §21; 2003 Acts, ch 166, §11; 2007 Acts, ch 215, §167

231C.5 Written occupancy agreement required.

1. An assisted living program shall not operate in this state unless a written occupancy agreement, as prescribed in subsection 2, is executed between the assisted living program and each tenant or the tenant’s legal representative, prior to the tenant’s occupancy, and unless the assisted living program operates in accordance with the terms of the occupancy agreement. The assisted living program shall deliver to the tenant or the tenant’s legal representative a complete copy of the occupancy agreement and all supporting documents and attachments and shall deliver, at least thirty days prior to any changes, a written copy of changes to the occupancy agreement if any changes to the copy originally delivered are subsequently made.

2. An assisted living program occupancy agreement shall clearly describe the rights and responsibilities of the tenant and the program. The occupancy agreement shall also include but is not limited to inclusion of all of the following information in the body of the agreement or in the supporting documents and attachments:

a. A description of all fees, charges, and rates describing tenancy and basic services covered, and any additional and optional services and their related costs.

b. (1) A statement regarding the impact of the fee structure on third-party payments, and whether third-party payments and resources are accepted by the assisted living program.

(2) The occupancy agreement shall specifically include a statement regarding each of the following:

(a) Whether the program requires disclosure of a tenant's personal financial information for occupancy or continued occupancy.

(b) The program's policy regarding the continued tenancy of a tenant following exhaustion of private resources.

(c) Contact information for the department of human services and the senior health insurance information program to assist tenants in accessing third-party payment sources.

c. The procedure followed for nonpayment of fees.

d. Identification of the party responsible for payment of fees and identification of the tenant's legal representative, if any.

e. The term of the occupancy agreement.

f. A statement that the assisted living program shall notify the tenant or the tenant's legal representative, as applicable, in writing at least thirty days prior to any change being made in the occupancy agreement with the following exceptions:

(1) When the tenant's health status or behavior constitutes a substantial threat to the health or safety of the tenant, other tenants, or others, including when the tenant refuses to consent to relocation.

(2) When an emergency or a significant change in the tenant's condition results in the need for the provision of services that exceed the type or level of services included in the occupancy agreement and the necessary services cannot be safely provided by the assisted living program.

g. A statement that all tenant information shall be maintained in a confidential manner to the extent required under state and federal law.

h. Occupancy, involuntary transfer, and transfer criteria and procedures, which ensure a safe and orderly transfer.

i. The internal appeals process provided relative to an involuntary transfer.

j. The program's policies and procedures for addressing grievances between the assisted living program and the tenants, including grievances relating to transfer and occupancy.

k. A statement of the prohibition against retaliation as prescribed in section 231C.13.

l. The emergency response policy.

m. The staffing policy which specifies if nurse delegation will be used, and how staffing will be adapted to meet changing tenant needs.

n. In dementia-specific assisted living programs, a description of the services and programming provided to meet the life skills and social activities of tenants.

o. The refund policy.

p. A statement regarding billing and payment procedures.

3. Occupancy agreements and related documents executed by each tenant or the tenant's legal representative shall be maintained by the assisted living program in program files from the date of execution until three years from the date the occupancy agreement is terminated. A copy of the most current occupancy agreement shall be provided to members of the general public, upon request. Occupancy agreements and related documents shall be made available for on-site inspection to the department upon request and at reasonable times.

96 Acts, ch 1192, §5; 2003 Acts, ch 166, §12; 2005 Acts, ch 60, §11, 21; 2007 Acts, ch 215, §168; 2011 Acts, ch 83, §2

231C.5A Assessment of tenants — program eligibility.

An assisted living program receiving reimbursement through the medical assistance program under chapter 249A shall assist the department of veterans affairs in identifying, upon admission of a tenant, the tenant's eligibility for benefits through the United States department of veterans affairs. The assisted living program shall also assist the commission of veterans affairs in determining such eligibility for tenants residing in the program on July 1, 2009. The department of inspections and appeals, in cooperation with the department of human services, shall adopt rules to administer this section, including a provision that ensures that if a tenant is eligible for benefits through the United States department of veterans affairs or other third-party payor, the payor of last resort for reimbursement to the assisted living program is the medical assistance program. The rules shall also require the assisted living program to request information from a tenant or tenant's personal

representative regarding the tenant's veteran status and to report to the department of veterans affairs only the names of tenants identified as potential veterans along with the names of their spouses and any dependents. Information reported by the assisted living program shall be verified by the department of veterans affairs.

2009 Acts, ch 84, §1

231C.6 Involuntary transfer.

1. If an assisted living program initiates the involuntary transfer of a tenant and the action is not a result of a monitoring evaluation or complaint investigation by the department, and if the tenant or the tenant's legal representative contests the transfer, the following procedure shall apply:

a. The assisted living program shall notify the tenant or the tenant's legal representative, in accordance with the occupancy agreement, of the need to transfer, the reason for the transfer, and the contact information of the tenant advocate.

b. The assisted living program shall provide the tenant advocate with a copy of the notification to the tenant.

c. The tenant advocate shall offer the notified tenant or the tenant's legal representative assistance with the program's internal appeals process. The tenant is not required to accept the assistance of the tenant advocate.

d. If, following the internal appeals process, the assisted living program upholds the transfer decision, the tenant or the tenant's legal representative may utilize other remedies authorized by law to contest the transfer.

2. The department, in consultation with affected state agencies and affected industry, professional, and consumer groups, shall establish, by rule in accordance with chapter 17A, procedures to be followed, including the opportunity for hearing, when the transfer of a tenant results from a monitoring evaluation or complaint investigation conducted by the department.

2000 Acts, ch 1222, §13, 17; 2003 Acts, ch 166, §13; 2005 Acts, ch 60, §12, 21; 2007 Acts, ch 215, §169, 170

231C.7 Complaints.

1. Any person with concerns regarding the operations or service delivery of an assisted living program may file a complaint with the department. The name of the person who files a complaint with the department and any personal identifying information of the person or any tenant identified in the complaint shall be kept confidential and shall not be subject to discovery, subpoena, or other means of legal compulsion for its release to a person other than department employees involved with the complaint.

2. The department shall establish procedures for the disposition of complaints received in accordance with this section.

2003 Acts, ch 166, §14; 2007 Acts, ch 215, §171

231C.8 Exit interview — issuance of findings.

1. The department shall provide an assisted living program an exit interview at the conclusion of a monitoring evaluation or complaint investigation, and the department shall inform the program's representative of all issues and areas of concern related to the insufficient practices. The department may conduct the exit interview in person or by telephone, and the department shall provide a second exit interview if any additional issues or areas of concern are identified. The program shall have two working days from the date of the exit interview to submit additional or rebuttal information to the department.

2. The department shall issue the final findings of a monitoring evaluation or complaint investigation within ten working days after completion of the on-site monitoring evaluation or complaint investigation. The final findings shall be served upon the program personally, by electronic mail, or by certified mail.

2003 Acts, ch 166, §15; 2005 Acts, ch 60, §13, 21; 2007 Acts, ch 215, §172; 2013 Acts, ch 26, §4, 7

231C.9 Disclosure of findings.

Upon completion of a monitoring evaluation or complaint investigation of an assisted living program by the department pursuant to this chapter, the department's final findings with respect to compliance by the assisted living program with requirements for certification shall be made available to the public in a readily available form and place. Other information relating to an assisted living program that is obtained by the department which does not constitute the department's final findings from a monitoring evaluation or complaint investigation of the assisted living program shall not be made available to the public except in proceedings involving the assessment of a civil penalty pursuant to section 231C.14 or the denial, suspension, or revocation of a certificate under this chapter.

2003 Acts, ch 166, §16; 2005 Acts, ch 60, §14, 21; 2007 Acts, ch 215, §173; 2008 Acts, ch 1048, §2, 4; 2013 Acts, ch 26, §5, 7; 2015 Acts, ch 80, §10

231C.9A Informal conference — formal contest — judicial review.

1. Within twenty business days after issuance of the final findings, the assisted living program shall notify the director if the program desires to contest the findings and do either of the following:

a. Request an informal conference with an independent reviewer pursuant to subsection 2. Upon the conclusion of an informal conference, if the assisted living program desires to further contest an affirmed or modified regulatory insufficiency, it may do so by giving notice of intent to formally contest the regulatory insufficiency, in writing, to the department within five days after receipt of the written decision of the independent reviewer.

b. Request a contested case hearing in the manner provided by chapter 17A for contested cases. The formal hearing shall be conducted in accordance with chapter 17A and rules adopted by the department.

2. a. The department shall provide an independent reviewer to hold an informal conference with an assisted living program within ten working days after receiving a request from the program pursuant to subsection 1, paragraph "a". At the conclusion of the informal conference, the independent reviewer may affirm, modify, or dismiss a contested regulatory insufficiency. The independent reviewer shall state in writing the specific reasons for the affirmation, modification, or dismissal and immediately transmit copies of the statement to the department and to the program.

b. An independent reviewer shall be licensed as an attorney in the state of Iowa and shall not be employed or have been employed by the department in the past eight years or have appeared in front of the department on behalf of an assisted living program in the past eight years. Preference shall be given to an attorney with background knowledge, experience, or training in long-term care. The department may issue a request for proposals to enter into a contract for the purpose of providing one or more independent reviewers for informal conferences.

3. An assisted living program that has exhausted all adequate administrative remedies and is aggrieved by the final action of the department may petition for judicial review in the manner provided by chapter 17A.

2013 Acts, ch 26, §6, 7; 2015 Acts, ch 80, §11

231C.10 Denial, suspension, or revocation — conditional operation.

1. The department may deny, suspend, or revoke a certificate in any case where the department finds that there has been a substantial or repeated failure on the part of the assisted living program to comply with this chapter or the rules, or minimum standards adopted under this chapter, or for any of the following reasons:

a. Appropriation or conversion of the property of an assisted living program tenant without the tenant's written consent or the written consent of the tenant's legal representative.

b. Permitting, aiding, or abetting the commission of any illegal act in the assisted living program.

c. Obtaining or attempting to obtain or retain a certificate by fraudulent means, misrepresentation, or by submitting false information.

d. Habitual intoxication or addiction to the use of drugs by the applicant, administrator, executive director, manager, or supervisor of the assisted living program.

e. Securing the devise or bequest of the property of a tenant of an assisted living program by undue influence.

f. Failure to protect tenants from dependent adult abuse as defined in section 235E.1.

g. In the case of any officer, member of the board of directors, trustee, or designated manager of the program or any stockholder, partner, or individual who has greater than a five percent equity interest in the program, having or having had an ownership interest in an assisted living program, adult day services program, elder group home, home health agency, residential care facility, or licensed nursing facility in any state which has been closed due to removal of program, agency, or facility licensure or certification or involuntary termination from participation in either the medical assistance or Medicare programs, or having been found to have failed to provide adequate protection or services for tenants to prevent abuse or neglect.

h. In the case of a certificate applicant or an existing certified owner or operator who is an entity other than an individual, the person is in a position of control or is an officer of the entity and engages in any act or omission proscribed by this chapter.

i. In the case of an application for a new or newly acquired assisted living program, continuing or repeated failure of the certificate holder to operate any previously certified assisted living program or programs in compliance with the provisions of this chapter, the rules adopted pursuant to this chapter, or equivalent provisions that the assisted living program is subject to in this state or any other state.

j. Intentionally preventing or interfering with or attempting to prevent or interfere in any way with the performance by any duly authorized representative of the department of the lawful enforcement of this chapter or of the rules adopted pursuant to this chapter. As used in this paragraph, “lawful enforcement” includes but is not limited to the following:

(1) Contacting or interviewing any tenant of an assisted living program in private at any reasonable hour and without advance notice.

(2) Examining any relevant books or records of an assisted living program unless otherwise protected from disclosure by operation of law.

(3) Preserving evidence of any violation of this chapter or of the rules adopted pursuant to this chapter.

k. For any other reason as provided by law or administrative rule.

2. The department may as an alternative to denial, suspension, or revocation conditionally issue or continue a certificate dependent upon the performance by the assisted living program of reasonable conditions within a reasonable period of time as set by the department so as to permit the program to commence or continue the operation of the program pending substantial compliance with this chapter or the rules adopted pursuant to this chapter. If the assisted living program does not make diligent efforts to comply with the conditions prescribed, the department may, under the proceedings prescribed by this chapter, suspend or revoke the certificate. An assisted living program shall not be operated on a conditional certificate for more than one year.

2003 Acts, ch 166, §17; 2005 Acts, ch 60, §15, 21; 2006 Acts, ch 1030, §24; 2007 Acts, ch 215, §174, 175; 2009 Acts, ch 156, §14, 15; 2014 Acts, ch 1040, §23; 2015 Acts, ch 80, §12

231C.11 Notice — appeal — emergency provisions.

1. The denial, suspension, or revocation of a certificate shall be effected by delivering to the applicant or certificate holder by restricted certified mail or by personal service a notice setting forth the particular reasons for such action. Such denial, suspension, or revocation shall become effective thirty days after the mailing or service of the notice, unless the applicant or certificate holder, within such thirty-day period, requests a hearing, in writing, of the department, in which case the notice shall be deemed to be suspended.

2. The denial, suspension, or revocation of a certificate may be appealed in accordance with rules adopted by the department in accordance with chapter 17A.

3. When the department finds that an imminent danger to the health or safety of tenants of an assisted living program exists which requires action on an emergency basis, the

department may direct removal of all tenants of an assisted living program and suspend the certificate prior to a hearing.

2003 Acts, ch 166, §18; 2007 Acts, ch 215, §176

231C.11A Voluntary cessation of program operations — decertification.

1. The department shall adopt rules regarding the voluntary cessation of program operations of an assisted living program, including decertification. The rules shall address notification of the tenants, tenant legal representatives, the department, and the tenant advocate at least ninety days prior to the anticipated date of cessation of program operations; the requirements for the safe and orderly transfer or transition of all tenants; and monitoring of the program during the process and after cessation of program operations.

2. Within seven days following provision of notice of cessation of program operations, the assisted living program shall hold a meeting and invite all tenants, tenant legal representatives, families of tenants, representatives of the department, and the tenant advocate to discuss the pending cessation of the program and to answer any questions. The department and the tenant advocate shall have access to attend the meeting and provide information to the tenants regarding their legal rights.

3. The tenant advocate shall monitor the decertification process and shall undertake any investigations necessary to ensure that the rights of tenants are protected during the process and after cessation of program operations. The tenant advocate shall assist tenants during the transition, including assisting tenants in finding necessary and appropriate service providers if the assisted living program is unable to provide such necessary and appropriate services during the transition period. The assisted living program shall cooperate with the tenant advocate by providing contact information for service providers within a thirty-mile radius of the program.

4. Following cessation of program operations and decertification, the department shall retain authority to monitor the decertified program to ensure that the entity does not continue to act as an uncertified assisted living program or other unlicensed, uncertified, or unregistered entity otherwise regulated by the state following decertification. If a decertified assisted living program continues to or subsequently acts in a manner that meets the definition of assisted living pursuant to section 231C.2, the decertified program is subject to the criminal penalties and injunctive relief provisions of section 231C.15, and any other penalties applicable by law.

2011 Acts, ch 83, §3

231C.12 Department notified of casualties.

The department shall be notified no later than the next working day, by the most expeditious means available, of any accident causing major injury or death, and any substantial fire or natural or other disaster occurring at or near an assisted living program.

2003 Acts, ch 166, §19; 2007 Acts, ch 215, §177; 2009 Acts, ch 156, §16

231C.13 Retaliation by assisted living program prohibited.

An assisted living program shall not discriminate or retaliate in any way against a tenant, tenant's family, or an employee of the program who has initiated or participated in any proceeding authorized by this chapter. An assisted living program that violates this section is subject to a penalty as established by administrative rule in accordance with chapter 17A, to be assessed and collected by the department, paid into the state treasury, and credited to the general fund of the state.

2003 Acts, ch 166, §20; 2006 Acts, ch 1010, §73; 2007 Acts, ch 215, §178

Referred to in §231C.5

231C.14 Civil penalties.

1. The department may establish by rule, in accordance with chapter 17A, civil penalties for the following violations by an assisted living program:

a. Noncompliance with any regulatory requirements which presents an imminent danger or a substantial probability of resultant death or physical harm to a tenant.

b. Following receipt of notice from the department, continued failure or refusal to comply within a prescribed time frame with regulatory requirements that have a direct relationship to the health, safety, or security of program tenants.

c. Preventing or interfering with or attempting to impede in any way any duly authorized representative of the department in the lawful enforcement of this chapter or of the rules adopted pursuant to this chapter. As used in this paragraph, “*lawful enforcement*” includes but is not limited to:

(1) Contacting or interviewing any tenant of an assisted living program in private at any reasonable hour and without advance notice.

(2) Examining any relevant records of an assisted living program.

(3) Preserving evidence of any violation of this chapter or of the rules adopted pursuant to this chapter.

2. If a program assessed a penalty does not request a formal hearing pursuant to chapter 17A or withdraws its request for a formal hearing within thirty days of the date the penalty was assessed, the penalty shall be reduced by thirty-five percent, if the penalty is paid within thirty days of the issuance of a demand letter issued by the department. The demand letter, which includes the civil penalty, shall include a statement to this effect.

2003 Acts, ch 166, §21; 2005 Acts, ch 60, §16, 21; 2007 Acts, ch 215, §179, 180; 2009 Acts, ch 156, §17

Referred to in §231C.9

231C.15 Criminal penalties and injunctive relief.

A person establishing, conducting, managing, or operating any assisted living program without a certificate is guilty of a serious misdemeanor. Each day of continuing violation after conviction or notice from the department by certified mail of a violation shall be considered a separate offense or chargeable offense. A person establishing, conducting, managing, or operating an assisted living program without a certificate may be temporarily or permanently restrained by a court of competent jurisdiction from such activity in an action brought by the state.

2003 Acts, ch 166, §22; 2005 Acts, ch 60, §17, 21; 2007 Acts, ch 215, §181

Referred to in §231C.11A

231C.16 Nursing assistant and medication aide — certification.

The department, in cooperation with other appropriate agencies, shall establish a procedure to allow nursing assistants or medication aides to claim work within an assisted living program as credit toward sustaining the nursing assistant’s or medication aide’s certification.

2003 Acts, ch 166, §23; 2007 Acts, ch 215, §182

231C.16A Medication setup — administration and storage of medications.

1. An assisted living program may provide for medication setup if requested by a tenant or the tenant’s legal representative. If medication setup is provided following such request, the program shall be responsible for the specific task requested and the tenant shall retain responsibility for those tasks not requested to be provided.

2. If medications are administered or stored by an assisted living program, or if the assisted living program provides for medication setup, all of the following shall apply:

a. If administration of medications is delegated to the program by the tenant or tenant’s legal representative, the medications shall be administered by a registered nurse, licensed practical nurse, advanced registered nurse practitioner licensed in Iowa, or by the individual to whom such licensed individuals may properly delegate administration of medications.

b. Medications, other than those self-administered by the tenant or provided through medication setup, shall be stored in locked storage that is not accessible to persons other than employees responsible for administration or storage of medications.

c. Medications shall be labeled and maintained in compliance with label instructions and state and federal law.

d. A person, other than a person authorized to prescribe prescription drugs under state and federal law, shall not alter the prescription of a tenant.

e. Medications shall be stored in their originally received containers.

f. If medication setup is provided by the program at the request of the tenant or tenant's legal representative, or if medication administration is delegated to the program by the tenant or tenant's legal representative, appropriate staff of the program may transfer the medications in the tenant's presence from the original prescription container to medication dispensing containers, reminder containers, or medication cups.

g. Program assistance with medication administration as specified in the occupancy agreement shall not require the program to provide assistance with the storage of medications.

2005 Acts, ch 60, §18, 21; 2015 Acts, ch 56, §19

231C.17 Coordination of the long-term care system — transitional provisions.

1. A hospital licensed pursuant to chapter 135B, a health care facility licensed pursuant to chapter 135C, or an adult day services program certified pursuant to chapter 231D may operate an assisted living program if the assisted living program is certified pursuant to this chapter.

2. This chapter shall not be construed to require that a facility licensed as a different type of facility also comply with the requirements of this chapter, unless the facility is represented to the public as a certified assisted living program.

3. A certified assisted living program that complies with the requirements of this chapter shall not be required to be licensed or certified as a different type of facility, unless the facility is represented to the public as another type of facility.

4. a. A continuing care retirement community, as defined in section 523D.1, may provide limited personal care services and emergency response services to its independent living tenants if all of the following conditions are met:

(1) The provision of such personal care services or emergency response services does not result in inadequate staff coverage to meet the service needs of all tenants of the continuing care retirement community.

(2) The staff providing the personal care or emergency response services is trained or qualified to the extent necessary to provide such services.

(3) The continuing care retirement community documents the date, time, and nature of the personal care or emergency response services provided.

(4) Emergency response services are only provided in situations which constitute an urgent need for immediate action or assistance due to unforeseen circumstances.

b. This subsection shall not be construed to prohibit an independent living tenant of a continuing care retirement community from contracting with a third party for personal care or emergency response services.

2003 Acts, ch 166, §24; 2003 Acts, 1st Ex, ch 2, §17, 33; 2005 Acts, ch 60, §19, 21; 2009 Acts, ch 41, §263

231C.18 Iowa assisted living fees.

1. The department shall collect assisted living program certification and related fees. An assisted living program that is certified by the department on the basis of voluntary accreditation by a recognized accrediting entity shall not be subject to payment of the certification fee, but shall be subject to an administrative fee as prescribed by rule. Fees collected and retained pursuant to this section shall be deposited in the general fund of the state.

2. The following certification and related fees shall apply to assisted living programs:

a. For a two-year initial certification, seven hundred fifty dollars.

b. For a two-year recertification, one thousand dollars.

c. For a blueprint plan review, nine hundred dollars.

d. For an optional preliminary plan review, five hundred dollars.

e. For accreditation via a national body of accreditation, one hundred twenty-five dollars.

2003 Acts, ch 166, §25; 2005 Acts, ch 60, §20, 21; 2007 Acts, ch 215, §183

Referred to in §231C.3

231C.19 Application of landlord and tenant Act.

Chapter 562A, the uniform residential landlord and tenant Act, shall apply to assisted living programs under this chapter.

2003 Acts, ch 166, §26

231C.20 Limitation on penalties.

The department shall not impose duplicate civil penalties for the same set of facts and circumstances. All monitoring revisits by the department shall review the program prospectively from the date of the plan of correction to determine compliance.

2009 Acts, ch 156, §18

231C.21 Certification list to county commissioner of elections.

To facilitate the implementation of section 53.8, subsection 3, and section 53.22, the director shall provide to each county commissioner of elections at least annually a list of each certified dementia-specific assisted living program in that county. The list shall include the street address or location, and the mailing address if it is other than the street address or location, of each program.

2017 Acts, ch 120, §8

Referred to in §53.8

CHAPTER 231D

ADULT DAY SERVICES

Referred to in §105.11, 231B.16, 231C.17, 235E.2, 483A.24

231D.1	Definitions.	231D.12	Retaliation by adult day services program prohibited.
231D.2	Purpose — rules.	231D.13	Nursing assistant and medication aide — certification.
231D.3	Certification required.	231D.13A	Medication setup — administration and storage of medications.
231D.3A	Exception.	231D.14	Criminal records investigation check.
231D.4	Application and fees.	231D.15	Fire and safety standards.
231D.5	Denial, suspension, or revocation.	231D.16	Transition provision.
231D.6	Notice — appeal — emergency provisions.	231D.17	Written contractual agreement required.
231D.7	Conditional operation.	231D.18	Involuntary transfer.
231D.8	Department notified of casualties.	231D.19	Limitations on admission and retention of participants.
231D.9	Complaints and confidentiality.		
231D.9A	Exit interview — issuance of findings.		
231D.10	Disclosure of findings.		
231D.10A	Informal conference — formal contest — judicial review.		
231D.11	Penalties.		

231D.1 Definitions.

For the purposes of this chapter, unless the context otherwise requires:

1. “*Adult day services*”, “*adult day services program*”, or “*program*” means an organized program providing a variety of health-related care, social services, and other related support services for sixteen hours or less in a twenty-four-hour period to two or more persons with a functional impairment on a regularly scheduled, contractual basis.
2. “*Contractual agreement*” means a written agreement entered into between an adult day services program and a participant that clearly describes the rights and responsibilities of the adult day services program and the participant, and other information required by rule.
3. “*Department*” means the department of inspections and appeals.
4. “*Functional impairment*” means a psychological, cognitive, or physical impairment creating the inability to perform personal and instrumental activities of daily living and associated tasks necessitating some form of supervision or assistance or both.

5. “*Governmental unit*” means the state, or any county, municipality, or other political subdivision or any department, division, board, or other agency of any of these entities.

6. “*Health-related care*” means services provided by a registered nurse or a licensed practical nurse, on a part-time or intermittent basis, and services provided by other licensed health care professionals, on a part-time or intermittent basis.

7. “*Medication setup*” means assistance with various steps of medication administration to support a participant’s autonomy, which may include but is not limited to routine prompting, cueing and reminding, opening containers or packaging at the direction of the participant, reading instructions or other label information, or transferring medications from the original container into suitable medication dispensing containers, reminder containers, or medication cups.

8. “*Participant*” means an individual who is the recipient of services provided by an adult day services program.

9. “*Participant’s legal representative*” means a person appointed by the court to act on behalf of a participant, or a person acting pursuant to a power of attorney.

10. “*Personal care*” means assistance with the essential activities of daily living which may include but are not limited to transferring, bathing, personal hygiene, dressing, grooming, and housekeeping that are essential to the health and welfare of a participant.

11. “*Recognized accrediting entity*” means a nationally recognized accrediting entity that the department recognizes as having specific adult day services program standards equivalent to the standards established by the department for adult day services.

12. “*Social services*” means services relating to the psychological and social needs of the individual in adjusting to participating in an adult day services program, and minimizing the stress arising from that circumstance.

13. “*Supervision*” means direct oversight and inspection of the act of accomplishing a function or activity.

2003 Acts, ch 165, §1; 2005 Acts, ch 61, §1, 17; 2007 Acts, ch 215, §184

Referred to in §135C.1, 142D.2, 144C.2, 231C.2, 231D.3A, 235E.1

231D.2 Purpose — rules.

1. The purpose of this chapter is to promote and encourage adequate and safe care for adults with functional impairments.

2. The department shall establish, by rule in accordance with chapter 17A, a program for certification and monitoring of and complaint investigations related to adult day services programs. The department, in establishing minimum standards for adult day services programs, may adopt by rule in accordance with chapter 17A, nationally recognized standards for adult day services programs. The rules shall include specification of recognized accrediting entities. The rules shall include a requirement that sufficient staffing be available at all times to fully meet a participant’s identified needs. The rules shall include a requirement that no fewer than two staff persons who monitor participants as indicated in each participant’s service plan shall be awake and on duty during the hours of operation when two or more participants are present. The rules and minimum standards adopted shall be formulated in consultation with affected state agencies and affected industry, professional, and consumer groups and shall be designed to accomplish the purpose of this chapter.

3. The department may establish by administrative rule, in accordance with chapter 17A, specific rules related to minimum standards for dementia-specific adult day services programs. The rules shall be formulated in consultation with affected state agencies and affected industry, professional, and consumer groups.

2003 Acts, ch 165, §2; 2005 Acts, ch 61, §2, 17; 2007 Acts, ch 215, §185, 186

231D.3 Certification required.

1. A person or governmental unit acting severally or jointly with any other person or governmental unit shall not establish or operate an adult day services program and shall not represent an adult day services program to the public as certified unless and until the program is certified pursuant to this chapter. If an adult day services program is voluntarily

accredited by a recognized accrediting entity with specific adult day services standards, the department shall accept voluntary accreditation as the basis for certification by the department. The owner or manager of a certified adult day services program shall comply with the rules adopted by the department for an adult day services program.

2. An adult day services program may provide any type of adult day services for which the program is certified. An adult day services program shall provide services and supervision commensurate with the needs of the participants. An adult day services program shall not provide services to individuals requiring a level or type of services for which the program is not certified and services provided shall not exceed the level or type of services for which the program is certified.

3. An adult day services program that has been certified by the department shall not alter the program, operation, or adult day services for which the program is certified in a manner that affects continuing certification without prior approval of the department. The department shall specify, by rule, alterations that are subject to prior approval.

4. A department, agency, or officer of this state or of any governmental unit shall not pay or approve for payment from public funds any amount to an adult day services program for an actual or prospective participant, unless the program holds a current certificate issued by the department and meets all current requirements for certification.

5. The department shall adopt rules regarding the conducting or operating of another business or activity in the distinct part of the physical structure in which the adult day services program is provided, if the business or activity serves persons who are not participants. The rules shall be developed in consultation with affected state agencies and affected industry, professional, and consumer groups.

6. The department shall conduct training sessions for personnel responsible for conducting monitoring evaluations and complaint investigations of adult day services programs.

7. Beginning January 1, 2013, certification of an adult day services program shall be for three years unless revoked for good cause by the department.

2003 Acts, ch 165, §3; 2005 Acts, ch 61, §3, 4, 17; 2007 Acts, ch 215, §187; 2013 Acts, ch 55, §1, 3, 4

231D.3A Exception.

An entity certified by the centers for Medicare and Medicaid services of the United States department of health and human services as a federal program of all-inclusive care for the elderly shall not be required to be certified as an adult day services program under this chapter. A program of all-inclusive care for the elderly, as used in this section, shall not identify itself or hold itself out to be an adult day services program as defined in section 231D.1.

2012 Acts, ch 1035, §1; 2013 Acts, ch 30, §44

231D.4 Application and fees.

1. Certificates for adult day services programs shall be obtained from the department. Applications shall be upon such forms and shall include such information as the department may reasonably require, which may include affirmative evidence of compliance with applicable statutes and local ordinances. Each application for certification shall be accompanied by the appropriate fee.

2. *a.* The department shall collect adult day services certification fees. The fees shall be deposited in the general fund of the state.

b. The following certification and related fees shall apply to adult day services programs:

(1) Beginning January 1, 2013, for a three-year initial certification, seven hundred fifty dollars.

(2) Beginning January 1, 2013, for a three-year recertification, one thousand dollars.

(3) For a blueprint review, nine hundred dollars.

(4) For an optional preliminary plan review, five hundred dollars.

(5) For certification via a national body of accreditation, one hundred twenty-five dollars. 2003 Acts, ch 165, §4; 2005 Acts, ch 61, §5, 17; 2007 Acts, ch 215, §188, 189; 2013 Acts, ch 55, §2, 3, 4

231D.5 Denial, suspension, or revocation.

1. The department may deny, suspend, or revoke certification if the department finds that there has been a substantial or repeated failure on the part of the adult day services program to comply with this chapter or the rules or minimum standards adopted pursuant to this chapter, or for any of the following reasons:

a. Appropriation or conversion of the property of a participant without the participant's written consent or the written consent of the participant's legal representative.

b. Permitting, aiding, or abetting the commission of any illegal act in the adult day services program.

c. Obtaining or attempting to obtain or retain certification by fraudulent means, misrepresentation, or by submitting false information.

d. Habitual intoxication or addiction to the use of drugs by the applicant, owner, manager, or supervisor of the adult day services program.

e. Securing the devise or bequest of the property of a participant by undue influence.

f. Failure or neglect to maintain a required continuing education and training program for all personnel employed in the adult day services program.

g. Founded dependent adult abuse as defined in section 235E.1.

h. In the case of any officer, member of the board of directors, trustee, or designated manager of the program or any stockholder, partner, or individual who has greater than a five percent equity interest in the program, having or having had an ownership interest in an adult day services program, assisted living program, elder group home, home health agency, residential care facility, or licensed nursing facility in any state which has been closed due to removal of program, agency, or facility licensure or certification or involuntary termination from participation in either the medical assistance or Medicare programs, or having been found to have failed to provide adequate protection or services for participants to prevent abuse or neglect.

i. In the case of a certificate applicant or an existing certified owner or operator who is an entity other than an individual, the person is in a position of control or is an officer of the entity and engages in any act or omission proscribed by this chapter.

j. In the case of an application by an existing certificate holder for a new or newly acquired adult day services program, the department may deny certification on the basis of continuing or repeated failure of the certificate holder to operate any previously certified adult day services program in compliance with this chapter or of the rules adopted pursuant to this chapter.

k. In the case of an application for a new or newly acquired adult day services program, continuing or repeated failure of the certificate holder to operate any previously certified adult day services program or programs in compliance with the provisions of this chapter, the rules adopted pursuant to this chapter, or equivalent provisions that the adult day services program is subject to in this state or any other state.

l. Intentionally preventing or interfering with or attempting to prevent or interfere in any way with the performance by any duly authorized representative of the department of the lawful enforcement of this chapter or of the rules adopted pursuant to this chapter. As used in this paragraph, "lawful enforcement" includes but is not limited to the following:

(1) Contacting or interviewing any participant of an adult day services program in private at any reasonable hour and without advance notice.

(2) Examining any relevant books or records of an adult day services program unless otherwise protected from disclosure by operation of law.

(3) Preserving evidence of any violation of this chapter or of the rules adopted pursuant to this chapter.

m. For any other reason as provided by law or administrative rule.

2. In the case of a certificate applicant or existing certificate holder which is an entity other than an individual, the department may deny, suspend, or revoke a certificate if any

individual who is in a position of control or is an officer of the entity engages in any act or omission proscribed by this section.

2003 Acts, ch 165, §5; 2005 Acts, ch 61, §6, 17; 2006 Acts, ch 1030, §25; 2007 Acts, ch 215, §190, 191; 2008 Acts, ch 1031, §41; 2008 Acts, ch 1032, §37; 2014 Acts, ch 1040, §24; 2015 Acts, ch 80, §13

Referred to in §231D.7

231D.6 Notice — appeal — emergency provisions.

1. The denial, suspension, or revocation of a certificate shall be effected by delivering to the applicant or certificate holder by restricted certified mail or by personal service a notice setting forth the particular reasons for the action. The denial, suspension, or revocation shall become effective thirty days after the mailing or service of the notice, unless the applicant or certificate holder, within the thirty-day period, requests a hearing, in writing, of the department, in which case the notice shall be deemed to be suspended.

2. The denial, suspension, or revocation of a certificate may be appealed in accordance with rules adopted by the department in accordance with chapter 17A.

3. When the department finds that an immediate danger to the health or safety of participants in an adult day services program exists which requires action on an emergency basis, the department may direct the removal of all participants in the adult day services program and suspend the certificate prior to a hearing.

2003 Acts, ch 165, §6; 2005 Acts, ch 61, §7, 17; 2007 Acts, ch 215, §192

231D.7 Conditional operation.

The department may, as an alternative to denial, suspension, or revocation of certification under section 231D.5, conditionally issue or continue certification dependent upon the performance by the adult day services program of reasonable conditions within a reasonable period of time as prescribed by the department so as to permit the program to commence or continue the operation of the program pending full compliance with this chapter or the rules adopted pursuant to this chapter. If the adult day services program does not make diligent efforts to comply with the conditions prescribed, the department may, under the proceedings prescribed by this chapter, suspend or revoke the certificate. An adult day services program shall not be operated under conditional certification for more than one year.

2003 Acts, ch 165, §7; 2007 Acts, ch 215, §193

231D.8 Department notified of casualties.

The department shall be notified within twenty-four hours, by the most expeditious means available, of any accident causing substantial injury or death, and any substantial fire or natural or other disaster occurring at or near an adult day services program.

2003 Acts, ch 165, §8; 2007 Acts, ch 215, §194

231D.9 Complaints and confidentiality.

1. A person with concerns regarding the operations or service delivery of an adult day services program may file a complaint with the department. The name of the person who files a complaint with the department and any personal identifying information of the person or any participant identified in the complaint shall be kept confidential and shall not be subject to discovery, subpoena, or other means of legal compulsion for its release to a person other than employees of the department involved in the investigation of the complaint.

2. The department shall establish procedures for the disposition of complaints received in accordance with this section.

2003 Acts, ch 165, §9; 2005 Acts, ch 61, §8, 17; 2007 Acts, ch 215, §195

Referred to in §231D.12

231D.9A Exit interview — issuance of findings.

1. The department shall provide an adult day services program an exit interview at the conclusion of a monitoring evaluation or a complaint investigation, and the department shall inform the program's representative of all issues and areas of concern related to the insufficient practices. The department may conduct the exit interview in person or by

telephone, and the department shall provide a second exit interview if any additional issues or areas of concern are identified. The program shall have two working days from the date of the exit interview to submit additional or rebuttal information to the department.

2. The department shall issue the final findings of a monitoring evaluation or complaint investigation within ten working days after completion of the on-site monitoring evaluation or complaint investigation. The final findings shall be served upon the program personally, by electronic mail, or by certified mail.

2005 Acts, ch 61, §9, 17; 2007 Acts, ch 215, §196; 2014 Acts, ch 1040, §25, 28

231D.10 Disclosure of findings.

Upon completion of a monitoring evaluation or complaint investigation of an adult day services program by the department pursuant to this chapter, the department's final findings with respect to compliance by the adult day services program with requirements for certification shall be made available to the public in a readily available form and place. Other information relating to an adult day services program that is obtained by the department which does not constitute the department's final findings from a monitoring evaluation or complaint investigation of the adult day services program shall not be made available to the public except in proceedings involving the assessment of a civil penalty pursuant to section 231D.11 or the denial, suspension, or revocation of a certificate under this chapter.

2003 Acts, ch 165, §10; 2005 Acts, ch 61, §10, 17; 2007 Acts, ch 215, §197; 2008 Acts, ch 1048, §3, 4; 2014 Acts, ch 1040, §26, 28; 2015 Acts, ch 80, §14

231D.10A Informal conference — formal contest — judicial review.

1. Within twenty business days after issuance of the final findings, the adult day services program shall notify the director if the program desires to contest the findings and do either of the following:

a. Request an informal conference with an independent reviewer pursuant to subsection 2. Upon the conclusion of an informal conference, if the adult day services program desires to further contest an affirmed or modified regulatory insufficiency, it may do so by giving notice of intent to formally contest the regulatory insufficiency, in writing, to the department within five days after receipt of the written decision of the independent reviewer.

b. Request a contested case hearing in the manner provided by chapter 17A for contested cases. The formal hearing shall be conducted in accordance with chapter 17A and rules adopted by the department.

2. *a.* The department shall provide an independent reviewer to hold an informal conference with an adult day services program within ten working days after receiving a request from the program pursuant to subsection 1, paragraph "a". At the conclusion of the informal conference, the independent reviewer may affirm, modify, or dismiss a contested regulatory insufficiency. The independent reviewer shall state in writing the specific reasons for the affirmation, modification, or dismissal and immediately transmit copies of the statement to the department and to the program.

b. An independent reviewer shall be licensed as an attorney in the state of Iowa and shall not be employed or have been employed by the department in the past eight years or have appeared in front of the department on behalf of an adult day services program in the past eight years. Preference shall be given to an attorney with background knowledge, experience, or training in long-term care. The department may issue a request for proposals to enter into a contract for the purpose of providing one or more independent reviewers for informal conferences.

3. An adult day services program that has exhausted all adequate administrative remedies and is aggrieved by the final action of the department may petition for judicial review in the manner provided by chapter 17A.

2014 Acts, ch 1040, §27, 28; 2015 Acts, ch 80, §15

231D.11 Penalties.

1. A person establishing, conducting, managing, or operating an adult day services program without a certificate is guilty of a serious misdemeanor. Each day of continuing

violation after conviction or notice from the department by certified mail of a violation shall be considered a separate offense or chargeable offense. A person establishing, conducting, managing, or operating an adult day services program without a certificate may be temporarily or permanently restrained by a court of competent jurisdiction from such activity in an action brought by the state.

2. A civil penalty, as established by rule, may apply in any of the following situations:

a. Program noncompliance with one or more regulatory requirements has caused or is likely to cause harm, serious injury, threat, or death to a participant.

b. Program failure or refusal to comply with regulatory requirements within prescribed time frames.

c. Preventing or interfering with or attempting to impede in any way any duly authorized representative of the department in the lawful enforcement of this chapter or of the rules adopted pursuant to this chapter. As used in this paragraph, “*lawful enforcement*” includes but is not limited to:

(1) Contacting or interviewing any participant in an adult day services program in private at any reasonable hour and without advance notice.

(2) Examining any relevant records of an adult day services program.

(3) Preserving evidence of any violation of this chapter or of the rules adopted pursuant to this chapter.

2003 Acts, ch 165, §11; 2005 Acts, ch 61, §11, 17; 2007 Acts, ch 215, §198, 199

Referred to in §231D.10

231D.12 Retaliation by adult day services program prohibited.

1. An adult day services program shall not discriminate or retaliate in any way against a participant, participant’s family, or an employee of the program who has initiated or participated in any proceeding authorized by this chapter. An adult day services program that violates this section is subject to a penalty as established by administrative rule, to be assessed and collected by the department, paid into the state treasury, and credited to the general fund of the state.

2. Any attempt to discharge a participant from an adult day services program by whom or upon whose behalf a complaint has been submitted to the department under section 231D.9, within ninety days after the filing of the complaint or the conclusion of any proceeding resulting from the complaint, shall raise a rebuttable presumption that the action was taken by the program in retaliation for the filing of the complaint, except in situations in which the participant is discharged due to changes in health status which exceed the level of care offered by the adult day services program or in other situations as specified by rule.

2003 Acts, ch 165, §12; 2005 Acts, ch 61, §12, 17; 2006 Acts, ch 1010, §74; 2007 Acts, ch 215, §200

Referred to in §231D.17

231D.13 Nursing assistant and medication aide — certification.

The department, in cooperation with other appropriate agencies, shall establish a procedure to allow nursing assistants or medication aides to claim work within adult day services programs as credit toward sustaining the nursing assistant’s or medication aide’s certification.

2003 Acts, ch 165, §13; 2007 Acts, ch 215, §201

231D.13A Medication setup — administration and storage of medications.

1. An adult day services program may provide for medication setup if requested by a participant or the participant’s legal representative. If medication setup is provided following such request, the program shall be responsible for the specific task requested and the participant shall retain responsibility for those tasks not requested to be provided.

2. If medications are administered or stored by an adult day services program, or if the adult day services program provides for medication setup, all of the following shall apply:

a. If administration of medications is delegated to the program by the participant or the participant’s legal representative, the medications shall be administered by a registered nurse, licensed practical nurse, advanced registered nurse practitioner licensed in Iowa, or

by the individual to whom such licensed individuals may properly delegate administration of medications.

b. Medications, other than those self-administered by the participant or provided through medication setup, shall be stored in locked storage that is not accessible to persons other than employees responsible for administration or storage of medications.

c. Medications shall be labeled and maintained in compliance with label instructions and state and federal law.

d. A person, other than a person authorized to prescribe prescription drugs under state and federal law, shall not alter the prescription of a participant.

e. Medications shall be stored in their originally received containers.

f. If medication setup is provided by the program at the request of the participant or the participant's legal representative, or if medication administration is delegated to the program by the participant or the participant's legal representative, appropriate staff of the program may transfer the medications in the participant's presence from the original prescription container to medication dispensing containers, reminder containers, or medication cups.

g. Program assistance with medication administration as specified in the contractual agreement shall not require the program to provide assistance with the storage of medications.

2005 Acts, ch 61, §13, 17; 2015 Acts, ch 56, §20

231D.14 Criminal records investigation check.

An adult day services program shall comply with section 135C.33.

2003 Acts, ch 165, §14

231D.15 Fire and safety standards.

The state fire marshal shall adopt rules, in coordination with the department, relating to the certification and monitoring of the fire and safety standards of adult day services programs.

2003 Acts, ch 165, §15; 2007 Acts, ch 215, §202

231D.16 Transition provision.

1. Adult day services programs that are serving at least two but not more than five persons and that are not voluntarily accredited by a recognized accrediting entity shall comply with this chapter.

2. A hospital licensed pursuant to chapter 135B, a health care facility licensed pursuant to chapter 135C, or an assisted living program certified pursuant to chapter 231C may operate an adult day services program if the adult day services program is certified pursuant to this chapter.

3. A certified adult day services program that complies with the requirements of this chapter shall not be required to be licensed or certified as another type of facility, unless the facility is represented to the public as another type of facility.

2003 Acts, ch 165, §16; 2005 Acts, ch 61, §14, 17; 2015 Acts, ch 30, §74

231D.17 Written contractual agreement required.

1. An adult day services program shall not operate in this state unless a written contractual agreement is executed between the adult day services program and each participant or the participant's legal representative prior to the participant's admission to the program, and unless the adult day services program operates in accordance with the terms of the written contractual agreement. The adult day services program shall deliver to the participant or the participant's legal representative a complete copy of the written contractual agreement and all supporting documents and attachments, prior to the participant's admission to the program, and shall also deliver a written copy of changes to the written contractual agreement, if any changes to the copy originally delivered are subsequently made, at least thirty days prior to any changes, unless otherwise provided in this section.

2. An adult day services program written contractual agreement shall clearly describe the rights and responsibilities of the participant and the program. The written contractual

agreement shall also include but is not limited to inclusion of all of the following information in the body of the agreement or in the supporting documents and attachments:

- a. A description of all fees, charges, and rates describing admission and basic services covered, and any additional and optional services and their related costs.
- b. A statement regarding the impact of the fee structure on third-party payments, and whether third-party payments and resources are accepted by the adult day services program.
- c. The procedure followed for nonpayment of fees.
- d. Identification of the party responsible for payment of fees and identification of the participant's legal representative, if any.
- e. The term of the written contractual agreement.
- f. A statement that the adult day services program shall notify the participant or the participant's legal representative, as applicable, in writing at least thirty days prior to any change being made in the written contractual agreement, with the following exceptions:
 - (1) When the participant's health status or behavior constitutes a substantial threat to the health or safety of the participant, other participants, or others, including when the participant refuses to consent to discharge.
 - (2) When an emergency or a significant change in the participant's condition results in the need for the provision of services that exceed the type or level of services included in the written contractual agreement and the necessary services cannot be safely provided by the adult day services program.
- g. A statement that all participant information shall be maintained in a confidential manner to the extent required under state and federal law.
- h. Discharge, involuntary transfer, and transfer criteria and procedures, which ensure a safe and orderly transfer.
 - i. The internal appeals process provided relative to an involuntary transfer.
 - j. The program's policies and procedures for addressing grievances between the adult day services program and the participants, including grievances relating to transfer and occupancy.
 - k. A statement of the prohibition against retaliation as prescribed in section 231D.12.
 - l. The emergency response policy.
 - m. The staffing policy which specifies staff is available during all times of program operation, if nurse delegation will be used, and how staffing will be adapted to meet changing participant needs.
 - n. In dementia-specific adult day services programs, a description of the services and programming provided to meet the life skills and social activities of participants.
 - o. The refund policy.
 - p. A statement regarding billing and payment procedures.
3. Written contractual agreements and related documents executed by each participant or participant's legal representative shall be maintained by the adult day services program in program files from the date of execution until three years from the date the written contractual agreement is terminated. A copy of the most current written contractual agreement shall be provided to members of the general public, upon request. Written contractual agreements and related documents shall be made available for on-site inspection to the department upon request and at reasonable times.

2005 Acts, ch 61, §15, 17; 2007 Acts, ch 215, §203

231D.18 Involuntary transfer.

1. If an adult day services program initiates the involuntary transfer of a participant and the action is not a result of a monitoring evaluation or complaint investigation by the department, and if the participant or participant's legal representative contests the transfer, the following procedure shall apply:

- a. The adult day services program shall notify the participant or participant's legal representative, in accordance with the written contractual agreement, of the need to transfer and the reason for the transfer.
- b. If, following the internal appeals process, the adult day services program upholds

the transfer decision, the participant or participant's legal representative may utilize other remedies authorized by law to contest the transfer.

2. The department, in consultation with affected state agencies and affected industry, professional, and consumer groups, shall establish by rule, in accordance with chapter 17A, procedures to be followed, including the opportunity for hearing, when the transfer of a participant results from a monitoring evaluation or complaint investigation conducted by the department.

2005 Acts, ch 61, §16, 17; 2007 Acts, ch 215, §204, 205

231D.19 Limitations on admission and retention of participants.

An adult day services program shall not knowingly admit or retain a participant who meets any of the following criteria:

1. Is under the age of eighteen.
 2. Requires routine three-person assistance with standing, transfer, or evacuation.
 3. Poses a danger to the participant, other participants, or the adult day services program staff. "Pose a danger" may include but is not limited to the following situations:
 - a. The participant chronically elopes despite intervention.
 - b. The participant is sexually or physically aggressive or abusive.
 - c. The participant's verbal abuse is unmanageable by staff.
 - d. The participant is in the acute stage of alcoholism, drug addiction, or mental illness.
- 2014 Acts, ch 1009, §1

CHAPTER 231E PUBLIC GUARDIAN ACT

Referred to in §633.63

231E.1	Title.	231E.7	Public guardian-initiated appointment — interventions.
231E.2	Office of public guardian — findings and intent.	231E.8	Provisions applicable to all appointments and designations — discharge.
231E.3	Definitions.	231E.9	Fees — appropriated.
231E.4	State office of public guardian — established — duties — department rules.	231E.10	Conflicts of interest — limitations.
231E.5	Local office of public guardian — requirements for state and local public guardians.	231E.11	Duty of attorney general, county attorney, or other counsel.
231E.6	Court-initiated or petition-initiated appointment of state or local public guardian — guardianship or conservatorship — discharge.	231E.12	Liability.
		231E.13	Implementation.

231E.1 Title.

This chapter shall be known and may be cited as the "Iowa Public Guardian Act".

2005 Acts, ch 175, §130; 2018 Acts, ch 1048, §2

231E.2 Office of public guardian — findings and intent.

1. a. The general assembly finds that many adults in this state are unable to meet essential requirements to maintain their physical health or to manage essential aspects of their financial resources and are in need of guardianship, conservatorship, or representative payee services. However, a willing and responsible person may not be available to serve as a private guardian, conservator, or representative payee or the adult may not have adequate income or resources to compensate a private guardian, conservator, or representative payee.

b. The general assembly further finds that a process should exist to assist individuals in

finding alternatives to guardianship, conservatorship, or representative payee services and less intrusive means of assistance before an individual's independence or rights are limited.

2. *a.* It is, therefore, the intent of the general assembly to establish a state office of public guardian and authorize the establishment of local offices of public guardian to provide public guardianship services to adults, when no private guardian, conservator, or representative payee is available.

b. It is also the intent of the general assembly that the state office of public guardian provide assistance to both public and private guardians, conservators, and representative payees throughout the state in securing necessary services for their wards and clients, and to assist guardians, conservators, representative payees, wards, clients, courts, and attorneys in the orderly and expeditious handling of guardianship, conservatorship, and representative payee proceedings.

2005 Acts, ch 175, §131; 2018 Acts, ch 1048, §3

231E.3 Definitions.

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

1. "*Client*" means an individual for whom a representative payee is appointed.
2. "*Commission*" means the commission on aging.
3. "*Conservator*" means conservator as defined in section 633.3.
4. "*Court*" means court as defined in section 633.3.
5. "*Department*" means the department on aging established in section 231.21.
6. "*Director*" means the director of the department on aging.
7. "*Guardian*" means guardian as defined in section 633.3.
8. "*Incompetent*" means incompetent as defined in section 633.3.
9. "*Local office*" means a local office of public guardian.
10. "*Local public guardian*" means an individual under contract with the department to act as a guardian, conservator, or representative payee.
11. "*Public guardian*" means the state public guardian or a local public guardian.
12. "*Public guardianship services*" means guardianship, conservatorship, or representative payee services provided by the state public guardian or a local public guardian.
13. "*Representative payee*" means an individual appointed by a government entity to receive funds on behalf of a client pursuant to federal regulation.
14. "*State agency*" means any executive department, commission, board, institution, division, bureau, office, agency, or other executive entity of state government.
15. "*State office*" means the state office of public guardian.
16. "*State public guardian*" means the administrator of the state office of public guardian.
17. "*Ward*" means the individual for whom a guardianship or conservatorship is established.

2005 Acts, ch 38, §54; 2005 Acts, ch 175, §132; 2009 Acts, ch 23, §43; 2014 Acts, ch 1078, §2; 2018 Acts, ch 1048, §4

Referred to in §22.7(61), 235B.6, 633.63

231E.4 State office of public guardian — established — duties — department rules.

1. A state office of public guardian is established within the department to create and administer a statewide network of guardians, conservators, and representative payees who provide guardianship, conservatorship, or representative payee services if other guardians, conservators, or representative payees are not available to provide the services.

2. The director shall appoint an administrator of the state office who shall serve as the state public guardian. The state public guardian shall be qualified for the position by training and expertise in guardianship, conservatorship, and representative payee law and shall be licensed to practice law in Iowa. The state public guardian shall also have knowledge of social services available to meet the needs of persons adjudicated incompetent or in need of guardianship, conservatorship, or representative payee services.

3. The state office shall do all of the following:

- a.* Select persons through a request for proposals process to establish local offices of

public guardian. Local offices shall be established contingent upon the appropriation of necessary funds to the department as determined by the director.

b. Monitor and terminate contracts with local offices based on criteria established by rule of the department.

c. Retain oversight responsibilities for all local public guardians.

d. Act as a guardian, conservator, or representative payee if a local public guardian is not available to so act.

e. Work with the department of human services, the Iowa department of public health, the Iowa developmental disabilities council, and other agencies to establish a referral system for the provision of guardianship, conservatorship, and representative payee services.

f. Develop and maintain a current listing of public and private services and programs available to assist wards and clients, and their families, and establish and maintain relationships with public and private entities to assure the availability of effective guardianship, conservatorship, and representative payee services for wards and clients.

g. Provide information and referrals to the public regarding guardianship, conservatorship, and representative payee services.

h. Maintain statistical data on the local offices including various methods of funding, the types of services provided, and the demographics of the wards and clients, and report to the general assembly on or before November 1, annually, regarding the local offices and recommend any appropriate legislative action.

i. Develop, in cooperation with the judicial council as established in section 602.1202, a guardianship, conservatorship, and representative payee education and training program. The program may be offered to both public and private guardians, conservators, and representative payees. The state office shall establish a curriculum committee, which includes but is not limited to probate judges, to develop the education and training program. The state office shall be the sole authority for certifying additional curriculum trainers.

4. The state office may do any of the following:

a. Accept and receive gifts, grants, or donations from any public or private entity in support of the state office. Such gifts, grants, or donations shall be appropriated pursuant to section 231E.9. Notwithstanding section 8.33, moneys retained by the department pursuant to this section shall not be subject to reversion to the general fund of the state.

b. Accept the services of individual volunteers and volunteer organizations. Volunteers and volunteer organizations utilized by the state office shall not provide direct guardianship, conservatorship, or representative payee services.

c. Employ staff necessary to administer the state office and enter into contracts as necessary.

5. The department shall provide administrative support to the state office.

6. The department shall adopt rules in accordance with chapter 17A necessary to create and administer the state office and local offices, relating to but not limited to all of the following:

a. An application and intake process and standards for receipt of guardianship, conservatorship, or representative payee services from the state office or a local office.

b. A process for the removal or termination of the state public guardian or a local public guardian.

c. An ideal range of staff-to-client ratios for the state public guardian and local public guardians.

d. Minimum training and experience requirements for professional staff and volunteers.

e. A fee schedule. The department may establish by rule a schedule of reasonable fees for the costs of public guardianship services provided under this chapter. The fee schedule established may be based upon the ability of the ward or client to pay for the services but shall not exceed the actual cost of providing the services. The state office or a local office may waive collection of a fee upon a finding that collection is not economically feasible. The rules may provide that the state office or a local office may investigate the financial status of a ward or client that requests guardianship, conservatorship, or representative payee services or for whom the state public guardian or a local public guardian has been appointed for the purpose of determining the fee to be charged by requiring the ward or client to provide any

written authorizations necessary to provide access to records of public or private sources, otherwise confidential, needed to evaluate the individual's financial eligibility. The rules may also provide that the state public guardian or a local public guardian may, upon request and without payment of fees otherwise required by law, obtain information necessary to evaluate the individual's financial eligibility from any office of the state or of a political subdivision or agency of the state that possesses public records.

f. Standards and performance measures for evaluation of local offices.

g. Recordkeeping and accounting procedures to ensure that the state office and local offices maintain confidential, accurate, and up-to-date financial, case, and statistical records. The rules shall require each local office to file with the state office, on an annual basis, an account of all public and private funds received and a report regarding the operations of the local office for the preceding fiscal year.

h. Procedures for the sharing of records held by the court or a state agency with the state office, which are necessary to evaluate the state office or local offices, to assess the need for additional guardians, conservators, or representative payees, or to develop required reports.

2005 Acts, ch 175, §133; 2009 Acts, ch 23, §44 – 46; 2012 Acts, ch 1023, §30; 2015 Acts, ch 137, §72, 162, 163; 2016 Acts, ch 1139, §49; 2018 Acts, ch 1041, §127; 2018 Acts, ch 1048, §5

231E.5 Local office of public guardian — requirements for state and local public guardians.

1. The state public guardian shall select persons to provide local public guardianship services, based upon a request for proposals process developed by the department.

2. A local office shall comply with all requirements established for the local office by the department and shall do all of the following:

a. Maintain a staff of professionally qualified individuals to carry out the guardian, conservator, and representative payee functions.

b. Identify client needs and local resources to provide necessary support services to recipients of guardianship, conservatorship, and representative payee services.

c. Collect program data as required by the state office.

d. Meet standards established for the local office.

e. Comply with minimum staffing requirements and caseload restrictions.

f. Conduct background checks on employees and volunteers.

g. With regard to a proposed ward, the local office shall do all of the following:

(1) Determine the most appropriate form of guardianship or conservatorship services needed, if any, giving preference to the least restrictive alternative.

(2) Determine whether the needs of the proposed ward require the appointment of a guardian or conservator.

(3) Assess the financial resources of the proposed ward based on the information supplied to the local office at the time of the determination.

(4) Inquire and, if appropriate, search to determine whether any other person may be willing and able to serve as the proposed ward's guardian or conservator.

(5) Determine the form of guardianship or conservatorship to request of a court, if any, giving preference to the least restrictive form.

(6) If determined necessary, file a petition for the appointment of a guardian or conservator pursuant to chapter 633.

3. A local office may do any of the following:

a. Contract for or arrange for provision of services necessary to carry out the duties of a local public guardian.

b. Accept the services of volunteers or consultants and reimburse them for necessary expenses.

c. Employ staff and delegate to members of the staff the powers and duties of the local public guardian. However, the local office shall retain responsibility for the proper performance of the delegated powers and duties. All delegations shall be to persons who meet the eligibility requirements of the specific type of public guardian.

4. An individual acting as the state public guardian or a local public guardian shall comply

with applicable requirements for guardians and conservators pursuant to chapter 633, or representative payees pursuant to federal law and regulations.

5. Notwithstanding any provision to the contrary, an individual acting as the state public guardian or a local public guardian shall not be subject to the posting of a bond pursuant to chapter 633. An individual acting as the state public guardian or a local public guardian shall complete at least eight hours of training annually as certified by the department.

2005 Acts, ch 175, §134; 2018 Acts, ch 1041, §127; 2018 Acts, ch 1048, §6

231E.6 Court-initiated or petition-initiated appointment of state or local public guardian — guardianship or conservatorship — discharge.

1. The court may appoint on its own motion or upon petition of any person, the state office or a local office, to serve as guardian or conservator for any proposed ward in cases in which the court determines that the proceeding will establish the least restrictive form of guardianship or conservatorship services suitable for the proposed ward and if the proposed ward meets all of the following criteria:

- a. Is a resident of the service area in which the local office is located from which services would be provided or is a resident of the state, if the state office would provide the services.
- b. Is eighteen years of age or older.
- c. Does not have suitable family or another appropriate entity willing and able to serve as guardian or conservator.
- d. Is incompetent.
- e. Is an individual for whom guardianship or conservatorship services are the least restrictive means of meeting the individual's needs.

2. For all appointments made pursuant to this section, notice shall be provided to the state office or local office prior to appointment. For appointments made pursuant to this section, the state office or local office shall only accept appointments made pursuant to the filing of an involuntary petition for appointment of a conservator or guardianship pursuant to chapter 633.

2005 Acts, ch 175, §135; 2009 Acts, ch 23, §47; 2018 Acts, ch 1048, §7

Referred to in §231E.8

231E.7 Public guardian-initiated appointment — interventions.

The state office or local office may on its own motion or at the request of the court intervene in a guardianship or conservatorship proceeding if the state office or local office or the court considers the intervention to be justified because of any of the following:

1. An appointed guardian or conservator is not fulfilling prescribed duties or is subject to removal under section 633.65.
2. A willing and qualified guardian or conservator is not available.
3. The best interests of the ward require the intervention.

2005 Acts, ch 175, §136; 2009 Acts, ch 23, §48; 2018 Acts, ch 1048, §8

Referred to in §231E.8

231E.8 Provisions applicable to all appointments and designations — discharge.

1. The court shall only appoint or intervene on its own motion or act upon the petition of any person under section 231E.6 or 231E.7 if such appointment or intervention would comply with staffing ratios established by the department and if sufficient resources are available to the state office or local office. Notice of the proposed appointment shall be provided to the state office or local office prior to the granting of such appointment.

2. The state office or local office shall maintain reasonable personal contact with each ward or client for whom the state office or local office is appointed or designated in order to monitor the ward's or client's care and progress.

3. Notwithstanding any provision of law to the contrary, the state office or local office appointed by the court may access all confidential records concerning the ward for whom the state office or local office is appointed or designated, including medical records and abuse reports.

4. In any proceeding in which the state or a local office is appointed or is acting as guardian or conservator, the court shall waive court costs or filing fees, if the state office or local office

certifies to the court that the state office or local office has waived its fees in their entirety based upon the ability of the ward to pay for the services of the state office or local office.

5. The state public guardian or a local public guardian shall be subject to discharge or removal, by the court, on the grounds and in the manner in which other guardians or conservators are discharged or removed pursuant to chapter 633.

6. The state public guardian or a local public guardian may petition to be removed as guardian or conservator. A petition for removal shall be granted for any of the following reasons:

a. The ward displays assaultive or aggressive behavior that causes the public guardian to fear for their personal safety.

b. The ward refuses the services of the public guardian.

c. The ward refuses to have contact with the public guardian.

d. The ward moves out of Iowa.

2005 Acts, ch 175, §137; 2009 Acts, ch 23, §49; 2018 Acts, ch 1041, §127; 2018 Acts, ch 1048, §9

231E.9 Fees — appropriated.

Fees received by the state office and by local offices for services provided as the state public guardian or as a local public guardian shall be deposited in the general fund of the state and the amounts received are appropriated to the department for the purposes of administering this chapter.

2005 Acts, ch 175, §138; 2018 Acts, ch 1048, §10

Referred to in §231E.4

231E.10 Conflicts of interest — limitations.

Notwithstanding section 633.63 or any other provision to the contrary, a local public guardian shall not provide direct services to or have an actual or the appearance of any conflict of interest relating to any individual for whom the local public guardian acts in the capacity of a guardian, conservator, or representative payee, unless such provision of direct services or the appearance of a conflict of interest is approved and monitored by the state office in accordance with rules adopted by the department.

2005 Acts, ch 175, §139; 2018 Acts, ch 1048, §11

231E.11 Duty of attorney general, county attorney, or other counsel.

1. The attorney general may advise the state office on legal matters and represent the state office in legal proceedings.

2. Upon the request of the attorney general, a county attorney may represent the state office or a local office in connection with the filing of a petition for appointment as guardian or conservator and with routine, subsequent appearances.

3. Notwithstanding section 13.7, the state public guardian or a local public guardian may retain a local attorney to represent the state office or a local office in legal proceedings. A local attorney retained under this subsection shall be experienced in probate matters.

2005 Acts, ch 175, §140; 2018 Acts, ch 1048, §12

231E.12 Liability.

All employees and volunteers of the state office and local offices operating under this chapter and other applicable chapters and pursuant to rules adopted under this and other applicable chapters are considered employees of the state and state volunteers for the purposes of chapter 669 and shall be afforded protection under section 669.21 or 669.24, as applicable. This section does not relieve a guardian or conservator from performing duties prescribed under chapter 633.

2005 Acts, ch 175, §141

231E.13 Implementation.

Implementation of this chapter is subject to availability of funding as determined by the department.

2005 Acts, ch 175, §142; 2015 Acts, ch 30, §75

CHAPTER 231F

LONG-TERM LIVING SYSTEM

231F.1 Intent for Iowa's long-term living system.

231F.1 Intent for Iowa's long-term living system.

1. The general assembly finds and declares that the intent for Iowa's long-term living system is to ensure all Iowans access to an extensive range of high-quality, affordable, and cost-effective long-term living options that maximize independence, choice, and dignity for consumers.

2. The long-term living system should be comprehensive, offering multiple services and support in home, community-based, and facility-based settings; should utilize a uniform assessment process to ensure that such services and support are delivered in the most integrated and life-enhancing setting; and should ensure that such services and support are provided by a well-trained, motivated workforce.

3. The long-term living system should exist in a regulatory climate that appropriately ensures the health, safety, and welfare of consumers, while not being overly restrictive or inflexible.

4. The long-term living system should sustain existing informal care systems including family, friends, volunteers, and community resources; should encourage innovation through the use of technology and new delivery and financing models, including housing; should provide incentives to consumers for private financing of long-term living services and support; and should allow Iowans to live independently as long as they desire.

5. Information regarding all components of the long-term living system should be effectively communicated to all persons potentially impacted by the need for long-term living services and support in order to empower consumers to plan, evaluate, and make decisions about how best to meet their own long-term living needs.

2005 Acts, ch 175, §146

SUBTITLE 5**JUVENILES**

Referred to in §714.8

CHAPTER 232**JUVENILE JUSTICE**

Referred to in §13B.9, 85.59, 123.47, 135.108, 135H.6, 135L.3, 232B.3, 232B.6, 233.2, 233A.5, 234.46, 235A.13, 236.11, 236A.12, 237.1, 237.20, 238.32, 252D.1, 252D.16, 252D.16A, 252H.2, 252I.2, 252J.1, 257.11, 257.41, 261.2, 261.87, 273.2, 280.29, 299.8, 321.180B, 321.184, 321.482, 321G.14, 321I.15, 331.427, 331.756(42), 356.3, 462A.13, 483A.24, 598.21C, 602.6110, 602.7101, 602.7202, 602.8102(42), 664A.1, 664A.2, 664A.5, 664A.7, 709.12, 709A.1, 717B.1, 814.11, 815.9, 915.25, 915.37

For provisions concerning court orders under this chapter which impose terms and conditions on the parent, guardian, or custodian of a child, see §232.106

	SUBCHAPTER I	232.28A	Victim rights. Repealed by 98 Acts, ch 1090, §81, 84.
	CONSTRUCTION AND DEFINITIONS	232.29	Informal adjustment.
232.1	Rules of construction.	232.30	through 232.34 Reserved.
232.1A	Foster care placement — annual goal.		
232.2	Definitions.		PART 4
232.3	Concurrent court proceedings.		JUDICIAL PROCEEDINGS
232.4	Jurisdiction — support obligation.	232.35	Filing of petition.
232.5	Abortion performed on a minor — waiver of notification proceedings.	232.36	Contents of petition.
		232.37	Summons, notice, subpoenas, and service — order for removal.
232.6	Jurisdiction — adoptions and terminations of parental rights.	232.38	Presence of parents at hearings.
		232.39	Exclusion of public from hearings.
232.7	Iowa Indian child welfare Act.	232.40	Other issues adjudicated.
		232.41	Reporter required.
		232.42	Continuances.
		232.43	Answer — plea agreement — acceptance of plea admitting allegations of petition.
	SUBCHAPTER II		
	JUVENILE DELINQUENCY PROCEEDINGS		
	PART 1		
	GENERAL PROVISIONS	232.44	Detention or shelter care hearing — release from detention upon change of circumstance.
232.8	Jurisdiction.		
232.9	Motion for change of judge.	232.45	Waiver hearing and waiver of jurisdiction.
232.10	Venue.		
232.11	Right to assistance of counsel.	232.45A	Waiver to and conviction by district court — processing.
232.12	Duties of county attorney.		
232.13	State liability.	232.46	Consent decree.
232.14	through 232.18 Reserved.	232.47	Adjudicatory hearing — findings — adjudication.
		232.48	Predisposition investigation and report.
	PART 2		
	CHILD CUSTODY	232.49	Physical and mental examinations.
232.19	Taking a child into custody.	232.50	Dispositional hearing.
232.20	Admission of child to shelter care or detention.	232.51	Disposition of child with mental illness.
232.21	Placement in shelter care.	232.52	Disposition of child found to have committed a delinquent act.
232.22	Placement in detention.		
232.23	Detention — youthful offenders.	232.52A	Disposition of certain juvenile offenders.
232.24	through 232.27 Reserved.		
		232.53	Duration of dispositional orders.
		232.54	Termination, modification, or vacation and substitution of dispositional order.
	PART 3		
	INTAKE	232.55	Effect of adjudication and disposition.
232.28	Intake.		

232.56 Youthful offenders — transfer to district court supervision.
 232.57 Reasonable efforts defined — effect of aggravated circumstances.
 232.58 Permanency hearings.
 232.59 and 232.60 Reserved.

232.83 Child sexual abuse involving a person not responsible for the care of the child.
 232.84 Transfer of custody — notice to adult relatives.
 232.85 and 232.86 Reserved.

SUBCHAPTER III

CHILD IN NEED OF ASSISTANCE PROCEEDINGS

PART 1

GENERAL PROVISIONS

232.61 Jurisdiction.
 232.62 Venue.
 232.63 through 232.66 Reserved.

PART 2

CHILD ABUSE REPORTING, ASSESSMENT, AND REHABILITATION

232.67 Legislative findings — purpose and policy.
 232.68 Definitions.
 232.69 Mandatory and permissive reporters — training required.
 232.70 Reporting procedure.
 232.71 and 232.71A Repealed by 97 Acts, ch 35, §24, 25.
 232.71B Duties of the department upon receipt of report.
 232.71C Court action following assessment — guardian ad litem.
 232.71D Founded child abuse — central registry.
 232.72 Jurisdiction — transfer.
 232.73 Medically relevant tests — immunity from liability.
 232.73A Retaliation prohibited — remedy.
 232.74 Evidence not privileged or excluded.
 232.75 Sanctions.
 232.76 Publicity, educational, and training programs.
 232.77 Photographs, X rays, and medically relevant tests.

PART 3

TEMPORARY CUSTODY OF A CHILD

232.78 Temporary custody of a child pursuant to ex parte court order.
 232.79 Custody without court order.
 232.79A Children without adult supervision.
 232.80 Homemaker services. Repealed by 2018 Acts, ch 1137, §19.
 232.81 Complaint.
 232.82 Removal of sexual offenders and physical abusers from the residence pursuant to court order.

232.87 Filing of a petition — contents of petition.
 232.88 Summons, notice, subpoenas, and service.
 232.89 Right to and appointment of counsel.
 232.90 Duties of county attorney.
 232.91 Presence of child, parents, guardian ad litem, and others at hearings — additional parties — department recordkeeping.
 232.92 Exclusion of public from hearings.
 232.93 Other issues adjudicated.
 232.94 Reporter required.
 232.94A Records — subsequent hearings.
 232.95 Hearing concerning temporary removal.
 232.96 Adjudicatory hearing.
 232.97 Social investigation and report.
 232.98 Physical and mental examinations.
 232.99 Dispositional hearing — findings.
 232.100 Suspended judgment.
 232.101 Retention of custody by parent.
 232.101A Appointment of guardian.
 232.102 Transfer of legal custody of child and placement.
 232.103 Termination, modification, vacation, and substitution of dispositional order.
 232.103A Transfer of jurisdiction related to child in need of assistance case — bridge order.
 232.104 Permanency hearing — permanency order — subsequent proceedings.
 232.105 Reserved.
 232.106 Terms and conditions on child's parent.
 232.107 Parent visitation.
 232.108 Visitation or ongoing interaction with siblings.

PART 4

JUDICIAL PROCEEDINGS

SUBCHAPTER IV

TERMINATION OF PARENT-CHILD RELATIONSHIP PROCEEDING

232.109 Jurisdiction.
 232.110 Venue.
 232.111 Petition.
 232.112 Notice — service.
 232.113 Right to and appointment of counsel.
 232.114 Duties of county attorney.

SUBCHAPTER I
CONSTRUCTION AND DEFINITIONS

232.1 Rules of construction.

This chapter shall be liberally construed to the end that each child under the jurisdiction of the court shall receive, preferably in the child's own home, the care, guidance and control that will best serve the child's welfare and the best interest of the state. When a child is removed from the control of the child's parents, the court shall secure for the child care as nearly as possible equivalent to that which should have been given by the parents.

[S13, §254-a14; C24, 27, 31, 35, 39, §3617; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §232.1]

232.1A Foster care placement — annual goal.

The annual state goal for children placed in foster care that is funded under the federal Social Security Act, Tit. IV-E, is that not more than fifteen percent of the children will be in a foster care placement for a period of more than twenty-four months.

2005 Acts, ch 175, §101; 2010 Acts, ch 1061, §180

232.2 Definitions.

As used in this chapter unless the context otherwise requires:

1. "*Abandonment of a child*" means the relinquishment or surrender, without reference to any particular person, of the parental rights, duties, or privileges inherent in the parent-child relationship. Proof of abandonment must include both the intention to abandon and the acts by which the intention is evidenced. The term does not require that the relinquishment or surrender be over any particular period of time.

2. "*Adjudicatory hearing*" means a hearing to determine if the allegations of a petition are true.

3. "*Adult*" means a person other than a child.

4. "*Case permanency plan*" means the plan, mandated by Pub. L. No. 96-272 and Pub. L. No. 105-89, as codified in 42 U.S.C. §622(b)(10), 671(a)(16), and 675(1),(5), which is designed to achieve placement in the most appropriate, least restrictive, and most family-like setting available and in close proximity to the parent's home, consistent with the best interests and special needs of the child, and which considers the placement's proximity to the school in which the child is enrolled at the time of placement. The plan shall be developed by the department or agency involved and the child's parent, guardian, or custodian. If the child is fourteen years of age or older, the plan shall be developed in consultation with the child and, at the option of the child, with up to two persons chosen by the child to be members of the child's case planning team if such persons are not a foster parent of, or caseworker for, the child. The department may reject a person selected by a child to be a member of the child's case planning team at any time if the department has good cause to believe that the person would not act in the best interests of the child. One person selected by a child to be a member of the child's case planning team may be designated to be the child's advisor or, if necessary, the child's advocate with respect to the application of the reasonable and prudent parent standard. The plan shall specifically include all of the following:

a. Plans for carrying out the voluntary placement agreement or judicial determination pursuant to which the child entered care.

b. The type and appropriateness of the placement and services to be provided to the child.

c. The care and services that will be provided to the child, biological parents, and foster parents.

d. How the care and services will meet the needs of the child while in care and will facilitate the child's return home or other permanent placement.

e. The most recent information available regarding the child's health and education records, including the date the records were supplied to the agency or individual who is the child's foster care provider. If the child remains in foster care until the age of majority, the

child is entitled to receive prior to discharge the most recent information available regarding the child's health and educational records.

f. Plans for retaining any suitable existing medical, dental, or mental health providers providing medical, dental, or mental health care to the child when the child entered foster care.

g. (1) When a child is fourteen years of age or older, a written transition plan of services, supports, activities, and referrals to programs which, based upon an assessment of the child's needs, would assist the child in preparing for the transition from foster care to adulthood. The transition plan and needs assessment shall be developed with a focus on the services, other support, and actions necessary to facilitate the child's successful entry into adulthood. The transition plan shall be personalized at the direction of the child and shall be developed with the child present, honoring the goals and concerns of the child, and shall address the following areas of need for the child's successful transition from foster care to adulthood, including but not limited to all of the following:

- (a) Education.
- (b) Employment services and other workforce support.
- (c) Health and health care coverage.
- (d) Housing and money management.
- (e) Relationships, including local opportunities to have a mentor.

(f) If the needs assessment indicates the child is reasonably likely to need or be eligible for services or other support from the adult service system upon reaching age eighteen, the transition plan shall provide for the child's application for adult services.

(2) The transition plan shall be considered a working document and shall be reviewed and updated during a periodic case review, which shall occur at a minimum of once every six months. The transition plan shall also be reviewed and updated during the ninety calendar-day period preceding the child's eighteenth birthday and during the ninety calendar-day period immediately preceding the date the child is expected to exit foster care, if the child remains in foster care after the child's eighteenth birthday. The transition plan may be reviewed and updated more frequently.

(3) The transition plan shall be developed and reviewed by the department in collaboration with a child-centered transition team. The transition team shall be comprised of the child's caseworker and persons selected by the child, persons who have knowledge of services available to the child, and any person who may reasonably be expected to be a service provider for the child when the child becomes an adult or to become responsible for the costs of services at that time. If the child is reasonably likely to need or be eligible for adult services, the transition team membership shall include representatives from the adult services system. The membership of the transition team and the meeting dates for the team shall be documented in the transition plan.

(4) The final transition plan shall specifically identify how the need for housing will be addressed.

(5) If the child is interested in pursuing higher education, the transition plan shall provide for the child's participation in the college student aid commission's program of assistance in applying for federal and state aid under section 261.2.

(6) If the needs assessment indicates the child is reasonably likely to need or be eligible for services or other support from the adult service system upon reaching age eighteen, the transition plan shall be reviewed and approved by the transition committee for the area in which the child resides, in accordance with section 235.7, before the child reaches age seventeen and one-half. The transition committee's review and approval shall be indicated in the case permanency plan.

(7) The transition plan shall include a provision for the department or a designee of the department on or before the date the child reaches age eighteen, unless the child has been placed in foster care for less than thirty days, to provide to the child written verification of the child's foster care status, and a certified copy of the child's birth certificate, social security card, and driver's license or government-issued nonoperator's identification card. The fee for the certified copy of the child's birth certificate that is otherwise chargeable under section 144.13A, 144.46, or 331.605 shall be waived by the state or county registrar.

h. The actions expected of the parent, guardian, or custodian in order for the department or agency to recommend that the court terminate a dispositional order for the child's out-of-home placement and for the department or agency to end its involvement with the child and the child's family.

i. If reasonable efforts to place a child for adoption or with a guardian are made concurrently with reasonable efforts as defined in section 232.102, the concurrent goals and timelines may be identified. Concurrent case permanency plan goals for reunification, and for adoption or for other permanent out-of-home placement of a child shall not be considered inconsistent in that the goals reflect divergent possible outcomes for a child in an out-of-home placement.

j. A provision that a designee of the department or other person responsible for placement of a child out-of-state shall visit the child at least once every six months.

k. If it has been determined that the child cannot return to the child's home, documentation of the steps taken to make and finalize an adoption or other permanent placement.

l. If it is part of the child's records or it is otherwise known that the child has behaved in a manner that threatened the safety of another person, has committed a violent act causing bodily injury to another person, or has been a victim or perpetrator of sexual abuse, that information shall be addressed in the plan and shall be provided to the child's parent, guardian, or foster parent or other person with custody of the child. The information shall be provided whether the child's placement is voluntary or made pursuant to a court determination. The information shall be provided at the time it is learned by the department or agency developing the plan and, if possible, at the time of the child's placement. The information shall only be withheld if ordered by the court or it is determined by the department or agency developing the plan that providing the information would be detrimental to the child or to the family with whom the child is living. In determining whether providing the information would be detrimental, the court, department, or agency shall consider any history of abuse within the child's family or toward the child.

m. The provisions involving sibling visitation or interaction required under section 232.108.

n. Documentation of the educational stability of the child while in foster care. The documentation shall include but is not limited to all of the following:

(1) Evidence there was an evaluation of the appropriateness of the child's educational setting while in placement and of the setting's proximity to the educational setting in which the child was enrolled at the time of placement.

(2) An assurance either that the department coordinated with appropriate local educational agencies to identify how the child could remain in the educational setting in which the child was enrolled at the time of placement or, if it was determined it was not in the child's best interest to remain in that setting, that the affected educational agencies would immediately and appropriately enroll the child in another educational setting during the child's placement and ensure that the child's educational records were provided for use in the new educational setting. For the purposes of this subparagraph, "local educational agencies" means the same as defined in the federal Elementary and Secondary Education Act of 1965, §9101, as codified in 20 U.S.C. §7801(26).

o. Any issues relating to the application of the reasonable and prudent parent standard and the child's participation in age or developmentally appropriate activities while in foster care.

5. "Child" means a person under eighteen years of age.

6. "Child in need of assistance" means an unmarried child:

a. Whose parent, guardian, or other custodian has abandoned or deserted the child.

b. Whose parent, guardian, other custodian, or other member of the household in which the child resides has physically abused or neglected the child, or is imminently likely to abuse or neglect the child.

c. Who has suffered or is imminently likely to suffer harmful effects as a result of any of the following:

(1) Mental injury caused by the acts of the child's parent, guardian, or custodian.

(2) The failure of the child's parent, guardian, custodian, or other member of the household in which the child resides to exercise a reasonable degree of care in supervising the child.

(3) The child's parent, guardian, or custodian, or person responsible for the care of the child, as defined in section 232.68, has knowingly disseminated or exhibited obscene material as defined in section 728.1 to the child.

d. Who has been, or is imminently likely to be, sexually abused by the child's parent, guardian, custodian, or other member of the household in which the child resides.

e. Who is in need of medical treatment to cure, alleviate, or prevent serious physical injury or illness and whose parent, guardian, or custodian is unwilling or unable to provide such treatment.

f. Who is in need of treatment to cure or alleviate serious mental illness or disorder, or emotional damage as evidenced by severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others and whose parent, guardian, or custodian is unwilling to provide such treatment.

g. Whose parent, guardian, or custodian fails to exercise a minimal degree of care in supplying the child with adequate food, clothing, or shelter and refuses other means made available to provide such essentials.

h. Who has committed a delinquent act as a result of pressure, guidance, or approval from a parent, guardian, custodian, or other member of the household in which the child resides.

i. Who has been the subject of or a party to sexual activities for hire or who poses for live display or for photographic or other means of pictorial reproduction or display which is designed to appeal to the prurient interest and is patently offensive; and taken as a whole, lacks serious literary, scientific, political, or artistic value.

j. Who is without a parent, guardian, or other custodian.

k. Whose parent, guardian, or other custodian for good cause desires to be relieved of the child's care and custody.

l. Who for good cause desires to have the child's parents relieved of the child's care and custody.

m. Who is in need of treatment to cure or alleviate chemical dependency and whose parent, guardian, or custodian is unwilling or unable to provide such treatment.

n. Whose parent's or guardian's mental capacity or condition, imprisonment, or drug or alcohol abuse results in the child not receiving adequate care.

o. In whose body there is an illegal drug present as a direct and foreseeable consequence of the acts or omissions of the child's parent, guardian, or custodian. The presence of the drug shall be determined in accordance with a medically relevant test as defined in section 232.73.

p. Whose parent, guardian, custodian, or other adult member of the household in which a child resides does any of the following: unlawfully uses, possesses, manufactures, cultivates, or distributes a dangerous substance in the presence of a child; or knowingly allows such use, possession, manufacture, cultivation, or distribution by another person in the presence of a child; possesses a product with the intent to use the product as a precursor or an intermediary to a dangerous substance in the presence of a child; or unlawfully uses, possesses, manufactures, cultivates, or distributes a dangerous substance specified in subparagraph (2), subparagraph division (a), (b), or (c), in a child's home, on the premises, or in a motor vehicle located on the premises.

(1) For the purposes of this paragraph, "*in the presence of a child*" means in the physical presence of a child or occurring under other circumstances in which a reasonably prudent person would know that the use, possession, manufacture, cultivation, or distribution may be seen, smelled, ingested, or heard by a child.

(2) For the purposes of this paragraph, "*dangerous substance*" means any of the following:

(a) Amphetamine, its salts, isomers, or salts of its isomers.

(b) Methamphetamine, its salts, isomers, or salts of its isomers.

(c) A chemical or combination of chemicals that poses a reasonable risk of causing an explosion, fire, or other danger to the life or health of persons who are in the vicinity while

the chemical or combination of chemicals is used or is intended to be used in any of the following:

- (i) The process of manufacturing an illegal or controlled substance.
- (ii) As a precursor in the manufacturing of an illegal or controlled substance.
- (iii) As an intermediary in the manufacturing of an illegal or controlled substance.
- (d) Cocaine, its salts, isomers, salts of its isomers, or derivatives.
- (e) Heroin, its salts, isomers, salts of its isomers, or derivatives.
- (f) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate.

q. Who is a newborn infant whose parent has voluntarily released custody of the child in accordance with chapter 233.

6A. “*Chronic runaway*” means a child who is reported to law enforcement as a runaway more than once in any thirty-day period or three or more times in any year.

7. “*Complaint*” means an oral or written report which is made to the juvenile court by any person and alleges that a child is within the jurisdiction of the court.

8. “*Court*” means the juvenile court established under section 602.7101.

9. “*Court appointed special advocate*” means a person duly certified by the child advocacy board created in section 237.16 for participation in the court appointed special advocate program and appointed by the court to represent the interests of a child in any judicial proceeding to which the child is a party or is called as a witness or relating to any dispositional order involving the child resulting from such proceeding.

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

11. a. “*Custodian*” means a stepparent or a relative within the fourth degree of consanguinity to a child who has assumed responsibility for that child, a person who has accepted a release of custody pursuant to subchapter IV, or a person appointed by a court or juvenile court having jurisdiction over a child.

b. The rights and duties of a custodian with respect to a child are as follows:

- (1) To maintain or transfer to another the physical possession of that child.
- (2) To protect, train, and discipline that child.
- (3) To provide food, clothing, housing, and medical care for that child.
- (4) To consent to emergency medical care, including surgery.
- (5) To sign a release of medical information to a health professional.

c. All rights and duties of a custodian shall be subject to any residual rights and duties remaining in a parent or guardian.

12. “*Delinquent act*” means:

a. The violation of any state law or local ordinance which would constitute a public offense if committed by an adult except any offense which by law is exempted from the jurisdiction of this chapter.

b. The violation of a federal law or a law of another state which violation constitutes a criminal offense if the case involving that act has been referred to the juvenile court.

c. The violation of section 123.47 which is committed by a child.

d. The violation of sections 716.7 and 716.8, which is committed by a child.

13. “*Department*” means the department of human services and includes the local, county, and service area officers of the department.

14. “*Desertion*” means the relinquishment or surrender for a period in excess of six months of the parental rights, duties, or privileges inherent in the parent-child relationship. Proof of desertion need not include the intention to desert, but is evidenced by the lack of attempted contact with the child or by only incidental contact with the child.

15. “*Detention*” means the temporary care of a child in a physically restricting facility designed to ensure the continued custody of the child at any point between the child’s initial contact with the juvenile authorities and the final disposition of the child’s case.

16. “*Detention hearing*” means a hearing at which the court determines whether it is necessary to place or retain a child in detention.

17. “*Director*” means the director of the department of human services or that person’s designee.

18. “*Dismissal of complaint*” means the termination of all proceedings against a child.

19. “*Dispositional hearing*” means a hearing held after an adjudication to determine what dispositional order should be made.

20. “*Family in need of assistance*” means a family in which there has been a breakdown in the relationship between a child and the child’s parent, guardian, or custodian.

21. a. “*Guardian*” means a person who is not the parent of a child, but who has been appointed by a court or juvenile court having jurisdiction over the child, to have a permanent self-sustaining relationship with the child and to make important decisions which have a permanent effect on the life and development of that child and to promote the general welfare of that child. A guardian may be a court or a juvenile court. Guardian does not mean conservator, as defined in section 633.3, although a person who is appointed to be a guardian may also be appointed to be a conservator.

b. Unless otherwise enlarged or circumscribed by a court or juvenile court having jurisdiction over the child or by operation of law, the rights and duties of a guardian with respect to a child shall be as follows:

(1) To consent to marriage, enlistment in the armed forces of the United States, or medical, psychiatric, or surgical treatment.

(2) To serve as guardian ad litem, unless the interests of the guardian conflict with the interests of the child or unless another person has been appointed guardian ad litem.

(3) To serve as custodian, unless another person has been appointed custodian.

(4) To make periodic visitations if the guardian does not have physical possession or custody of the child.

(5) To consent to adoption and to make any other decision that the parents could have made when the parent-child relationship existed.

(6) To make other decisions involving protection, education, and care and control of the child.

22. a. “*Guardian ad litem*” means a person appointed by the court to represent the interests of a child in any judicial proceeding to which the child is a party, and includes a court appointed special advocate, except that a court appointed special advocate shall not file motions or petitions pursuant to section 232.54, subsection 1, paragraphs “a” and “d”, section 232.103, subsection 2, paragraph “c”, and section 232.111.

b. Unless otherwise enlarged or circumscribed by a court or juvenile court having jurisdiction over the child or by operation of law, the duties of a guardian ad litem with respect to a child shall include the following:

(1) Conducting in-person interviews with the child, if the child’s age is appropriate for the interview, and interviewing each parent, guardian, or other person having custody of the child, if authorized by counsel.

(2) Conducting interviews with the child, if the child’s age is appropriate for the interview, prior to any court-ordered hearing.

(3) Visiting the home, residence, or both home and residence of the child and any prospective home or residence of the child, including each time placement is changed.

(4) Interviewing any person providing medical, mental health, social, educational, or other services to the child, before any hearing referred to in subparagraph (2).

(5) Obtaining firsthand knowledge, if possible, of the facts, circumstances, and parties involved in the matter in which the person is appointed guardian ad litem.

(6) Attending any hearings in the matter in which the person is appointed as the guardian ad litem.

(7) If the child is required to have a transition plan developed in accordance with the child’s case permanency plan and subject to review and approval of a transition committee under section 235.7, assisting the transition committee in development of the transition plan.

c. The order appointing the guardian ad litem shall grant authorization to the guardian ad litem to interview any relevant person and inspect and copy any records relevant to the proceedings, if not prohibited by federal law. The order shall specify that the guardian ad litem may interview any person providing medical, mental health, social, educational, or

other services to the child, may attend any departmental staff meeting, case conference, or meeting with medical or mental health providers, service providers, organizations, or educational institutions regarding the child, if deemed necessary by the guardian ad litem, and may inspect and copy any records relevant to the proceedings.

d. If authorized by the court, a guardian ad litem may continue a relationship with and provide advice to a child for a period of time beyond the child's eighteenth birthday.

23. "*Health practitioner*" means a licensed physician or surgeon, osteopathic physician or surgeon, dentist, optometrist, podiatric physician, or chiropractor, a resident or intern of any such profession, and any registered nurse or licensed practical nurse.

24. "*Informal adjustment*" means the disposition of a complaint without the filing of a petition and may include but is not limited to the following:

a. Placement of the child on nonjudicial probation.

b. Provision of intake services.

c. Referral of the child to a public or private agency other than the court for services.

25. "*Informal adjustment agreement*" means an agreement between an intake officer, a child who is the subject of a complaint, and the child's parent, guardian, or custodian providing for the informal adjustment of the complaint.

26. "*Intake*" means the preliminary screening of complaints by an intake officer to determine whether the court should take some action and if so, what action.

27. "*Intake officer*" means a juvenile court officer or other officer appointed by the court to perform the intake function.

28. "*Judge*" means the judge of a juvenile court.

29. "*Juvenile*" means the same as "*child*". However, in the interstate compact for juveniles, section 232.173, "*juvenile*" means a person defined as a juvenile in the compact.

30. "*Juvenile court officer*" means a person appointed as a juvenile court officer under section 602.7202 and a chief juvenile court officer appointed under section 602.1217.

31. "*Juvenile court social records*" or "*social records*" means all records made with respect to a child in connection with proceedings over which the court has jurisdiction under this chapter other than official records and includes but is not limited to the records made and compiled by intake officers, predisposition reports, and reports of physical and mental examinations.

32. "*Juvenile detention home*" means a physically restricting facility used only for the detention of children.

32A. "*Juvenile diversion program*" means an organized effort to coordinate services for a child who is alleged to have committed a delinquent act, when the organized effort results in the dismissal of a complaint alleging the commission of the delinquent act or results in informally proceeding without a complaint being filed against the child, and which does not result in an informal adjustment agreement involving juvenile court services or the filing of a delinquency petition.

33. "*Juvenile parole officer*" means a person representing an agency which retains jurisdiction over the case of a child adjudicated to have committed a delinquent act, placed in a secure facility and subsequently released, who supervises the activities of the child until the case is dismissed.

34. "*Juvenile shelter care home*" means a physically unrestricting facility used only for the shelter care of children.

35. "*Mental injury*" means a nonorganic injury to a child's intellectual or psychological capacity as evidenced by an observable and substantial impairment in the child's ability to function within the child's normal range of performance and behavior, considering the child's cultural origin.

36. "*Nonjudicial probation*" means the informal adjustment of a complaint which involves the supervision of the child who is the subject of the complaint by an intake officer or juvenile court officer for a period during which the child may be required to comply with specified conditions concerning the child's conduct and activities.

37. "*Nonsecure facility*" means a physically unrestricting facility in which children may be placed pursuant to a dispositional order of the court made in accordance with the provisions of this chapter.

38. “*Official juvenile court records*” or “*official records*” means official records of the court of proceedings over which the court has jurisdiction under this chapter which includes but is not limited to the following:

- a. The docket of the court and entries therein.
- b. Complaints, petitions, other pleadings, motions, and applications filed with a court.
- c. Any summons, notice, subpoena, or other process and proofs of publication.
- d. Transcripts of proceedings before the court.
- e. Findings, judgments, decrees, and orders of the court.

39. “*Parent*” means a biological or adoptive mother or father of a child; or a father whose paternity has been established by operation of law due to the individual’s marriage to the mother at the time of conception, birth, or at any time during the period between conception and birth of the child, by order of a court of competent jurisdiction, or by administrative order when authorized by state law. “*Parent*” does not include a mother or father whose parental rights have been terminated.

40. “*Peace officer*” means a law enforcement officer or a person designated as a peace officer by a provision of the Code.

41. “*Petition*” means a pleading the filing of which initiates formal judicial proceedings in the juvenile court.

42. “*Physical abuse or neglect*” or “*abuse or neglect*” means any nonaccidental physical injury suffered by a child as the result of the acts or omissions of the child’s parent, guardian, or custodian or other person legally responsible for the child.

42A. “*Preadoptive care*” means the provision of parental nurturing on a full-time basis to a child in foster care by a person who has signed a preadoptive placement agreement with the department for the purposes of proceeding with a legal adoption of the child. Parental nurturing includes but is not limited to furnishing of food, lodging, training, education, treatment, and other care.

43. “*Predisposition investigation*” means an investigation conducted for the purpose of collecting information relevant to the court’s fashioning of an appropriate disposition of a delinquency case over which the court has jurisdiction.

44. “*Predisposition report*” is a report furnished to the court which contains the information collected during a predisposition investigation.

45. “*Probation*” means a legal status which is created by a dispositional order of the court in a case where a child has been adjudicated to have committed a delinquent act, which exists for a specified period of time, and which places the child under the supervision of a juvenile court officer or other person or agency designated by the court. The probation order may require a child to comply with specified conditions imposed by the court concerning conduct and activities, subject to being returned to the court for violation of those conditions.

45A. “*Reasonable and prudent parent standard*” means the same as defined in section 237.1.

46. “*Registry*” means the central registry for child abuse information as established under chapter 235A.

46A. “*Relative*” for purposes of subchapters III and IV includes the parent of a sibling.

47. “*Residual parental rights and responsibilities*” means those rights and responsibilities remaining with the parent after transfer of legal custody or guardianship of the person of the child. These include but are not limited to the right of visitation, the right to consent to adoption, and the responsibility for support.

48. “*Secure facility*” means a physically restricting facility in which children adjudicated to have committed a delinquent act may be placed pursuant to a dispositional order of the court.

49. “*Sexual abuse*” means the commission of a sex offense as defined by the penal law.

50. “*Shelter care*” means the temporary care of a child in a physically unrestricting facility at any time between a child’s initial contact with juvenile authorities and the final judicial disposition of the child’s case.

51. “*Shelter care hearing*” means a hearing at which the court determines whether it is necessary to place or retain a child in shelter care.

52. “*Sibling*” means an individual who is related to another individual by blood, adoption, or affinity through a common legal or biological parent.

53. “*Social investigation*” means an investigation conducted for the purpose of collecting information relevant to the court’s fashioning of an appropriate disposition of a child in need of assistance case over which the court has jurisdiction.

54. “*Social report*” means a report furnished to the court which contains the information collected during a social investigation.

55. “*Taking into custody*” means an act which would be governed by the laws of arrest under the criminal code if the subject of the act were an adult. The taking into custody of a child is subject to all constitutional and statutory protections which are afforded an adult upon arrest.

56. “*Termination hearing*” means a hearing held to determine whether the court should terminate a parent-child relationship.

57. “*Termination of the parent-child relationship*” means the divestment by the court of the parent’s and child’s privileges, duties, and powers with respect to each other.

58. “*Voluntary placement*” means a foster care placement in which the department provides foster care services to a child according to a signed placement agreement between the department and the child’s parent or guardian.

59. “*Waiver hearing*” means a hearing at which the court determines whether it shall waive its jurisdiction over a child alleged to have committed a delinquent act so that the state may prosecute the child as if the child were an adult.

[S13, §254-a14, -a21; C24, 27, 31, 35, 39, §3618, 3619, 3620, 3638; C46, 50, 54, 58, 62, §232.2, 232.3, 232.4, 232.22; C66, 71, 73, 75, 77, 79, 81, §232.2; 82 Acts, ch 1209, §1]

83 Acts, ch 96, §157, 159; 83 Acts, ch 186, §10054, 10055, 10201; 84 Acts, ch 1279, §1, 2; 87 Acts, ch 121, §1, 2; 88 Acts, ch 1134, §46, 47; 89 Acts, ch 169, §1; 89 Acts, ch 229, §1 – 4; 89 Acts, ch 230, §1, 2; 90 Acts, ch 1251, §22; 91 Acts, ch 232, §1; 92 Acts, ch 1231, §10; 93 Acts, ch 93, §1; 94 Acts, ch 1046, §1, 2; 94 Acts, ch 1172, §12; 95 Acts, ch 108, §16; 95 Acts, ch 147, §3; 95 Acts, ch 182, §1, 2, 6; 95 Acts, ch 191, §7; 96 Acts, ch 1092, §1; 97 Acts, ch 90, §1; 97 Acts, ch 126, §10; 97 Acts, ch 164, §1; 98 Acts, ch 1019, §1; 98 Acts, ch 1047, §21; 98 Acts, ch 1190, §1 – 3; 99 Acts, ch 164, §1; 99 Acts, ch 208, §33, 34; 2000 Acts, ch 1067, §4, 5; 2000 Acts, ch 1232, §56; 2001 Acts, ch 46, §1; 2001 Acts, ch 67, §7, 13; 2002 Acts, ch 1081, §1; 2002 Acts, ch 1162, §16; 2003 Acts, ch 117, §1 – 3; 2004 Acts, ch 1090, §33; 2004 Acts, ch 1116, §3; 2005 Acts, ch 117, §2, 4; 2005 Acts, ch 124, §1; 2007 Acts, ch 67, §1, 2; 2007 Acts, ch 172, §2, 3; 2008 Acts, ch 1088, §141; 2008 Acts, ch 1112, §1; 2008 Acts, ch 1187, §131; 2009 Acts, ch 41, §231, 232; 2009 Acts, ch 120, §1, 2; 2010 Acts, ch 1151, §1; 2010 Acts, ch 1192, §74; 2013 Acts, ch 50, §1; 2015 Acts, ch 69, §72; 2016 Acts, ch 1063, §1 – 4; 2016 Acts, ch 1073, §83; 2016 Acts, ch 1087, §1; 2017 Acts, ch 86, §1; 2018 Acts, ch 1153, §1, 2; 2019 Acts, ch 126, §1, 2; 2020 Acts, ch 1062, §29, 94

Referred to in §13B.9, 135.119, 232.68, 232.71B, 232.82, 232.83, 232.98, 232.101A, 232.102, 232.117, 232.147, 235.7, 235A.15, 237.3, 237.15, 282.30, 709A.5, 915.36, 915.37

Code editor directive applied

Subsection 46A amended

232.3 Concurrent court proceedings.

1. During the pendency of an action under this chapter, a party to the action is estopped from litigating concurrently the custody, guardianship, or placement of a child who is the subject of the action, in a court other than the juvenile court. A district judge, district associate judge, magistrate, or judicial hospitalization referee, upon notice of the pendency of an action under this chapter, shall not issue an order, finding, or decision relating to the custody, guardianship, or placement of the child who is the subject of the action, under any law, including but not limited to chapter 598, 598B, or 633.

2. The juvenile court with jurisdiction of the pending action under this chapter, however, may, upon the request of a party to the action or on its own motion, authorize the party to litigate concurrently in another court a specific issue relating to the custody, guardianship, or placement of the child who is the subject of the action. Before authorizing a party to litigate a specific issue in another court, the juvenile court shall give all parties to the action an opportunity to be heard on the proposed authorization. The juvenile court may request but

shall not require another court to exercise jurisdiction and adjudicate a specific issue relating to the custody, guardianship, or placement of the child.

83 Acts, ch 21, §2; 83 Acts, ch 186, §10056, 10201; 99 Acts, ch 103, §42

232.4 Jurisdiction — support obligation.

Notwithstanding any other provision of this chapter, and for the purposes of establishing a parental liability obligation for a child under the jurisdiction of the juvenile court, a support obligation shall be established pursuant to section 234.39.

92 Acts, ch 1195, §302; 94 Acts, ch 1171, §7

232.5 Abortion performed on a minor — waiver of notification proceedings.

The court shall have exclusive jurisdiction over the proceedings for the granting of an order for waiver of the notification requirements relating to the performance of an abortion on a minor pursuant to section 135L.3.

96 Acts, ch 1011, §10; 96 Acts, ch 1174, §6

232.6 Jurisdiction — adoptions and terminations of parental rights.

The court may exercise jurisdiction over adoption and termination of parental rights proceedings under chapters 600 and 600A.

2000 Acts, ch 1145, §1

232.7 Iowa Indian child welfare Act.

1. If a proceeding held under this chapter involves an Indian child as defined in section 232B.3 and the proceeding is subject to the Iowa Indian child welfare Act under chapter 232B, the proceeding and other actions taken in connection with the proceeding or this chapter shall comply with chapter 232B.

2. In any proceeding held or action taken under this chapter involving an Indian child, the applicable requirements of the federal Adoption and Safe Families Act of 1997, Pub. L. No. 105-89, shall be applied to the proceeding or action in a manner that complies with chapter 232B and the federal Indian Child Welfare Act, Pub. L. No. 95-608.

2003 Acts, ch 153, §1; 2014 Acts, ch 1026, §49

SUBCHAPTER II

JUVENILE DELINQUENCY PROCEEDINGS

Referred to in §232.89, 232.108

PART 1

GENERAL PROVISIONS

232.8 Jurisdiction.

1. *a.* The juvenile court has exclusive original jurisdiction in proceedings concerning a child who is alleged to have committed a delinquent act unless otherwise provided by law, and has exclusive original jurisdiction in proceedings concerning an adult who is alleged to have committed a delinquent act prior to having become an adult, and who has been transferred to the jurisdiction of the juvenile court pursuant to an order under section 803.5.

b. Violations by a child of provisions of chapter 321, 321G, 321I, 453A, 461A, 461B, 462A, 481A, 481B, 483A, 484A, or 484B, which would be simple misdemeanors if committed by an adult, and violations by a child of county or municipal curfew or traffic ordinances, are excluded from the jurisdiction of the juvenile court and shall be prosecuted as simple misdemeanors as provided by law. A child convicted of a violation excluded from the jurisdiction of the juvenile court under this paragraph shall be sentenced pursuant to section 805.8, where applicable, and pursuant to section 903.1, subsection 3, for all other violations.

c. Violations by a child, aged sixteen or older, which subject the child to the provisions

of section 124.401, subsection 1, paragraph “e” or “f”, or violations of section 723A.2 which involve a violation of chapter 724, or violation of chapter 724 which constitutes a felony, or violations which constitute a forcible felony are excluded from the jurisdiction of the juvenile court and shall be prosecuted as otherwise provided by law unless the district court transfers jurisdiction of the child to the juvenile court upon motion and for good cause pursuant to section 803.6. Notwithstanding any other provision of the Code to the contrary, the district court may accept from a child in district court a plea of guilty, or may instruct the jury on a lesser included offense to the offense excluded from the jurisdiction of the juvenile court under this paragraph, in the same manner as regarding an adult. The judgment and sentence of a child in district court shall be as provided in section 901.5. However, the juvenile court shall have exclusive original jurisdiction in a proceeding concerning an offense of animal torture as provided in section 717B.3A alleged to have been committed by a child under the age of seventeen.

d. The juvenile court shall have jurisdiction in proceedings commenced against a child pursuant to section 236.3 over which the district court has waived its jurisdiction. The juvenile court shall hear the action in the manner of an adjudicatory hearing under section 232.47, subject to the following:

(1) The juvenile court shall abide by the provisions of sections 236.4, 236.6, 236A.6, and 236A.8 in holding hearings and making a disposition.

(2) The plaintiff is entitled to proceed pro se under sections 236.3A and 236.3B.

e. The juvenile court shall have exclusive jurisdiction in a proceeding concerning a child under the age of eighteen alleged to have committed the offense of harassment in violation of section 708.7, subsection 1, paragraph “a”, subparagraph (5).

2. a. A case involving a person charged in a court other than the juvenile court with the commission of a public offense not exempted by law from the jurisdiction of the juvenile court and who is within the provisions of subsection 1 of this section shall immediately be transferred to the juvenile court. The transferring court shall order a transfer and shall forward the transfer order together with all papers, documents, and a transcript of all testimony filed or admitted into evidence in connection with the case to the clerk of the juvenile court. The jurisdiction of the juvenile court shall attach immediately upon the signing of an order of transfer. From the time of transfer, the custody, shelter care, and detention of the person alleged to have committed a delinquent act shall be in accordance with the provisions of this chapter and the case shall be processed in accordance with the provisions of this chapter.

b. Upon completion of the transfer to juvenile court, the court shall file an order dismissing the charge in the transferring court and directing the clerk of court to seal all records of the charge initiated in the transferring court.

3. a. The juvenile court, after a hearing and in accordance with the provisions of section 232.45, may waive jurisdiction of a child alleged to have committed a public offense so that the child may be prosecuted as an adult or youthful offender for such offense in another court. If the child pleads guilty or is found guilty of a public offense other than a class “A” felony in another court of this state, that court may suspend the sentence or, with the consent of the child, defer judgment or sentence and, without regard to restrictions placed upon deferred judgments or sentences for adults, place the child on probation for a period of not less than one year upon such conditions as it may require. Upon fulfillment of the conditions of probation, a child who receives a deferred judgment shall be discharged without entry of judgment. A child prosecuted as a youthful offender shall be sentenced pursuant to section 907.3A.

b. This subsection does not apply in a proceeding concerning an offense of animal torture as provided in section 717B.3A alleged to have been committed by a child under the age of seventeen.

4. In a proceeding concerning a child who is alleged to have committed a second delinquent act or a second violation excluded from the jurisdiction of the juvenile court, the court or the juvenile court shall determine whether there is reason to believe that the child regularly abuses alcohol or other controlled substance and may be in need of treatment. If

the court so determines, the court shall advise appropriate juvenile authorities and refer such offenders to the juvenile court for disposition pursuant to section 232.52A.

5. a. Juvenile court services may provide follow-up services for a child adjudicated to have committed a delinquent act upon the child reaching eighteen years of age until the child is twenty-one years of age, if the child and juvenile court services determine the child should remain under the guidance of a juvenile court officer. Follow-up services shall be made available to the child, as necessary, to meet the long-term needs of the child aging into adulthood.

b. A child who remains under the guidance of juvenile court services under paragraph “a” who is alleged to have committed a subsequent public offense shall be prosecuted as an adult.

6. Nothing in this chapter shall be interpreted as affecting the statutory limitations on prosecutions for murder in the first or second degree.

7. The supreme court shall prescribe rules under section 602.4202 to resolve jurisdictional and venue issues when juveniles who are placed in another court’s jurisdiction are alleged to have committed subsequent delinquent acts.

[C71, 73, 75, 77, §232.63 – 232.67, 232.72; C79, 81, §232.8]

84 Acts, ch 1275, §6; 86 Acts, ch 1186, §1, 2; 87 Acts, ch 149, §1; 88 Acts, ch 1134, §48; 88 Acts, ch 1167, §1; 90 Acts, ch 1251, §23, 24; 91 Acts, ch 240, §9; 92 Acts, ch 1160, §21; 92 Acts, ch 1231, §12; 95 Acts, ch 180, §2; 95 Acts, ch 191, §8; 96 Acts, ch 1134, §1; 97 Acts, ch 126, §11; 2000 Acts, ch 1056, §1; 2000 Acts, ch 1152, §1, 2; 2000 Acts, ch 1232, §57, 58; 2004 Acts, ch 1132, §79; 2009 Acts, ch 41, §263; 2013 Acts, ch 42, §1, 2; 2015 Acts, ch 62, §1; 2017 Acts, ch 117, §1; 2017 Acts, ch 121, §2; 2018 Acts, ch 1153, §3; 2019 Acts, ch 24, §23

Referred to in §232.22, 232.45, 232.45A, 232.52A, 232.53, 232C.4, 717B.3A, 803.5, 803.6

232.9 Motion for change of judge.

Prior to a hearing pursuant to sections 232.44 to 232.47, 232.50 or 232.54, the child may file a motion with the district court for the appointment of a new judge. The chief judge of the district court for cause shown shall appoint a new judge.

[C79, 81, §232.9]

232.10 Venue.

1. Venue for delinquency proceedings shall be in the judicial district where the child is found, where the child resides or where the alleged delinquent act occurred.

2. The court may transfer delinquency proceedings to the court of any county having venue at any stage in the proceeding as follows:

a. When it appears that the best interests of the child or society or the convenience of the parties will be served by a transfer, the court may transfer the case to the court of the county of the child’s residence.

b. With the consent of the receiving court, the court may transfer the case to the court of the county where the child is found.

c. The court may transfer the case to the county where the alleged delinquent act occurred.

3. The court shall transfer the case by ordering the transfer and a continuance and by forwarding to the clerk of the receiving court a certified copy of all papers filed together with an order of transfer. The judge of the receiving court may accept the filings of the transferring court or may direct the filing of a new petition and hear the case anew.

[C71, 73, 75, 77, §232.68 – 232.70; C79, 81, §232.10]

88 Acts, ch 1134, §49

232.11 Right to assistance of counsel.

1. A child shall have the right to be represented by counsel at the following stages of the proceedings within the jurisdiction of the juvenile court under subchapter II or subchapter VIII:

a. From the time the child is taken into custody for any alleged delinquent act that constitutes a serious or aggravated misdemeanor or felony under the Iowa criminal code, and during any questioning thereafter by a peace officer or probation officer.

b. A detention or shelter care hearing as required by section 232.44.

- c. A waiver hearing as required by section 232.45.
- d. An adjudicatory hearing required by section 232.47.
- e. A dispositional hearing as required by section 232.50.
- f. Hearings to review and modify a dispositional order as required by section 232.54.
- g. A hearing on a confidentiality order under section 232.149A or a public records order under section 232.149B.

2. The child's right to be represented by counsel under subsection 1, paragraphs "b" to "f" of this section shall not be waived by a child of any age. The child's right to be represented by counsel under subsection 1, paragraph "a" shall not be waived by a child less than sixteen years of age without the written consent of the child's parent, guardian, or custodian. The waiver by a child who is at least sixteen years of age is valid only if a good faith effort has been made to notify the child's parent, guardian, or custodian that the child has been taken into custody and of the alleged delinquent act for which the child has been taken into custody, the location of the child, and the right of the parent, guardian, or custodian to visit and confer with the child.

3. If the child is not represented by counsel as required under subsection 1, counsel shall be provided as follows:

a. If the court determines, after giving the child's parent, guardian or custodian an opportunity to be heard, that such person has the ability in whole or in part to pay for the employment of counsel, it shall either order that person to retain an attorney to represent the child or shall appoint counsel for the child and order the parent, guardian or custodian to pay for that counsel as provided in subsection 5.

b. If the court determines that the parent, guardian, or custodian cannot pay any part of the expenses of counsel to represent the child, it shall appoint counsel, who shall be reimbursed according to section 232.141, subsection 2, paragraph "b".

c. The court may appoint counsel to represent the child and reserve the determination of payment until the parent, guardian or custodian has an opportunity to be heard.

4. If the child is represented by counsel and the court determines that there is a conflict of interest between the child and the child's parent, guardian or custodian and that the retained counsel could not properly represent the child as a result of the conflict, the court shall appoint other counsel to represent the child and order the parent, guardian or custodian to pay for such counsel as provided in subsection 5.

5. If the court determines, after an inquiry which includes notice and reasonable opportunity to be heard that the parent, guardian or custodian has the ability to pay in whole or in part for the attorney appointed for the child, the court may order that person to pay such sums as the court finds appropriate in the manner and to whom the court directs. If the person so ordered fails to comply with the order without good reason, the court shall enter judgment against the person.

6. Nothing in this section shall be construed to prevent the child or the child's parent, guardian, or custodian from retaining counsel to represent the child in proceedings under this subchapter II in which the alleged delinquent act constitutes a simple misdemeanor under the Code.

[C24, 27, 31, 35, 39, §3631; C46, 50, 54, 58, 62, §232.15; C66, 71, 73, 75, 77, §232.28; C79, 81, §232.11; 82 Acts, ch 1209, §2]

90 Acts, ch 1168, §34; 2016 Acts, ch 1002, §1, 2, 17; 2020 Acts, ch 1062, §30, 94

Referred to in §232.28, 232.37, 232.52, 815.9

2016 amendments apply to juvenile delinquency proceedings which are pending or arise on or after July 1, 2016; 2016 Acts, ch 1002, §17

Code editor directive applied

Subsection 6 amended

232.12 Duties of county attorney.

Upon the filing of a petition the county attorney shall represent the state in all adversary proceedings arising under this subchapter and shall present evidence in support of the petition.

[C66, 71, 73, 75, 77, §232.19; C79, 81, §232.12]

2020 Acts, ch 1062, §94

Code editor directive applied

232.13 State liability.

1. For purposes of chapter 669, the following persons shall be considered state employees:
 - a. A child given a work assignment of value to the state or the public or a community work assignment under this chapter.
 - b. A court appointed special advocate and the members of the child advocacy board created in section 237.16 or a local citizen foster care review board created in accordance with section 237.19.
2. The state of Iowa is exclusively liable for and shall pay any compensation becoming due a person under section 85.59.
84 Acts, ch 1280, §2; 85 Acts, ch 177, §2; 87 Acts, ch 24, §1; 87 Acts, ch 121, §3; 2005 Acts, ch 55, §1

232.14 through 232.18 Reserved.

PART 2

CHILD CUSTODY

232.19 Taking a child into custody.

1. A child may be taken into custody:
 - a. By order of the court.
 - b. For a delinquent act pursuant to the laws relating to arrest.
 - c. By a peace officer, when the peace officer has reasonable grounds to believe the child has run away from the child's parents, guardian, or custodian, for the purposes of determining whether the child shall be reunited with the child's parents, guardian, or custodian, placed in shelter care, or, if the child is a chronic runaway and the county has an approved county runaway treatment plan, placed in a runaway assessment center under section 232.196.
 - d. By a peace officer, juvenile court officer, or juvenile parole officer when the officer has reasonable grounds to believe the child has committed a material violation of a dispositional order.
2. When a child is taken into custody as provided in subsection 1 the person taking the child into custody shall notify the child's parent, guardian, or custodian as soon as possible. The person may place bodily restraints, such as handcuffs, on the child if the child physically resists; threatens physical violence when being taken into custody; is being taken into custody for an alleged delinquent act of violence against a person; or when, in the reasonable judgment of the officer, the child presents a risk of injury to the child or others. The child may also be restrained by handcuffs or other restraints at any time after the child is taken into custody if the child has a known history of physical violence to others. Unless the child is placed in shelter care or detention in accordance with the provisions of section 232.21 or 232.22, the child shall be released to the child's parent, guardian, custodian, responsible adult relative, or other adult approved by the court upon the promise of such person to produce the child in court at such time as the court may direct.
3. Notwithstanding any other provision of this chapter, a child shall not be placed in detention as a result of a violation by that child of section 123.47.
4. Information pertaining to a child who is at least ten years of age and who is taken into custody for a delinquent act which would be a forcible felony offense if committed by an adult is a public record and is not confidential under section 232.147, subject to the provisions of section 232.149.

[SS15, §254-a16; C24, 27, 31, 35, 39, §3630; C46, 50, 54, 58, 62, §232.14; C66, 71, 73, 75, 77, §232.15, 232.16; C79, 81, §232.19]

83 Acts, ch 186, §10055, 10201; 90 Acts, ch 1251, §25; 94 Acts, ch 1172, §13; 97 Acts, ch 90, §2; 97 Acts, ch 126, §12, 13; 98 Acts, ch 1100, §24; 2016 Acts, ch 1002, §3, 17

Referred to in §123.46, 232.20, 232.21, 232.149, 232.149A, 232.196, 321J.1, 692.1

2016 amendment applies to juvenile delinquency proceedings which are pending or arise on or after July 1, 2016; 2016 Acts, ch 1002, §17

232.20 Admission of child to shelter care or detention.

1. If a child is taken into custody and not released as provided in section 232.19, subsection 2, the child shall immediately be taken to a detention or shelter care facility as specified in sections 232.21 or 232.22.

2. When a child is admitted to a detention or shelter care facility the person in charge of the facility or the person's designated representative shall notify the court, the child's attorney, and the child's parent, guardian, or custodian as soon as possible of the admission and the reasons for that admission.

[C66, 71, 73, 75, 77, §232.17; C79, 81, §232.20]

Referred to in §234.35

232.21 Placement in shelter care.

1. No child shall be placed in shelter care unless one of the following circumstances applies:

a. The child has no parent, guardian, custodian, responsible adult relative or other adult approved by the court who will provide proper shelter, care and supervision.

b. The child desires to be placed in shelter care.

c. It is necessary to hold the child until the child's parent, guardian, or custodian has been contacted and has taken custody of the child.

d. It is necessary to hold the child for transfer to another jurisdiction.

e. The child is being placed pursuant to an order of the court.

2. a. A child may be placed in shelter care as provided in this section only in one of the following facilities:

(1) A juvenile shelter care home.

(2) A licensed foster home.

(3) An institution or other facility operated by the department of human services, or one which is licensed or otherwise authorized by law to receive and provide care for the child.

(4) Any other suitable place designated by the court provided that no place used for the detention of a child may be so designated.

b. Placement shall be made in the least restrictive facility available consistent with the best interests and special needs of the child. Foster family care shall be used for a child unless the child has problems requiring specialized service or supervision which cannot be provided in a family living arrangement.

3. When there is reason to believe that a child placed in shelter care pursuant to section 232.19, subsection 1, paragraph "c", would not voluntarily remain in the shelter care facility, the shelter care facility shall impose reasonable restrictions necessary to ensure the child's continued custody.

4. A child placed in a shelter care facility under this section shall not be held for a period in excess of forty-eight hours without an oral or written court order authorizing the shelter care. When the action is authorized by an oral court order, the court shall enter a written order before the end of the next day confirming the oral order and indicating the reasons for the order. A child placed in shelter care pursuant to section 232.19, subsection 1, paragraph "c", shall not be held in excess of seventy-two hours in any event. If deemed appropriate by the court, an order authorizing shelter care placement may include a determination that continuation of the child in the child's home is contrary to the child's welfare and that reasonable efforts as defined in section 232.57 have been made. The inclusion of such a determination shall not under any circumstances be deemed a prerequisite for entering an order pursuant to this section. However, the inclusion of such a determination, supported by the record, may be used by the department to assist in obtaining federal funding for the child's placement.

5. If no satisfactory provision is made for uniting a child placed in shelter care pursuant to section 232.19, subsection 1, paragraph "c", with the child's family, a child in need of assistance complaint may be filed pursuant to section 232.81. Nothing in this subsection shall limit the right of a child to file a family in need of assistance petition under section 232.125.

6. A child twelve years of age or younger shall not be placed in a group shelter care home, unless there have been reasonable but unsuccessful efforts to place the child in an

emergency foster family home which is able to meet the needs of the child. The efforts shall be documented at the shelter care hearing.

[S13, §254-a24; SS15, §254-a16; C24, 27, 31, 35, 39, §3633; C46, 50, 54, 58, 62, §232.17; C66, 71, 73, 75, 77, §232.17, 232.18; C79, 81, §232.21; 82 Acts, ch 1209, §3]

83 Acts, ch 96, §157, 159; 88 Acts, ch 1249, §10, 11; 2001 Acts, ch 135, §5; 2001 Acts, ch 176, §64; 2002 Acts, ch 1050, §22; 2009 Acts, ch 41, §263

Referred to in §232.19, 232.20, 232.44, 232.196, 234.35

232.22 Placement in detention.

1. A child shall not be placed in detention unless one of the following conditions is met:
 - a. The child is being held under warrant for another jurisdiction.
 - b. The child is an escapee from a juvenile correctional or penal institution.
 - c. There is probable cause to believe that the child has violated conditions of release imposed under section 232.44, subsection 5, paragraph “b”, or section 232.52 or 232.54, and there is a substantial probability that the child will run away or otherwise be unavailable for subsequent court appearance.
 - d. There is probable cause to believe the child has committed a delinquent act, and one of the following conditions is met:
 - (1) There is a substantial probability that the child will run away or otherwise be unavailable for subsequent court appearance.
 - (2) There is a serious risk that the child if released may commit an act which would inflict serious bodily harm on the child or on another.
 - (3) There is a serious risk that the child if released may commit serious damage to the property of others.
 - e. There is probable cause to believe that the child has committed a delinquent act involving possession with intent to deliver any of the following controlled substances:
 - (1) A mixture or substance containing cocaine base, also known as crack cocaine, and if the act was committed by an adult, it would be a violation of section 124.401, subsection 1, paragraph “a”, subparagraph (3), paragraph “b”, subparagraph (3), or paragraph “c”, subparagraph (3).
 - (2) A mixture or substance containing cocaine, its salts, optical and geometric isomers, and salts of isomers, and if the act was committed by an adult, it would be a violation of section 124.401, subsection 1, paragraph “a”, subparagraph (2), subparagraph division (b), paragraph “b”, subparagraph (2), subparagraph division (b), or paragraph “c”, subparagraph (2), subparagraph division (b).
 - (3) A mixture or substance containing methamphetamine, its salts, isomers, or salts of isomers, or analogs of methamphetamine, and if the act was committed by an adult, it would be a violation of section 124.401, subsection 1.
 - f. A dispositional order has been entered under section 232.52 placing the child in secure custody in a facility defined in subsection 3, paragraph “a” or “b”.
 - g. There is probable cause to believe that the child has committed a delinquent act which would be domestic abuse under chapter 236, sexual abuse under chapter 236A, or a domestic abuse assault under section 708.2A if committed by an adult.
2. If deemed appropriate by the court, an order for placement of a child in detention may include a determination that continuation of the child in the child’s home is contrary to the child’s welfare and that reasonable efforts as defined in section 232.57 have been made. The inclusion of such a determination shall not under any circumstances be deemed a prerequisite for entering an order pursuant to this section. However, the inclusion of such a determination, supported by the record, may assist the department in obtaining federal funding for the child’s placement.
3. Except as provided in subsection 7, a child may be placed in detention as provided in this section in one of the following facilities only:
 - a. A juvenile detention home.
 - b. Any other suitable place designated by the court other than a facility under paragraph “c”.
 - c. (1) A room in a facility intended or used for the detention of adults if there is probable

cause to believe that the child has committed a delinquent act which if committed by an adult would be a felony, or aggravated misdemeanor under section 708.2 or 709.11, a serious or aggravated misdemeanor under section 321J.2, or a violation of section 123.46, and if all of the following apply:

(a) The child is at least fourteen years of age.

(b) The child has shown by the child's conduct, habits, or condition that the child constitutes an immediate and serious danger to another or to the property of another, and a facility or place enumerated in paragraph "a" or "b" is unavailable, or the court determines that the child's conduct or condition endangers the safety of others in the facility.

(c) The facility has an adequate staff to supervise and monitor the child's activities at all times.

(d) The child is confined in a room entirely separated from detained adults, is confined in a manner which prohibits communication with detained adults, and is permitted to use common areas of the facility only when no contact with detained adults is possible.

(2) However, if the child is to be detained for a violation of section 123.46 or section 321J.2, placement in a facility pursuant to this paragraph "c" shall be made only after an attempt has been made to notify the parents or legal guardians of the child and request that the parents or legal guardians take custody of the child. If the parents or legal guardians cannot be contacted, or refuse to take custody of the child, an attempt shall be made to place the child in another facility, including but not limited to a local hospital or shelter care facility. Also, a child detained for a violation of section 123.46 or section 321J.2 pursuant to this paragraph "c" shall only be detained in a facility with adequate staff to provide continuous visual supervision of the child.

d. A place used for the detention of children prior to an adjudicatory hearing may also be used for the detention of a child awaiting disposition to a placement under section 232.52, subsection 2, paragraph "e", while the adjudicated child is awaiting transfer to the disposition placement.

4. A child shall not be held in a facility under subsection 3, paragraph "a" or "b", for a period in excess of twenty-four hours without an oral or written court order authorizing the detention. When the detention is authorized by an oral court order, the court shall enter a written order before the end of the next day confirming the oral order and indicating the reasons for the order.

5. a. A child shall not be detained in a facility under subsection 3, paragraph "c", for a period of time in excess of six hours without the oral or written order of a judge or a magistrate authorizing the detention. A judge or magistrate may authorize detention in a facility under subsection 3, paragraph "c", for a period of time in excess of six hours but less than twenty-four hours, excluding weekends and legal holidays, but only if all of the following occur or exist:

(1) The facility serves a geographic area outside a standard metropolitan statistical area as determined by the United States census bureau.

(2) The court determines that an acceptable alternative placement does not exist pursuant to criteria developed by the department of human services.

(3) The facility has been certified by the department of corrections as being capable of sight and sound separation pursuant to this section and section 356.3.

(4) The child is awaiting an initial hearing before the court pursuant to section 232.44.

b. The restrictions contained in this subsection relating to the detention of a child in a facility under subsection 3, paragraph "c", do not apply if the court has waived its jurisdiction over the child for the alleged commission of a felony offense pursuant to section 232.45.

6. An adult within the jurisdiction of the court under section 232.8, subsection 1, who has been placed in detention, is not bailable under chapter 811. If such an adult is detained in a room in a facility intended or used for the detention of adults, the adult shall be confined in a room entirely separated from adults not within the jurisdiction of the court under section 232.8, subsection 1.

7. If the court has waived its jurisdiction over the child for the alleged commission of a forcible felony offense pursuant to section 232.45 or 232.45A, and there is a serious risk that the child may commit an act which would inflict serious bodily harm on another person,

the child may be held in the county jail, notwithstanding section 356.3. However, wherever possible the child shall be held in sight and sound separation from adult offenders. A child held in the county jail under this subsection shall have all the rights of adult postarrest or pretrial detainees.

8. Notwithstanding any other provision of the Code to the contrary, a child shall not be placed in detention for a violation of section 123.47, or for failure to comply with a dispositional order which provides for performance of community service for a violation of section 123.47.

[S13, §254-a24; SS15, §254-a16; C24, 27, 31, 35, 39, §3633; C46, 50, 54, 58, 62, §232.17; C66, 71, 73, 75, 77, §232.17 – 232.19; C79, 81, §232.22; 82 Acts, ch 1209, §4, 5]

86 Acts, ch 1186, §3; 87 Acts, ch 149, §2 – 4; 88 Acts, ch 1167, §2, 3; 91 Acts, ch 232, §2, 3; 92 Acts, ch 1231, §14, 15; 95 Acts, ch 180, §3; 95 Acts, ch 191, §9; 96 Acts, ch 1164, §7; 97 Acts, ch 126, §14; 2001 Acts, ch 135, §6; 2009 Acts, ch 41, §233, 234, 263; 2017 Acts, ch 121, §3

Referred to in §232.19, 232.20, 232.23, 232.29, 232.44, 232.46, 232.52, 232.149, 803.6

232.23 Detention — youthful offenders.

1. After waiver of a child who will be prosecuted as a youthful offender, the child shall be held in a facility under section 232.22, subsection 3, paragraph “a” or “b”, unless released in accordance with subsection 2.

2. a. The court shall determine, at the detention hearing under section 232.44, the amount of bail, appearance bond, or other conditions necessary for a child who has been waived for prosecution as a youthful offender to be released from detention or that the child should not be released from detention.

b. A child placed in detention or released under this subsection shall be supervised by a juvenile court officer or juvenile court services personnel.

c. An order under this section may be reviewed by the court upon motion of either party. 97 Acts, ch 126, §15

Referred to in §232.44, 232.45, 602.1211

232.24 through 232.27 Reserved.

PART 3

INTAKE

232.28 Intake.

1. Any person having knowledge of the facts may file a complaint with the court or its designee alleging that a child has committed a delinquent act. A written record shall be maintained of any oral complaint received.

2. The court or its designee shall refer the complaint to an intake officer who shall consult with law enforcement authorities having knowledge of the facts and conduct a preliminary inquiry to determine what action should be taken.

3. In the course of a preliminary inquiry, the intake officer may:

a. Interview the complainant, victim or witnesses of the alleged delinquent act.

b. Check existing records of the court, law enforcement agencies, public records of other agencies, and child abuse records as provided in section 235A.15, subsection 2, paragraph “e”.

c. Hold conferences with the child and the child’s parent or parents, guardian or custodian for the purpose of interviewing them and discussing the disposition of the complaint in accordance with the requirements set forth in subsection 8.

d. Examine any physical evidence pertinent to the complaint.

e. Interview such persons as are necessary to determine whether the filing of a petition would be in the best interests of the child and the community as provided in section 232.35, subsections 2 and 3.

4. Any additional inquiries may be made only with the consent of the child and the child’s parent or parents, guardian or custodian.

5. Participation of the child and the child's parent or parents, guardian or custodian in a conference with an intake officer shall be voluntary, and they shall have the right to refuse to participate in such conference. At such conference the child shall have the right to the assistance of counsel in accordance with section 232.11 and the right to remain silent when questioned by the intake officer.

6. The intake officer, after consultation with the county attorney when necessary, shall determine whether the complaint is legally sufficient for the filing of a petition. A complaint shall be deemed legally sufficient for the filing of a petition if the facts as alleged are sufficient to establish the jurisdiction of the court and probable cause to believe that the child has committed a delinquent act. If the intake officer determines that the complaint is legally sufficient to support the filing of a petition, the officer shall determine whether the interests of the child and the public will best be served by the dismissal of the complaint, the informal adjustment of the complaint, or the filing of a petition.

7. If the intake officer determines that the complaint is not legally sufficient for the filing of a petition or that further proceedings are not in the best interests of the child or the public, the intake officer shall dismiss the complaint.

8. If the intake officer determines that the complaint is legally sufficient for the filing of a petition and that an informal adjustment of the complaint is in the best interests of the child and the community, the officer may make an informal adjustment of the complaint in accordance with section 232.29.

9. If the intake officer determines that the complaint is legally sufficient for the filing of a petition and that the filing of a petition is in the best interests of the child and the public, the officer shall request the county attorney to file a petition in accordance with section 232.35.

[SS15, §254-a15; C24, 27, 31, 35, 39, §3621; C46, 50, 54, 58, 62, §232.5; C66, 71, 73, 75, 77, §232.3; C79, 81, §232.28; 82 Acts, ch 1209, §6, 7]

88 Acts, ch 1134, §50; 95 Acts, ch 191, §10; 96 Acts, ch 1110, §1; 97 Acts, ch 126, §16, 17; 98 Acts, ch 1090, §61, 84; 2013 Acts, ch 42, §3

Referred to in §232.147, 235A.15, 915.26

232.28A Victim rights. Repealed by 98 Acts, ch 1090, §81, 84.

232.29 Informal adjustment.

1. The informal adjustment of a complaint is a permissible disposition of a complaint at intake subject to the following conditions:

- a. The child has admitted the child's involvement in a delinquent act.
- b. The intake officer shall advise the child and the child's parent, guardian or custodian that they have the right to refuse an informal adjustment of the complaint and demand the filing of a petition and a formal adjudication.
- c. Any informal adjustment agreement shall be entered into voluntarily and intelligently by the child with the advice of the child's attorney, or by the child with the consent of a parent, guardian, or custodian if the child is not represented by counsel.
- d. The terms of such agreement shall be clearly stated in writing and signed by all parties to the agreement and a copy of this agreement shall be given to the child; the counsel for the child; the parent, guardian or custodian; and the intake officer, who shall retain the copy in the case file.
- e. An agreement providing for the supervision of a child by a juvenile court officer or the provision of intake services shall not exceed six months.
- f. An agreement providing for the referral of a child to a public or private agency for services shall not exceed six months.
- g. The child and the child's parent, guardian or custodian shall have the right to terminate such agreement at any time and to request the filing of a petition and a formal adjudication.
- h. If an informal adjustment of a complaint has been made, a petition based upon the events out of which the original complaint arose may be filed only during the period of six months from the date the informal adjustment agreement was entered into. If a petition is filed within this period the child's compliance with all proper and reasonable terms of the agreement shall be grounds for dismissal of the petition by the court.

i. The person performing the duties of intake officer shall file a report at least annually with the court listing the number of informal adjustments made during the reporting time, the conditions imposed in each case, the number of informal adjustments resulting in dismissal without the filing of a petition, and the number of informal adjustments resulting in the filing of a petition upon the original complaint.

2. An informal adjustment agreement may prohibit a child from driving a motor vehicle for a specified period of time or under specific circumstances, require the child to perform a work assignment of value to the state or to the public, or require the child to make restitution consisting of a monetary payment to the victim or a work assignment directly of value to the victim. The juvenile court officer shall notify the state department of transportation of the informal adjustment prohibiting the child from driving.

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

4. An informal adjustment agreement regarding a child who has been placed in detention under section 232.22, subsection 1, paragraph "g", may include a provision that the child voluntarily participate in a batterers' treatment program under section 708.2B.

[C79, 81, §232.29; 82 Acts, ch 1209, §8]

83 Acts, ch 186, §10055, 10201; 94 Acts, ch 1172, §14; 95 Acts, ch 180, §4; 95 Acts, ch 191, §11

Referred to in §232.28, 915.28

Juvenile victim restitution; see chapter 232A and §915.24 – 915.29

232.30 through 232.34 Reserved.

PART 4

JUDICIAL PROCEEDINGS

232.35 Filing of petition.

1. A formal judicial proceeding to determine whether a child has committed a delinquent act shall be initiated by the filing by the county attorney of a petition alleging that a child has committed a delinquent act. After a petition has been filed, service of a summons requiring the child to appear before the court or service of a notice shall be made as provided in section 232.37.

2. If the intake officer determines that a complaint is legally sufficient for the filing of a petition alleging that a child has committed a delinquent act and that the filing of a petition would be in the best interests of the child and the community, the officer shall submit a written request for the filing of a petition to the county attorney. The county attorney may grant or deny the request of the intake officer for the filing of a petition. A determination by the county attorney that a petition should not be filed shall be final.

3. If the intake officer determines that a complaint is not legally sufficient for the filing of a petition or that the filing of a petition would not be in the best interests of the child and the community, the officer shall notify the complainant of the officer's determination and the reasons for such determination, and shall advise the complainant that the complainant may submit the complaint to the county attorney for review. Upon receiving a request for review, the county attorney shall consider the facts presented by the complainant, consult with the intake officer and make the final determination as to whether a petition should be filed. In the absence of a request by the complainant for a review of the intake officer's determination that a petition should not be filed, the officer's determination shall be final, and the intake officer shall inform the county attorney of this decision concerning complaints involving allegations

of acts which, if committed by an adult, would constitute an aggravated misdemeanor or a felony.

[SS15, §254-a15; C24, 27, 31, 35, 39, §3621; C46, 50, 54, 58, 62, §232.5; C66, 71, 73, 75, 77, §232.3; C79, 81, §232.35]

92 Acts, ch 1231, §16; 2003 Acts, ch 151, §4

Referred to in §232.28, 331.653, 692.1, 692.8, 692.15

232.36 Contents of petition.

1. The petition and subsequent court documents shall be entitled as follows:

In the interests of, a child.

2. The petition shall be verified and any statements in the petition may be made upon information and belief.

3. The petition shall set forth plainly:

a. The name, age, and residence of the child who is the subject of the petition.

b. The names and residences of any:

(1) Living parent of the child.

(2) Guardian of the child.

(3) Legal custodian of the child.

(4) Guardian ad litem.

c. With reasonable particularity, the time, place and manner of the delinquent act alleged and the penal law allegedly violated by such act.

4. If any of the facts required under subsection 3, paragraphs "a" and "b" are not known by the petitioner, the petition shall so state.

5. The petition shall set forth plainly the nearest known relative of the child if no parent or guardian can be found.

[SS15, §254-a15; C24, 27, 31, 35, 39, §3621, 3622; C46, 50, 54, 58, 62, §232.5, 232.6; C66, 71, 73, 75, 77, §232.3; C79, 81, §232.36]

2019 Acts, ch 24, §24

Referred to in §232.87

232.37 Summons, notice, subpoenas, and service — order for removal.

1. After a petition has been filed the court shall set a time for an adjudicatory hearing and unless the parties named in subsection 2 voluntarily appear, shall issue a summons requiring the child to appear before the court at a time and place stated and requiring the person who has custody or control of the child to appear before the court and to bring the child with the person at that time. The summons shall attach a copy of the petition and shall give notification of the right to counsel provided for in section 232.11.

2. Notice of the pendency of the case shall be served upon the known parents, guardians, or legal custodians of a child if these persons are not summoned to appear as provided in subsection 1. Notice shall also be served upon the child and upon the child's guardian ad litem, if any. The notice shall attach a copy of the petition and shall give notification of the right to counsel provided for in section 232.11.

3. Upon request of the child who is identified in the petition as a party to the proceeding, the child's parent, guardian, or custodian; or a county attorney; or on the court's own motion, the court or the clerk of the court shall issue subpoenas requiring the attendance and testimony of witnesses and production of papers at any hearing under this subchapter.

4. Service of summons or notice shall be made personally by the sheriff by delivering a copy of the summons or notice to the person being served. If the court determines that personal service of a summons or notice is impracticable, the court may order service by certified mail addressed to the last known address, or by electronic mail or other electronic means with the consent of the party to be served. Service of summons or notice shall be made not less than five days before the time fixed for hearing. Service of summons, notice, subpoenas or other process, after an initial valid summons or notice, shall be made in accordance with the rules of the court governing such service in civil actions.

5. If a person personally served with a summons or subpoena fails without reasonable cause to appear or to bring the child, the person may be proceeded against for contempt of

court or the court may issue an order for the arrest of such person or both the arrest of the person and the taking into custody of the child.

6. The court may issue an order for the removal of the child from the custody of the child's parent, guardian, or custodian when there exists an immediate threat that the parent, guardian, or custodian will flee the state with the child, or when it appears that the child's immediate removal is necessary to avoid imminent danger to the child's life or health.

[SS15, 254-a16; C24, 27, 31, 35, 39, §3623 – 3628, 3630; C46, 50, 54, 58, 62, §232.7 – 232.12, 232.14; C66, 71, 73, 75, 77, §232.4 – 232.10; C79, 81, §232.37]

84 Acts, ch 1279, §3; 85 Acts, ch 195, §26; 95 Acts, ch 92, §1; 2003 Acts, ch 151, §5; 2019 Acts, ch 127, §1; 2020 Acts, ch 1062, §31

Referred to in §232.35, 232.45, 232.54, 232.88, 331.653
Subsections 3 and 6 amended

232.38 Presence of parents at hearings.

1. Any hearings or proceedings under this subchapter subsequent to the filing of a petition shall not take place without the presence of one or both of the child's parents, guardian or custodian except that a hearing or proceeding may take place without such presence if the parent, guardian or custodian fails to appear after reasonable notification, or if the court finds that a reasonably diligent effort has been made to notify the child's parent, guardian, or custodian, and the effort was unavailing.

2. In any such hearings or proceedings the court may temporarily excuse the presence of the parent, guardian or custodian when the court deems it in the best interests of the child. Counsel for the parent, guardian or custodian shall have the right to participate in a hearing or proceeding during the absence of the parent, guardian or custodian.

[SS15, §254-a16; C24, 27, 31, 35, 39, §3631; C46, 50, 54, 58, 62, §232.15; C66, 71, 73, 75, 77, §232.11, 232.30; C79, 81, §232.38]

2020 Acts, ch 1062, §94

Referred to in §232.91

Code editor directive applied

232.39 Exclusion of public from hearings.

At any time during the proceedings, the court, on the motion of any of the parties or upon the court's own motion, may exclude the public from hearings under this subchapter if the court determines that the possibility of damage or harm to the child outweighs the public's interest in having an open hearing. Upon closing the hearing to the public, the court may admit those persons who have direct interest in the case or in the work of the court.

[C24, 27, 31, 35, 39, §3635; C46, 50, 54, 58, 62, §232.19; C66, 71, 73, 75, 77, §232.27; C79, 81, §232.39]

88 Acts, ch 1134, §51; 2020 Acts, ch 1062, §94

Referred to in §232.147

Code editor directive applied

232.40 Other issues adjudicated.

When it appears during the course of any hearing or proceeding that some action or remedy other than those indicated by the application or pleading is appropriate, the court, with the consent of all necessary parties, may proceed to hear and determine the additional or other issues as though originally properly sought and pleaded.

[C66, 71, 73, 75, 77, §232.12; C79, 81, §232.40]

232.41 Reporter required.

Stenographic notes or mechanical or electronic recordings shall be taken of all court hearings held pursuant to this subchapter unless waived by the parties. The child shall not be competent to waive the reporting requirement, but waiver may be made for the child by the child's counsel or guardian ad litem. Matters which must be reported under the provisions of this section shall be reported in the same manner as required in section 624.9.

[C66, 71, 73, 75, 77, §232.32; C79, 81, §232.41]

2020 Acts, ch 1062, §94

Code editor directive applied

232.42 Continuances.

1. Continuances in juvenile delinquency proceedings may be granted by the court only for good cause shown on the record if the child is being held in detention.

2. Where the child requests a continuance of proceedings, the court, in an order granting the continuance, may suspend the time limitations imposed on the state by this subchapter for a period of time not to exceed the length of the continuance.

3. Proceedings may be continued for up to one year upon the request of the county attorney and the child to permit the making of probation arrangements prior to the adjudicatory hearing. If either the child or the county attorney requests that the adjudicatory hearing be held at any time during the period of the continuance, the court shall set the matter for hearing.

[S13, §254-a23; C24, 27, 31, 35, 39, §3637; C46, 50, 54, 58, 62, §232.21; C66, 71, 73, 75, 77, §232.34; C79, §232.13, 232.42; C81, §232.42]

94 Acts, ch 1172, §15; 2020 Acts, ch 1062, §94

Code editor directive applied

232.43 Answer — plea agreement — acceptance of plea admitting allegations of petition.

1. A written answer to a delinquency petition need not be filed by the child, but any matters which might be set forth in an answer or other pleading may be filed in writing or pleaded orally before the court.

2. The county attorney and the child's counsel may mutually consider a plea agreement which contemplates entry of a plea admitting the allegations of the petition in the expectation that other charges will be dismissed or not filed or that a specific disposition will be recommended by the county attorney and granted by the court. Any plea discussion shall be open to the child and the child's parent, guardian or custodian.

3. The court shall not accept a plea admitting the allegations of the petition without first addressing the child personally in court, determining that the plea is voluntary and not the result of any force or threats or promises other than promises made in connection with a plea agreement and informing the child of and determining that the child understands the following:

- a. The nature of the allegations of the petition to which the plea is offered.
- b. The severest possible disposition and the maximum length of such disposition which the court may order if the court accepts the plea.
- c. The child has the right to deny the allegations of the petition.
- d. If the child admits the allegations of the petition the child waives the right to a further adjudicatory hearing.

4. The court shall not accept a plea admitting the allegations of the petition without first addressing the county attorney and the child's counsel in court and making an inquiry into whether such a plea is the result of a plea agreement. The court shall require the disclosure of the terms of any such agreement in court. If a plea agreement has been reached which contemplates entry of the plea in the expectation that the court will order a specific disposition or dismiss other charges against the child before the court, the court shall state to the parties whether the court will concur in the proposed disposition or dismissal of charges. If the court will not concur in such disposition or dismissal, the court should advise the child personally of this fact, advise the child that the disposition of the case may be less favorable to the child than that contemplated by the plea agreement, and afford the child the opportunity to withdraw the plea. If the court defers decision as to whether the court will concur with the proposed disposition or dismissal until there has been an opportunity to consider the predisposition report, the court shall advise the child that the court is not bound by the plea agreement and afford the child the opportunity to withdraw the plea.

5. The court shall not accept a plea admitting the allegations of the petition without:
 - a. Determining that there is a factual basis for the plea.
 - b. Determining that the child was given effective assistance of counsel prior to tender of the plea.
 - c. Inquiring of the parent or parents who are present in court whether they agree as to the

course of action that their child has chosen. If either parent expresses disagreement with the plea, the court may refuse to accept that plea.

6. If the court determines that a plea is not in the child's best interest it may refuse to accept that plea regardless of the agreement of the parties.

[C79, 81, §232.43]

232.44 Detention or shelter care hearing — release from detention upon change of circumstance.

1. *a.* A hearing shall be held within two working days of the time of the child's admission to a shelter care facility and within one working day of the time of a child's admission to a detention facility. If the hearing is not held within the time specified in this paragraph, except for good cause shown, the child shall be released from shelter care or detention.

b. Prior to the hearing a petition shall be filed, except where the child is already under the supervision of a juvenile court under a prior judgment.

c. If the child is placed in a detention facility in a county other than the county in which the child resides or in which the delinquent act allegedly occurred but which is within the same judicial district, the hearing may take place in the county in which the detention facility is located.

d. The child shall appear in person at the hearing required by this subsection.

2. The county attorney or a juvenile court officer may apply for a hearing at any time after the petition is filed to determine whether the child who is the subject of the petition should be placed in detention or shelter care. The court may upon the application or upon its own motion order such hearing. The court shall order a detention hearing for a child waived under section 232.45, subsection 7, at the time of waiver.

3. A notice shall be served upon the child, the child's attorney, the child's guardian ad litem if any, and the child's known parent, guardian, or custodian not less than twelve hours before the time the hearing is scheduled to begin and in a manner calculated fairly to apprise the parties of the time, place, and purpose of the hearing. In the case of a hearing for a child waived for prosecution as a youthful offender, this notice may accompany the waiver order. If the court finds that there has been reasonably diligent effort to give notice to a parent, guardian, or custodian and that the effort has been unavailing, the hearing may proceed without the notice having been served.

4. At the hearing to determine whether detention or shelter care is authorized under section 232.21 or 232.22 the court shall admit only testimony and other evidence relevant to the determination of whether there is probable cause to believe the child has committed the act as alleged in the petition and to the determination of whether the placement of the child in detention or shelter care is authorized under section 232.21 or 232.22. At the hearing to determine whether a child who has been waived for prosecution as a youthful offender should be released from detention the court shall also admit evidence of the kind admissible to determine bond or bail under chapter 811, notwithstanding section 811.1. Any written reports or records made available to the court at the hearing shall be made available to the parties. A copy of the petition or waiver order shall be given to each of the parties at or before the hearing.

5. The court shall find release to be proper under the following circumstances:

a. If the court finds that there is not probable cause to believe that the child is a child within the jurisdiction of the court under this chapter, it shall release the child and dismiss the petition.

b. If the court finds that detention or shelter care is not authorized under section 232.21 or 232.22, or is authorized but not warranted in a particular case, the court shall order the child's release, and in so doing, may impose one or more of the following conditions:

(1) Place the child in the custody of a parent, guardian or custodian under that person's supervision, or under the supervision of an organization which agrees to supervise the child.

(2) Place restrictions on the child's travel, association, or place of residence during the period of release.

(3) Impose any other condition deemed reasonably necessary and consistent with the

grounds for detaining children specified in section 232.21 or 232.22, including a condition requiring that the child return to custody as required.

(4) In the case of a child waived for prosecution as a youthful offender, require bail, an appearance bond, or set other conditions consistent with this section or section 811.2.

c. An order releasing a child on conditions specified in this section may be amended at any time to impose equally or less restrictive conditions. The order may be amended to impose additional or more restrictive conditions, or to revoke the release, if the child has failed to conform to the conditions originally imposed.

6. If the court finds that there is probable cause to believe that the child is within the jurisdiction of the court under this chapter and that full-time detention or shelter care is authorized under section 232.21 or 232.22 or that detention is authorized under section 232.23, it may issue an order authorizing either shelter care or detention until the adjudicatory hearing or trial is held or for a period not exceeding seven days, whichever is shorter. However, in the case of a child placed in detention under section 232.23, this period may be extended by agreement of the parties and the court.

7. If a child held in shelter care or detention by court order has not been released after a detention hearing or has not appeared at an adjudicatory hearing before the expiration of the order of detention, an additional hearing shall automatically be scheduled for the next court day following the expiration of the order. The child, the child's counsel, the child's guardian ad litem, and the child's parent, guardian or custodian shall be notified of this hearing not less than twenty-four hours before the hearing is scheduled to take place. The hearing required by this subsection may be held by telephone conference call.

8. A child held in a detention or shelter care facility pursuant to section 232.21 or 232.22 under order of court after a hearing may be released upon a showing that a change of circumstances makes continued detention unnecessary.

9. A written request for the release of the child, setting forth the changed circumstances, may be filed by the child, by a responsible adult on the child's behalf, by the child's custodian, or by the juvenile court officer.

10. Based upon the facts stated in the request for release the court may grant or deny the request without a hearing, or may order that a hearing be held at a date, time and place determined by the court. Notice of the hearing shall be given to the child and the child's custodian or counsel. Upon receiving evidence at the hearing, the court may release the child to the child's custodian or other suitable person, or may deny the request and remand the child to the detention or shelter care facility.

11. This section does not apply to a child placed in accordance with section 232.78, 232.79, or 232.95.

[C79, 81, §232.44; 82 Acts, ch 1209, §9, 10]

87 Acts, ch 149, §5; 94 Acts, ch 1172, §16, 17; 95 Acts, ch 67, §15; 97 Acts, ch 126, §19; 2009 Acts, ch 41, §94; 2018 Acts, ch 1153, §4

Referred to in §232.9, 232.11, 232.22, 232.23, 232.45

232.45 Waiver hearing and waiver of jurisdiction.

1. After the filing of a petition which alleges that a child has committed a delinquent act on the basis of an alleged commission of a public offense and before an adjudicatory hearing on the merits of the petition is held, the county attorney or the child may file a motion requesting the court to waive its jurisdiction over the child for the alleged commission of the public offense or for the purpose of prosecution of the child as an adult or a youthful offender. If the county attorney and the child agree, a motion for waiver for the purpose of being prosecuted as a youthful offender may be heard by the district court as part of the proceedings under section 907.3A, or by the juvenile court as provided in this section. If the motion for waiver for the purpose of being prosecuted as a youthful offender is made as a result of a conditional agreement between the county attorney and the child, the conditions of the agreement shall be disclosed to the court in the same manner as provided in rules of criminal procedure 2.8 and 2.10.

2. The court shall hold a waiver hearing on all such motions.

3. Reasonable notice that states the time, place, and purpose of the waiver hearing shall

be provided to the persons required to be provided notice for adjudicatory hearings under section 232.37. Summons, subpoenas, and other process may be issued and served in the same manner as for adjudicatory hearings as provided in section 232.37.

4. Prior to the waiver hearing, the juvenile probation officer or other person or agency designated by the court shall conduct an investigation for the purpose of collecting information relevant to the court's decision to waive its jurisdiction over the child for the alleged commission of the public offense and shall submit a report concerning the investigation to the court. The report shall include any recommendations made concerning waiver. Prior to the hearing the court shall provide the child's counsel and the county attorney with access to the report and to all written material to be considered by the court.

5. At the waiver hearing all relevant and material evidence shall be admitted.

6. At the conclusion of the waiver hearing the court may waive its jurisdiction over the child for the alleged commission of the public offense for the purpose of prosecution of the child as an adult if all of the following apply:

a. The child is fourteen years of age or older.

b. The court determines, or has previously determined in a detention hearing under section 232.44, that there is probable cause to believe that the child has committed a delinquent act which would constitute the public offense.

c. The court determines that the state has established that there are not reasonable prospects for rehabilitating the child if the juvenile court retains jurisdiction over the child and the child is adjudicated to have committed the delinquent act, and that waiver of the court's jurisdiction over the child for the alleged commission of the public offense would be in the best interests of the child and the community.

7. a. At the conclusion of the waiver hearing and after considering the best interests of the child and the best interests of the community the court may, in order that the child may be prosecuted as a youthful offender, waive its jurisdiction over the child if all of the following apply:

(1) The child is twelve through fifteen years of age or the child is ten or eleven years of age and has been charged with a public offense that would be classified as a class "A" felony if committed by an adult.

(2) The court determines, or has previously determined in a detention hearing under section 232.44, that there is probable cause to believe that the child has committed a delinquent act which would constitute a public offense under section 232.8, subsection 1, paragraph "c", notwithstanding the application of that paragraph to children aged sixteen or older.

(3) The court determines that the state has established that there are not reasonable prospects for rehabilitating the child, prior to the child's eighteenth birthday, if the juvenile court retains jurisdiction over the child and the child enters into a plea agreement, is a party to a consent decree, or is adjudicated to have committed the delinquent act.

b. The court shall retain jurisdiction over the child for the purpose of determining whether the child should be released from detention under section 232.23. If the court has been apprised of conditions of an agreement between the county attorney and the child which resulted in a motion for waiver for purposes of the child being prosecuted as a youthful offender, and the court finds that the conditions are in the best interests of the child, the conditions of the agreement shall constitute conditions of the waiver order.

8. In making the determination required by subsection 6, paragraph "c", the factors which the court shall consider include but are not limited to the following:

a. The nature of the alleged delinquent act and the circumstances under which it was committed.

b. The nature and extent of the child's prior contacts with juvenile authorities, including past efforts of such authorities to treat and rehabilitate the child and the response to such efforts.

c. The programs, facilities and personnel available to the juvenile court for rehabilitation and treatment of the child, and the programs, facilities and personnel which would be available to the court that would have jurisdiction in the event the juvenile court waives its jurisdiction so that the child can be prosecuted as an adult.

9. In making the determination required by subsection 7, paragraph “a”, subparagraph (3), the factors which the court shall consider include but are not limited to the following:

a. The nature of the alleged delinquent act and the circumstances under which it was committed.

b. The nature and extent of the child’s prior contacts with juvenile authorities, including past efforts of such authorities to treat and rehabilitate the child and the response to such efforts.

c. The age of the child, the programs, facilities, and personnel available to the juvenile court for rehabilitation and treatment of the child, and the programs, facilities, and personnel which would be available to the district court after the child reaches the age of eighteen in the event the child is given youthful offender status.

10. If at the conclusion of the hearing the court waives its jurisdiction over the child for the alleged commission of the public offense, the court shall make and file written findings as to its reasons for waiving its jurisdiction.

11. a. If the court waives jurisdiction, statements made by the child after being taken into custody and prior to intake are admissible as evidence in chief against the child in subsequent criminal proceedings provided that the statements were made with the advice of the child’s counsel or after waiver of the child’s right to counsel and provided that the court finds the child had voluntarily waived the right to remain silent. Other statements made by a child are admissible as evidence in chief provided that the court finds the statements were voluntary. In making its determination, the court may consider any factors it finds relevant and shall consider the following factors:

(1) Opportunity for the child to consult with a parent, guardian, custodian, lawyer, or other adult.

(2) The age of the child.

(3) The child’s level of education.

(4) The child’s level of intelligence.

(5) Whether the child was advised of the child’s constitutional rights.

(6) Length of time the child was held in shelter care or detention before making the statement in question.

(7) The nature of the questioning which elicited the statement.

(8) Whether physical punishment such as deprivation of food or sleep was used upon the child during the shelter care, detention, or questioning.

b. Statements made by the child during intake or at a waiver hearing held pursuant to this section are not admissible as evidence in chief against the child in subsequent criminal proceedings over the child’s objection in any event.

12. If the court waives its jurisdiction over the child for the alleged commission of the public offense so that the child may be prosecuted as an adult or a youthful offender, the judge who made the waiver decision shall not preside at any subsequent proceedings in connection with that prosecution if the child objects.

13. The waiver does not apply to other delinquent acts which are not alleged in the delinquency petition presented at the waiver hearing.

14. a. If a child who is alleged to have delivered, manufactured, or possessed with intent to deliver or manufacture, a controlled substance except marijuana, as defined in chapter 124, is waived to district court for prosecution, the mandatory minimum sentence provided in section 124.413 shall not be imposed if a conviction is had; however, each child convicted of such an offense shall be confined for not less than thirty days in a secure facility.

b. Upon application of a person charged or convicted under the authority of this subsection, the district court shall order the records in the case sealed if:

(1) Five years have elapsed since the final discharge of that person; and

(2) The person has not been convicted of a felony or an aggravated or serious

misdeemeanor, or adjudicated a delinquent for an act which if committed by an adult would be a felony, or an aggravated or serious misdemeanor since the final discharge of that person.

[C79, 81, §232.45]

85 Acts, ch 130, §1, 2; 97 Acts, ch 126, §20 – 23; 2001 Acts, ch 135, §26; 2009 Acts, ch 41, §263; 2013 Acts, ch 42, §4, 5

Referred to in §232.8, 232.9, 232.11, 232.22, 232.44, 232.45A, 232.51, 232.89, 232.149B, 803.5, 803.6, 903.1, 904.503, 907.3A, 915.37
Age of majority deemed attained for certain purposes during incarceration following waiver and conviction; see §599.1

232.45A Waiver to and conviction by district court — processing.

1. Once jurisdiction over a child has been waived by the juvenile court as provided in section 232.45, for the alleged commission of a felony, and once a conviction is entered by the district court, for all other offenses, the clerk of the juvenile court shall immediately send a certified copy of the findings required by section 232.45, subsection 10, and the judgment of conviction, as applicable, to the department of public safety. The department shall maintain a file on each child who has previously been waived to or waived to and convicted by the district court in a prosecution as an adult. The file shall be accessible by law enforcement officers on a twenty-four hour per day basis.

2. Once a child sixteen years of age or older has been waived by the juvenile court to the district court, all subsequent criminal proceedings against the child for any delinquent act committed after the date of the waiver by the juvenile court shall begin in district court, notwithstanding sections 232.8 and 232.45. A copy of the findings required by section 232.45, subsection 10, shall be made a part of the record in the district court proceedings. However, upon acquittal or dismissal in district court of all waived offenses and all lesser included offenses of the waived offenses, the proceedings for any delinquent act committed by the child subsequent to such acquittal or dismissal shall begin in juvenile court. Any proceedings initiated in district court for a public offense committed by the child subsequent to the waiver by the juvenile court, but prior to any acquittal or dismissal of all waived offenses and lesser included offenses in district court, shall remain in district court.

3. If proceedings against a child sixteen years of age or older who has previously been waived to district court are mistakenly begun in the juvenile court, the matter shall be transferred to district court upon the discovery of the prior waiver, notwithstanding sections 232.8 and 232.45.

4. This section shall not apply to a child who was waived to the district court for the purpose of being prosecuted as a youthful offender.

91 Acts, ch 232, §4; 92 Acts, ch 1231, §17; 94 Acts, ch 1172, §18; 95 Acts, ch 191, §12; 97 Acts, ch 126, §24; 2013 Acts, ch 42, §6

Referred to in §232.9, 232.22

232.46 Consent decree.

1. *a.* At any time after the filing of a petition and prior to entry of an order of adjudication pursuant to section 232.47, the court may suspend the proceedings on motion of the county attorney or the child's counsel, enter a consent decree, and continue the case under terms and conditions established by the court. These terms and conditions may include any of the following:

(1) Prohibiting the child from driving a motor vehicle for a specified period of time or under specific circumstances. The court shall notify the department of transportation of an order prohibiting the child from driving.

(2) Supervision of the child by a juvenile court officer or other agency or person designated by the court.

(3) The performance of a work assignment of value to the state or to the public.

(4) Making restitution consisting of a monetary payment to the victim or a work assignment directly of value to the victim.

(5) Placement of the child in a group or family foster care setting, if the court makes a determination that such a placement is the least restrictive option.

b. A child's need for shelter placement or for inpatient mental health or substance abuse treatment does not preclude entry or continued execution of a consent decree.

2. A consent decree entered regarding a child placed in detention under section 232.22,

subsection 1, paragraph “g”, shall require the child to attend a batterers’ treatment program under section 708.2B. The second time the child fails to attend the batterers’ treatment as required by the consent decree shall result in the decree being vacated and proceedings commenced under section 232.47.

3. A consent decree shall not be entered unless the child and the child’s parent, guardian or custodian is informed of the consequences of the decree by the court and the court determines that the child has voluntarily and intelligently agreed to the terms and conditions of the decree. If the county attorney objects to the entry of a consent decree, the court shall proceed to determine the appropriateness of entering a consent decree after consideration of any objections or reasons for entering such a decree.

4. A consent decree shall remain in force for up to one year unless the child is sooner discharged by the court or by the juvenile court officer or other agency or person supervising the child. Upon application of a juvenile court officer or other agency or person supervising the child made prior to the expiration of the decree and after notice and hearing, or upon agreement by the parties, a consent decree may be extended for up to an additional year by order of the court.

5. When a child has complied with the express terms and conditions of the consent decree for the required amount of time or until earlier dismissed as provided in subsection 4, the original petition may not be reinstated. However, failure to so comply may result in the child’s being thereafter held accountable as if the consent decree had never been entered.

6. A child who is discharged or who completes a period of continuance without the reinstatement of the original petition shall not be proceeded against in any court for a delinquent act alleged in the petition.

[C79, 81, §232.46; 82 Acts, ch 1209, §11]

83 Acts, ch 186, §10055, 10201; 94 Acts, ch 1172, §19; 95 Acts, ch 180, §5; 2008 Acts, ch 1187, §132; 2014 Acts, ch 1141, §74; 2015 Acts, ch 30, §76, 77

Referred to in §232.9, 234.35

Juvenile victim restitution, see chapter 232A and §915.24 – 915.29

232.47 Adjudicatory hearing — findings — adjudication.

1. If a child denies the allegations of the petition, that child may be found to be delinquent only after an adjudicatory hearing conducted in accordance with the provisions of this section.

2. The court shall hear and adjudicate all cases involving a petition alleging a child to have committed a delinquent act.

3. The child shall have the right to adjudication by an impartial finder of fact. A judge of the juvenile court may not serve as the finder of fact over objection of the child based upon a showing of prejudice on the part of the judge. In the event that a judge is disqualified from serving as a finder of fact under this provision, a substitute judge shall serve as the finder of fact.

4. At an adjudicatory hearing the state shall have the burden of proving the allegations of the petition.

5. Only evidence which is admissible under the rules of evidence applicable to the trial of criminal cases shall be admitted at the hearing except as otherwise provided by this section.

6. Statements or other evidence derived directly or indirectly from statements which a child makes to a law enforcement officer while in custody without presence of counsel may be admitted into evidence at an adjudicatory hearing over the child’s objection only after the court determines whether the child has voluntarily waived the right to remain silent. In making its determination the court may consider any factors it finds relevant and shall consider the following factors:

a. Opportunity for the child to consult with a parent, guardian, custodian, lawyer or other adult.

b. The age of the child.

c. The child’s level of education.

d. The child’s level of intelligence.

e. Whether the child was advised of the child’s constitutional rights.

f. Length of time the child was held in shelter care or detention before making the statement in question.

g. The nature of the questioning which elicited the statement.

h. Whether physical punishment such as deprivation of food or sleep was used upon the child during the shelter care, detention, or questioning.

7. The following statements or other evidence shall not be admitted as evidence in chief at an adjudicatory hearing:

a. Statements or other evidence derived directly or indirectly from statements which a child makes to a juvenile intake officer without the presence of counsel subsequent to the filing of a complaint and prior to adjudication unless the child and the child's attorney consent to the admission of such statements or evidence.

b. Statements which the child makes to a juvenile probation officer or other person conducting a predisposition investigation during such an investigation.

8. At the conclusion of an adjudicatory hearing, the court shall make a finding as to whether the child has committed a delinquent act. The court shall make and file written findings as to the truth of the specific allegations of the petition and as to whether the child has engaged in delinquent conduct.

9. If the court finds that the child did not engage in delinquent conduct, the court shall enter an order dismissing the petition.

10. If the court finds that the child did engage in delinquent conduct, the court may enter an order adjudicating the child to have committed a delinquent act. The child shall be presumed to be innocent of the charges and no finding that a child has engaged in delinquent conduct may be made unless the state has proved beyond a reasonable doubt that the child engaged in such behavior.

11. If the court enters an order adjudicating the child to have committed a delinquent act, the court may issue an order authorizing either shelter care or detention until the dispositional hearing is held.

12. A juvenile court officer shall notify the superintendent of the school district or the superintendent's designee, or the authorities in charge of the nonpublic school which the child attends of the child's adjudication for a delinquent act which would be an indictable offense if committed by an adult.

[C66, 71, 73, 75, 77, §232.31; C79, 81, §232.47]

94 Acts, ch 1172, §20

Referred to in §232.8, 232.9, 232.11, 232.46, 232.48, 232.49, 232.50, 232.133, 232.147

232.48 Predisposition investigation and report.

1. The court shall not make a disposition of the matter following the entry of an order of adjudication pursuant to section 232.47 until a predisposition report has been submitted to and considered by the court.

2. After a petition is filed, the court shall direct a juvenile court officer or any other agency or individual to conduct a predisposition investigation and to prepare a predisposition report. The investigation and report shall cover all of the following:

a. The social history, environment and present condition of the child and the child's family.

b. The performance of the child in school.

c. The presence of child abuse and neglect histories, learning disabilities, physical impairments and past acts of violence.

d. Other matters relevant to the child's status as a delinquent, treatment of the child or proper disposition of the case.

3. No predisposition report shall be submitted to or considered by the court prior to the completion of the adjudicatory hearing without the consent of the child and the child's counsel.

4. A predisposition report shall not be disclosed except as provided in this section and in subchapter VIII. The court shall permit the child's attorney to inspect the predisposition report prior to consideration by the court. The court may order counsel not to disclose parts of the report to the child, or to the child's parent, guardian, guardian ad litem, or custodian if the court finds that disclosure would seriously harm the treatment or rehabilitation of the

child. If the report indicates the child has behaved in a manner that threatened the safety of another person, has committed a violent act causing bodily injury to another person, or has been a victim or perpetrator of sexual abuse, unless otherwise ordered by the court, the child's parent, guardian, or foster parent or other person with custody of the child shall be provided with that information.

[C79, 81, §232.48]

83 Acts, ch 186, §10055, 10201; 85 Acts, ch 88, §1; 2005 Acts, ch 124, §2; 2020 Acts, ch 1062, §32

Referred to in §232.147
Subsection 4 amended

232.49 Physical and mental examinations.

1. Following the entry of an order of adjudication under section 232.47 the court may, after a hearing which may be simultaneous with the adjudicatory hearing, order a physical or mental examination of the child if it finds that an examination is necessary to determine the child's physical or mental condition. The court may consider chemical dependency as either a physical or mental condition and may consider a chemical dependency evaluation as either a physical or mental examination. If the examination indicates the child has behaved in a manner that threatened the safety of another person, has committed a violent act causing bodily injury to another person, or has been a victim or perpetrator of sexual abuse, unless otherwise ordered by the court, the child's parent, guardian, or foster parent or other person with custody of the child shall be provided with that information.

2. When possible an examination shall be conducted on an outpatient basis, but the court may, if it deems necessary, commit the child to a suitable hospital, facility or institution for the purpose of examination. Commitment for examination shall not exceed thirty days and the civil commitment provisions of chapter 229 shall not apply.

3. *a.* At any time after the filing of a delinquency petition the court may order a physical or mental examination of the child if the following circumstances apply:

- (1) The court finds such examination to be in the best interest of the child; and
- (2) The parent, guardian, or custodian and the child's counsel agree.

b. An examination shall be conducted on an outpatient basis unless the court, the child's counsel, and the parent, guardian, or custodian agree that it is necessary the child be committed to a suitable hospital, facility, or institution for the purpose of examination. Commitment for examination shall not exceed thirty days and the civil commitment provisions of chapter 229 shall not apply.

[C66, 71, 73, 75, 77, §232.13; C79, 81, §232.49]

86 Acts, ch 1186, §4; 2005 Acts, ch 124, §3; 2009 Acts, ch 41, §235

Referred to in §232.147

232.50 Dispositional hearing.

1. As soon as practicable following the entry of an order of adjudication pursuant to section 232.47 or notification that the child has been placed on youthful offender status pursuant to section 907.3A, the court shall hold a dispositional hearing in order to determine what disposition should be made of the matter.

2. The court shall hold a periodic dispositional review hearing for each child in placement pursuant to section 232.52, subsection 2, paragraph "d" or "e", to determine the future disposition status of the child. The hearings shall not be waived or continued beyond twelve months after the last dispositional hearing or dispositional review hearing.

3. At dispositional hearings under this section all relevant and material evidence shall be admitted.

4. When a dispositional hearing under this section is concluded the court shall enter an order to make any one or more of the dispositions authorized under section 232.52.

[C66, 71, 73, 75, 77, §232.31; C79, 81, §232.50]

87 Acts, ch 159, §1; 97 Acts, ch 99, §1; 97 Acts, ch 126, §25; 2013 Acts, ch 42, §7

Referred to in §232.9, 232.11, 232.52, 232.103

232.51 Disposition of child with mental illness.

1. If the evidence received at an adjudicatory or a dispositional hearing indicates that the child is mentally ill, the court may direct the juvenile court officer or the department to initiate proceedings or to assist the child's parent or guardian to initiate civil commitment proceedings in the juvenile court and such proceedings in the juvenile court shall adhere to the requirements of chapter 229.

2. *a.* If prior to the adjudicatory or dispositional hearing on the pending delinquency petition, the child is committed as a child with a mental illness and is ordered into a residential facility, institution, or hospital for inpatient treatment, the delinquency proceeding shall be suspended until such time as the juvenile court either terminates the civil commitment order or the child is released from the residential facility, institution, or hospital for purposes of receiving outpatient treatment.

b. During any time that the delinquency proceeding is suspended pursuant to this subsection, any time limits for speedy adjudicatory hearings and continuances shall be tolled.

c. This subsection shall not apply to waiver hearings held pursuant to section 232.45.

[C79, 81, §232.51]

83 Acts, ch 186, §10055, 10201; 86 Acts, ch 1186, §5; 96 Acts, ch 1129, §62; 2011 Acts, ch 10, §1; 2012 Acts, ch 1019, §85, 86; 2013 Acts, ch 130, §31, 35

Referred to in §229.26

232.52 Disposition of child found to have committed a delinquent act.

1. Pursuant to a hearing as provided in section 232.50, the court shall enter the least restrictive dispositional order appropriate in view of the seriousness of the delinquent act, the child's culpability as indicated by the circumstances of the particular case, the age of the child, the child's prior record, or the fact that the child has been placed on youthful offender status under section 907.3A. The order shall specify the duration and the nature of the disposition, including the type of residence or confinement ordered and the individual, agency, department, or facility in which custody is vested. In the case of a child who has been placed on youthful offender status, the initial duration of the dispositional order shall be until the child reaches the age of eighteen.

2. The dispositional orders which the court may enter subject to its continuing jurisdiction are as follows:

a. An order prescribing one or more of the following:

(1) A work assignment of value to the state or to the public.

(2) Restitution consisting of monetary payment or a work assignment of value to the victim.

(3) If the child is fourteen years of age or older, restitution consisting of monetary payment or a work assignment of value to the county or to the public for fees of attorneys appointed to represent the child at public expense pursuant to section 232.11.

(4) (a) The suspension or revocation of the driver's license or operating privilege of the child, for a period of one year, for the commission of delinquent acts which are a violation of any of the following:

(i) Section 123.46.

(ii) Section 123.47 regarding the purchase, attempt to purchase, or consumption of alcoholic beverages.

(iii) Chapter 124.

(iv) Section 126.3.

(v) Chapter 453B.

(vi) Two or more violations of section 123.47 regarding the consumption or possession of alcoholic beverages.

(vii) Section 708.1, if the assault is committed upon an employee of the school at which the child is enrolled, and the child intended to inflict serious injury upon the school employee or caused bodily injury or mental illness.

(viii) Section 724.4.

(ix) Section 724.4B.

(b) The child may be issued a temporary restricted license or school license if the child is otherwise eligible.

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

b. An order placing the child on probation and releasing the child to the child's parent, guardian, or custodian.

c. An order providing special care and treatment required for the physical, emotional, or mental health of the child, and

(1) Placing the child on probation or other supervision; and

(2) If the court deems appropriate, ordering the parent, guardian, or custodian to reimburse the county for any costs incurred as provided in section 232.141, subsection 1, or to otherwise pay or provide for such care and treatment.

d. An order transferring the legal custody of the child, subject to the continuing jurisdiction of the court for purposes of section 232.54, to one of the following:

(1) An adult relative or other suitable adult and placing the child on probation.

(2) A child-placing agency or other suitable private agency or facility which is licensed or otherwise authorized by law to receive and provide care for children and placing the child on probation or other supervision.

(3) The department of human services for purposes of foster care and prescribing the type of placement which will serve the best interests of the child and the means by which the placement shall be monitored by the court. The court shall consider ordering placement in family foster care as an alternative to group foster care.

(4) The chief juvenile court officer or the officer's designee for placement in a program under section 232.191, subsection 4. The chief juvenile court officer or the officer's designee may place a child in group foster care for failure to comply with the terms and conditions of the supervised community treatment program for up to seventy-two hours without notice to the court or for more than seventy-two hours if the court is notified of the placement within seventy-two hours of placement, subject to a hearing before the court on the placement within ten days.

e. An order transferring the custody of the child, subject to the continuing jurisdiction and custody of the court for the purposes of section 232.54, to the director of the department of human services for purposes of placement in the state training school or other facility, provided that the child is at least twelve years of age and the court finds the placement to be in the best interests of the child or necessary for the protection of the public, and that the child has been found to have committed an act which is a forcible felony, as defined in section 702.11, or a felony violation of section 124.401 or chapter 707, or the court finds any three of the following conditions exist:

(1) The child is at least fifteen years of age and the court finds the placement to be in the best interests of the child or necessary for the protection of the public.

(2) The child has committed an act which is a crime against a person and which would be an aggravated misdemeanor or a felony if the act were committed by an adult.

(3) The child has previously been found to have committed a delinquent act.

(4) The child has previously been placed in a treatment facility outside the child's home or in a supervised community treatment program established pursuant to section 232.191, subsection 4, as a result of a prior delinquency adjudication.

f. An order committing the child to a mental health institute or other appropriate facility for the purpose of treatment of a mental or emotional condition after making findings pursuant to the standards set out for involuntary commitment in chapter 229.

g. An order placing a child, other than a child who has committed a violation of section 123.47, in secure custody for not more than two days in a facility under section 232.22, subsection 3, paragraph "a" or "b".

h. In the case of a child adjudicated delinquent for an act which would be a violation of chapter 236 or section 708.2A if committed by an adult, an order requiring the child to attend a batterers' treatment program under section 708.2B.

3. *a.* An order under subsection 2, paragraph “*a*”, may be the sole disposition or may be included as an element in other dispositional orders.

b. A parent or guardian may be required by the juvenile court to participate in educational or treatment programs as part of a probation plan. A parent or guardian who does not participate in the probation plan when required to do so by the court may be held in contempt.

c. Notwithstanding subsection 2, the court shall not order group foster care placement of the child which is a charge upon the state if that placement is not in accordance with the service area plan for group foster care established pursuant to section 232.143 for the departmental service area in which the court is located.

4. When the court enters an order placing a child on probation pursuant to this section, the court may in cases of change of residency transfer jurisdiction of the child to the juvenile court of the county where the child’s residence is established. The court to which the jurisdiction of the child is transferred shall have the same powers with respect to the child as if the petition had originally been filed in that court.

5. When the court enters an order transferring the legal and physical custody of a child to an agency, facility, department, or institution, the court shall transmit its order, its finding, and a summary of its information concerning the child to such agency, facility, department, or institution.

6. If the court orders the transfer of custody of the child to the department of human services or other agency for placement, the department or agency responsible for the placement of the child shall submit a case permanency plan to the court and shall make every effort to return the child to the child’s home as quickly as possible.

7. *a.* When the court orders the transfer of legal custody of a child pursuant to subsection 2, paragraph “*d*”, “*e*”, or “*f*”, the order shall state that reasonable efforts as defined in section 232.57 have been made. If deemed appropriate by the court, the order may include a determination that continuation of the child in the child’s home is contrary to the child’s welfare. The inclusion of such a determination shall not under any circumstances be deemed a prerequisite for entering an order pursuant to this section. However, the inclusion of such a determination, supported by the record, may be used to assist the department in obtaining federal funding for the child’s placement. If such a determination is included in the order, unless the court makes a determination that further reasonable efforts are not required, reasonable efforts shall be made to prevent permanent removal of a child from the child’s home and to encourage reunification of the child with the child’s parents and family. The reasonable efforts may include but are not limited to early intervention and follow-up programs implemented pursuant to section 232.191.

b. When the court orders the transfer of legal custody of a child pursuant to subsection 2, paragraph “*d*”, and the child is sixteen years of age or older, the order shall specify the services needed to assist the child in preparing for the transition from foster care to adulthood. If the child has a case permanency plan, the court shall consider the written transition plan of services and needs assessment developed for the child’s case permanency plan. If the child does not have a case permanency plan containing the transition plan and needs assessment at the time the transfer order is entered, the written transition plan and needs assessment shall be developed and submitted for the court’s consideration no later than six months from the date of the transfer order. The court shall modify the initial transfer order as necessary to specify the services needed to assist the child in preparing for the transition from foster care to adulthood. If the transition plan identifies services or other support needed to assist the child when the child becomes an adult and the court deems it to be beneficial to the child, the court may authorize the individual who is the child’s guardian ad litem or court appointed special advocate to continue a relationship with and provide advice to the child for a period of time beyond the child’s eighteenth birthday.

8. If the court orders the transfer of the custody of the child to the department of human services or to another agency for placement in group foster care, the department or agency shall make every reasonable effort to place the child in the least restrictive, most family-like, and most appropriate setting available and in close proximity to the parents’ home, consistent

with the child's best interests and special needs, and shall consider the placement's proximity to the school in which the child is enrolled at the time of placement.

9. If a child has previously been adjudicated as a child in need of assistance, and a social worker or other caseworker from the department of human services has been assigned to work on the child's case, the court may order the department of human services to assign the same social worker or caseworker to work on any matters related to the child arising under this subchapter.

10. a. Upon receipt of an application from the director of the department of human services, the court shall enter an order to temporarily transfer a child who has been placed in the state training school pursuant to subsection 2, paragraph "e", to a facility which has been designated to be an alternative placement site for the state training school, provided the court finds that all of the following conditions exist:

(1) There is insufficient time to file a motion and hold a hearing for a substitute dispositional order under section 232.54.

(2) Immediate removal of the child from the state training school is necessary to safeguard the child's physical or emotional health.

(3) That reasonable attempts to notify the parents, guardian ad litem, and attorney for the child have been made.

b. If the court finds the conditions in paragraph "a" exist and there is insufficient time to provide notice as required under rule of juvenile procedure 8.12, the court may enter an ex parte order temporarily transferring the child to the alternative placement site.

c. Within three days of the child's transfer, the director shall file a motion for a substitute dispositional order under section 232.54 and the court shall hold a hearing concerning the motion within fourteen days of the child's transfer.

11. The court shall order a juvenile adjudicated a delinquent for an offense that requires DNA profiling under section 81.2 to submit a DNA sample for DNA profiling pursuant to section 81.4.

[C73, §1653 – 1659; C97, §2708, 2709; S13, §254-a23, 2708; C24, 27, 31, 35, 39, §3637, 3646, 3647, 3652; C46, 50, 54, 58, 62, §232.27, 232.28, 232.34; C66, 71, 73, 75, 77, §232.34, 232.38, 232.39; C79, 81, §232.52; 82 Acts, ch 1260, §22]

83 Acts, ch 96, §157, 159; 84 Acts, ch 1279, §5; 85 Acts, ch 124, §1; 88 Acts, ch 1249, §12, 13; 90 Acts, ch 1168, §35; 90 Acts, ch 1239, §7, 8; 90 Acts, ch 1271, §1505; 91 Acts, ch 232, §5, 6; 91 Acts, ch 258, §37; 92 Acts, ch 1229, §3; 92 Acts, ch 1231, §20, 21; 94 Acts, ch 1172, §21, 22; 95 Acts, ch 180, §6; 95 Acts, ch 191, §13, 14; 96 Acts, ch 1134, §2; 96 Acts, ch 1218, §57; 97 Acts, ch 51, §1; 97 Acts, ch 99, §2; 97 Acts, ch 126, §26, 27; 97 Acts, ch 208, §40; 98 Acts, ch 1073, §9; 99 Acts, ch 208, §35; 2001 Acts, ch 24, §39; 2001 Acts, ch 135, §7; 2002 Acts, ch 1081, §2; 2003 Acts, ch 117, §4; 2004 Acts, ch 1116, §4, 5; 2005 Acts, ch 158, §12, 19; 2007 Acts, ch 218, §113; 2009 Acts, ch 41, §236; 2009 Acts, ch 133, §220, 221; 2013 Acts, ch 42, §8; 2014 Acts, ch 1096, §5, 6; 2017 Acts, ch 69, §3; 2018 Acts, ch 1041, §61; 2018 Acts, ch 1101, §1; 2020 Acts, ch 1062, §94

Referred to in §92.17, 232.22, 232.50, 232.53, 232.54, 232.58, 232.133, 234.35, 321.213, 321.213A, 321.215, 321A.17, 692A.103, 907.3A, 915.28

Juvenile victim restitution, see chapter 232A and §915.24 – 915.29
Code editor directive applied

232.52A Disposition of certain juvenile offenders.

1. In addition to any other order of the juvenile court, a person under age eighteen, who may be in need of treatment as determined under section 232.8, may be ordered to participate in an alcohol or controlled substance education or evaluation program approved by the juvenile court. If recommended after evaluation, the court may also order the person to participate in a treatment program approved by the court. The juvenile court may also require the custodial parent or parents or other legal guardian to participate in an educational program with the person under age eighteen if the court determines that such participation is in the best interests of the person under age eighteen.

2. If the duration of a dispositional order is extended pursuant to section 232.53,

subsection 3, the court may continue or extend supervision by an electronic tracking and monitoring system in addition to any other conditions of supervision.

90 Acts, ch 1251, §26; 2009 Acts, ch 119, §35

Referred to in §232.8

232.53 Duration of dispositional orders.

1. Any dispositional order entered by the court pursuant to section 232.52 shall remain in force for an indeterminate period or until the child becomes eighteen years of age unless otherwise specified by the court or unless sooner terminated pursuant to the provisions of section 232.54. No dispositional order made under section 232.52, subsection 2, paragraph “e”, shall remain in force longer than the maximum possible duration of the sentence which may be imposed on an adult for the commission of the act which the child has been found by the court to have committed.

2. All dispositional orders entered prior to the child attaining the age of seventeen years shall automatically terminate when the child becomes eighteen years of age, except as provided in subsection 3. Dispositional orders entered subsequent to the child attaining the age of seventeen years and prior to the child’s eighteenth birthday shall automatically terminate one year and six months after the date of disposition. In the case of an adult within the jurisdiction of the court under the provisions of section 232.8, subsection 1, the dispositional order shall automatically terminate one year and six months after the last date upon which jurisdiction could attach.

3. A dispositional order entered prior to the child attaining the age of seventeen, for a child required to register as a sex offender pursuant to the provisions of chapter 692A, may be extended one year and six months beyond the date the child becomes eighteen years of age.

4. Notwithstanding section 233A.13, a child committed to the training school subsequent to the child attaining the age of seventeen years and prior to the child’s eighteenth birthday may be held at the school beyond the child’s eighteenth birthday pursuant to subsection 2 or 3, provided that the training school makes application to and receives permission from the committing court. This extension shall be for the purpose of completion by the child of a course of instruction established for the child pursuant to section 233A.4 and cannot extend for more than one year and six months beyond the date of disposition unless the duration of the dispositional order was extended pursuant to subsection 3.

5. a. Any person supervising but not having custody of the child pursuant to such an order shall file a written report with the court at least every six months concerning the status and progress of the child.

b. Any agency, facility, institution, or person to whom custody of the child has been transferred pursuant to such order shall file a written report with the court at least every six months concerning the status and progress of the child.

c. Any report prepared pursuant to this subsection shall be included in the record considered by the court in a permanency hearing conducted pursuant to section 232.58.

[C73, §1653 – 1658; C97, §2708; S13, §254-a23, 2708; C24, 27, 31, 35, 39, §3639, 3649; C46, 50, 54, 58, 62, §232.23, 232.30; C66, 71, 73, 75, §232.36, 232.37; C79, 81, §232.53; 82 Acts, ch 1209, §12]

84 Acts, ch 1166, §1; 2000 Acts, ch 1056, §2; 2001 Acts, ch 135, §8; 2009 Acts, ch 119, §34, 36

Referred to in §232.52A

232.54 Termination, modification, or vacation and substitution of dispositional order.

1. At any time prior to its expiration, a dispositional order may be terminated, modified, or vacated and another dispositional order substituted therefor only in accordance with the following provisions:

a. With respect to a dispositional order made pursuant to section 232.52, subsection 2, paragraph “a”, “b”, or “c”, and upon the motion of a child, a child’s parent or guardian, a child’s guardian ad litem, a person supervising the child under a dispositional order, a county attorney, or upon its own motion, the court may terminate the order and discharge the child,

modify the order, or vacate the order and substitute another order pursuant to the provisions of section 232.52. Notice shall be afforded all parties, and a hearing shall be held at the request of any party.

b. With respect to a dispositional order made pursuant to section 232.52, subsection 2, paragraphs “d” and “e”, the court shall grant a motion of the person to whom custody has been transferred for termination of the order and discharge of the child, for modification of the order by imposition of less restrictive conditions, or for vacation of the order and substitution of a less restrictive order unless there is clear and convincing evidence that there has not been a change of circumstance sufficient to grant the motion. Notice shall be afforded all parties, and a hearing shall be held at the request of any party or upon the court’s own motion.

c. With respect to a dispositional order made pursuant to section 232.52, subsection 2, paragraph “d”, or “e”, or “f”, the court shall grant a motion of a person or agency to whom custody has been transferred for modification of the order by transfer to an equally restrictive placement, unless there is clear and convincing evidence that there has not been a change of circumstance sufficient to grant the motion. Notice shall be afforded all parties, and a hearing shall be held at the request of any party or upon the court’s own motion.

d. With respect to a dispositional order made pursuant to section 232.52, subsection 2, paragraph “d”, “e”, or “f”, the court may, after notice and hearing, either grant or deny a motion of the child, the child’s parent or guardian, or the child’s guardian ad litem, to terminate the order and discharge the child, to modify the order either by imposing less restrictive conditions or by transfer to an equally or less restrictive placement, or to vacate the order and substitute a less restrictive order. A motion may be made pursuant to this paragraph no more than once every six months.

e. With respect to a dispositional order made pursuant to section 232.52, subsection 2, paragraphs “d” and “e”, the court may, after notice and a hearing at which there is presented clear and convincing evidence to support such an action, either grant or deny a motion by a county attorney or by a person or agency to whom custody has been transferred, to modify an order by imposing more restrictive conditions or to vacate the order and substitute a more restrictive order.

f. With respect to a temporary transfer order made pursuant to section 232.52, subsection 10, if the court finds that removal of a child from the state training school is necessary to safeguard the child’s physical or emotional health and is in the best interests of the child, the court shall grant the director’s motion for a substitute dispositional order to place the child in a facility which has been designated to be an alternative placement site for the state training school.

g. With respect to a juvenile court dispositional order entered regarding a child who has been placed on youthful offender status under section 907.3A, the dispositional order may be terminated prior to the child reaching the age of eighteen upon motion of the child, the person or agency to whom custody of the child has been transferred, or the county attorney following a hearing before the juvenile court if it is shown by clear and convincing evidence that it is in the best interests of the child and the community to terminate the order. The hearing may be waived if all parties to the proceeding agree. The dispositional order regarding a child who has been placed on youthful offender status may also be terminated prior to the child reaching the age of eighteen upon motion of the county attorney, if the waiver of the child to district court was conditioned upon the terms of an agreement between the county attorney and the child, and the child violates the terms of the agreement after the waiver order has been entered. The district court shall discharge the child’s youthful offender status upon receiving a termination order under this section.

h. With respect to a dispositional order entered regarding a child who has been placed on youthful offender status under section 907.3A, the juvenile court may, in the case of a child who violates the terms of the order, modify or terminate the order in accordance with the following:

(1) After notice and hearing at which the facts of the child’s violation of the terms of the order are found, the juvenile court may refuse to modify the order, modify the order and impose a more restrictive order, or, after an assessment of the child by a juvenile court officer in consultation with the judicial district department of correctional services and if the child is

age fourteen or over, terminate the order and return the child to the supervision of the district court under chapter 907.

(2) The juvenile court shall only terminate an order under this paragraph “h” if after considering the best interests of the child and the best interests of the community the court finds that the child should be returned to the supervision of the district court.

(3) A youthful offender over whom the juvenile court has terminated the dispositional order under this paragraph “h” shall be treated in the manner of an adult who has been arrested for a violation of probation under section 908.11 for sentencing purposes only.

i. With respect to a dispositional order requiring a child to register as a sex offender pursuant to chapter 692A, the juvenile court shall determine whether the child shall remain on the sex offender registry prior to termination of the dispositional order.

2. Notice requirements of this section shall be satisfied by providing reasonable notice to the persons required to be provided notice for adjudicatory hearings under section 232.37, except that notice shall be waived regarding a person who was notified of the adjudicatory hearing and who failed to appear. At a hearing under this section all relevant and material evidence shall be admitted.

[C79, 81, §232.54]

90 Acts, ch 1239, §9; 95 Acts, ch 92, §2; 97 Acts, ch 126, §28; 98 Acts, ch 1100, §25; 2001 Acts, ch 135, §27; 2009 Acts, ch 41, §237; 2009 Acts, ch 119, §37; 2013 Acts, ch 42, §9, 10

Referred to in §232.2, 232.9, 232.11, 232.22, 232.52, 232.53, 692A.106, 907.3A

232.55 Effect of adjudication and disposition.

1. An adjudication or disposition in a proceeding under this subchapter shall not be deemed a conviction of a crime and shall not impose any civil disabilities or operate to disqualify the child in any civil service application or appointment.

2. a. Adjudication and disposition proceedings under this subchapter are not admissible as evidence against a person in a subsequent proceeding in any other court before or after the person reaches majority except in a proceeding pursuant to chapter 229A or in a sentencing proceeding after conviction of the person for an offense other than a simple or serious misdemeanor.

b. Adjudication and disposition proceedings may properly be included in a presentence investigation report prepared pursuant to chapter 901 and section 906.5.

c. However, the use of adjudication and disposition proceedings pursuant to this subsection shall be subject to the restrictions contained in section 232.150.

3. This section does not apply to dispositional orders entered regarding a child who has been placed on youthful offender status under section 907.3A who is not discharged from probation before or upon the child’s eighteenth birthday.

[C79, 81, §232.55]

85 Acts, ch 179, §1; 97 Acts, ch 126, §29; 2009 Acts, ch 41, §238; 2013 Acts, ch 42, §11; 2014 Acts, ch 1059, §3; 2020 Acts, ch 1062, §94

Referred to in §321.213

Code editor directive applied

232.56 Youthful offenders — transfer to district court supervision.

The juvenile court shall deliver a report, which includes an assessment of the child by a juvenile court officer after consulting with the judicial district department of correctional services, to the district court prior to the eighteenth birthday of a child who has been placed on youthful offender status under section 907.3A. A hearing shall be held in the district court in accordance with section 907.3A to determine whether the child should be discharged from youthful offender status or whether the child shall continue under the supervision of the district court after the child’s eighteenth birthday.

97 Acts, ch 126, §30; 2013 Acts, ch 42, §12

Referred to in §907.3A

232.57 Reasonable efforts defined — effect of aggravated circumstances.

1. For the purposes of this subchapter, unless the context otherwise requires, “reasonable efforts” means the efforts made to prevent permanent removal of a child from the child’s home

and to encourage reunification of the child with the child's parents and family. Reasonable efforts shall include but are not limited to giving consideration, if appropriate, to interstate placement of a child in the permanency planning decisions involving the child and giving consideration to in-state and out-of-state placement options at a permanency hearing and when using concurrent planning. If a court order includes a determination that continuation of the child in the child's home is not appropriate or not possible, reasonable efforts may include the efforts made in a timely manner to finalize a permanency plan for the child.

2. If the court determines by clear and convincing evidence that aggravated circumstances exist, with written findings of fact based upon evidence in the record, the court may waive the requirement for making reasonable efforts. The existence of aggravated circumstances is indicated by any of the following:

- a. The parent has abandoned the child.
- b. The court finds the circumstances described in section 232.116, subsection 1, paragraph "i", are applicable to the child.
- c. The parent's parental rights have been terminated under section 232.116 with respect to another child who is a member of the same family, and there is clear and convincing evidence to show that the offer or receipt of services would not be likely within a reasonable period of time to correct the conditions which led to the child's removal.
- d. The parent has been convicted of the murder of another child of the parent.
- e. The parent has been convicted of the voluntary manslaughter of another child of the parent.
- f. The parent has been convicted of aiding or abetting, attempting, conspiring in, or soliciting the commission of the murder or voluntary manslaughter of another child of the parent.
- g. The parent has been convicted of a felony assault which resulted in serious bodily injury of the child or of another child of the parent.

3. Any order entered under this subchapter may include findings regarding reasonable efforts.

2001 Acts, ch 135, §9; 2007 Acts, ch 172, §4; 2020 Acts, ch 1062, §94

Referred to in §232.21, 232.22, 232.52, 232B.5

Code editor directive applied

232.58 Permanency hearings.

1. If an order entered pursuant to this subchapter for an out-of-home placement of a child includes a determination that continuation of the child in the child's home is contrary to the child's welfare, the court shall review the child's continued placement by holding a permanency hearing or hearings in accordance with this section. The initial permanency hearing shall be the earlier of the following:

- a. For an order for which the court has not waived reasonable efforts requirements, the permanency hearing shall be held within twelve months of the date the child was removed from the home.
- b. For an order in a case in which aggravated circumstances exist for which the court has waived reasonable efforts requirements, the permanency hearing shall be held within thirty days of the date the requirements were waived.

2. Reasonable notice shall be provided of a permanency hearing for an out-of-home placement in which the court order has included a determination that continuation of the child in the child's home is contrary to the child's welfare. A permanency hearing shall be conducted in substantial conformance with the provisions of section 232.99. During the hearing, the court shall consider the child's need for a secure and permanent placement in light of any case permanency plan or evidence submitted to the court and the reasonable efforts made concerning the child. Upon completion of the hearing, the court shall enter written findings identifying a primary permanency goal for the child. If a case permanency plan is in effect at the time of the hearing, the court shall also make a determination as to whether reasonable progress is being made in achieving the permanency goal and in complying with the other provisions of that case permanency plan.

3. After a permanency hearing, the court shall do one of the following:

- a. Enter an order pursuant to section 232.52 to return the child to the child's home.
- b. Enter an order pursuant to section 232.52 to continue the out-of-home placement of the child for an additional six months at which time the court shall hold a hearing to consider modification of its permanency order. An order entered under this paragraph shall enumerate the specific factors, conditions, or expected behavioral changes which comprise the basis for the determination that the need for removal of the child from the child's home will no longer exist at the end of the additional six-month period.
- c. Direct the county attorney or the attorney for the child to institute proceedings to terminate the parent-child relationship.
- d. Enter an order, pursuant to findings based upon the existence of the evidence required by subsection 5, to do one of the following:
 - (1) Transfer guardianship and custody of the child to a suitable person.
 - (2) Transfer sole custody of the child from one parent to another parent.
 - (3) Transfer custody of the child to a suitable person for the purpose of long-term care.
 - (4) If the child is sixteen years of age or older and the department has documented to the court's satisfaction a compelling reason for determining that an order under the other subparagraphs of this paragraph "d" would not be in the child's best interest, order another planned permanent living arrangement for the child.
4. If the court enters an order for another planned permanent living arrangement pursuant to subsection 3, paragraph "d", the court shall do all of the following:
 - a. Ask the child about the child's desired permanency outcome and make a judicial determination that another planned permanent living arrangement is the best permanency plan for the child.
 - b. Require the department to do all of the following:
 - (1) Document the efforts to place a child permanently with a parent, relative, or in a guardianship or adoptive placement.
 - (2) Document that the planned permanent living arrangement is the best permanency plan for the child and compelling reasons why it is not in the child's best interest to be placed permanently with a parent, relative, or in a guardianship or adoptive placement.
 - (3) Document all of the following at the permanency hearing and the six-month periodic review:
 - (a) The steps the department is taking to ensure that the planned permanent living arrangement follows the reasonable and prudent parent standard.
 - (b) Whether the child has regular opportunities to engage in age-appropriate or developmentally appropriate activities.
5. Prior to entering a permanency order pursuant to subsection 3, paragraph "d", clear and convincing evidence must exist showing that all of the following apply:
 - a. A termination of the parent-child relationship would not be in the best interest of the child.
 - b. Services were offered to the child's family to correct the situation which led to the child's removal from the home.
 - c. The child cannot be returned to the child's home.
6. Any permanency order may provide restrictions upon the contact between the child and the child's parent or parents, consistent with the best interest of the child.
7. With respect to a dispositional order made pursuant to section 232.52, subsection 2, paragraph "d", "e", or "f", for which the court has suspended or terminated sibling visitation or interaction, when a review is made under this section the court shall consider whether the visitation or interaction can be safely resumed and may modify the suspension or termination as appropriate.
8. Subsequent to the entry of a permanency order pursuant to this section, the child shall not be returned to the care, custody, or control of the child's parent or parents, over a formal objection filed by the child's attorney or guardian ad litem, unless the court finds by a preponderance of the evidence that returning the child to such custody would be in the best interest of the child.
9. Following an initial permanency hearing and the entry of a permanency order which places a child in the custody or guardianship of another person or agency, the court shall

retain jurisdiction and annually review the order to ascertain whether the best interest of the child is being served. When the order places the child in the custody of the department for the purpose of a planned permanent living arrangement, the review shall be in a hearing that shall not be waived or continued beyond twelve months after the initial permanency hearing or the last permanency review hearing. Any modification shall be accomplished through a hearing procedure following reasonable notice. During the hearing, all relevant and material evidence shall be admitted and procedural due process shall be provided to all parties.

2001 Acts, ch 135, §10; 2007 Acts, ch 67, §3; 2007 Acts, ch 172, §5; 2016 Acts, ch 1063, §5, 6; 2020 Acts, ch 1062, §94

Referred to in §232.53

Code editor directive applied

232.59 and 232.60 Reserved.

SUBCHAPTER III

CHILD IN NEED OF ASSISTANCE PROCEEDINGS

Referred to in §232.2, 232.109, 600A.5

PART 1

GENERAL PROVISIONS

232.61 Jurisdiction.

1. The juvenile court shall have exclusive jurisdiction over proceedings under this chapter alleging that a child is a child in need of assistance.

2. In determining such jurisdiction the age and marital status of the child at the time the proceedings are initiated is controlling.

[C71, 73, 75, 77, §232.63; C79, 81, §232.61]

232.62 Venue.

1. Venue for child in need of assistance proceedings shall be in the judicial district where the child is found or in the judicial district of the child's residence.

2. The court may transfer any child in need of assistance proceedings brought under this chapter to the juvenile court of any county having venue at any stage in the proceedings as follows:

a. When it appears that the best interests of the child or the convenience of the proceedings shall be served by a transfer, the court may transfer the case to the court of the county of the child's residence.

b. With the consent of the receiving court, the court may transfer the case to the court of the county where the child is found.

3. The court shall transfer the case by ordering the transfer and a continuance and by forwarding to the clerk of the receiving court a certified copy of all papers filed together with an order of transfer. The judge of the receiving court may accept the filings of the transferring court or may direct the filing of a new petition and hear the case anew.

[C71, 73, 75, 77, §232.68 – 232.70; C79, 81, §232.62]

Referred to in §232.110, 232.123, 232.177

232.63 through 232.66 Reserved.

PART 2
CHILD ABUSE REPORTING,
ASSESSMENT, AND REHABILITATION

Referred to in §135L.3, 235A.13

232.67 Legislative findings — purpose and policy.

Children in this state are in urgent need of protection from abuse. It is the purpose and policy of this part 2 of subchapter III to provide the greatest possible protection to victims or potential victims of abuse through encouraging the increased reporting of suspected cases of abuse, ensuring the thorough and prompt assessment of these reports, and providing rehabilitative services, where appropriate and whenever possible to abused children and their families which will stabilize the home environment so that the family can remain intact without further danger to the child.

[C66, 71, 73, 75, 77, §235A.1; C79, 81, §232.67]

97 Acts, ch 35, §3, 25; 2020 Acts, ch 1062, §94

Referred to in §232.68

Code editor directive applied

232.68 Definitions.

The definitions in section 235A.13 are applicable to this part 2 of subchapter III. As used in sections 232.67 through 232.77 and chapter 235A, subchapter II, unless the context otherwise requires:

1. “*Child*” means any person under the age of eighteen years.

2. a. “*Child abuse*” or “*abuse*” means:

(1) Any nonaccidental physical injury, or injury which is at variance with the history given of it, suffered by a child as the result of the acts or omissions of a person responsible for the care of the child.

(2) Any mental injury to a child’s intellectual or psychological capacity as evidenced by an observable and substantial impairment in the child’s ability to function within the child’s normal range of performance and behavior as the result of the acts or omissions of a person responsible for the care of the child, if the impairment is diagnosed and confirmed by a licensed physician or qualified mental health professional as defined in section 622.10.

(3) The commission of a sexual offense with or to a child pursuant to chapter 709, section 726.2, or section 728.12, subsection 1, as a result of the acts or omissions of the person responsible for the care of the child or of a person who is fourteen years of age or older and resides in a home with the child. Notwithstanding section 702.5, the commission of a sexual offense under this subparagraph includes any sexual offense referred to in this subparagraph with or to a person under the age of eighteen years.

(4) (a) The failure on the part of a person responsible for the care of a child to provide for the adequate food, shelter, clothing, medical or mental health treatment, supervision, or other care necessary for the child’s health and welfare when financially able to do so or when offered financial or other reasonable means to do so.

(b) For the purposes of subparagraph division (a), failure to provide for the adequate supervision of a child means the person failed to provide proper supervision of a child that a reasonable and prudent person would exercise under similar facts and circumstances and the failure resulted in direct harm or created a risk of harm to the child.

(c) A parent or guardian legitimately practicing religious beliefs who does not provide specified medical treatment for a child for that reason alone shall not be considered abusing the child, however this provision shall not preclude a court from ordering that medical service be provided to the child where the child’s health requires it.

(5) The acts or omissions of a person responsible for the care of a child which allow, permit, or encourage the child to engage in acts prohibited pursuant to section 725.1. Notwithstanding section 702.5, acts or omissions under this subparagraph include an act or omission referred to in this subparagraph with or to a person under the age of eighteen years.

(6) An illegal drug is present in a child's body as a direct and foreseeable consequence of the acts or omissions of the person responsible for the care of the child.

(7) The person responsible for the care of a child, in the presence of a child, as defined in section 232.2, subsection 6, paragraph "p", unlawfully uses, possesses, manufactures, cultivates, or distributes a dangerous substance, as defined in section 232.2, subsection 6, paragraph "p", or knowingly allows such use, possession, manufacture, cultivation, or distribution by another person in the presence of a child; possesses a product with the intent to use the product as a precursor or an intermediary to a dangerous substance in the presence of a child; or unlawfully uses, possesses, manufactures, cultivates, or distributes a dangerous substance specified in section 232.2, subsection 6, paragraph "p", subparagraph (2), subparagraph division (a), (b), or (c), in a child's home, on the premises, or in a motor vehicle located on the premises.

(8) The commission of bestiality in the presence of a minor under section 717C.1 by a person who resides in a home with a child, as a result of the acts or omissions of a person responsible for the care of the child.

(9) (a) A person who is responsible for the care of a child knowingly allowing another person custody of, control over, or unsupervised access to a child under the age of fourteen or a child with a physical or mental disability, after knowing the other person is required to register or is on the sex offender registry under chapter 692A.

(b) This subparagraph does not apply in any of the following circumstances:

(i) A child living with a parent or guardian who is a sex offender required to register or on the sex offender registry under chapter 692A.

(ii) A child living with a parent or guardian who is married to and living with a sex offender required to register or on the sex offender registry under chapter 692A.

(iii) A child who is a sex offender required to register or on the sex offender registry under chapter 692A who is living with the child's parent, guardian, or foster parent and is also living with the child to whom access was allowed.

(c) For purposes of this subparagraph, "control over" means any of the following:

(i) A person who has accepted, undertaken, or assumed supervision of a child from the parent or guardian of the child.

(ii) A person who has undertaken or assumed temporary supervision of a child without explicit consent from the parent or guardian of the child.

(10) The person responsible for the care of the child has knowingly allowed the child access to obscene material as defined in section 728.1 or has knowingly disseminated or exhibited such material to the child.

(11) The recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a child for the purpose of commercial sexual activity as defined in section 710A.1.

b. "Child abuse" or "abuse" shall not be construed to hold a victim responsible for failing to prevent a crime against the victim.

2A. "Child protection worker" means an individual designated by the department to perform an assessment in response to a report of child abuse.

3. "Confidential access to a child" means access to a child, during an assessment of an alleged act of child abuse, who is alleged to be the victim of the child abuse. The access may be accomplished by interview, observation, or examination of the child. As used in this subsection and this part:

a. "Interview" means the verbal exchange between the child protection worker and the child for the purpose of developing information necessary to protect the child. A child protection worker is not precluded from recording visible evidence of abuse.

b. "Observation" means direct physical viewing of a child under the age of four by the child protection worker where the viewing is limited to the child's body other than the genitalia and pubes. "Observation" also means direct physical viewing of a child aged four or older by the child protection worker without touching the child or removing an article of the child's clothing, and doing so without the consent of the child's parent, custodian, or guardian. A child protection worker is not precluded from recording evidence of abuse obtained as a result of a child's voluntary removal of an article of clothing without inducement by the child

protection worker. However, if prior consent of the child's parent or guardian, or an ex parte court order, is obtained, "observation" may include viewing the child's unclothed body other than the genitalia and pubes.

c. "Physical examination" means direct physical viewing, touching, and medically necessary manipulation of any area of the child's body by a physician licensed under chapter 148.

4. "Department" means the state department of human services and includes the local, county, and service area offices of the department.

5. "Differential response" means an assessment system in which there are two discrete pathways to respond to accepted reports of child abuse, a child abuse assessment and a family assessment. The child abuse assessment pathway shall require a determination of abuse and a determination of whether criteria for placement on the central abuse registry are met. As used in this subsection and this part:

a. "Assessment" means the process by which the department responds to all accepted reports of alleged child abuse. An "assessment" addresses child safety, family functioning, culturally competent practice, and identifies the family strengths and needs, and engages the family in services if needed. The department's assessment process occurs either through a child abuse assessment or a family assessment.

b. "Child abuse assessment" means an assessment process by which the department responds to all accepted reports of child abuse which allege child abuse as defined in subsection 2, paragraph "a", subparagraphs (1) through (3) and subparagraphs (5) through (10), or which allege child abuse as defined in subsection 2, paragraph "a", subparagraph (4), that also allege imminent danger, death, or injury to a child. A "child abuse assessment" results in a disposition and a determination of whether a case meets the definition of child abuse and a determination of whether criteria for placement on the registry are met.

c. "Family assessment" means an assessment process by which the department responds to all accepted reports of child abuse which allege child abuse as defined in subsection 2, paragraph "a", subparagraph (4), but do not allege imminent danger, death, or injury to a child. A "family assessment" does not include a determination of whether a case meets the definition of child abuse and does not include a determination of whether criteria for placement on the registry are met.

6. "Health practitioner" includes a licensed physician and surgeon, osteopathic physician and surgeon, dentist, optometrist, podiatric physician, or chiropractor; a resident or intern in any of such professions; a licensed dental hygienist, a registered nurse or licensed practical nurse; a physician assistant; and an emergency medical care provider certified under section 147A.6.

7. "Mental health professional" means a person who meets the following requirements:

a. Holds at least a master's degree in a mental health field, including but not limited to psychology, counseling, nursing, or social work; or is licensed to practice medicine pursuant to chapter 148.

b. Holds a license to practice in the appropriate profession.

c. Has at least two years of postdegree experience, supervised by a mental health professional, in assessing mental health problems and needs of individuals used in providing appropriate mental health services for those individuals.

8. "Person responsible for the care of a child" means:

a. A parent, guardian, or foster parent.

b. A relative or any other person with whom the child resides and who assumes care or supervision of the child, without reference to the length of time or continuity of such residence.

c. An employee or agent of any public or private facility providing care for a child, including an institution, hospital, health care facility, group home, mental health center, residential treatment center, shelter care facility, detention center, or child care facility.

d. Any person providing care for a child, but with whom the child does not reside, without reference to the duration of the care.

9. "Registry" means the central registry for child abuse information established in section 235A.14.

10. “*Sex trafficking*” means the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of commercial sexual activity as defined in section 710A.1.

11. “*Sex trafficking victim*” means a victim of sex trafficking.

[C66, 71, 73, 75, 77, §235A.2; C79, 81, §232.68]

83 Acts, ch 96, §157, 159; 84 Acts, ch 1207, §1, 2; 85 Acts, ch 173, §2; 86 Acts, ch 1177, §1; 87 Acts, ch 153, §1, 2; 89 Acts, ch 24, §1; 89 Acts, ch 89, §16; 89 Acts, ch 230, §3, 4; 93 Acts, ch 76, §1; 93 Acts, ch 93, §2; 94 Acts, ch 1130, §1, 2; 95 Acts, ch 41, §24; 95 Acts, ch 108, §17; 95 Acts, ch 182, §7; 96 Acts, ch 1092, §2; 97 Acts, ch 35, §4, 5, 25; 97 Acts, ch 176, §1; 2001 Acts, ch 46, §2; 2001 Acts, ch 131, §1; 2003 Acts, ch 44, §49; 2004 Acts, ch 1116, §6; 2005 Acts, ch 158, §20; 2008 Acts, ch 1088, §113 – 115; 2009 Acts, ch 119, §64; 2010 Acts, ch 1151, §2; 2011 Acts, ch 28, §1, 2; 2013 Acts, ch 115, §1, 19; 2016 Acts, ch 1063, §7 – 9; 2017 Acts, ch 86, §2; 2018 Acts, ch 1041, §120; 2018 Acts, ch 1165, §104, 105; 2020 Acts, ch 1062, §94

Referred to in §20.31, 135.119, 135L.3, 232.2, 232.69, 232.70, 232.71B, 232.71D, 232.76, 235A.18, 235B.3, 280.17, 915.35, 915.84

Code editor directive applied

232.69 Mandatory and permissive reporters — training required.

1. The classes of persons enumerated in this subsection shall make a report within twenty-four hours and as provided in section 232.70, of cases of child abuse. In addition, the classes of persons enumerated in this subsection shall make a report of abuse of a child who is under twelve years of age and may make a report of abuse of a child who is twelve years of age or older, which would be defined as child abuse under section 232.68, subsection 2, paragraph “a”, subparagraph (3) or (5), except that the abuse resulted from the acts or omissions of a person other than a person responsible for the care of the child.

a. Every health practitioner who in the scope of professional practice, examines, attends, or treats a child and who reasonably believes the child has been abused. Notwithstanding section 139A.30, this provision applies to a health practitioner who receives information confirming that a child is infected with a sexually transmitted disease.

b. Any of the following persons who, in the scope of professional practice or in their employment responsibilities, examines, attends, counsels, or treats a child and reasonably believes a child has suffered abuse:

- (1) A social worker.
- (2) An employee or operator of a public or private health care facility as defined in section 135C.1.
- (3) A certified psychologist.
- (4) A licensed school employee, certified para-educator, holder of a coaching authorization issued under section 272.31, or an instructor employed by a community college.
- (5) An employee or operator of a licensed child care center, registered child development home, head start program, family development and self-sufficiency grant program under section 216A.107, or healthy opportunities for parents to experience success – healthy families Iowa program under section 135.106.
- (6) An employee or operator of a substance abuse program or facility licensed under chapter 125.
- (7) An employee of a department of human services institution listed in section 218.1.
- (8) An employee or operator of a juvenile detention or juvenile shelter care facility approved under section 232.142.
- (9) An employee or operator of a foster care facility licensed or approved under chapter 237.
- (10) An employee or operator of a mental health center.
- (11) A peace officer.
- (12) A counselor or mental health professional.
- (13) An employee or operator of a provider of services to children funded under a federally approved medical assistance home and community-based services waiver.
- (14) An employee, operator, owner, or other person who performs duties for a children’s residential facility certified under chapter 237C.

2. Any other person who believes that a child has been abused may make a report as provided in section 232.70.

3. a. For the purposes of this subsection, “*licensing board*” means a board designated in section 147.13, the board of educational examiners created in section 272.2, or a licensing board as defined in section 272C.1.

b. A person required to make a report under subsection 1, other than a physician whose professional practice does not regularly involve providing primary health care to children, shall complete two hours of training relating to the identification and reporting of child abuse within six months of initial employment or self-employment involving the examination, attending, counseling, or treatment of children on a regular basis. Within one month of initial employment or self-employment, the person shall obtain a statement of the abuse reporting requirements from the person’s employer or, if self-employed, from the department. The person shall complete at least two hours of additional child abuse identification and reporting training every three years. If the person completes at least one hour of additional child abuse identification and reporting training prior to the three-year expiration period, the person shall be deemed in compliance with the training requirements of this section for an additional three years.

c. The core training curriculum relating to the identification and reporting of child abuse, as provided in paragraph “b”, shall be developed and provided by the department.

d. An employer of a person required to make a report under subsection 1 may provide supplemental training, specific to identification and reporting of child abuse as it relates to the person’s professional practice, in addition to the core training provided by the department.

e. A licensing board with authority over the license of a person required to make a report under subsection 1 shall require as a condition of licensure that the person is in compliance with the requirements for abuse training under this subsection. The licensing board shall require the person upon licensure renewal to accurately document for the licensing board the person’s completion of the training requirements. However, the licensing board may adopt rules providing for waiver or suspension of the compliance requirements, if the waiver or suspension is in the public interest, applicable to a person who is engaged in active duty in the military service of this state or of the United States, to a person for whom compliance with the training requirements would impose a significant hardship, or to a person who is practicing a licensed profession outside this state or is otherwise subject to circumstances that would preclude the person from encountering child abuse in this state.

f. For persons required to make a report under subsection 1 who are not engaged in a licensed profession that is subject to the authority of a licensing board but are employed by a facility or program subject to licensure, registration, or approval by a state agency, the agency shall require as a condition of renewal of the facility’s or program’s licensure, registration, or approval, that such persons employed by the facility or program are in compliance with the training requirements of this subsection.

g. For peace officers, the elected or appointed official designated as the head of the agency employing the peace officer shall ensure compliance with the training requirements of this subsection.

h. For persons required to make a report under subsection 1 who are employees of state departments and political subdivisions of the state, the department director or the chief administrator of the political subdivision shall ensure the persons’ compliance with the training requirements of this subsection.

[C66, 71, 73, 75, 77, §235A.3; C79, 81, §232.69]

83 Acts, ch 96, §157, 159; 84 Acts, ch 1279, §4, 6; 85 Acts, ch 173, §3 – 5; 87 Acts, ch 153, §3; 88 Acts, ch 1238, §1; 89 Acts, ch 89, §17; 89 Acts, ch 230, §5; 89 Acts, ch 265, §40; 94 Acts, ch 1130, §3; 97 Acts, ch 85, §1; 99 Acts, ch 192, §27, 33; 2000 Acts, ch 1066, §42; 2001 Acts, ch 122, §2, 3; 2002 Acts, ch 1047, §2, 20; 2002 Acts, ch 1142, §1, 31; 2005 Acts, ch 121, §2; 2007 Acts, ch 10, §164, 165; 2008 Acts, ch 1072, §3; 2013 Acts, ch 129, §54; 2018 Acts, ch 1113, §1; 2019 Acts, ch 91, §2, 3

Referred to in §135H.13, 232.68, 232.70, 232.75, 232.77, 237.9, 237A.5, 272.31, 907.3, 915.35

232.70 Reporting procedure.

1. Each report made by a mandatory reporter, as defined in section 232.69, subsection 1, shall be made both orally and in writing. Each report made by a permissive reporter, as defined in section 232.69, subsection 2, may be oral, written, or both.

2. The employer or supervisor of a person who is a mandatory or permissive reporter shall not apply a policy, work rule, or other requirement that interferes with the person making a report of child abuse.

3. The oral report shall be made by telephone or otherwise to the department of human services. If the person making the report has reason to believe that immediate protection for the child is advisable, that person shall also make an oral report to an appropriate law enforcement agency.

4. The written report shall be made to the department of human services within forty-eight hours after such oral report.

5. Upon receipt of a report, the department shall do all of the following:

a. Immediately make a determination as to whether the report constitutes an allegation of child abuse as defined in section 232.68.

b. Notify the appropriate county attorney of the receipt of the report.

6. The oral and written reports shall contain the following information, or as much thereof as the person making the report is able to furnish:

a. The names and home address of the child and the child's parents or other persons believed to be responsible for the child's care;

b. The child's present whereabouts if not the same as the parent's or other person's home address;

c. The child's age;

d. The nature and extent of the child's injuries, including any evidence of previous injuries;

e. The name, age and condition of other children in the same home;

f. Any other information which the person making the report believes might be helpful in establishing the cause of the injury to the child, the identity of the person or persons responsible for the injury, or in providing assistance to the child; and

g. The name and address of the person making the report.

7. A report made by a permissive reporter, as defined in section 232.69, subsection 2, shall be regarded as a report pursuant to this chapter whether or not the report contains all of the information required by this section and may be made to the department of human services, county attorney, or law enforcement agency. If the report is made to any agency other than the department of human services, such agency shall promptly refer the report to the department of human services.

8. Within twenty-four hours of receiving a report from a mandatory or permissive reporter, the department shall inform the reporter, orally or by other appropriate means, whether or not the department has commenced an assessment of the allegation in the report.

9. If a report would be determined to constitute an allegation of child abuse as defined under section 232.68, subsection 2, paragraph "a", subparagraph (3) or (5), except that the suspected abuse resulted from the acts or omissions of a person other than a person responsible for the care of the child, the department shall refer the report to the appropriate law enforcement agency having jurisdiction to investigate the allegation. The department shall refer the report orally as soon as practicable and in writing within seventy-two hours of receiving the report.

10. If the department has reasonable cause to believe that a child under the placement, care, or supervision of the department is, or is at risk of becoming, a sex trafficking victim, the department shall do all of the following:

a. Identify the child as a sex trafficking victim or at risk of becoming a sex trafficking victim and include documentation in the child's department records.

b. Refer the child for appropriate services.

c. Refer the child identified as a sex trafficking victim, within twenty-four hours, to the appropriate law enforcement agency having jurisdiction to investigate the allegation.

[C66, 71, 73, 75, 77, §235A.4; C79, 81, §232.70]

83 Acts, ch 96, §157, 159; 87 Acts, ch 153, §4; 97 Acts, ch 176, §2, 17; 2000 Acts, ch 1137, §4, 14; 2001 Acts, ch 122, §4; 2013 Acts, ch 115, §2, 19; 2016 Acts, ch 1063, §10, 11

Referred to in §232.68, 232.69, 232.75

232.71 and 232.71A Repealed by 97 Acts, ch 35, §24, 25.

232.71B Duties of the department upon receipt of report.

1. *Commencement of assessment — differential response — purpose.*

a. If the department determines a report constitutes a child abuse allegation, the department shall promptly commence either a child abuse assessment within twenty-four hours of receiving the report or a family assessment within seventy-two hours of receiving the report.

(1) Upon acceptance of a report of child abuse, the department shall commence a child abuse assessment when the report alleges child abuse as defined in section 232.68, subsection 2, paragraph “a”, subparagraphs (1) through (3) and subparagraphs (5) through (11), or which alleges child abuse as defined in section 232.68, subsection 2, paragraph “a”, subparagraph (4), that also alleges imminent danger, death, or injury to a child.

(2) Upon acceptance of a report of child abuse, the department shall commence a family assessment when the report alleges child abuse as defined in section 232.68, subsection 2, paragraph “a”, subparagraph (4), but does not allege imminent danger, death, or injury to a child.

b. The primary purpose of either the child abuse assessment or the family assessment shall be the protection of the child named in the report. The secondary purpose of either type of assessment shall be to engage the child’s family in services to enhance family strengths and to address needs.

2. *Notification of parents.* The department, within five working days of commencing the assessment, shall provide written notification of the assessment to the child’s parents. If a parent is alleged to have committed the child abuse, the notice shall inform the parents regarding the complaint or allegation made regarding the parent. The parents shall be informed in a manner that protects the confidentiality rights of an individual who reported the child abuse or provided information as part of the assessment process. However, if the department shows the court to the court’s satisfaction that notification is likely to endanger the child or other persons, the court shall orally direct the department to withhold notification. Within one working day of issuing an oral directive, the court shall issue a written order restraining the notification. The department shall not reveal in the written notification to the parents or otherwise the identity of the reporter of child abuse to a subject of a child abuse report listed in section 235A.15, subsection 2, paragraph “a”.

3. *Involvement of law enforcement.*

a. The department shall apply protocols, developed with the local child protection assistance team established pursuant to section 915.35, to prioritize the actions taken in response to a child abuse assessment and shall work jointly with child protection assistance teams and law enforcement agencies in performing assessment and investigative processes for child abuse assessments in which a criminal act harming a child is alleged. The county attorney and appropriate law enforcement agencies shall also take any other lawful action which may be necessary or advisable for the protection of the child.

b. If a report is determined not to constitute a child abuse allegation or if the child abuse report is accepted but assessed under the family assessment, but a criminal act harming a child is alleged, the department shall immediately refer the matter to the appropriate law enforcement agency.

c. If the department has reasonable cause to believe that a child under the placement, care, or supervision of the department is, or is at risk of becoming, a sex trafficking victim, the department shall do all of the following:

(1) Identify the child as a sex trafficking victim or at risk of becoming a sex trafficking victim and include documentation in the child's department records.

(2) Refer the child for appropriate services.

(3) Refer the child identified as a sex trafficking victim, within twenty-four hours, to the appropriate law enforcement agency having jurisdiction to investigate the allegation.

d. The department shall report a child under the placement, care, or supervision of the department who is reported as missing or abducted to law enforcement and to the national center for missing and exploited children within twenty-four hours of receipt of the report.

4. *Assessment process.*

a. A child abuse assessment or family assessment shall include all of the following:

(1) A safety assessment and risk assessment. If at any time during a family assessment, a child is determined unsafe or in imminent danger, it appears that the immediate safety or well-being of a child is endangered, it appears that the family may flee or the child may disappear, or the facts otherwise warrant, the department shall immediately commence a child abuse assessment.

(2) An evaluation of the home environment. If concerns regarding protection of children are identified by the child protection worker, the child protection worker shall evaluate the child named in the report and any other children in the same home as the parents or other persons responsible for their care.

b. In addition to the requirements of paragraph "a", a child abuse assessment shall include the following:

(1) Identification of the nature, extent, and cause of the injuries, if any, to the child named in the report.

(2) Identification of the person or persons responsible for the alleged child abuse.

(3) A description of the name, age, and condition of other children in the same home as the child named in the report.

(4) An interview of the person alleged to have committed the child abuse, if the person's identity and location are known. The offer of an interview shall be made to the person prior to any consideration or determination being made that the person committed the alleged abuse. The person shall be informed of the complaint or allegation made regarding the person. The person shall be informed in a manner that protects the confidentiality rights of the individual who reported the child abuse or provided information as part of the assessment process. The purpose of the interview shall be to provide the person with the opportunity to explain or rebut the allegations of the child abuse report or other allegations made during the assessment. The court may waive the requirement to offer the interview only for good cause. The person offered an interview, or the person's attorney on the person's behalf, may decline the offer of an interview of the person.

5. *Child abuse determination.* Unless otherwise prohibited under section 234.40 or 280.21, the use of corporal punishment by the person responsible for the care of a child which does not result in a physical injury to the child shall not be considered child abuse.

6. *Home visit.* The assessment may, with the consent of the parent or guardian, include a visit to the home of the child named in the report and an interview or observation of the child may be conducted. If permission to enter the home to interview or observe the child is refused, the juvenile court or district court upon a showing of probable cause may authorize the person making the assessment to enter the home and interview or observe the child.

7. *Facility or school visit.* The assessment may include a visit to a facility providing care to the child named in the report or to any public or private school subject to the authority of the department of education where the child named in the report is located. The administrator of a facility, or a public or private school shall cooperate with the child protection worker by providing confidential access to the child named in the report for the purpose of interviewing the child, and shall allow the child protection worker confidential access to other children for the purpose of conducting interviews in order to obtain relevant information. The child protection worker may observe a child named in a report in accordance with the provisions of section 232.68, subsection 3, paragraph "b". A witness shall be present during an observation of a child. Any child aged ten years of age or older can terminate contact with the child protection worker by stating or indicating the

child's wish to discontinue the contact. The immunity granted by section 232.73 applies to acts or omissions in good faith of administrators and their facilities or school districts for cooperating in an assessment and allowing confidential access to a child.

8. *Information requests.*

a. The department may request information from any person believed to have knowledge of a child abuse case. The county attorney, any law enforcement or social services agency in the state, and any mandatory reporter, whether or not the reporter made the specific child abuse report, shall cooperate and assist in the assessment upon the request of the department.

b. In performing an assessment, the department may request criminal history data from the department of public safety on any person believed to be responsible for an injury to a child which, if confirmed, would constitute child abuse. The department shall establish procedures for determining when a criminal history records check is necessary.

9. *Protective disclosure.* If the department determines that disclosure is necessary for the protection of a child, the department may disclose to a subject of a child abuse report referred to in section 235A.15, subsection 2, paragraph "a", that an individual is listed in the child or dependent adult abuse registry or is required to register with the sex offender registry in accordance with chapter 692A.

10. *Physical examination.* If the department refers a child to a physician for a physical examination, the department shall contact the physician regarding the examination within twenty-four hours of making the referral. If the physician who performs the examination upon referral by the department reasonably believes the child has been abused, the physician shall report to the department within twenty-four hours of performing the examination.

11. *Multidisciplinary team.* In each county or multicounty area in which more than fifty child abuse reports are made per year, the department shall establish a multidisciplinary team, as defined in section 235A.13, subsection 8. Upon the department's request, a multidisciplinary team shall assist the department in the assessment, diagnosis, and disposition of a child abuse assessment.

12. *Facility protocol.*

a. The department shall apply a protocol, developed in consultation with facilities providing care to children, for conducting an assessment of reports of abuse of children allegedly caused by employees of facilities providing care to children. As part of such an assessment, the department shall notify the licensing authority for the facility, the governing body of the facility, and the administrator in charge of the facility of any of the following:

(1) A violation of facility policy noted in the assessment.

(2) An instance in which facility policy or lack of facility policy may have contributed to the reported incident of alleged child abuse.

(3) An instance in which general practice in the facility appears to differ from the facility's written policy.

b. The licensing authority, the governing body, and the administrator in charge of the facility shall take any lawful action which may be necessary or advisable to protect children receiving care.

13. *Written assessment report.*

a. The department, upon completion of the child abuse assessment or the family assessment, shall make a written report of the assessment, in accordance with all of the following:

(1) The written assessment report shall incorporate the information required by subsection 4, paragraph "a".

(2) A written child abuse assessment report shall be completed within twenty business days of the receipt of the child abuse report. A written family assessment report shall be completed within ten business days of the receipt of the child abuse report.

(3) The written assessment report shall identify the strengths and needs of the child, and of the child's parent, home, and family.

(4) The written assessment report shall identify services available from the department and informal and formal services and other support available in the community to address the strengths and needs identified in the assessment.

(5) Upon completion of the assessment, the department shall consult with the child's

family in offering services to the child and the child's family to address strengths and needs identified in the assessment.

b. In addition to the requirements of paragraph "a", a written child abuse assessment report shall include a description of the child's condition, identification of the injury or risk to which the child was exposed, the circumstances which led to the injury or risk to the child, and the identity of any person alleged to be responsible for the injury or risk to the child.

c. Following a child abuse assessment, the department shall notify each subject of the child abuse report, as identified in section 235A.15, subsection 2, paragraph "a", of the results of the child abuse assessment, of the subject's right, pursuant to section 235A.19, to correct the report data or disposition data which refers to the subject, and of the procedures to correct the data.

d. Following a family assessment, the department shall notify the parent or guardian of each child listed in the report of suspected child abuse of the completion of the family assessment and any service recommendations. For cases assessed pursuant to a family assessment, there shall be no right to a contested case hearing pursuant to chapter 17A.

e. If after completing the assessment the child protection worker determines, with the concurrence of the worker's supervisor and the department's area administrator, that a report of suspected child abuse is a spurious report or that protective concerns are not present, the portions of the written assessment report described under paragraph "a", subparagraphs (3) and (4) shall not be required.

14. *Court-ordered and voluntary services.* The department shall provide or arrange for and monitor services for abused children and their families on a voluntary basis or under a final or intermediate order of the juvenile court. The department may provide or arrange for and monitor services for children and their families on a voluntary basis for cases in which a family assessment is completed.

15. *Safety issue.* If the department determines that a safety issue continues to require a child to reside outside of the child's home at the conclusion of a family assessment, the department shall transfer the assessment to the child abuse assessment pathway for a disposition.

16. *Conclusion of family assessment.* At the conclusion of a family assessment, the department shall transfer the case, if appropriate, to a contracted provider to review the service plan for the child and family. The contracted provider shall make a referral to the department abuse hotline if a family's noncompliance with a service plan places a child at risk. If any of the criteria for child abuse as defined in section 232.68, subsection 2, paragraph "a", are met, the department shall commence a child abuse assessment. If any of the criteria for a child in need of assistance, as defined in section 232.2, subsection 6, are met, the department shall determine whether to request a child in need of assistance petition.

17. *County attorney — juvenile court.* The department shall provide the juvenile court and the county attorney with a copy of the written child abuse assessment report, the written family assessment report for cases in which the department requests a child in need of assistance petition, or other reports for cases in which the department requests a child in need of assistance petition. The juvenile court and the county attorney shall notify the department of any action taken concerning an assessment provided by the department.

18. *False reports.* If a fourth report is received from the same person who made three earlier reports which identified the same child as a victim of child abuse and the same person responsible for the care of the child as the alleged abuser and which were determined by the department to be entirely false or without merit, the department may determine that the report is again false or without merit due to the report's spurious or frivolous nature and may in its discretion terminate its assessment of the report. If the department receives more than three reports which identify the same child as a victim of child abuse or the same person as the alleged abuser of a child, or which were made by the same person, and the department determined the reports to be entirely false or without merit, the department shall provide information concerning the reports to the county attorney for consideration of criminal charges under section 232.75, subsection 3.

19. *Rules.* The department shall adopt rules regarding the intake process, assessment process, assessment reports, contact with juvenile court or the county attorney, involvement

with law enforcement, case record retention, and dissemination of records for both child abuse assessments and family assessments.

20. *Quality assurance.* The department shall engage external stakeholders, including but not limited to representatives of the county attorneys' offices, service providers, and parent partners to develop a quality assurance component to the differential response system.

97 Acts, ch 35, §6, 25; 97 Acts, ch 176, §24, 43; 2001 Acts, ch 122, §5; 2002 Acts, ch 1074, §1; 2003 Acts, ch 44, §50; 2003 Acts, ch 47, §1; 2003 Acts, ch 107, §1; 2003 Acts, ch 123, §1; 2003 Acts, ch 179, §68; 2004 Acts, ch 1152, §1, 2; 2009 Acts, ch 41, §239; 2013 Acts, ch 115, §3, 4, 19; 2016 Acts, ch 1063, §12, 13

Referred to in §135.43, 232.68, 232.71C, 232.71D, 232.72, 232.73, 232.73A, 232.77, 232.78, 232.141, 235A.15, 235A.19, 331.653, 915.35

232.71C Court action following assessment — guardian ad litem.

1. If, upon completion of an assessment performed under section 232.71B, the department determines that the best interests of the child require juvenile court action, the department shall act appropriately to initiate the action. If at any time during the assessment process the department believes court action is necessary to safeguard a child, the department shall act appropriately to initiate the action. The county attorney shall assist the department.

2. The department shall assist the juvenile court or district court during all stages of court proceedings involving an alleged child abuse case in accordance with the purposes of this chapter.

3. In every case involving child abuse which results in a child protective judicial proceeding, whether or not the proceeding arises under this chapter, a guardian ad litem shall be appointed by the court to represent the child in the proceedings. Before a guardian ad litem is appointed pursuant to this section, the court shall require the person responsible for the care of the child to complete under oath a detailed financial statement. If, on the basis of that financial statement, the court determines that the person responsible for the care of the child is able to bear the cost of the guardian ad litem, the court shall so order. In cases where the person responsible for the care of the child is unable to bear the cost of the guardian ad litem, the expense shall be paid out of the county treasury.

97 Acts, ch 35, §7, 25; 2013 Acts, ch 113, §1; 2013 Acts, ch 115, §5, 19

Referred to in §232.68, 331.424

232.71D Founded child abuse — central registry.

1. The requirements of this section shall apply to child abuse information relating to a report of child abuse and to a child abuse assessment performed in accordance with section 232.71B.

2. Except as otherwise provided in subsections 3 and 4, and section 235A.19, subsection 3, if the department issues a finding that the alleged child abuse meets the definition of child abuse under section 232.68, subsection 2, the names of the child and the alleged perpetrator of the alleged child abuse and any other child abuse information shall be placed in the central registry as a case of founded child abuse.

3. *a.* Unless any of the circumstances listed in paragraph "b" are applicable, cases to which any of the following circumstances apply shall not be placed in the central registry:

(1) A finding of physical abuse in which the department has determined the injury resulting from the abuse was minor, isolated, and unlikely to reoccur.

(2) A finding of abuse by failure to provide adequate supervision or by failure to provide adequate clothing, in which the department has determined the risk from the abuse to the child's health and welfare was minor, isolated, and unlikely to reoccur.

b. If any of the following circumstances apply in addition to those listed in paragraph "a", the names of the child and the alleged perpetrator of the alleged child abuse and any other child abuse information shall be placed in the central registry as a case of founded child abuse:

(1) The case was referred for juvenile or criminal court action as a result of the acts or omissions of the alleged perpetrator or a criminal or juvenile court action was initiated by the county attorney or juvenile court within twelve months of the date of the department's report

concerning the case, in which the alleged perpetrator was convicted of a crime involving the child or there was a delinquency or child in need of assistance adjudication.

(2) The department determines the acts or omissions of the alleged perpetrator meet the definition of child abuse and the department has previously determined within the five-year period preceding the issuance of the department's report that the acts or omissions of the alleged perpetrator in a prior case met the definition of child abuse.

(3) The department determines the alleged perpetrator of the child abuse will continue to pose a danger to the child who is the subject of the report of child abuse or to another child with whom the alleged perpetrator may come into contact.

4. Cases of alleged child abuse to which any of the following circumstances apply shall be placed in the central registry as follows:

a. A finding of sexual abuse in which the alleged perpetrator of the abuse is age thirteen or younger. However, the name of the alleged perpetrator shall be withheld from the registry.

b. A finding of sexual abuse in which the alleged perpetrator of the abuse is age fourteen through seventeen and the court has found there is good cause for the name of the alleged perpetrator to be removed from the central registry. Only the name of the alleged perpetrator shall be removed from the registry.

5. If report data and disposition data are placed in the central registry in accordance with this section, the department shall make periodic follow-up reports in a manner prescribed by the registry so that the registry is kept up-to-date and fully informed concerning the case.

6. a. The confidentiality of all of the following shall be maintained in accordance with section 217.30:

(1) Assessment data.

(2) Information pertaining to an allegation of child abuse for which there was no assessment performed.

(3) Information pertaining to a report of suspected child abuse for which there was an assessment performed but no determination was made as to whether the definition of child abuse was met.

(4) Information pertaining to an allegation of child abuse which was determined to not meet the definition of child abuse. Individuals identified in section 235A.15, subsection 4, are authorized to have access to such information under section 217.30.

(5) Report data and disposition data pertaining to an allegation of child abuse determined to meet the definition of child abuse which is not subject to placement in the central registry. Individuals identified in section 235A.15, subsection 3, are authorized to have access to such data under section 217.30.

b. The confidentiality of report data and disposition data pertaining to an allegation of child abuse determined to meet the definition of child abuse which is subject to placement in the central registry, shall be maintained as provided in chapter 235A.

97 Acts, ch 176, §5, 25, 26, 43; 99 Acts, ch 192, §33; 2004 Acts, ch 1086, §43; 2005 Acts, ch 121, §3; 2011 Acts, ch 28, §3, 4; 2011 Acts, ch 131, §57, 158; 2012 Acts, ch 1082, §1; 2013 Acts, ch 115, §6 – 8, 19, 20

Referred to in §232.68, 235A.14, 235A.15, 235A.17, 235A.18, 235A.19, 237A.5

232.72 Jurisdiction — transfer.

1. For the purposes of this subchapter, the terms “*department of human services*”, “*department*”, or “*county attorney*” ordinarily refer to the service area or local office of the department of human services or of the county attorney's office serving the county in which the child's home is located.

2. If the person making a report of child abuse pursuant to this chapter does not know where the child's home is located, or if the child's home is not located in the service area where the health practitioner examines, attends, or treats the child, the report may be made to the department or to the local office serving the county where the person making the report resides or the county where the health practitioner examines, attends, or treats the child. These agencies shall promptly proceed as provided in section 232.71B, unless the matter is transferred as provided in this section.

3. If the child's home is located in a county not served by the office receiving the report,

the department shall promptly transfer the matter by transmitting a copy of the report of injury and any other pertinent information to the office and the county attorney serving the other county. They shall promptly proceed as provided in section 232.71B.

[C66, 71, 73, 75, 77, §235A.6; C79, 81, §232.72]

83 Acts, ch 96, §157, 159; 97 Acts, ch 35, §8, 25; 2004 Acts, ch 1116, §7; 2018 Acts, ch 1041, §62; 2020 Acts, ch 1062, §94

Referred to in §232.68

Code editor directive applied

232.73 Medically relevant tests — immunity from liability.

1. A person participating in good faith in the making of a report, photographs, or X rays, or in the performance of a medically relevant test pursuant to this chapter, or aiding and assisting in an assessment of a child abuse report pursuant to section 232.71B, shall have immunity from any liability, civil or criminal, which might otherwise be incurred or imposed. The person shall have the same immunity with respect to participation in good faith in any judicial proceeding resulting from the report or relating to the subject matter of the report.

2. As used in this section and in sections 232.73A, 232.77, and 232.78, “*medically relevant test*” means a test that produces reliable results of exposure to cocaine, heroin, amphetamine, methamphetamine, or other illegal drugs, or combinations or derivatives of the illegal drugs, including a drug urine screen test.

[C66, 71, 73, 75, 77, §235A.7; C79, 81, §232.73]

83 Acts, ch 88, §1; 90 Acts, ch 1264, §28; 95 Acts, ch 182, §8; 96 Acts, ch 1092, §3; 97 Acts, ch 35, §9, 25; 2001 Acts, ch 135, §11; 2012 Acts, ch 1040, §1

Referred to in §232.2, 232.68, 232.71B, 232.77, 232.106

232.73A Retaliation prohibited — remedy.

1. *a.* An employer shall not take retaliatory action against an employee as a reprisal for the employee’s participation in good faith in making a report, photograph, or X ray, or in the performance of a medically relevant test pursuant to this chapter, or aiding and assisting in an assessment of a child abuse report pursuant to section 232.71B. This section does not apply to a disclosure of information that is prohibited by statute.

b. For purposes of this section, “*retaliatory action*” includes but is not limited to an employer’s action to discharge an employee or to take or fail to take action regarding an employee’s appointment or proposed appointment to a position in employment, to take or fail to take action regarding an employee’s promotion or proposed promotion to a position in employment, or to fail to provide an advantage in a position in employment.

2. Subsection 1 may be enforced through a civil action.

a. A person who violates subsection 1 is liable to an aggrieved employee for affirmative relief including reinstatement, with or without back pay, or any other equitable relief the court deems appropriate, including attorney fees and costs.

b. When a person commits, is committing, or proposes to commit an act in violation of subsection 1, an injunction may be granted through an action in district court to prohibit the person from continuing such acts. The action for injunctive relief may be brought by an aggrieved employee or the county attorney.

2012 Acts, ch 1040, §2; 2013 Acts, ch 90, §59

Referred to in §232.68, 232.73

232.74 Evidence not privileged or excluded.

Sections 622.9 and 622.10 and any other statute or rule of evidence which excludes or makes privileged the testimony of a husband or wife against the other or the testimony of a health practitioner or mental health professional as to confidential communications, do not apply to evidence regarding a child’s injuries or the cause of the injuries in any judicial proceeding, civil or criminal, resulting from a report pursuant to this chapter or relating to the subject matter of such a report.

[C66, 71, 73, 75, 77, §235A.8; C79, 81, §232.74]

83 Acts, ch 37, §1; 87 Acts, ch 153, §6

Referred to in §228.6, 232.68

232.75 Sanctions.

1. Any person, official, agency, or institution required by this chapter to report a suspected case of child abuse who knowingly and willfully fails to do so is guilty of a simple misdemeanor.

2. Any person, official, agency, or institution required by section 232.69 to report a suspected case of child abuse who knowingly fails to do so or who knowingly interferes with the making of such a report in violation of section 232.70 is civilly liable for the damages proximately caused by such failure or interference.

3. A person who reports or causes to be reported to the department of human services false information regarding an alleged act of child abuse, knowing that the information is false or that the act did not occur, commits a simple misdemeanor.

[C75, 77, §235A.9; C79, 81, §232.75]

86 Acts, ch 1238, §11; 87 Acts, ch 13, §2; 2001 Acts, ch 122, §6

Referred to in §232.68, 232.71B

232.76 Publicity, educational, and training programs.

1. The department, within the limits of available funds, shall conduct a continuing publicity and educational program for the personnel of the department, persons required to report, and any other appropriate persons to encourage the fullest possible degree of reporting of suspected cases of child abuse. Educational programs shall include but not be limited to the diagnosis and cause of child abuse, the responsibilities, obligations, duties, and powers of persons and agencies under this chapter and the procedures of the department and the juvenile court with respect to suspected cases of child abuse and disposition of actual cases.

2. *a.* For the purposes of this subsection, in addition to the definition in section 232.68, a “*child protection worker*” also includes any employee of the department who provides services to or otherwise works directly with children and families for whom child abuse has been alleged.

b. The training of a child protection worker shall include but is not limited to the worker’s legal duties to protect the constitutional and statutory rights of a child and the child’s family members throughout the child or family members’ period of involvement with the department beginning with the child abuse report and ending with the department’s closure of the case. The curriculum used for the training shall specifically include instruction on the fourth amendment to the Constitution of the United States and parents’ legal rights.

[C75, 77, §235A.10; C79, 81, §232.76]

2004 Acts, ch 1152, §3

Referred to in §232.68

232.77 Photographs, X rays, and medically relevant tests.

1. A person who is required to report suspected child abuse may take or cause to be taken, at public expense, photographs, X rays, or other physical examinations or tests of a child which would provide medical indication of allegations arising from an assessment. A health practitioner may, if medically indicated, cause to be performed radiological examination, physical examination, or other medical tests of the child. A person who takes any photographs or X rays or performs physical examinations or other tests pursuant to this section shall notify the department that the photographs or X rays have been taken or the examinations or other tests have been performed. The person who made notification shall retain the photographs or X rays or examination or test findings for a reasonable time following the notification. Whenever the person is required to report under section 232.69, in that person’s capacity as a member of the staff of a medical or other private or public institution, agency or facility, that person shall immediately notify the person in charge of the institution, agency, or facility or that person’s designated delegate of the need for photographs or X rays or examinations or other tests.

2. *a.* If a health practitioner discovers in a child physical or behavioral symptoms of the effects of exposure to cocaine, heroin, amphetamine, methamphetamine, or other illegal drugs, or combinations or derivatives thereof, which were not prescribed by a health

practitioner, or if the health practitioner has determined through examination of the natural mother of the child that the child was exposed in utero, the health practitioner may perform or cause to be performed a medically relevant test, as defined in section 232.73, on the child. The practitioner shall report any positive results of such a test on the child to the department. The department shall begin an assessment pursuant to section 232.71B upon receipt of such a report. A positive test result obtained prior to the birth of a child shall not be used for the criminal prosecution of a parent for acts and omissions resulting in intrauterine exposure of the child to an illegal drug.

b. If a health practitioner involved in the delivery or care of a newborn or infant discovers in the newborn or infant physical or behavioral symptoms that are consistent with the effects of prenatal drug exposure or a fetal alcohol spectrum disorder, the health practitioner shall report such information to the department in a manner prescribed by rule of the department.

[C75, 77, §235A.11; C79, 81, §232.77]

83 Acts, ch 96, §157, 159; 90 Acts, ch 1264, §29; 93 Acts, ch 93, §3; 94 Acts, ch 1130, §6; 96 Acts, ch 1092, §4; 97 Acts, ch 35, §10, 25; 2013 Acts, ch 115, §9, 19; 2017 Acts, ch 86, §3

Referred to in §232.68, 232.73

PART 3

TEMPORARY CUSTODY OF A CHILD

232.78 Temporary custody of a child pursuant to ex parte court order.

1. The juvenile court may enter an ex parte order directing a peace officer or a juvenile court officer to take custody of a child before or after the filing of a petition under this chapter provided all of the following apply:

a. The person responsible for the care of the child is absent, or though present, was asked and refused to consent to the removal of the child and was informed of an intent to apply for an order under this section, or there is reasonable cause to believe that a request for consent would further endanger the child, or there is reasonable cause to believe that a request for consent will cause the parent, guardian, or legal custodian to take flight with the child.

b. It appears that the child's immediate removal is necessary to avoid imminent danger to the child's life or health. The circumstances or conditions indicating the presence of such imminent danger shall include but are not limited to any of the following:

(1) The refusal or failure of the person responsible for the care of the child to comply with the request of a peace officer, juvenile court officer, or child protection worker for such person to obtain and provide to the requester the results of a physical or mental examination of the child. The request for a physical examination of the child may specify the performance of a medically relevant test.

(2) The refusal or failure of the person responsible for the care of the child or a person present in the person's home to comply with a request of a peace officer, juvenile court officer, or child protection worker for such a person to submit to and provide to the requester the results of a medically relevant test of the person.

c. There is not enough time to file a petition and hold a hearing under section 232.95.

d. The application for the order includes a statement of the facts to support the findings specified in paragraphs "a", "b", and "c".

2. The person making the application for an order shall assert facts showing there is reasonable cause to believe that the child cannot either be returned to the place where the child was residing or placed with the parent who does not have physical care of the child.

3. Except for good cause shown or unless the child is sooner returned to the place where the child was residing or permitted to return to the child care facility, a petition shall be filed under this chapter within three days of the issuance of the order.

4. The juvenile court may enter an order authorizing a physician or hospital to provide emergency medical or surgical procedures before the filing of a petition under this chapter provided:

a. Such procedures are necessary to safeguard the life and health of the child; and

b. There is not enough time to file a petition under this chapter and hold a hearing as provided in section 232.95.

5. The juvenile court, before or after the filing of a petition under this chapter, may enter an ex parte order authorizing a physician or hospital to conduct an outpatient physical examination or authorizing a physician, a psychologist certified under section 154B.7, or a community mental health center accredited pursuant to chapter 230A to conduct an outpatient mental examination of a child if necessary to identify the nature, extent, and cause of injuries to the child as required by section 232.71B, provided all of the following apply:

a. The parent, guardian, or legal custodian is absent, or though present, was asked and refused to provide written consent to the examination.

b. The juvenile court has entered an ex parte order directing the removal of the child from the child's home or a child care facility under this section.

c. There is not enough time to file a petition and to hold a hearing as provided in section 232.98.

6. Any person who may file a petition under this chapter may apply for, or the court on its own motion may issue, an order for temporary removal under this section. An appropriate person designated by the court shall confer with a person seeking the removal order, shall make every reasonable effort to inform the parent or other person legally responsible for the child's care of the application, and shall make such inquiries as will aid the court in disposing of such application. The person designated by the court shall file with the court a complete written report providing all details of the designee's conference with the person seeking the removal order, the designee's efforts to inform the parents or other person legally responsible for the child's care of the application, any inquiries made by the designee to aid the court in disposing of the application, and all information the designee communicated to the court. The report shall be filed within five days of the date of the removal order. If the court does not designate an appropriate person who performs the required duties, notwithstanding section 234.39 or any other provision of law, the child's parent shall not be responsible for paying the cost of care and services for the duration of the removal order.

7. Any order entered under this section authorizing temporary removal of a child must include both of the following:

a. A determination made by the court that continuation of the child in the child's home would be contrary to the welfare of the child. Such a determination must be made on a case-by-case basis. The grounds for the court's determination must be explicitly documented and stated in the order. However, preserving the safety of the child must be the court's paramount consideration. If imminent danger to the child's life or health exists at the time of the court's consideration, the determination shall not be a prerequisite to the removal of the child.

b. A statement informing the child's parent that the consequences of a permanent removal may include termination of the parent's rights with respect to the child.

[C79, 81, §232.78]

84 Acts, ch 1279, §9; 85 Acts, ch 173, §10, 11; 89 Acts, ch 230, §14; 94 Acts, ch 1172, §23; 97 Acts, ch 35, §11, 25; 98 Acts, ch 1190, §4 – 6; 99 Acts, ch 192, §33; 2000 Acts, ch 1067, §6, 7; 2001 Acts, ch 135, §12, 13

Referred to in §232.44, 232.73, 232.79, 232.95, 232.98, 232.104, 232.196, 233.2

232.79 Custody without court order.

1. A peace officer or juvenile court officer may take a child into custody, a physician treating a child may keep the child in custody, or a juvenile court officer may authorize a peace officer, physician, or medical security personnel to take a child into custody, without a court order as required under section 232.78 and without the consent of a parent, guardian, or custodian provided that both of the following apply:

a. The child is in a circumstance or condition that presents an imminent danger to the child's life or health.

b. There is not enough time to apply for an order under section 232.78.

2. If a person authorized by this section removes or retains custody of a child, the person shall:

a. Bring the child immediately to a place designated by the rules of the court for this purpose, unless the person is a physician treating the child and the child is or will presently be admitted to a hospital.

b. Make every reasonable effort to inform the parent, guardian, or custodian of the whereabouts of the child.

c. In accordance with court-established procedures, immediately orally inform the court of the emergency removal and the circumstances surrounding the removal.

d. Within twenty-four hours of orally informing the court of the emergency removal in accordance with paragraph “c”, inform the court in writing of the emergency removal and the circumstances surrounding the removal.

3. Any person, agency, or institution acting in good faith in the removal or keeping of a child pursuant to this section, and any employer of or person under the direction of such a person, agency, or institution, shall have immunity from any civil or criminal liability that might otherwise be incurred or imposed as the result of such removal or keeping.

4. a. When the court is informed that there has been an emergency removal or keeping of a child without a court order, the court shall direct the department of human services or the juvenile probation department to make every reasonable effort to communicate immediately with the child’s parent or parents or other person legally responsible for the child’s care. Upon locating the child’s parent or parents or other person legally responsible for the child’s care, the department of human services or the juvenile probation department shall, in accordance with court-established procedures, immediately orally inform the court. After orally informing the court, the department of human services or the juvenile probation department shall provide to the court written documentation of the oral information.

b. The court shall authorize the department of human services or the juvenile probation department to cause a child thus removed or kept to be returned if it concludes there is not an imminent risk to the child’s life and health in so doing. If the department of human services or the juvenile probation department receives information which could affect the court’s decision regarding the child’s return, the department of human services or the juvenile probation department, in accordance with court established procedures, shall immediately orally provide the information to the court. After orally providing the information to the court, the department of human services or the juvenile probation department shall provide to the court written documentation of the oral information. If the child is not returned, the department of human services or the juvenile probation department shall forthwith cause a petition to be filed within three days after the removal.

c. If deemed appropriate by the court, upon being informed that there has been an emergency removal or keeping of a child without a court order, the court may enter an order in accordance with section 232.78.

5. When there has been an emergency removal or keeping of a child without a court order, a physical examination of the child by a licensed medical practitioner shall be performed within twenty-four hours of such removal, unless the child is returned to the child’s home within twenty-four hours of the removal.

[C79, 81, §232.79]

83 Acts, ch 96, §157, 159; 84 Acts, ch 1279, §10; 89 Acts, ch 230, §15; 90 Acts, ch 1215, §1; 94 Acts, ch 1172, §24; 2001 Acts, ch 135, §14

Referred to in §232.44, 232.79A, 232.95, 232.104, 232B.6

232.79A Children without adult supervision.

If a peace officer determines that a child does not have adult supervision because the child’s parent, guardian, or other person responsible for the care of the child has been arrested and detained or has been unexpectedly incapacitated, and that no adult who is legally responsible for the care of the child can be located within a reasonable period of time, the peace officer shall attempt to place the child with an adult relative of the child, an adult person who cares for the child, or another adult person who is known to the child. The person with whom the child is placed is authorized to give consent for emergency medical treatment of the child and shall not be held liable for any action arising from giving the consent. Upon the request of the peace officer, the department shall assist in making the placement. The placement shall not

exceed a period of twenty-four hours and shall be terminated when a person who is legally responsible for the care of the child is located and takes custody of the child. If a person who is legally responsible for the care of the child cannot be located within the twenty-four hour period or a placement in accordance with this section is unavailable, the provisions of section 232.79 shall apply. If the person with whom the child is placed charges a fee for the care of the child, the fee shall be paid from funds provided in the appropriation to the department for protective child care.

90 Acts, ch 1215, §2

232.80 Homemaker services. Repealed by 2018 Acts, ch 1137, §19.

232.81 Complaint.

1. Any person having knowledge of the circumstances may file a complaint with the person or agency designated by the court to perform intake duties alleging that a child is a child in need of assistance.

2. Upon receipt of a complaint, the court may request the department of human services, juvenile probation office, or other authorized agency or individual to conduct a preliminary investigation of the complaint to determine if further action should be taken.

3. A petition alleging the child to be a child in need of assistance may be filed pursuant to section 232.87 provided the allegations of the complaint, if proven, are sufficient to establish the court's jurisdiction and the filing is in the best interests of the child.

[SS15, §254-a15; C24, 27, 31, 35, 39, §3621; C46, 50, 54, 58, 62, §232.5; C71, 73, 75, 77, §232.3; C79, 81, §232.81]

83 Acts, ch 96, §157, 159; 2011 Acts, ch 98, §6

Referred to in §232.21, 232.83

232.82 Removal of sexual offenders and physical abusers from the residence pursuant to court order.

1. Notwithstanding section 561.15, if it is alleged by a person authorized to file a petition under section 232.87, subsection 2, or by the court on its own motion, that a parent, guardian, custodian, or an adult member of the household in which a child resides has committed a sexual offense with or against the child, pursuant to chapter 709 or section 726.2, or a physical abuse as defined by section 232.2, subsection 42, the juvenile court may enter an ex parte order requiring the alleged sexual offender or physical abuser to vacate the child's residence upon a showing that probable cause exists to believe that the sexual offense or physical abuse has occurred and that substantial evidence exists to believe that the presence of the alleged sexual offender or physical abuser in the child's residence presents a danger to the child's life or physical, emotional, or mental health.

2. If an order is entered under subsection 1 and a petition has not yet been filed under this chapter, the petition shall be filed under section 232.87 by the county attorney, the department of human services, or a juvenile court officer within three days of the entering of the order.

3. The juvenile court may order on its own motion, or shall order upon the request of the alleged sexual offender or physical abuser, a hearing to determine whether the order to vacate the residence should be upheld, modified, or vacated. The juvenile court may in any later child in need of assistance proceeding uphold, modify, or vacate the order to vacate the residence.

[82 Acts, ch 1209, §14]

83 Acts, ch 96, §157, 159; 83 Acts, ch 186, §10055, 10201; 86 Acts, ch 1186, §6; 90 Acts, ch 1251, §27

232.83 Child sexual abuse involving a person not responsible for the care of the child.

1. A complaint related to circumstances involving a child who is alleged to be a victim of an offense defined in chapter 709, 726, or 728 and an alleged offender who is not a person responsible for the care of the child shall be handled pursuant to section 232.81.

2. Anyone authorized to conduct a preliminary investigation in response to a complaint may apply for, or the court on its own motion may enter an ex parte order authorizing

a physician or hospital to conduct an outpatient physical examination or authorizing a physician, a psychologist certified under section 154B.7, or a community mental health center accredited pursuant to chapter 230A to conduct an outpatient mental examination of a child if necessary to identify the nature, extent, and causes of any injuries, emotional damage, or other such needs of a child as specified in section 232.2, subsection 6, paragraph “c”, “e”, or “f”, provided that all of the following apply:

- a. The parent, guardian, or legal custodian is absent, or though present, was asked and refused to authorize the examination.
- b. There is not enough time to file a petition and hold a hearing under this chapter.
- c. The parent, guardian, or legal custodian has not provided care and treatment related to their child’s alleged victimization.

88 Acts, ch 1252, §2
Referred to in §709.13

232.84 Transfer of custody — notice to adult relatives.

1. For the purposes of this section, unless the context otherwise requires, “agency” means the department, juvenile court services, or a private agency.

2. Within thirty days after the entry of an order under this chapter transferring custody of a child to an agency for placement, the agency shall exercise due diligence in identifying and providing notice to the child’s grandparents, aunts, uncles, adult siblings, parents of the child’s siblings, and adult relatives suggested by the child’s parents, subject to exceptions due to the presence of family or domestic violence.

3. The notice content shall include but is not limited to all of the following:

a. A statement that the child has been or is being removed from the custody of the child’s parent or parents.

b. An explanation of the options the relative has under federal, state, and other law to participate in the care and placement of the child on a temporary or permanent basis. The options addressed shall include but are not limited to assistance and support options, options for participating in legal proceedings, and any options that may be lost by failure to respond to the notice.

c. A description of the requirements for the relative to serve as a foster family home provider or other type of care provider for the child and the additional services, training, and other support available for children receiving such care.

d. Information concerning the option to apply for kinship guardianship assistance payments.

2009 Acts, ch 120, §3; 2013 Acts, ch 50, §2

232.85 and 232.86 Reserved.

PART 4

JUDICIAL PROCEEDINGS

232.87 Filing of a petition — contents of petition.

1. A formal judicial proceeding to determine whether a child is a child in need of assistance under this chapter shall be initiated by the filing of a petition alleging a child to be a child in need of assistance.

2. A petition may be filed by the department of human services, juvenile court officer, or county attorney.

3. The department, juvenile court officer, county attorney or judge may authorize the filing of a petition with the clerk of the court by any competent person having knowledge of the circumstances without the payment of a filing fee.

4. The petition shall be submitted in the form specified in section 232.36.

5. The petition shall contain the information specified in section 232.36 and a clear and

concise summary of the facts which bring the child within the jurisdiction of the court under this subchapter.

[C79, 81, §232.87]

83 Acts, ch 96, §157, 159; 83 Acts, ch 186, §10055, 10201; 2020 Acts, ch 1062, §94

Referred to in §232.81, 232.82, 232.95, 232.98, 232D.204, 233.2

Code editor directive applied

232.88 Summons, notice, subpoenas, and service.

After a petition has been filed, the court shall issue and serve summons, subpoenas, and other process in the same manner as for adjudicatory hearings in cases of juvenile delinquency as provided in section 232.37. Reasonable notice shall be provided to the persons required to be provided notice under section 232.37, except that notice shall be waived regarding a person who was notified of the adjudicatory hearing and who failed to appear. In addition, reasonable notice for any hearing under this subchapter shall be provided to the agency, facility, institution, or person, including a foster parent, relative, or other individual providing preadoptive care, with whom a child has been placed.

[SS15, §254-a16; C24, 27, 31, 35, 39, §3623; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §232.4; C79, 81, §232.88]

89 Acts, ch 229, §5; 95 Acts, ch 182, §3; 96 Acts, ch 1034, §10; 97 Acts, ch 164, §2; 2001 Acts, ch 135, §28; 2020 Acts, ch 1062, §94

Referred to in §232.91, 331.653

Code editor directive applied

232.89 Right to and appointment of counsel.

1. Upon the filing of a petition the parent, guardian, or custodian identified in the petition shall have the right to counsel in connection with all subsequent hearings and proceedings. If that person desires but is financially unable to employ counsel, the court shall appoint counsel.

2. Upon the filing of a petition, the court shall appoint counsel and a guardian ad litem for the child identified in the petition as a party to the proceedings. If a guardian ad litem has previously been appointed for the child in a proceeding under subchapter II or a proceeding in which the court has waived jurisdiction under section 232.45, the court shall appoint the same guardian ad litem upon the filing of the petition under this part. Counsel shall be appointed as follows:

a. If the child is represented by counsel and the court determines there is a conflict of interest between the child and the child's parent, guardian, or custodian and that the retained counsel could not properly represent the child as a result of the conflict, the court shall appoint other counsel to represent the child, who shall be compensated pursuant to the provisions of subsection 3.

b. If the child is not represented by counsel, the court shall either order the parent, guardian, or custodian to retain counsel for the child or shall appoint counsel for the child, who shall be compensated pursuant to the provisions of subsection 3.

3. The court shall determine, after giving the parent, guardian, or custodian an opportunity to be heard, whether the person has the ability to pay in whole or in part for counsel appointed for the child. If the court determines that the person possesses sufficient financial ability, the court shall then consult with the department of human services, the juvenile probation office, or other authorized agency or individual regarding the likelihood of impairment of the relationship between the child and the child's parent, guardian, or custodian as a result of ordering the parent, guardian, or custodian to pay for the child's counsel. If impairment is deemed unlikely, the court shall order that person to pay an amount the court finds appropriate in the manner and to whom the court directs. If the person fails to comply with the order without good reason, the court shall enter judgment against the person. If impairment is deemed likely or if the court determines that the parent, guardian, or custodian cannot pay any part of the expenses of counsel appointed to represent the child, counsel shall be reimbursed pursuant to section 232.141, subsection 2, paragraph "b".

4. The same person may serve both as the child's counsel and as guardian ad litem. However, the court may appoint a separate guardian ad litem, if the same person cannot

properly represent the legal interests of the child as legal counsel and also represent the best interest of the child as guardian ad litem, or a separate guardian ad litem is required to fulfill the requirements of subsection 2.

5. The court may appoint a court appointed special advocate to act as guardian ad litem. The court appointed special advocate shall receive notice of and may attend all depositions, hearings, and trial proceedings to support the child and advocate for the protection of the child. The court appointed special advocate shall not be allowed to separately introduce evidence or to directly examine or cross-examine witnesses. The court appointed special advocate shall submit a written report to the court and to each of the parties to the proceedings containing results of the court appointed special advocate's initial investigation of the child's case, including but not limited to recommendations regarding placement of the child and other recommendations based on the best interest of the child. The court appointed special advocate shall submit subsequent reports to the court and parties, as needed, detailing the continuing situation of the child's case as long as the child remains under the jurisdiction of the court. In addition, the court appointed special advocate shall file other reports to the court as required by the court.

[C24, 27, 31, 35, 39, §3631; C46, 50, 54, 58, 62, §232.15; C66, 71, 73, 75, 77, §232.28; C79, 81, §232.89]

83 Acts, ch 96, §157, 159; 86 Acts, ch 1186, §7; 87 Acts, ch 121, §4; 89 Acts, ch 283, §24; 90 Acts, ch 1271, §1506, 1507; 96 Acts, ch 1193, §5; 97 Acts, ch 23, §22; 97 Acts, ch 99, §3, 11; 2002 Acts, ch 1162, §17; 2020 Acts, ch 1062, §33

Referred to in §232.108, 232.126, 237.21

Subsection 2, unnumbered paragraph 1 amended

232.90 Duties of county attorney.

1. As used in this section, "state" means the general interest held by the people in the health, safety, welfare, and protection of all children living in this state.

2. The county attorney shall represent the state in proceedings arising from a petition filed under this subchapter and shall present evidence in support of the petition. The county attorney shall be present at proceedings initiated by petition under this subchapter filed by an intake officer or the county attorney, or if a party to the proceedings contests the proceedings, or if the court determines there is a conflict of interest between the child and the child's parent, guardian, or custodian or if there are contested issues before the court.

3. If there is disagreement between the department and the county attorney regarding the appropriate action to be taken, the department may request that the state be represented by the attorney general in place of the county attorney. If the state is represented by the attorney general, the county attorney may continue to appear in the proceeding and may present the position of the county attorney regarding the appropriate action to be taken in the case.

4. The county attorney and the attorney general shall comply with the requirements of chapter 232B and the federal Indian Child Welfare Act, Pub. L. No. 95-608, when either chapter 232B or the federal Indian Child Welfare Act is determined to be applicable in any proceeding under this subchapter.

[C66, 71, 73, 75, 77, §232.29; C79, 81, §232.90]

87 Acts, ch 151, §1; 89 Acts, ch 230, §16; 2013 Acts, ch 113, §2; 2014 Acts, ch 1092, §51; 2020 Acts, ch 1062, §94

Referred to in §232.180

Code editor directive applied

232.91 Presence of child, parents, guardian ad litem, and others at hearings — additional parties — department recordkeeping.

1. Any hearings or proceedings under this subchapter subsequent to the filing of a petition shall not take place without the presence of the child's parent, guardian, custodian, or guardian ad litem in accordance with and subject to section 232.38. A parent without custody may petition the court to be made a party to proceedings under this subchapter.

2. An agency, facility, institution, or person, including a foster parent or an individual providing preadoptive care, may petition the court to be made a party to proceedings under this subchapter.

3. Any person who is entitled under section 232.88 to receive notice of a hearing concerning a child shall be given the opportunity to be heard in any other review or hearing involving the child. A foster parent, relative, or other individual with whom a child has been placed for preadoptive care shall have the right to be heard in any proceeding involving the child. If a child is of an age appropriate to attend the hearing but the child does not attend, the court shall determine if the child was informed of the child's right to attend the hearing. A presumption exists that it is in the best interests of a child fourteen years of age or older to attend all hearings.

4. If a child is of an age appropriate to attend a hearing but the child does not attend, the court shall determine if the child was informed of the child's right to attend the hearing. A presumption exists that it is in the best interests of a child fourteen years of age or older to attend all hearings and all staff or family meetings involving placement options or services provided to the child. The department shall allow the child to attend all such hearings and meetings unless the attorney for the child finds the child's attendance is not in the best interests of the child. If the child is excluded from attending a hearing or meeting, the department shall maintain a written record detailing the reasons for excluding the child. Notwithstanding sections 232.147 through 232.151, a copy of the written record shall be made available to the child upon the request of the child after reaching the age of majority.

5. For purposes of this section, "attend" includes the appearance of the child at a hearing by video or telephonic means.

[SS15, §254-a16; C24, 27, 31, 35, 39, §3631; C46, 50, 54, 58, 62, §232.15; C66, 71, 73, 75, 77, §232.11; C79, 81, §232.91]

84 Acts, ch 1279, §11; 95 Acts, ch 182, §4; 97 Acts, ch 164, §3; 98 Acts, ch 1190, §7; 2007 Acts, ch 172, §13; 2008 Acts, ch 1114, §1; 2008 Acts, ch 1187, §133; 2010 Acts, ch 1065, §1, 2; 2020 Acts, ch 1062, §94

Referred to in §600A.7

Code editor directive applied

232.92 Exclusion of public from hearings.

Hearings held under this subchapter are open to the public unless the court, on the motion of any of the parties or upon the court's own motion, excludes the public. The court shall exclude the public from a hearing if the court determines that the possibility of damage or harm to the child outweighs the public's interest in having an open hearing. Upon closing the hearing to the public, the court may admit those persons who have direct interest in the case or in the work of the court.

[C79, 81, §232.92]

89 Acts, ch 230, §17; 2020 Acts, ch 1062, §94

Referred to in §232.147, 600A.7

Code editor directive applied

232.93 Other issues adjudicated.

When it appears during the course of any hearing or proceeding that some action or remedy other than those indicated by the application or pleading appears appropriate, the court may, provided all necessary parties consent, proceed to hear and determine the other issues as though originally properly sought and pleaded.

[C66, 71, 73, 75, 77, §232.12; C79, 81, §232.93]

Referred to in §600A.7

232.94 Reporter required.

Stenographic notes or electronic or mechanical recordings shall be taken of all court hearings held pursuant to this subchapter unless waived by the parties. The child shall not be competent to waive the reporting requirement, but waiver may be made for the child by the child's counsel or guardian ad litem. Matters which must be reported under the provisions of this section shall be reported in the same manner as required in section 624.9.

[C66, 71, 73, 75, 77, §232.32; C79, 81, §232.94]

2020 Acts, ch 1062, §94

Referred to in §232.94A, 600A.7

Code editor directive applied

232.94A Records — subsequent hearings.

Juvenile court records, social records, and the material required to be recorded pursuant to section 232.94 shall be maintained and shall be a part of each hearing relating to the child so long as and whenever the child is a child in need of assistance.

84 Acts, ch 1279, §12

Referred to in §600A.7

232.95 Hearing concerning temporary removal.

1. At any time after the petition is filed, any person who may file a petition under section 232.87 may apply for, or the court on its own motion may order, a hearing to determine whether the child should be temporarily removed from home. If the child is in the custody of a person other than the child's parent, guardian, or custodian as the result of action taken pursuant to section 232.78 or 232.79, the court shall hold a hearing within ten days of the date of temporary removal to determine whether the temporary removal should be continued.

2. Upon such hearing, the court may:

a. Remove the child from home and place the child in a shelter care facility or in the custody of a suitable person or agency pending a final order of disposition if the court finds that substantial evidence exists to believe that removal is necessary to avoid imminent risk to the child's life or health.

(1) If removal is ordered, the court must, in addition, make a determination that continuation of the child in the child's home would be contrary to the welfare of the child, and that reasonable efforts, as defined in section 232.102, have been made to prevent or eliminate the need for removal of the child from the child's home.

(2) The court's determination regarding continuation of the child in the child's home, and regarding reasonable efforts, including those made to prevent removal and those made to finalize any permanency plan in effect, as well as any determination by the court that reasonable efforts are not required, must be made on a case-by-case basis. The grounds for each determination must be explicitly documented and stated in the court order. However, preserving the safety of the child must be the court's paramount consideration. If imminent danger to the child's life or health exists at the time of the court's consideration, the determinations otherwise required under this paragraph shall not be a prerequisite for an order for removal of the child.

(3) The order shall also include a statement informing the child's parent that the consequences of a permanent removal may include termination of the parent's rights with respect to the child.

b. Release the child to the child's parent, guardian, or custodian pending a final order of disposition.

c. Authorize a physician or hospital to provide medical or surgical procedures if such procedures are necessary to safeguard the child's life or health.

3. The court shall make and file written findings as to the grounds for granting or denying an application under this section.

4. If the court orders the child removed from the home pursuant to subsection 2, paragraph "a", the court shall hold a hearing to review the removal order within six months unless a dispositional hearing pursuant to section 232.99 has been held.

[C79, 81, §232.95]

84 Acts, ch 1279, §13; 86 Acts, ch 1186, §8; 87 Acts, ch 159, §2; 98 Acts, ch 1190, §8; 2000 Acts, ch 1067, §8; 2001 Acts, ch 135, §15

[Subsection 2, paragraphs b and c, were inadvertently omitted in the 2001 Code Supplement and 2003 Code]

2004 Acts, ch 1101, §28

Referred to in §232.44, 232.78, 232.96, 232.104, 232B.6, 600A.7

232.96 Adjudicatory hearing.

1. The court shall hear and adjudicate cases involving a petition alleging a child to be a child in need of assistance.

2. The state shall have the burden of proving the allegations by clear and convincing evidence.

3. Only evidence which is admissible under the rules of evidence applicable to the trial of civil cases shall be admitted, except as otherwise provided by this section.

4. A report made to the department of human services pursuant to chapter 235A shall be admissible in evidence, but such a report shall not alone be sufficient to support a finding that the child is a child in need of assistance unless the attorneys for the child and the parents consent to such a finding.

5. Neither the privilege attaching to confidential communications between a health practitioner or mental health professional and patient nor the prohibition upon admissibility of communications between husband and wife shall be ground for excluding evidence at an adjudicatory hearing.

6. A report, study, record, or other writing or an audiotape or videotape recording made by the department of human services, a juvenile court officer, a peace officer or a hospital relating to a child in a proceeding under this subchapter is admissible notwithstanding any objection to hearsay statements contained in it provided it is relevant and material and provided its probative value substantially outweighs the danger of unfair prejudice to the child's parent, guardian, or custodian. The circumstances of the making of the report, study, record or other writing or an audiotape or videotape recording, including the maker's lack of personal knowledge, may be proved to affect its weight.

7. After the hearing is concluded, the court shall make and file written findings as to the truth of allegations of the petition and as to whether the child is a child in need of assistance.

8. If the court concludes facts sufficient to sustain a petition have not been established by clear and convincing evidence or if the court concludes that its aid is not required in the circumstances, the court shall dismiss the petition.

9. If the court concludes that facts sufficient to sustain the petition have been established by clear and convincing evidence and that its aid is required, the court may enter an order adjudicating the child to be a child in need of assistance.

10. If the court enters an order adjudicating the child to be a child in need of assistance, the court, if it has not previously done so, may issue an order authorizing temporary removal of the child from the child's home as set forth in section 232.95, subsection 2, paragraph "a", pending a final order of disposition. The order shall include both of the following:

a. A determination that continuation of the child in the child's home would be contrary to the welfare of the child, and that reasonable efforts, as defined in section 232.102, have been made to prevent or eliminate the need for removal of the child from the child's home. The court's determination regarding continuation of the child in the child's home, and regarding reasonable efforts, including those made to prevent removal and those made to finalize any permanency plan in effect, as well as any determination by the court that reasonable efforts are not required, must be made on a case-by-case basis. The grounds for each determination must be explicitly documented and stated in the court order. However, preserving the safety of the child is the paramount consideration. If imminent danger to the child's life or health exists at the time of the court's consideration, the determinations otherwise required under this paragraph shall not be a prerequisite for an order for temporary removal of the child.

b. A statement informing the child's parent that the consequences of a permanent removal may include termination of the parent's rights with respect to the child.

[C66, 71, 73, 75, 77, §232.31; C79, 81, §232.96]

83 Acts, ch 96, §157, 159; 83 Acts, ch 186, §10055, 10201; 84 Acts, ch 1207, §4; 87 Acts, ch 153, §7; 98 Acts, ch 1190, §9; 2000 Acts, ch 1067, §9; 2001 Acts, ch 135, §16; 2020 Acts, ch 1062, §94

Referred to in §232.99, 232.104, 232.116, 600A.7

Code editor directive applied

232.97 Social investigation and report.

1. The court shall not make a disposition of the petition until five working days after a social report has been submitted to the court and counsel for the child and has been considered by the court. The court may waive the five-day requirement upon agreement by

all the parties. The court may direct either the juvenile court officer or the department of human services or any other agency licensed by the state to conduct a social investigation and to prepare a social report which may include any evidence provided by an individual providing foster care for the child. A report prepared shall include any founded reports of child abuse.

2. The social investigation may be conducted and the social history may be submitted to the court prior to the adjudication of the child as a child in need of assistance with the consent of the parties.

3. The social report shall not be disclosed except as provided in this section and except as otherwise provided in this chapter. At least five days prior to the hearing at which the disposition is determined, the court shall send a copy of the social report to counsel for the child, counsel for the child's parent, guardian, or custodian, and the guardian ad litem. The court may in its discretion order counsel not to disclose parts of the report to the child, or to the parent, guardian, or custodian if disclosure would seriously harm the treatment or rehabilitation of the child or would violate a promise of confidentiality given to a source of information. If the report indicates the child has behaved in a manner that threatened the safety of another person, has committed a violent act causing bodily injury to another person, or has been a victim or perpetrator of sexual abuse, unless otherwise ordered by the court, the child's parent, guardian, or foster parent or other person with custody of the child shall be provided with that information.

[C66, 71, 73, 75, 77, §232.14; C79, 81, §232.97]

83 Acts, ch 96, §157, 159; 83 Acts, ch 186, §10055, 10201; 84 Acts, ch 1279, §14; 86 Acts, ch 1186, §9; 2005 Acts, ch 124, §4; 2015 Acts, ch 62, §2

Referred to in §232.147

232.98 Physical and mental examinations.

1. Except as provided in section 232.78, subsection 5, a physical or mental examination of the child may be ordered only after the filing of a petition pursuant to section 232.87 and after a hearing to determine whether an examination is necessary to determine the child's physical or mental condition. The court may consider chemical dependency as either a physical or mental condition and may consider a chemical dependency evaluation as either a physical or mental examination.

a. The hearing required by this section may be held simultaneously with the adjudicatory hearing.

b. An examination ordered prior to the adjudication shall be conducted on an outpatient basis when possible, but if necessary the court may commit the child to a suitable nonsecure hospital, facility, or institution for the purpose of examination for a period not to exceed fifteen days if all of the following are found to be present:

(1) Probable cause exists to believe that the child is a child in need of assistance pursuant to section 232.2, subsection 6, paragraph "e" or "f".

(2) Commitment is necessary to determine whether there is clear and convincing evidence that the child is a child in need of assistance.

(3) The child's attorney agrees to the commitment.

c. An examination ordered after adjudication shall be conducted on an outpatient basis when possible, but if necessary the court may commit the child to a suitable nonsecure hospital, facility, or institution for the purpose of examination for a period not to exceed thirty days.

d. The child's parent, guardian, or custodian shall be included in counseling sessions offered during the child's stay in a hospital, facility, or institution when feasible, and when in the best interests of the child and the child's parent, guardian, or custodian. If separate counseling sessions are conducted for the child and the child's parent, guardian, or custodian, a joint counseling session shall be offered prior to the release of the child from the hospital, facility, or institution. The court shall require that notice be provided to the child's guardian ad litem of the counseling sessions and of the participants and results of the sessions.

2. Following an adjudication that a child is a child in need of assistance, the court may

after a hearing order the physical or mental examination of the parent, guardian or custodian if that person's ability to care for the child is at issue.

[C66, 71, 73, 75, 77, §232.13; C79, 81, §232.98; 82 Acts, ch 1209, §15]

84 Acts, ch 1279, §15; 85 Acts, ch 173, §12; 86 Acts, ch 1186, §10; 2009 Acts, ch 41, §263

Referred to in §232.78

232.99 Dispositional hearing — findings.

1. Following the entry of an order pursuant to section 232.96, the court shall, as soon as practicable, hold a dispositional hearing in order to determine what disposition should be made of the petition.

2. All relevant and material evidence shall be admitted.

3. In the initial dispositional hearing, any hearing held under section 232.103, and any dispositional review or permanency hearing, the court shall inquire of the parties as to the sufficiency of the services being provided and whether additional services are needed to facilitate the safe return of the child to the child's home. If the court determines such services are needed, the court shall order the services to be provided. The court shall advise the parties that failure to identify a deficiency in services or to request additional services may preclude the party from challenging the sufficiency of the services in a termination of parent-child relationship proceeding.

4. When the dispositional hearing is concluded the court shall make the least restrictive disposition appropriate considering all the circumstances of the case. The dispositions which may be entered under this subchapter are listed in sections 232.100 through 232.102 in order from least to most restrictive.

5. The court shall make and file written findings as to its reason for the disposition.

[C66, 71, 73, 75, 77, §232.31; C79, 81, §232.99]

98 Acts, ch 1190, §10; 2020 Acts, ch 1062, §94; 2020 Acts, ch 1063, §89

Referred to in §232.58, 232.95, 232.104

See Code editor's note on simple harmonization at the beginning of this Code volume

Code editor directive applied

Subsection 4 amended

232.100 Suspended judgment.

After the dispositional hearing the court may enter an order suspending judgment and continuing the proceedings subject to terms and conditions imposed to assure the proper care and protection of the child. Such terms and conditions may include the supervision of the child and of the parent, guardian or custodian by the department of human services, juvenile court office or other appropriate agency designated by the court. The maximum duration of any term or condition of a suspended judgment shall be twelve months unless the court finds at a hearing held during the last month of that period that exceptional circumstances require an extension of the term or condition for an additional six months.

[C79, 81, §232.100]

83 Acts, ch 96, §157, 159

Referred to in §232.99, 232.103, 232.117, 232.127

232.101 Retention of custody by parent.

1. After the dispositional hearing, the court may enter an order permitting the child's parent, guardian or custodian at the time of the filing of the petition to retain custody of the child subject to terms and conditions which the court prescribes to assure the proper care and protection of the child. Such terms and conditions may include supervision of the child and the parent, guardian or custodian by the department of human services, juvenile court office or other appropriate agency which the court designates. Such terms and conditions may also include the provision or acceptance by the parent, guardian or custodian of special treatment or care which the child needs for the child's physical or mental health. If the parent, guardian or custodian fails to provide the treatment or care, the court may order the department of human services or some other appropriate state agency to provide such care or treatment.

2. The duration of any period of supervision or other terms or conditions shall be for an initial period of no more than twelve months and the court, at the expiration of that

period, upon a hearing and for good cause shown, may make not more than two successive extensions of such supervision or other terms or conditions of up to twelve months each.

[S13, §254-a20, 2708; C24, 27, 31, 35, 39, §3637; C46, 50, 54, 58, 62, §232.21; C66, 71, 73, 75, 77, §232.33; C79, 81, §232.101]

83 Acts, ch 96, §157, 159; 97 Acts, ch 99, §4

Referred to in §232.99, 232.103, 232.117, 232.127

232.101A Appointment of guardian.

1. After a dispositional hearing the court may close the child in need of assistance case and appoint a guardian pursuant to sections 232D.308 and 232D.401 if all of the following conditions are met:

a. The person receiving guardianship meets the definition of custodian in section 232.2.

b. The person receiving guardianship has assumed responsibility for the child prior to filing of the petition under this subchapter and has maintained placement of the child since the filing of the petition under this subchapter.

c. The parent of the child does not appear at the dispositional hearing, or the parent appears at the dispositional hearing, does not object to the transfer of guardianship, and agrees to waive the requirement for making reasonable efforts as defined in section 232.102.

2. If the court appoints a guardian pursuant to subsection 1, the court may close the child in need of assistance case. The court shall inform the proposed guardian of the guardian's reporting duties under section 232D.501 and other duties under chapter 232D. The court shall direct the clerk of court, once the proposed guardian has filed an oath of office and identification, to issue letters of appointment for guardianship.

2014 Acts, ch 1048, §1; 2019 Acts, ch 56, §30, 44, 45; 2020 Acts, ch 1062, §94

Referred to in §232.99, 232.103, 232.127, 232D.201

2019 amendment is effective January 1, 2020, and applies to guardianships and guardianship proceedings of minors established or pending before, on, or after that date; 2019 Acts, ch 56, §44, 45

Code editor directive applied

232.102 Transfer of legal custody of child and placement.

1. a. After a dispositional hearing the court may enter an order transferring the legal custody of the child to one of the following for purposes of placement:

(1) A parent who does not have physical care of the child, other relative, or other suitable person.

(2) A child-placing agency or other suitable private agency, facility, or institution which is licensed or otherwise authorized by law to receive and provide care for the child.

(3) The department of human services. If the child is placed in a juvenile shelter care home or with an individual or agency as defined in section 237.1, the department shall assign decision-making authority to the juvenile shelter care home, individual, or agency for the purpose of applying the reasonable and prudent parent standard during the child's placement.

b. If the child is sixteen years of age or older, the order shall specify the services needed to assist the child in preparing for the transition from foster care to adulthood. If the child has a case permanency plan, the court shall consider the written transition plan of services and needs assessment developed for the child's case permanency plan. If the child does not have a case permanency plan containing the transition plan and needs assessment at the time the order is entered, the written transition plan and needs assessment shall be developed and submitted for the court's consideration no later than six months from the date of the transfer order. The court shall modify the initial transfer order as necessary to specify the services needed to assist the child in preparing for the transition from foster care to adulthood. If the transition plan identifies services or other support needed to assist the child when the child becomes an adult and the court deems it to be beneficial to the child, the court may authorize the individual who is the child's guardian ad litem or court appointed special advocate to continue a relationship with and provide advice to the child for a period of time beyond the child's eighteenth birthday.

2. The court shall not order group foster care placement of the child which is a charge upon the state if that placement is not in accordance with the service area plan for group

foster care established pursuant to section 232.143 for the departmental service area in which the court is located.

3. After a dispositional hearing and upon the request of the department, the court may enter an order appointing the department as the guardian of an unaccompanied refugee child or of a child without parent or guardian.

4. *a.* Whenever possible the court should permit the child to remain at home with the child's parent, guardian, or custodian. Custody of the child should not be transferred unless the court finds there is clear and convincing evidence that:

(1) The child cannot be protected from physical abuse without transfer of custody; or

(2) The child cannot be protected from some harm which would justify the adjudication of the child as a child in need of assistance and an adequate placement is available.

b. In order to transfer custody of the child under this subsection, the court must make a determination that continuation of the child in the child's home would be contrary to the welfare of the child, and shall identify the reasonable efforts that have been made. The court's determination regarding continuation of the child in the child's home, and regarding reasonable efforts, including those made to prevent removal and those made to finalize any permanency plan in effect, as well as any determination by the court that reasonable efforts are not required, must be made on a case-by-case basis. The grounds for each determination must be explicitly documented and stated in the court order. However, preserving the safety of the child is the paramount consideration. If imminent danger to the child's life or health exists at the time of the court's consideration, the determinations otherwise required under this paragraph shall not be a prerequisite for an order for removal of the child. If the court transfers custody of the child, unless the court waives the requirement for making reasonable efforts or otherwise makes a determination that reasonable efforts are not required, reasonable efforts shall be made to make it possible for the child to safely return to the family's home.

5. A child placed in foster care may participate in age or developmentally appropriate extracurricular, enrichment, cultural, and social activities subject to the approval of the child's foster parents or the appropriate licensed foster care facility staff. A court shall make a finding at all review hearings to address the child's participation in such activities and how barriers to participation are being addressed.

6. The child shall not be placed in the state training school.

7. In any order transferring custody to the department or an agency, or in orders pursuant to a custody order, the court shall specify the nature and category of disposition which will serve the best interests of the child, and shall prescribe the means by which the placement shall be monitored by the court. If the court orders the transfer of the custody of the child to the department of human services or other agency for placement, the department or agency shall submit a case permanency plan to the court and shall make every reasonable effort to return the child to the child's home as quickly as possible consistent with the best interests of the child. When the child is not returned to the child's home and if the child has been previously placed in a licensed foster care facility, the department or agency shall consider placing the child in the same licensed foster care facility. If the court orders the transfer of custody to a parent who does not have physical care of the child, other relative, or other suitable person, the court may direct the department or other agency to provide services to the child's parent, guardian, or custodian in order to enable them to resume custody of the child. If the court orders the transfer of custody to the department of human services or to another agency for placement in group foster care, the department or agency shall make every reasonable effort to place the child in the least restrictive, most family-like, and most appropriate setting available, and in close proximity to the parents' home, consistent with the child's best interests and special needs, and shall consider the placement's proximity to the school in which the child is enrolled at the time of placement.

8. Any order transferring custody to the department or an agency shall include a statement informing the child's parent that the consequences of a permanent removal may include the termination of the parent's rights with respect to the child.

9. An agency, facility, institution, or person to whom custody of the child has been transferred pursuant to this section shall file a written report with the court at least every

six months concerning the status and progress of the child. The court shall hold a periodic dispositional review hearing for each child in placement pursuant to this section in order to determine whether the child should be returned home, an extension of the placement should be made, a permanency hearing should be held, or a termination of the parent-child relationship proceeding should be instituted. The placement shall be terminated and the child returned to the child's home if the court finds by a preponderance of the evidence that the child will not suffer harm in the manner specified in section 232.2, subsection 6. If the placement is extended, the court shall determine whether additional services are necessary to facilitate the return of the child to the child's home, and if the court determines such services are needed, the court shall order the provision of such services. When the child is not returned to the child's home and if the child has been previously placed in a licensed foster care facility, the department or agency responsible for the placement of the child shall consider placing the child in the same licensed foster care facility.

a. The initial dispositional review hearing shall not be waived or continued beyond six months after the date of the dispositional hearing.

b. Subsequent dispositional review hearings shall not be waived or continued beyond twelve months after the date of the most recent dispositional review hearing.

c. For purposes of this subsection, a hearing held pursuant to section 232.103 satisfies the requirements for initial dispositional review or subsequent permanency hearing.

10. a. As used in this subchapter, "*reasonable efforts*" means the efforts made to preserve and unify a family prior to the out-of-home placement of a child in foster care or to eliminate the need for removal of the child or make it possible for the child to safely return to the family's home. Reasonable efforts shall include but are not limited to giving consideration, if appropriate, to interstate placement of a child in the permanency planning decisions involving the child and giving consideration to in-state and out-of-state placement options at a permanency hearing and when using concurrent planning. If returning the child to the family's home is not appropriate or not possible, reasonable efforts shall include the efforts made in a timely manner to finalize a permanency plan for the child. A child's health and safety shall be the paramount concern in making reasonable efforts. Reasonable efforts may include but are not limited to family-centered services, if the child's safety in the home can be maintained during the time the services are provided. In determining whether reasonable efforts have been made, the court shall consider both of the following:

(1) The type, duration, and intensity of services or support offered or provided to the child and the child's family. If family-centered services were not provided, the court record shall enumerate the reasons the services were not provided, including but not limited to whether the services were not available, not accepted by the child's family, judged to be unable to protect the child and the child's family during the time the services would have been provided, judged to be unlikely to be successful in resolving the problems which would lead to removal of the child, or other services were found to be more appropriate.

(2) The relative risk to the child of remaining in the child's home versus removal of the child.

b. As used in this section, "*family-centered services*" means services and other support intended to safely maintain a child with the child's family or with a relative, to safely and in a timely manner return a child to the home of the child's parent or relative, or to promote achievement of concurrent planning goals by identifying and helping the child secure placement for adoption, with a guardian, or with other alternative permanent family connections. Family-centered services are adapted to the individual needs of a family in regard to the specific services and other support provided to the child's family and the intensity and duration of service delivery. Family-centered services are intended to preserve a child's connections to the child's neighborhood, community, and family and to improve the overall capacity of the child's family to provide for the needs of the children in the family.

11. The performance of reasonable efforts to place a child for adoption or with a guardian may be made concurrently with making reasonable efforts as defined in this section.

12. If the court determines by clear and convincing evidence that aggravated circumstances exist, with written findings of fact based upon evidence in the record, the

court may waive the requirement for making reasonable efforts. The existence of aggravated circumstances is indicated by any of the following:

- a. The parent has abandoned the child.
- b. The court finds the circumstances described in section 232.116, subsection 1, paragraph “i”, are applicable to the child.
- c. The parent’s parental rights have been terminated under section 232.116 or involuntarily terminated by an order of a court of competent jurisdiction in another state with respect to another child who is a member of the same family, and there is clear and convincing evidence to show that the offer or receipt of services would not be likely within a reasonable period of time to correct the conditions which led to the child’s removal.
- d. The parent has been convicted of the murder of another child of the parent.
- e. The parent has been convicted of the voluntary manslaughter of another child of the parent.
- f. The parent has been convicted of aiding or abetting, attempting, conspiring in, or soliciting the commission of the murder or voluntary manslaughter of another child of the parent.
- g. The parent has been convicted of a felony assault which resulted in serious bodily injury of the child or of another child of the parent.

13. Unless prohibited by the court order transferring custody of the child for placement or other court order or the department or agency that received the custody transfer finds that allowing the visitation would not be in the child’s best interest, the department or agency may authorize reasonable visitation with the child by the child’s grandparent, great-grandparent, or other adult relative who has established a substantial relationship with the child.

[S13, §254-a20, -a23, 2708, 2709; C24, 27, 31, 35, 39, §3637, 3646, 3647; C46, 50, 54, 58, 62, §232.21, 232.27, 232.28; C66, 71, 73, 75, 77, §232.33; C79, 81, §232.102; 81 Acts, ch 11, §17; 82 Acts, ch 1260, §23]

83 Acts, ch 96, §157, 159; 84 Acts, ch 1279, §16 – 18; 85 Acts, ch 173, §13; 87 Acts, ch 159, §3; 88 Acts, ch 1134, §52; 88 Acts, ch 1249, §14; 90 Acts, ch 1239, §10, 11; 91 Acts, ch 232, §7, 8; 92 Acts, ch 1229, §5; 92 Acts, 1st Ex, ch 1004, §2; 95 Acts, ch 67, §16; 97 Acts, ch 99, §5; 98 Acts, ch 1190, §11 – 17; 2000 Acts, ch 1067, §10; 2001 Acts, ch 24, §40; 2001 Acts, ch 135, §17 – 19; 2002 Acts, ch 1081, §3; 2003 Acts, ch 117, §5; 2004 Acts, ch 1116, §8 – 10; 2007 Acts, ch 172, §6, 9; 2007 Acts, ch 218, §114; 2008 Acts, ch 1098, §1; 2009 Acts, ch 41, §263; 2014 Acts, ch 1092, §52; 2016 Acts, ch 1063, §14, 15; 2017 Acts, ch 54, §31; 2019 Acts, ch 100, §4; 2020 Acts, ch 1062, §94

Referred to in §225C.49, 232.2, 232.95, 232.96, 232.99, 232.101A, 232.103, 232.104, 232.111, 232.116, 232.117, 232.127, 232.182, 232.189, 232B.5, 233.2, 234.6, 234.35

Copy of dispositional order under subsection 9 to be submitted to foster care review boards; 84 Acts, ch 1279, §42

Limitation on placing child in mental health institute; 86 Acts, ch 1246, §305

Code editor directive applied

232.103 Termination, modification, vacation, and substitution of dispositional order.

1. At any time prior to expiration of a dispositional order and upon the motion of an authorized party or upon its own motion as provided in this section, the court may terminate the order and discharge the child, modify the order, or vacate the order and make a new order.

2. The following persons shall be authorized to file a motion to terminate, modify, or vacate and substitute a dispositional order:

- a. The child.
 - b. The child’s parent, guardian or custodian, except that such motion may be filed by that person not more often than once every six months except with leave of court for good cause shown.
 - c. The child’s guardian ad litem.
 - d. A person supervising the child pursuant to a dispositional order.
 - e. An agency, facility, institution or person to whom legal custody has been transferred pursuant to a dispositional order.
 - f. The county attorney.
3. A change in the level of care for a child who is subject to a dispositional order for out-of-home placement requires modification of the dispositional order. A hearing shall

be held on a motion to terminate or modify a dispositional order except that a hearing on a motion to terminate or modify an order may be waived upon agreement by all parties. Reasonable notice of the hearing shall be given to the parties. The hearing shall be conducted in accordance with the procedure established for dispositional hearings under section 232.50, subsection 3.

4. The court may modify a dispositional order, vacate and substitute a dispositional order, or terminate a dispositional order and release the child if the court finds that any of the following circumstances exist:

a. The purposes of the order have been accomplished and the child is no longer in need of supervision, care, or treatment.

b. The purposes of the order cannot reasonably be accomplished.

c. The efforts made to effect the purposes of the order have been unsuccessful and other options to effect the purposes of the order are not available.

d. The purposes of the order have been sufficiently accomplished and the continuation of supervision, care, or treatment is unjustified or unwarranted.

5. The court may modify or vacate an order for good cause shown provided that where the request to modify or vacate is based on the child's alleged failure to comply with the conditions or terms of the order, the court may modify or vacate the order only if it finds that there is clear and convincing evidence that the child violated a material and reasonable condition or term of the order.

6. If the court vacates the order it may make any other order in accordance with and subject to the provisions of sections 232.100 through 232.102.

[C79, 81, §232.103]

90 Acts, ch 1239, §12; 2001 Acts, ch 135, §20; 2003 Acts, ch 117, §6; 2004 Acts, ch 1154, §1, 2; 2012 Acts, ch 1021, §51; 2017 Acts, ch 54, §72; 2019 Acts, ch 100, §5; 2020 Acts, ch 1062, §34; 2020 Acts, ch 1063, §90

Referred to in §232.2, 232.99, 232.102, 232.104
Subsection 2, unnumbered paragraph 1 amended
Subsection 6 amended

232.103A Transfer of jurisdiction related to child in need of assistance case — bridge order.

1. The juvenile court may close a child in need of assistance case by transferring jurisdiction over the child's custody, physical care, and visitation to the district court through a bridge order, if all of the following criteria are met:

a. The child has been adjudicated a child in need of assistance in an active juvenile court case, and a dispositional order in that case is in place.

b. Paternity of the child has been legally established, including by operation of law due to the individual's marriage to the mother at the time of conception, birth, or at any time during the period between conception and birth of the child, by order of a court of competent jurisdiction, or by administrative order when authorized by state law.

c. The child is safely placed by the juvenile court with a parent.

d. There is not a current district court order for custody in place.

e. The juvenile court has determined that the child in need of assistance case can safely close once orders for custody, physical care, and visitation are entered by the district court.

f. A parent qualified for a court-appointed attorney in the juvenile court case.

2. When the criteria specified in subsection 1 are met, any party to a child in need of assistance proceeding in juvenile court may file a motion with the juvenile court for a bridge order under subsection 1. Such motion shall be set for hearing by the juvenile court no less than thirty days nor more than ninety days from the date of filing the motion. The juvenile court, on its own motion, may set a hearing on the issue of a bridge order if such hearing is set no less than thirty days from the date of notice to the parties.

3. The juvenile court shall designate the petitioner and respondent for the purposes of the bridge order. A bridge order shall only address matters of custody, physical care, and visitation. All other matters, including child support, shall be filed by separate petition or by action of the child support recovery unit, and shall be subject to existing applicable statutory provisions.

4. Upon transferring jurisdiction from the juvenile court to the district court, the clerk of court shall docket the case. Filing fees and other court costs shall not be assessed against the parties.

5. The district court shall take judicial notice of the juvenile file in any hearing related to the case. Records contained in the district court case file that were copied or transferred from the juvenile court file concerning the case shall be subject to section 232.147 and other confidentiality provisions of this chapter for cases not involving juvenile delinquency, and shall be disclosed, upon request, to the child support recovery unit without a court order.

6. Following the issuance of a bridge order, a party may file a petition in district court for modification of the bridge order for custody, physical care, or visitation. If the petition for modification is filed within one year of the filing date of the bridge order, the party requesting modification shall not be required to demonstrate a substantial change of circumstances but instead shall demonstrate that such modification is in the best interest of the child. If a petition for modification is filed within one year of the filing date of the bridge order, filing fees and other court costs shall not be assessed against the parties.

7. Nothing in this section shall be construed to require appointment of counsel for the parties in the district court action.

2015 Acts, ch 43, §1

Referred to in §232D.201

232.104 Permanency hearing — permanency order — subsequent proceedings.

1. *a.* The time for the initial permanency hearing for a child subject to out-of-home placement shall be the earlier of the following:

(1) For a temporary removal order entered under section 232.78, 232.95, or 232.96, for a child who was removed without a court order under section 232.79, or for an order entered under section 232.102, for which the court has not waived reasonable efforts requirements, the permanency hearing shall be held within twelve months of the date the child was removed from the home.

(2) For an order entered under section 232.102, for which the court has waived reasonable efforts requirements under section 232.102, subsection 12, the permanency hearing shall be held within thirty days of the date the requirements were waived.

b. The permanency hearing may be held concurrently with a hearing under section 232.103 to review, modify, substitute, vacate, or terminate a dispositional order.

c. Reasonable notice of a permanency hearing shall be provided to the parties. A permanency hearing shall be conducted in substantial conformance with the provisions of section 232.99. During the hearing, the court shall consider the child's need for a secure and permanent placement in light of any permanency plan or evidence submitted to the court and the reasonable efforts made concerning the child. Upon completion of the hearing, the court shall enter written findings and make a determination identifying a primary permanency goal for the child. If a permanency plan is in effect at the time of the hearing, the court shall also make a determination as to whether reasonable progress is being made in achieving the permanency goal and complying with the other provisions of that permanency plan.

2. After a permanency hearing the court shall do one of the following:

a. Enter an order pursuant to section 232.102 to return the child to the child's home.

b. Enter an order pursuant to section 232.102 to continue placement of the child for an additional six months at which time the court shall hold a hearing to consider modification of its permanency order. An order entered under this paragraph shall enumerate the specific factors, conditions, or expected behavioral changes which comprise the basis for the determination that the need for removal of the child from the child's home will no longer exist at the end of the additional six-month period.

c. Direct the county attorney or the attorney for the child to institute proceedings to terminate the parent-child relationship.

d. Enter an order, pursuant to findings required by subsection 4, to do one of the following:

(1) Transfer guardianship and custody of the child to a suitable person.

(2) Transfer sole custody of the child from one parent to another parent.

(3) Transfer custody of the child to a suitable person for the purpose of long-term care.

(4) If the child is sixteen years of age or older and the department has documented to the court's satisfaction a compelling reason for determining that an order under the other subparagraphs of this paragraph "d" would not be in the child's best interest, order another planned permanent living arrangement for the child.

3. If the court enters an order for another planned permanent living arrangement pursuant to subsection 2, paragraph "d", the court shall do all of the following:

a. Ask the child about the child's desired permanency outcome and make a judicial determination that another planned permanent living arrangement is the best permanency plan for the child.

b. Require the department to do all of the following:

(1) Document the efforts to place a child permanently with a parent, relative, or in a guardianship or adoptive placement.

(2) Document that the planned permanent living arrangement is the best permanency plan for the child and compelling reasons why it is not in the child's best interest to be placed permanently with a parent, relative, or in a guardianship or adoptive placement.

(3) Document all of the following at the permanency hearing and the six-month periodic review:

(a) The steps the department is taking to ensure that the planned permanent living arrangement follows the reasonable and prudent parent standard.

(b) Whether the child has regular opportunities to engage in age-appropriate or developmentally appropriate activities.

4. Prior to entering a permanency order pursuant to subsection 2, paragraph "d", convincing evidence must exist showing that all of the following apply:

a. A termination of the parent-child relationship would not be in the best interest of the child.

b. Services were offered to the child's family to correct the situation which led to the child's removal from the home.

c. The child cannot be returned to the child's home.

5. Any permanency order may provide restrictions upon the contact between the child and the child's parent or parents, consistent with the best interest of the child.

6. With respect to a dispositional order providing for transfer of custody of a child and siblings to the department or other agency for placement for which the court has suspended or terminated sibling visitation or interaction, when a review is made under this section the court shall consider whether the visitation or interaction can be safely resumed and may modify the suspension or termination as appropriate.

7. Subsequent to the entry of a permanency order pursuant to this section, the child shall not be returned to the care, custody, or control of the child's parent or parents, over a formal objection filed by the child's attorney or guardian ad litem, unless the court finds by a preponderance of the evidence, that returning the child to such custody would be in the best interest of the child.

8. a. Following an initial permanency hearing and the entry of a permanency order which places a child in the custody or guardianship of another person or agency, the court shall retain jurisdiction and annually review the order to ascertain whether the best interest of the child is being served. When the order places the child in the custody of the department for the purpose of long-term foster care placement in a facility, the review shall be in a hearing that shall not be waived or continued beyond twelve months after the initial permanency hearing or the last permanency review hearing. Any modification shall be accomplished through a hearing procedure following reasonable notice. During the hearing, all relevant and material evidence shall be admitted and procedural due process shall be provided to all parties.

b. In lieu of the procedures specified in paragraph "a", the court may close the child in need of assistance case and may appoint a guardian pursuant to chapter 232D.

87 Acts, ch 159, §4; 89 Acts, ch 229, §6; 95 Acts, ch 182, §5; 98 Acts, ch 1190, §18, 19; 2000 Acts, ch 1067, §11, 12; 2001 Acts, ch 135, §21, 22; 2007 Acts, ch 67, §4; 2007 Acts, ch 172, §7;

2010 Acts, ch 1143, §1; 2016 Acts, ch 1063, §16, 17; 2017 Acts, ch 54, §73; 2019 Acts, ch 56, §31, 44, 45

Referred to in §232.117, 232D.201

2019 amendment is effective January 1, 2020, and applies to guardianships and guardianship proceedings of minors established or pending before, on, or after that date; 2019 Acts, ch 56, §44, 45

232.105 Reserved.

232.106 Terms and conditions on child's parent.

If the court enters an order under this chapter which imposes terms and conditions on the child's parent, guardian, or custodian, the purpose of the terms and conditions shall be to assure the protection of the child. The order is subject to the following provisions:

1. The order shall state the reasons for and purpose of the terms and conditions.
2. If a parent, guardian, or custodian is required to have a chemical test of blood or urine for the purpose of determining the presence of an illegal drug, the test shall be a medically relevant test as defined in section 232.73.

95 Acts, ch 182, §9; 96 Acts, ch 1092, §5

232.107 Parent visitation.

If a child is removed from the child's home in accordance with an order entered under this subchapter, unless the court finds that substantial evidence exists to believe that reasonable visitation or supervised visitation would cause an imminent risk to the child's life or health, the order shall allow the child's parent reasonable visitation or supervised visitation with the child.

96 Acts, ch 1092, §6; 2019 Acts, ch 126, §3; 2020 Acts, ch 1062, §94

Code editor directive applied

232.108 Visitation or ongoing interaction with siblings.

1. If the court orders the transfer of custody of a child and siblings to the department or other agency for placement under this subchapter, under subchapter II, relating to juvenile delinquency proceedings, or under any other provision of this chapter, the department or other agency shall make a reasonable effort to place the child and siblings together in the same placement. The requirement of this subsection remains applicable to custody transfer orders made at separate times and applies in addition to efforts made by the department or agency to place the child with a relative.

2. If the requirements of subsection 1 apply but the siblings are not placed in the same placement together, the department or other agency shall provide the siblings with the reasons why and the efforts being made to facilitate such placement, or why making efforts for such placement is not appropriate. Unless visitation or ongoing interaction with siblings is suspended or terminated by the court, the department or agency shall make reasonable effort to provide for frequent visitation or other ongoing interaction between the child and the child's siblings from the time of the child's out-of-home placement until the child returns home or is in a permanent placement.

3. A person who wishes to assert a sibling relationship with a child who is subject to an order under this chapter for an out-of-home placement and to request frequent visitation or other ongoing interaction with the child may file a petition with the court with jurisdiction over the child. Unless the court determines it would not be in the child's best interest, upon finding that the person is a sibling of the child, the provisions of this section providing for frequent visitation or other ongoing interaction between the siblings shall apply. Nothing in this section is intended to provide or expand a right to counsel under this chapter beyond the right provided and persons specified in sections 232.89 and 232.113.

4. If the court determines by clear and convincing evidence that visitation or other ongoing interaction between a child and the child's siblings would be detrimental to the well-being of the child or a sibling, the court shall order the visitation or interaction to be suspended or terminated. The reasons for the determination shall be noted in the court order suspending or terminating the visitation or interaction and shall be explained to the child and the child's siblings, and to the parent, guardian, or custodian of the child.

5. The case permanency plan of a child who is subject to this section shall comply with all of the following, as applicable:

a. The plan shall document the efforts being made to provide for the child's frequent visitation or other ongoing interaction with the child's siblings from the time of the child's out-of-home placement until the child returns home or is in a permanent placement. The child's parent, guardian, or custodian may comment on the efforts as documented in the case permanency plan.

b. If at any point the court determines that the child's visitation or interaction with siblings would be detrimental to the child's well-being and visitation or interaction with siblings is suspended or terminated by the court, the determination shall be noted in the case permanency plan. If the court lifts the suspension or termination, the case permanency plan shall be revised to document the efforts to provide for visitation or interaction as required under paragraph "a".

c. If one or more of the child's siblings are also subject to an order under this chapter for an out-of-home placement and the siblings are not placed in the same placement together, the plan shall document the reasons why and the efforts being made to facilitate such placement, or why making efforts for such placement is not appropriate.

6. If an order is entered for termination of parental rights of a child who is subject to this section, unless the court has suspended or terminated sibling visitation or interaction in accordance with this section, the department or child-placing agency shall do all of the following to facilitate frequent visitation or ongoing interaction between the child and siblings when the child is adopted or enters a permanent placement:

a. Include in the training provided to prospective adoptive parents information regarding the importance of sibling relationships to an adopted child and counseling methods for maintaining sibling relationships.

b. Provide prospective adoptive parents with information regarding the child's siblings. The address of a sibling's residence shall not be disclosed in the information unless authorized by court order for good cause shown.

c. Encourage prospective adoptive parents to plan for facilitating postadoption contact between the child and the child's siblings.

7. Any information regarding court-ordered or authorized sibling visitation, interaction, or contact shall be provided to the foster parent, relative caretaker, guardian, prospective adoptive parent, and child as soon as reasonably possible following the entry of the court order or authorization as necessary to facilitate the visitation or interaction.

2007 Acts, ch 67, §5; 2020 Acts, ch 1062, §94

Referred to in §232.2, 238.18

Code editor directive applied

SUBCHAPTER IV

TERMINATION OF PARENT-CHILD RELATIONSHIP PROCEEDING

Referred to in §232.2, 600A.5

232.109 Jurisdiction.

The juvenile court shall have exclusive jurisdiction over proceedings under this chapter to terminate a parent-child relationship and all parental rights with respect to a child. No such termination shall be ordered except under the provisions of this chapter if the court has made an order concerning the child pursuant to the provisions of subchapter III and the order is in force at the time a petition for termination is filed.

[C79, 81, §232.109]

2020 Acts, ch 1062, §35

Section amended

232.110 Venue.

1. Venue for termination proceedings under this chapter shall be in the judicial district

where the child is found or the judicial district where the child resides except as otherwise provided in subsection 2.

2. If a court has made an order concerning the child pursuant to the provisions of this chapter and the order is still in force at the time the termination petition is filed, such court shall hear and adjudicate the case unless the court transfers the case.

3. The judge may transfer the case to the juvenile court of any county having venue in accordance with the provisions of section 232.62.

[C79, 81, §232.110]

232.111 Petition.

1. A child's guardian, guardian ad litem, or custodian, the department of human services, a juvenile court officer, or the county attorney may file a petition for termination of the parent-child relationship and parental rights with respect to a child.

2. *a.* Unless any of the circumstances described in paragraph "b" exist, the county attorney shall file a petition for termination of the parent-child relationship and parental rights with respect to a child or if a petition has been filed, join in the petition, under any of the following circumstances:

(1) The child has been placed in foster care for fifteen months of the most recent twenty-two-month period. The petition shall be filed by the end of the child's fifteenth month of foster care placement.

(2) A court has determined aggravated circumstances exist and has waived the requirement for making reasonable efforts under section 232.102 because the court has found the circumstances described in section 232.116, subsection 1, paragraph "i", are applicable to the child.

(3) The child is less than twelve months of age and has been judicially determined to have been abandoned or the child is a newborn infant whose parent has voluntarily released custody of the child in accordance with chapter 233.

(4) The parent has been convicted of the murder or the voluntary manslaughter of another child of the parent.

(5) The parent has been convicted of aiding or abetting, attempting, conspiring in, or soliciting the commission of the murder or voluntary manslaughter of another child of the parent.

(6) The parent has been convicted of a felony assault which resulted in serious bodily injury of the child or of another child of the parent.

b. If any of the following conditions exist, the county attorney is not required to file a petition or join in an existing petition as provided in paragraph "a":

(1) At the option of the department or by order of the court, the child is being cared for by a relative.

(2) The department or a state agency has documented in the child's case permanency plan provided or available to the court a compelling reason for determining that filing the petition would not be in the best interest of the child. A compelling reason shall include but is not limited to documentation in the child's case permanency plan indicating it is reasonably likely the completion of the services being received in accordance with the permanency plan will eliminate the need for removal of the child or make it possible for the child to safely return to the family's home within six months.

(3) The department has not provided the child's family, consistent with the time frames outlined in the child's case permanency plan, with those services the state deems necessary for the safe return of the child to the child's home, and the limited extension of time necessary to complete the services is clearly documented in the case permanency plan.

3. The department, juvenile court officer, county attorney or judge may authorize any competent person having knowledge of the circumstances to file a termination petition with the clerk of the court without the payment of a filing fee.

4. A petition for termination of parental rights shall include the following:

a. The legal name, age, and domicile, if any, of the child.

b. The names, residences, and domicile of any:

(1) Living parents of the child.

- (2) Guardian of the child.
- (3) Custodian of the child.
- (4) Guardian ad litem of the child.
- (5) Petitioner.
- (6) Person standing in the place of the parents of the child.

c. A plain statement of those facts and grounds specified in section 232.116 which indicate that the parent-child relationship should be terminated.

d. A plain statement explaining why the petitioner does not know any of the information required under paragraphs “a” and “b” of this subsection.

e. A complete list of the services which have been offered to preserve the family and a statement specifying the services provided to address the reasons stated in any order for removal or in any dispositional or permanency order which did not return the child to the child’s home.

f. The signature and verification of the petitioner.

[C79, 81, §232.111]

83 Acts, ch 96, §157, 159; 83 Acts, ch 186, §10055, 10201; 95 Acts, ch 147, §6; 98 Acts, ch 1190, §20, 21; 2001 Acts, ch 67, §8, 13; 2001 Acts, ch 135, §25; 2002 Acts, ch 1050, §23
 Referred to in §232.2, 232.112, 233.2

232.112 Notice — service.

1. Persons listed in section 232.111, subsection 4, shall be necessary parties to a termination of parent-child relationship proceeding and are entitled to receive notice and an opportunity to be heard, except that notice may be dispensed with in the case of any such person whose name or whereabouts the court determines is unknown and cannot be ascertained by reasonably diligent search. In addition to the persons who are necessary parties who may be parties under section 232.111, notice for any hearing under this subchapter shall be provided to the child’s foster parent, an individual providing preadoptive care for the child, or a relative providing care for the child.

2. Prior to the service of notice on the necessary parties, the juvenile court shall appoint a guardian ad litem for a child if the child does not have a guardian or guardian ad litem or if the interests of the guardian or guardian ad litem conflict with the interests of the child. Such guardian ad litem shall be a necessary party under subsection 1.

3. Notice under this section shall be served personally, sent by restricted certified mail, or sent by electronic mail or other electronic means with the consent of the party to be served, whichever is determined by the court to be the most effective means of notification. Such notice shall be made according to the rules of civil procedure relating to an original notice where not inconsistent with the provisions of this section. Notice by personal delivery and notice sent by electronic mail or other electronic means with the consent of the party to be served shall be served not less than seven days prior to the hearing on termination of parental rights. Notice by restricted certified mail shall be sent not less than fourteen days prior to the hearing on termination of parental rights. A notice by restricted certified mail which is refused by the necessary party given notice shall be sufficient notice to the party under this section.

[C79, 81, §232.112]

98 Acts, ch 1190, §22; 2019 Acts, ch 127, §2; 2020 Acts, ch 1062, §94
 Code editor directive applied

232.113 Right to and appointment of counsel.

1. Upon the filing of a petition the parent identified in the petition shall have the right to counsel in connection with all subsequent hearings and proceedings. If the parent desires but is financially unable to employ counsel, the court shall appoint counsel.

2. Upon the filing of a petition the court shall appoint counsel for the child identified in the petition as a party to the proceedings. The same person may serve both as the child’s counsel and as guardian ad litem.

[C79, 81, §232.113]

Referred to in §232.108

232.114 Duties of county attorney.

1. As used in this section, “state” means the general interest held by the people in the health, safety, welfare, and protection of all children living in this state.

2. Upon the filing of a petition the county attorney shall represent the state in all adversary proceedings arising under this subchapter and shall present evidence in support of the petition.

3. If there is disagreement between the department and the county attorney regarding the appropriate action to be taken, the department may request that the state be represented by the attorney general in place of the county attorney. If the state is represented by the attorney general, the county attorney may continue to appear in the proceeding and may present the position of the county attorney regarding the appropriate action to be taken in the case.

4. The county attorney and attorney general shall comply with the requirements of chapter 232B and the federal Indian Child Welfare Act, Pub. L. No. 95-608, when either chapter 232B or the federal Indian Child Welfare Act is determined to be applicable in any proceeding under this subchapter.

[C81, §232.114]

89 Acts, ch 230, §18; 2013 Acts, ch 113, §3; 2017 Acts, ch 29, §53; 2020 Acts, ch 1062, §94
Code editor directive applied

232.115 Reporter required.

Stenographic notes or electronic or mechanical recordings shall be taken of all court hearings held pursuant to this subchapter unless waived by the parties. The child shall not be competent to waive the reporting requirement, but waiver may be made for the child by the child’s counsel or guardian ad litem. Matters which must be reported under the provisions of this section shall be reported in the same manner as required in section 624.9.

[C81, §232.115]

2020 Acts, ch 1062, §94
Code editor directive applied

232.116 Grounds for termination.

1. Except as provided in subsection 3, the court may order the termination of both the parental rights with respect to a child and the relationship between the parent and the child on any of the following grounds:

a. The parents voluntarily and intelligently consent to the termination of parental rights and the parent-child relationship and for good cause desire the termination.

b. The court finds that there is clear and convincing evidence that the child has been abandoned or deserted.

c. The court finds that there is clear and convincing evidence that the child is a newborn infant whose parent has voluntarily released custody of the child in accordance with chapter 233.

d. The court finds that both of the following have occurred:

(1) The court has previously adjudicated the child to be a child in need of assistance after finding the child to have been physically or sexually abused or neglected as the result of the acts or omissions of one or both parents, or the court has previously adjudicated a child who is a member of the same family to be a child in need of assistance after such a finding.

(2) Subsequent to the child in need of assistance adjudication, the parents were offered or received services to correct the circumstance which led to the adjudication, and the circumstance continues to exist despite the offer or receipt of services.

e. The court finds that all of the following have occurred:

(1) The child has been adjudicated a child in need of assistance pursuant to section 232.96.

(2) The child has been removed from the physical custody of the child’s parents for a period of at least six consecutive months.

(3) There is clear and convincing evidence that the parents have not maintained significant and meaningful contact with the child during the previous six consecutive months and have made no reasonable efforts to resume care of the child despite being given the opportunity to do so. For the purposes of this subparagraph, “significant and meaningful

contact” includes but is not limited to the affirmative assumption by the parents of the duties encompassed by the role of being a parent. This affirmative duty, in addition to financial obligations, requires continued interest in the child, a genuine effort to complete the responsibilities prescribed in the case permanency plan, a genuine effort to maintain communication with the child, and requires that the parents establish and maintain a place of importance in the child’s life.

f. The court finds that all of the following have occurred:

- (1) The child is four years of age or older.
- (2) The child has been adjudicated a child in need of assistance pursuant to section 232.96.
- (3) The child has been removed from the physical custody of the child’s parents for at least twelve of the last eighteen months, or for the last twelve consecutive months and any trial period at home has been less than thirty days.

(4) There is clear and convincing evidence that at the present time the child cannot be returned to the custody of the child’s parents as provided in section 232.102.

g. The court finds that all of the following have occurred:

- (1) The child has been adjudicated a child in need of assistance pursuant to section 232.96.
- (2) The court has terminated parental rights pursuant to section 232.117 with respect to another child who is a member of the same family or a court of competent jurisdiction in another state has entered an order involuntarily terminating parental rights with respect to another child who is a member of the same family.

(3) There is clear and convincing evidence that the parent continues to lack the ability or willingness to respond to services which would correct the situation.

(4) There is clear and convincing evidence that an additional period of rehabilitation would not correct the situation.

h. The court finds that all of the following have occurred:

- (1) The child is three years of age or younger.
- (2) The child has been adjudicated a child in need of assistance pursuant to section 232.96.
- (3) The child has been removed from the physical custody of the child’s parents for at least six months of the last twelve months, or for the last six consecutive months and any trial period at home has been less than thirty days.

(4) There is clear and convincing evidence that the child cannot be returned to the custody of the child’s parents as provided in section 232.102 at the present time.

i. The court finds that all of the following have occurred:

(1) The child meets the definition of child in need of assistance based on a finding of physical or sexual abuse or neglect as a result of the acts or omissions of one or both parents.

(2) There is clear and convincing evidence that the abuse or neglect posed a significant risk to the life of the child or constituted imminent danger to the child.

(3) There is clear and convincing evidence that the offer or receipt of services would not correct the conditions which led to the abuse or neglect of the child within a reasonable period of time.

j. The court finds that both of the following have occurred:

(1) The child has been adjudicated a child in need of assistance pursuant to section 232.96 and custody has been transferred from the child’s parents for placement pursuant to section 232.102.

(2) The parent has been imprisoned for a crime against the child, the child’s sibling, or another child in the household, or the parent has been imprisoned and it is unlikely that the parent will be released from prison for a period of five or more years.

k. The court finds that all of the following have occurred:

(1) The child has been adjudicated a child in need of assistance pursuant to section 232.96 and custody has been transferred from the child’s parents for placement pursuant to section 232.102.

(2) The parent has a chronic mental illness and has been repeatedly institutionalized for mental illness, and presents a danger to self or others as evidenced by prior acts.

(3) There is clear and convincing evidence that the parent’s prognosis indicates that the child will not be able to be returned to the custody of the parent within a reasonable period of time considering the child’s age and need for a permanent home.

l. The court finds that all of the following have occurred:

(1) The child has been adjudicated a child in need of assistance pursuant to section 232.96 and custody has been transferred from the child's parents for placement pursuant to section 232.102.

(2) The parent has a severe substance-related disorder and presents a danger to self or others as evidenced by prior acts.

(3) There is clear and convincing evidence that the parent's prognosis indicates that the child will not be able to be returned to the custody of the parent within a reasonable period of time considering the child's age and need for a permanent home.

m. The court finds that both of the following have occurred:

(1) The child has been adjudicated a child in need of assistance pursuant to section 232.96 after finding that the child has been physically or sexually abused or neglected as a result of the acts or omissions of a parent.

(2) The parent found to have physically or sexually abused or neglected the child has been convicted of a felony and imprisoned for physically or sexually abusing or neglecting the child, the child's sibling, or any other child in the household.

n. The court finds that all of the following have occurred:

(1) The child has been adjudicated a child in need of assistance pursuant to section 232.96.

(2) The parent has been convicted of child endangerment resulting in the death of the child's sibling, has been convicted of three or more acts of child endangerment involving the child, the child's sibling, or another child in the household, or has been convicted of child endangerment resulting in a serious injury to the child, the child's sibling, or another child in the household.

(3) There is clear and convincing evidence that the circumstances surrounding the parent's conviction for child endangerment would result in a finding of imminent danger to the child.

o. The parent has been convicted of a felony offense that is a sex offense against a minor as defined in section 692A.101, the parent is divorced from or was never married to the minor's other parent, and the parent is serving a minimum sentence of confinement of at least five years for that offense.

p. The court finds there is clear and convincing evidence that the child was conceived as the result of sexual abuse as defined in section 709.1, and the biological parent against whom the sexual abuse was perpetrated requests termination of the parental rights of the biological parent who perpetrated the sexual abuse.

2. In considering whether to terminate the rights of a parent under this section, the court shall give primary consideration to the child's safety, to the best placement for furthering the long-term nurturing and growth of the child, and to the physical, mental, and emotional condition and needs of the child. This consideration may include any of the following:

a. Whether the parent's ability to provide the needs of the child is affected by the parent's mental capacity or mental condition or the parent's imprisonment for a felony.

b. For a child who has been placed in foster family care by a court or has been voluntarily placed in foster family care by a parent or by another person, whether the child has become integrated into the foster family to the extent that the child's familial identity is with the foster family, and whether the foster family is able and willing to permanently integrate the child into the foster family. In considering integration into a foster family, the court shall review the following:

(1) The length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining that environment and continuity for the child.

(2) The reasonable preference of the child, if the court determines that the child has sufficient capacity to express a reasonable preference.

c. The relevant testimony or written statement that a foster parent, relative, or other individual with whom the child has been placed for preadoptive care or other care has a right to provide to the court.

3. The court need not terminate the relationship between the parent and child if the court finds any of the following:

a. A relative has legal custody of the child.

- b. The child is over ten years of age and objects to the termination.
- c. There is clear and convincing evidence that the termination would be detrimental to the child at the time due to the closeness of the parent-child relationship.
- d. It is necessary to place the child in a hospital, facility, or institution for care and treatment and the continuation of the parent-child relationship is not preventing a permanent family placement for the child.
- e. The absence of a parent is due to the parent's admission or commitment to any institution, hospital, or health facility or due to active service in the state or federal armed forces.

[C79, §232.114; C81, §232.116]

84 Acts, ch 1279, §19, 20; 86 Acts, ch 1186, §11; 87 Acts, ch 159, §6; 89 Acts, ch 229, §7 – 12; 90 Acts, ch 1251, §28; 92 Acts, ch 1231, §27 – 29; 93 Acts, ch 76, §2; 94 Acts, ch 1174, §3, 22; 95 Acts, ch 182, §10, 11; 98 Acts, ch 1190, §23; 2001 Acts, ch 67, §9, 13; 2006 Acts, ch 1182, §59; 2007 Acts, ch 172, §14; 2008 Acts, ch 1098, §2; 2009 Acts, ch 119, §38; 2011 Acts, ch 121, §58, 62; 2016 Acts, ch 1046, §1

Referred to in §232.57, 232.102, 232.111, 232.117

232.117 Termination — findings — disposition.

1. After the hearing is concluded the court shall make and file written findings.
2. If the court concludes that facts sufficient to terminate parental rights have not been established by clear and convincing evidence, the court shall dismiss the petition.
3. If the court concludes that facts sufficient to sustain the petition have been established by clear and convincing evidence, the court may order parental rights terminated. If the court terminates the parental rights of the child's parents, the court shall transfer the guardianship and custody of the child to one of the following:
 - a. The department of human services.
 - b. A child-placing agency or other suitable private agency, facility or institution which is licensed or otherwise authorized by law to receive and provide care for the child.
 - c. A parent who does not have physical care of the child, other relative, or other suitable person.
4. The court shall not order group foster care placement of the child which is a charge upon the state if that placement is not in accordance with the service area plan for group foster care established pursuant to section 232.143 for the departmental service area in which the court is located.
5. If after a hearing the court does not order the termination of parental rights but finds that there is clear and convincing evidence that the child is a child in need of assistance, under section 232.2, subsection 6, due to the acts or omissions of one or both of the child's parents the court may adjudicate the child to be a child in need of assistance and may enter an order in accordance with the provisions of section 232.100, 232.101, 232.102, or 232.104.
6. If the court orders the termination of parental rights and transfers guardianship and custody under subsection 3, the guardian shall submit a case permanency plan to the court and shall make every effort to establish a stable placement for the child by adoption or other permanent placement. Within forty-five days of receipt of the termination order, and every forty-five days thereafter until the court determines such reports are no longer necessary, the guardian shall report to the court regarding efforts made to place the child for adoption or providing the rationale as to why adoption would not be in the child's best interest.
7. The guardian of each child whose guardianship and custody has been transferred under subsection 3 and who has not been placed for adoption shall file a written report with the court every six months concerning the child's placement. The court shall hold a hearing to review the placement at intervals not to exceed six months after the date of the termination of parental rights or the last placement review hearing.
8. The guardian of each child whose guardianship and custody has been transferred under subsection 3 and who has been placed for adoption and whose adoption has not been finalized shall file a written report with the court every six months concerning the child's placement. The court shall hold a hearing to review the placement at intervals not to exceed twelve months after the date of the adoptive placement or the last placement review hearing.

9. Hearings held under this subchapter are open to the public unless the court, on the motion of any of the parties or upon the court's own motion, excludes the public. The court shall exclude the public from a hearing if the court determines that the possibility of damage or harm to the child outweighs the public's interest in having a public hearing. Upon closing the hearing, the court may admit persons who have a direct interest in the case or in the work of the court.

10. If a termination of parental rights order is issued on the grounds that the child is a newborn infant whose parent has voluntarily released custody of the child under section 232.116, subsection 1, paragraph "c", the court shall retain jurisdiction to change a guardian or custodian and to allow a parent whose rights have been terminated to request vacation or appeal of the termination order which request must be made within thirty days of issuance of the granting of the termination order. The period for request for vacation or appeal by a parent whose rights have been terminated shall not be waived or extended and a vacation or appeal shall not be granted for a request made after the expiration of this period. The court shall grant the vacation request only if it is in the best interest of the child. The supreme court shall prescribe rules to establish the period of thirty days, which shall not be waived or extended, in which a parent whose parental rights have been terminated may request a vacation or appeal of such a termination order.

[C79, §232.115; C81, §232.117]

83 Acts, ch 96, §157, 159; 84 Acts, ch 1279, §21; 87 Acts, ch 159, §5, 7; 89 Acts, ch 229, §13; 89 Acts, ch 230, §19; 92 Acts, ch 1229, §6; 94 Acts, ch 1046, §3; 98 Acts, ch 1190, §24, 25; 2001 Acts, ch 67, §10, 13; 2004 Acts, ch 1116, §11; 2020 Acts, ch 1062, §94

Referred to in §232.116, 232.118, 232.119, 232.133, 237.20
Code editor directive applied

232.118 Removal of guardian.

1. Upon application of an interested party or upon the court's own motion, the court having jurisdiction of the child may, after notice to the parties and a hearing, remove a court-appointed guardian and appoint a guardian in accordance with the provisions of section 232.117, subsection 3.

2. A child fourteen years of age or older who has not been adopted but who is placed in a satisfactory foster home may, with the consent of the foster parents, join with the guardian appointed by the court in an application to the court to remove the existing guardian and appoint the foster parents as guardians of the child.

3. The authority of a guardian appointed by the court terminates when the child reaches the age of majority or is adopted.

[C79, §232.116; C81, §232.118]

88 Acts, ch 1134, §53

232.119 Adoption exchange established.

1. The purpose of this section is to facilitate the placement of all children in Iowa who are legally available for adoption through the establishment of an adoption exchange to help find adoptive homes for these children.

2. An adoption information exchange is established within the department to be operated by the department or by an individual or agency under contract with the department.

a. All special needs children under state guardianship shall be registered on the adoption exchange within sixty days of the termination of parental rights pursuant to section 232.117 or 600A.9 and assignment of guardianship to the director.

b. Prospective adoptive families requesting a special needs child shall be registered on the adoption exchange upon receipt of an approved home study.

3. To register a child on the Iowa exchange, the department adoption worker or the private agency worker shall register the pertinent information concerning the child on the exchange. A photograph of the child and other necessary information shall be forwarded to the department to be included in the photo-listing book which shall be updated regularly. The department adoption worker or the private agency worker who places a child on the

exchange shall update the registration information within ten working days after a change in the information occurs.

4. The exchange shall include a matching service for children registered or listed in the adoption photo-listing book and prospective adoptive families listed on the exchange. The department shall register a child with the national electronic exchange and electronic photo-listing system if the child has not been placed for adoption after three months on the exchange established pursuant to this section.

5. A request to defer registering the child on the exchange shall be submitted in writing and shall be granted if any of the following conditions exist:

a. The child is in an adoptive placement.

b. The child's foster parents or another person with a significant relationship is being considered as the adoptive family.

c. A diagnostic study or testing is necessary to clarify the child's needs and to provide an adequate description of the child's needs.

d. At the time of the request, the child is receiving medical care, mental health treatment, or other treatment and the child's care or treatment provider has determined that meeting prospective adoptive parents is not in the child's best interest.

e. The child is fourteen years of age or older and will not consent to an adoption plan and the consequences of not being adopted have been explained to the child.

6. The following requirements apply to a request to defer registering a child on the adoption exchange under subsection 5:

a. For a deferral granted by the exchange pursuant to subsection 5, paragraph "a", "b", or "e", the child's guardian shall address the child's deferral status in the report filed with the court and the court shall review the deferral status in the six-month review hearings held pursuant to section 232.117, subsection 7.

b. In addition to the requirements of paragraph "a", a deferral granted by the exchange pursuant to subsection 5, paragraph "b", shall be limited to not more than a one-time, ninety-day period unless the termination of parental rights order is appealed or the child is placed in a hospital or other institutional placement. However, if the foster parents or another person with a significant relationship continues to be considered the child's prospective adoptive family, additional extensions of the deferral request under subsection 5, paragraph "b", may be granted until sixty days after the date of the final decision regarding the appeal or until the date the child is discharged from a hospital or other institutional placement.

c. A deferral granted by the exchange pursuant to subsection 5, paragraph "c", shall be limited to not more than a one-time, ninety-day period.

d. A deferral granted by the exchange pursuant to subsection 5, paragraph "d", shall be limited to not more than a one-time, one-hundred-twenty-day period.

87 Acts, ch 159, §8; 91 Acts, ch 232, §9, 10; 93 Acts, ch 22, §1; 95 Acts, ch 182, §12; 98 Acts, ch 1190, §26; 2015 Acts, ch 29, §34

232.120 Preadoptive care — continued placement.

If a foster parent is providing preadoptive care to a child for whom a termination of parental rights petition has been filed, the placement of the child with that foster parent shall continue through the termination of parental rights proceeding unless the court orders otherwise based upon the best interests of the child.

98 Acts, ch 1190, §27

232.121 Reserved.

SUBCHAPTER V
FAMILY IN NEED OF ASSISTANCE PROCEEDINGS

232.122 Jurisdiction.

The juvenile court shall have exclusive jurisdiction over family in need of assistance proceedings.

[C79, 81, §232.122]
Referred to in §232C.2, 232C.3

232.123 Venue.

Venue for family in need of assistance proceedings shall be determined in accordance with section 232.62.

[C79, 81, §232.123]
Referred to in §232C.2, 232C.3

232.124 Reserved.**232.125 Petition.**

1. A family in need of assistance proceeding shall be initiated by the filing of a petition alleging that a child and the child's parent, guardian, or custodian are a family in need of assistance.

2. Such a petition may be filed by the child's parent, guardian, or custodian, by the child, or on the court's own motion as provided in section 232C.2. The judge, county attorney, or juvenile court officer may authorize such parent, guardian, custodian, or child to file a petition with the clerk of the court without the payment of a filing fee.

3. The petition and subsequent court documents shall be entitled as follows:

In re the family of

4. The petition shall state all of the following:

a. The names and residences of the child.

b. The names and residences of the child's living parents, guardian, custodian, and guardian ad litem, if any.

c. The age of the child.

5. The petition shall allege that there has been a breakdown in the familial relationship and that the petitioner has sought services from public or private agencies to maintain and improve the familial relationship.

[C79, 81, §232.125]

83 Acts, ch 186, §10055, 10201; 2009 Acts, ch 153, §1; 2015 Acts, ch 30, §78; 2019 Acts, ch 24, §25

Referred to in §232.21, 232C.2, 232C.3

232.126 Appointment of counsel and guardian ad litem.

1. The court shall appoint counsel or a guardian ad litem to represent the interests of the child at the hearing to determine whether the family is a family in need of assistance unless the child already has such counsel or guardian. The court shall appoint counsel for the parent, guardian or custodian if that person desires but is financially unable to employ counsel.

2. The court may appoint a court appointed special advocate to act as guardian ad litem. The court appointed special advocate shall receive notice of and may attend all depositions, hearings, and trial proceedings to support the child and advocate for the protection of the child. The court appointed special advocate shall not be allowed to separately introduce evidence or to directly examine or cross-examine witnesses. The court appointed special advocate shall submit reports to the court and the parties to the proceedings containing the information required in reports submitted by a court appointed special advocate under section

232.89, subsection 5. In addition, the court appointed special advocate shall file other reports to the court as required by the court.

[C79, 81, §232.126]

87 Acts, ch 121, §5; 2002 Acts, ch 1162, §18

Referred to in §232C.2, 232C.3, 237.21

232.127 Hearing — adjudication — disposition.

1. Upon the filing of a petition, the court shall fix a time for a hearing and give notice thereof to the child and the child's parent, guardian, or custodian.

2. A parent without custody may petition the court to be made a party to proceedings under this subchapter.

3. The court shall exclude the general public from such hearing except the court in its discretion may admit persons having a legitimate interest in the case or the work of the court.

4. The hearing shall be informal and all relevant and material evidence shall be admitted.

5. The court may adjudicate the family to be a family in need of assistance and enter an appropriate dispositional order if the court finds all of the following:

a. There has been a breakdown in the relationship between the child and the child's parent, guardian, or custodian.

b. The child or the child's parent, guardian, or custodian has sought services from public or private agencies to maintain and improve the familial relationship.

c. The court has at its disposal services for this purpose which can be made available to the family.

6. If the court makes such a finding the court may order any or all of the parties to accept counseling and to comply with any other reasonable orders designed to maintain and improve the familial relationship. At the conclusion of any counseling ordered by the court, or at any other time deemed necessary, the parties shall be required to meet together and be apprised of the findings and recommendations of such counseling. Such an order shall remain in force for a period not to exceed one year unless the court otherwise specifies or sooner terminates the order.

7. The court may not order the child placed on probation, in a foster home or in a nonsecure facility unless the child requests and agrees to such supervision or placement. In no event shall the court order the child placed in the state training school or other secure facility.

8. The court shall not order group foster care placement of the child which is a charge upon the state if that placement is not in accordance with the service area plan for group foster care established pursuant to section 232.143 for the departmental service area in which the court is located.

9. A child found in contempt of court because of violation of conditions imposed under this section shall not be considered delinquent. Such a contempt may be punished by imposition of a work assignment or assignments to benefit the state or a governmental subdivision of the state. In addition to or in lieu of such an assignment or assignments, the court may impose one of the dispositions set out in sections 232.100 to 232.102.

10. If the child is fourteen years of age or older and an order for an out-of-home placement is entered, the order shall specify the services needed to assist the child in preparing for the transition from foster care to adulthood. If the child has a case permanency plan, the court shall consider the written transition plan of services and needs assessment developed for the child's case permanency plan. If the child does not have a case permanency plan containing the transition plan and needs assessment at the time the order is entered, the written transition plan and needs assessment shall be developed and submitted for the court's consideration no later than six months from the date of the transfer order. The court shall modify the initial transfer order as necessary to specify the services needed to assist the child in preparing for the transition from foster care to adulthood. If the transition plan identifies services or other support needed to assist the child in transitioning from foster care to adulthood and the court deems it to be beneficial to the child, the court may authorize the individual who is the child's guardian ad litem or court appointed special advocate to

continue a relationship with and provide advice to the child for a period of time beyond the child's eighteenth birthday.

11. If after hearing pursuant to this section, the court finds, by clear and convincing evidence, that no remedy is available that would result in strengthening or maintaining the familial relationship, the court may order the minor emancipated pursuant to section 232C.3, subsection 4.

[C79, 81, §232.127; 82 Acts, ch 1260, §24]

92 Acts, ch 1229, §7; 2003 Acts, ch 117, §7; 2004 Acts, ch 1116, §12; 2009 Acts, ch 153, §2; 2016 Acts, ch 1063, §18; 2019 Acts, ch 59, §69; 2020 Acts, ch 1062, §94

Referred to in §232C.2, 232C.3
Code editor directive applied

232.128 through 232.132 Reserved.

SUBCHAPTER VI

APPEAL

Referred to in §232.147

232.133 Appeal.

1. An interested party aggrieved by an order or decree of the juvenile court may appeal from the court for review of questions of law or fact. However, an order adjudicating a child to have committed a delinquent act, entered pursuant to section 232.47, shall not be appealed until the court enters a corresponding dispositional order pursuant to section 232.52. An appeal that affects the custody of a child shall be heard at the earliest practicable time.

2. Except for appeals from orders entered in child in need of assistance proceedings or orders entered pursuant to section 232.117, appellate procedures shall be governed by the same provisions applicable to appeals from the district court. The supreme court may prescribe rules to expedite the resolution of appeals from orders entered in child in need of assistance proceedings or orders entered pursuant to section 232.117.

3. The pendency of an appeal or application therefor shall not suspend the order of the juvenile court regarding a child and shall not discharge the child from the custody of the court or the agency, association, facility, institution or person to whom the court has transferred legal custody unless the appellate court otherwise orders on application of an appellant.

4. If the appellate court does not dismiss the proceedings and discharge the child, the appellate court shall affirm or modify the order of the juvenile court and remand the child to the jurisdiction of the juvenile court for disposition not inconsistent with the appellate court's finding on the appeal.

[C66, 71, 73, 75, 77, §232.58; C79, 81, §232.133]

86 Acts, ch 1186, §12; 2001 Acts, ch 117, §1; 2003 Acts, ch 25, §1; 2006 Acts, ch 1129, §1; 2007 Acts, ch 126, §45

232.134 through 232.140 Reserved.

SUBCHAPTER VII

EXPENSES AND COSTS

232.141 Expenses.

1. Except as otherwise provided by law, the court shall inquire into the ability of the child or the child's parent to pay expenses incurred pursuant to subsections 2, 4, and 8. After giving the parent a reasonable opportunity to be heard, the court may order the parent to pay all or part of the costs of the child's care, examination, treatment, legal expenses, or other expenses. An order entered under this section does not obligate a parent paying child support under a custody decree, except that part of the monthly support payment may be

used to satisfy the obligations imposed by the order entered pursuant to this section. If a parent fails to pay as ordered, without good reason, the court may proceed against the parent for contempt and may inform the county attorney who shall proceed against the parent to collect the unpaid amount. Any payment ordered by the court shall be a judgment against each of the child's parents and a lien as provided in section 624.23. If all or part of the amount that the parents are ordered to pay is subsequently paid by the county or state, the judgment and lien shall thereafter be against each of the parents in favor of the county to the extent of the county's payments and in favor of the state to the extent of the state's payments.

2. All of the following juvenile court expenses are a charge upon the county in which the proceedings are held, to the extent provided in subsection 3:

a. Juvenile court expenses incurred by an attorney appointed by the court to serve as counsel to any party or to serve as a guardian ad litem for any child, including fees and expenses for foreign language interpreters, costs of depositions and transcripts, fees and mileage of witnesses, and the expenses of officers serving notices and subpoenas.

b. Reasonable compensation for an attorney appointed by the court to serve as counsel to any party or as guardian ad litem for any child in juvenile court.

c. Fees and expenses incurred by the juvenile court for foreign language interpreters for court proceedings.

3. Costs incurred under subsection 2 shall be paid as follows:

a. A county shall be required to pay for the fiscal year beginning July 1, 1989, an amount equal to the county's base cost for witness and mileage fees and attorney fees established pursuant to section 232.141, subsection 8, paragraph "d", Code 1989, for the fiscal year beginning July 1, 1988, plus an amount equal to the percentage rate of change in the consumer price index as tabulated by the federal bureau of labor statistics for the current year times the county's base cost.

b. A county's base cost for a fiscal year plus the percentage rate of change amount as computed in paragraph "a" is the county's base cost for the succeeding fiscal year. The amount to be paid in the succeeding year by the county shall be computed as provided in paragraph "a".

c. The county, on an annual basis, shall pay to the indigent defense fund created under section 815.11 the amount of the county's base cost as determined in accordance with this subsection.

d. Costs incurred under subsection 2 shall be paid by the state from the appropriations to the indigent defense fund under section 815.11 in accordance with this chapter, chapter 815, and the rules adopted by the state public defender. The county shall be required to reimburse the indigent defense fund for costs incurred by the state up to the county's base in this subsection.

4. Upon certification of the court, all of the following expenses are a charge upon the state to the extent provided in subsection 5:

a. The expenses of transporting a child to or from a place designated by the court for the purpose of care or treatment.

b. Expenses for mental or physical examinations of a child if ordered by the court.

c. The expenses of care or treatment ordered by the court.

5. If no other provision of law requires the county to reimburse costs incurred pursuant to subsection 4, the department shall reimburse the costs as follows:

a. The department shall prescribe by administrative rule all services eligible for reimbursement pursuant to subsection 4 and shall establish an allowable rate of reimbursement for each service.

b. The department shall receive billings for services provided and, after determining allowable costs, shall reimburse providers at a rate which is not greater than allowed by administrative rule. Reimbursement paid to a provider by the department shall be considered reimbursement in full unless a county voluntarily agrees to pay any difference between the reimbursement amount and the actual cost. When there are specific program regulations prohibiting supplementation those regulations shall be applied to providers requesting supplemental payments from a county. Billings for services not listed in administrative rule shall not be paid. However, if the court orders a service not currently listed in administrative

rule, the department shall review the order and, if reimbursement for the service of the department is not in conflict with other law or administrative rule, and meets the criteria of subsection 4, the department shall reimburse the provider.

6. If a child is given physical or mental examinations or treatment relating to an assessment performed pursuant to section 232.71B with the consent of the child's parent, guardian, or legal custodian and no other provision of law otherwise requires payment for the costs of the examination and treatment, the costs shall be paid by the state. Reimbursement for costs of services described in this subsection is subject to subsection 5.

7. A county charged with the costs and expenses under subsections 2 and 3 may recover the costs and expenses from the child's custodial parent's county of residence, as defined in section 331.394, by filing verified claims which are payable as are other claims against the county. A detailed statement of the facts upon which a claim is based shall accompany the claim.

8. This subsection applies only to placements in a juvenile shelter care home which is publicly owned, operated as a county or multicounty shelter care home, organized under a chapter 28E agreement, or operated by a private juvenile shelter care home. If the actual and allowable costs of a child's shelter care placement exceed the amount the department is authorized to pay in accordance with law and administrative rule, the unpaid costs may be recovered from the child's custodial parent's county of residence. However, the maximum amount of the unpaid costs which may be recovered under this subsection is limited to the difference between the amount the department is authorized to pay and the statewide average of the actual and allowable rates in effect in May of the preceding fiscal year for reimbursement of juvenile shelter care homes. In no case shall the home be reimbursed for more than the home's actual and allowable costs. The unpaid costs are payable pursuant to filing of verified claims against the child's custodial parent's county of residence. A detailed statement of the facts upon which a claim is based shall accompany the claim. Any dispute between counties arising from filings of claims pursuant to this subsection shall be settled in the manner provided to determine residency in section 331.394.

[S13, §254-a25, -a45; C24, 27, 31, 35, 39, §3644, 3645; C46, 50, 54, 58, 62, §232.25, 232.26; C66, 71, 73, 75, 77, §232.51 – 232.53; C79, 81, §232.141; 82 Acts, ch 1260, §119]

85 Acts, ch 173, §14; 87 Acts, ch 152, §1; 88 Acts, ch 1134, §54; 89 Acts, ch 283, §23; 90 Acts, ch 1233, §8; 92 Acts, ch 1229, §8; 92 Acts, 1st Ex, ch 1004, §3; 93 Acts, ch 76, §15; 93 Acts, ch 172, §34; 97 Acts, ch 35, §12, 25; 97 Acts, ch 126, §31; 99 Acts, ch 135, §20, 21; 2000 Acts, ch 1115, §2 – 4; 2002 Acts, ch 1119, §147; 2004 Acts, ch 1090, §51; 2004 Acts, ch 1175, §148; 2006 Acts, ch 1041, §5, 6; 2012 Acts, ch 1120, §118, 130; 2013 Acts, ch 115, §10, 19; 2018 Acts, ch 1137, §25

Referred to in §232.11, 232.52, 232.89, 232.143, 234.8, 237.20, 331.401, 602.1302, 602.1303, 815.11

232.142 Maintenance and cost of juvenile homes — fund.

1. County boards of supervisors which singly or in conjunction with one or more other counties provide and maintain juvenile detention and juvenile shelter care homes are subject to this section.

2. For the purpose of providing and maintaining a county or multicounty home, the board of supervisors of any county may issue general county purpose bonds in accordance with sections 331.441 to 331.449. Expenses for providing and maintaining a multicounty home shall be paid by the counties participating in a manner to be determined by the boards of supervisors.

3. A county or multicounty juvenile detention home approved pursuant to this section shall receive financial aid from the state in a manner approved by the director. Aid paid by the state shall be at least ten percent and not more than fifty percent of the total cost of the establishment, improvements, operation, and maintenance of the home.

4. The director shall adopt minimal rules and standards for the establishment, maintenance, and operation of such homes as shall be necessary to effect the purposes of this chapter. The rules shall apply the requirements of section 237.8, concerning employment and evaluation of persons with direct responsibility for a child or with access to a child when the child is alone and persons residing in a child foster care facility, to persons employed

by, residing in, or volunteering for a home approved under this section. The director shall, upon request, give guidance and consultation in the establishment and administration of the homes and programs for the homes.

5. The director shall approve annually all such homes established and maintained under the provisions of this chapter. A home shall not be approved unless it complies with minimal rules and standards adopted by the director and has been inspected by the department of inspections and appeals. The statewide number of beds in the homes approved by the director shall not exceed two hundred seventy-two beds beginning July 1, 2017.

6. A juvenile detention home fund is created in the state treasury under the authority of the department. The fund shall consist of moneys deposited in the fund pursuant to section 602.8108. The moneys in the fund shall be used for the costs of the establishment, improvement, operation, and maintenance of county or multicounty juvenile detention homes in accordance with annual appropriations made by the general assembly from the fund for these purposes.

[S13, §254-a20, -a26, -a29, -a30; C24, 27, 31, 35, 39, §3653 – 3655; C46, 50, 54, 58, 62, §232.35 – 232.37; C66, 71, 73, 75, 77, §232.21 – 232.26; C79, 81, S81, §232.142; 81 Acts, ch 117, §1031]

83 Acts, ch 123, §91, 209; 88 Acts, ch 1134, §55; 90 Acts, ch 1204, §47; 90 Acts, ch 1239, §13; 91 Acts, ch 138, §4; 92 Acts, ch 1229, §9; 2001 Acts, ch 191, §38; 2011 Acts, ch 98, §7; 2013 Acts, ch 138, §47; 2017 Acts, ch 174, §109; 2020 Acts, ch 1074, §50, 93

Referred to in §232.69, 237.4, 237C.1, 331.382, 602.8108, 709.16
2020 amendment to subsection 6 effective July 15, 2020; 2020 Acts, ch 1074, §93
Subsection 6 amended

232.143 Service area group foster care budget targets.

1. *a.* A statewide expenditure target for children in group foster care placements in a fiscal year, which placements are a charge upon or are paid for by the state, shall be established annually in an appropriation bill by the general assembly. Representatives of the department and juvenile court services shall jointly develop a formula for allocating a portion of the statewide expenditure target established by the general assembly to each of the department's service areas. The formula shall be based upon the service area's proportion of the state population of children and of the statewide usage of group foster care in the previous five completed fiscal years and upon other indicators of need. The expenditure amount determined in accordance with the formula shall be the group foster care budget target for that service area.

b. A service area may exceed the service area's budget target for group foster care by not more than five percent in a fiscal year, provided the overall funding allocated by the department for all child welfare services in the service area is not exceeded.

c. If all of the following circumstances are applicable, a service area may temporarily exceed the service area's budget target as necessary for placement of a child in group foster care:

- (1) The child is thirteen years of age or younger.
- (2) The court has entered a dispositional order for placement of the child in group foster care.
- (3) The child is placed in a juvenile detention facility awaiting placement in group foster care.

d. If a child is placed pursuant to paragraph "c", causing a service area to temporarily exceed the service area's budget target, the department and juvenile court services shall examine the cases of the children placed in group foster care and counted in the service area's budget target at the time of the placement pursuant to paragraph "c". If the examination indicates it may be appropriate to terminate the placement for any of the cases, the department and juvenile court services shall initiate action to set a dispositional review hearing under this chapter for such cases. In such a dispositional review hearing, the court shall determine whether needed aftercare services are available following termination of the placement and whether termination of the placement is in the best interests of the child and the community.

2. For each of the department's service areas, representatives appointed by the

department and juvenile court services shall establish a plan for containing the expenditures for children placed in group foster care ordered by the court within the budget target allocated to that service area pursuant to subsection 1. The plan shall be established in a manner so as to ensure the budget target amount will last the entire fiscal year. The plan shall include monthly targets and strategies for developing alternatives to group foster care placements in order to contain expenditures for child welfare services within the amount appropriated by the general assembly for that purpose. Funds for a child placed in group foster care shall be considered encumbered for the duration of the child's projected or actual length of stay, whichever is applicable. Each service area plan shall be established within sixty days of the date by which the group foster care budget target for the service area is determined. To the extent possible, the department and juvenile court services shall coordinate the planning required under this subsection with planning for services paid under section 232.141, subsection 4. The department's service area manager shall communicate regularly, as specified in the service area plan, with the chief juvenile court officers within that service area concerning the current status of the service area plan's implementation.

3. State payment for group foster care placements shall be limited to those placements which are in accordance with the service area plans developed pursuant to subsection 2.

92 Acts, ch 1229, §10; 96 Acts, ch 1213, §35; 98 Acts, ch 1047, §22; 99 Acts, ch 111, §9; 2004 Acts, ch 1116, §13; 2007 Acts, ch 218, §115

Referred to in §232.52, 232.102, 232.117, 232.127, 234.35

See Iowa Acts for special provisions relating to foster care payments in a given fiscal year

Statewide expenditure target for group foster care maintenance and services; 2013 Acts, ch 138, §18, 148; 2014 Acts, ch 1140, §25; 2015 Acts, ch 137, §18, 138; 2016 Acts, ch 1139, §16; 2017 Acts, ch 174, §18, 57; 2018 Acts, ch 1165, §28; 2019 Acts, ch 85, §19; 2020 Acts, ch 1121, §1, 39

232.144 through 232.146 Reserved.

SUBCHAPTER VIII

RECORDS

Referred to in §232.11, 232.48

232.147 Confidentiality of juvenile court records.

1. Juvenile court social records shall be confidential. They shall not be inspected and their contents shall not be disclosed except as provided in this section or as authorized by other provisions in this chapter.

2. Official juvenile court records in all cases except those alleging delinquency shall be confidential and are not public records. Confidential records may be inspected and their contents shall be disclosed to the following without court order, provided that a person or entity who inspects or receives a confidential record under this subsection shall not disclose the confidential record or its contents unless required by law:

a. The judge and professional court staff, including juvenile court officers.

b. The child and the child's counsel.

c. The child's parent, guardian or custodian, court appointed special advocate, and guardian ad litem, and the members of the child advocacy board created in section 237.16 or a local citizen foster care review board created in accordance with section 237.19 who are assigning or reviewing the child's case.

d. The county attorney, the county attorney's assistants, or the attorney representing the state in absence of the county attorney.

e. An agency, individual, association, facility, or institution responsible for the care, treatment, or supervision of the child pursuant to a court order or voluntary placement agreement with the department of human services, juvenile officer, or intake officer.

f. A court, court professional staff, and adult probation officers in connection with the preparation of a presentence report concerning a person who prior thereto had been the subject of a juvenile court proceeding.

g. The child's foster parent or an individual providing preadoptive care to the child.

h. The state public defender.

e. A court, court professional staff, and adult probation officers in connection with the preparation of a presentence report concerning a person who prior thereto had been the subject of a juvenile court proceeding.

f. An agency, individual, association, facility, or institution responsible for the care, treatment, or supervision of the child pursuant to a court order or voluntary placement agreement with the department of human services, juvenile court officer, or intake officer.

g. A state or local law enforcement agency.

h. The state public defender.

i. The statistical analysis center for the purposes stated in section 216A.136.

j. The department of human services.

k. The department of corrections.

l. A judicial district department of correctional services.

m. The board of parole.

n. The superintendent or the superintendent's designee of the school district for the school attended by the child or the authorities in charge of an accredited nonpublic school attended by the child.

o. A member of the armed forces of the United States who is conducting a background investigation of an individual pursuant to federal law.

p. The alleged victim of the delinquent act.

q. An individual involved in the operation of a juvenile diversion program, who may also receive from a state or local law enforcement agency police reports and related information that assist in the operation of the juvenile diversion program.

5. If the court has excluded the public from a hearing pursuant to section 232.39 or 232.92, the transcript of the proceedings shall not be deemed a public record and inspection and disclosure of the contents of the transcript shall not be permitted except pursuant to a court order or unless otherwise provided in this chapter.

6. Delinquency complaints under section 232.28 shall be released in accordance with section 915.25. Other official juvenile court records in a delinquency proceeding that are public records under this section and that have not been made confidential pursuant to section 232.149A or sealed pursuant to section 232.150 may be released under this section by a juvenile court officer.

7. Official juvenile court records enumerated in section 232.2, subsection 38, paragraph "e", relating to paternity, support, or the termination of parental rights, shall be disclosed, upon request, to the child support recovery unit without court order.

8. Pursuant to court order, official juvenile court records may be inspected by and their contents may be disclosed to:

a. A person conducting bona fide research for research purposes under whatever conditions the court may deem proper, provided that no personal identifying data shall be disclosed to such a person.

b. Persons who have a direct interest in a proceeding or in the work of the court.

9. Social records prior to adjudication may be disclosed without court order to the superintendent or superintendent's designee of a school district, authorities in charge of an accredited nonpublic school, or any other state or local agency that is part of the juvenile justice system, in accordance with an interagency agreement established under section 280.25. The disclosure shall only include identifying information that is necessary to fulfill the purpose of the disclosure. The social records disclosed shall be used solely for the purpose of determining the programs and services appropriate to the needs of the child or the family of the child and shall not be disclosed for any other purpose unless otherwise provided by law.

10. Subject to restrictions imposed by sections 232.48, subsection 4, and 232.97, subsection 3, all juvenile court records shall be made available for inspection and their contents shall be disclosed to any party to the case and the party's counsel and to any trial or appellate court in connection with an appeal pursuant to subchapter VI.

11. The clerk of the district court shall enter information from the juvenile record on the judgment docket and lien index, but only as necessary to record support judgments.

12. The state agency designated to enforce support obligations may release information as necessary in order to meet statutory responsibilities.

13. Release of official juvenile court records to a victim of a delinquent act is subject to the provisions of section 915.24, notwithstanding contrary provisions of this chapter.

14. Notwithstanding any provision of this section or a confidentiality order entered pursuant to section 232.149A, the juvenile court shall notify the department of transportation as required by sections 321.213 and 321.213A.

15. The confidentiality of a final adjudication of delinquency under this section or pursuant to section 232.149A shall not prohibit the state from pleading or proving the adjudication at a subsequent criminal or delinquency proceeding for the purpose of penalty enhancement when a provision of the Code specifically deems the delinquency adjudication to constitute a final conviction.

16. A provision in this section or section 232.149A or 232.150 shall not be construed to limit or restrict the production, use, or introduction of official juvenile court records in any juvenile or adult criminal proceeding, where such records are relevant and deemed admissible under any other provision of the law.

17. A provision in this section or section 232.149A shall not limit or prohibit individuals from performing any duties or responsibilities as required by section 123.47B, 124.415, 232.47, 232.49, or 321J.2B.

18. Notwithstanding any provision of this section or section 232.149A to the contrary, if the child has been discharged from the jurisdiction of the juvenile court in a delinquency proceeding due to reaching the age of eighteen and restitution remains unpaid, the name of the court, the title of the action, and the court's file number shall not be kept confidential, and the restitution amount shall be a judgment and lien as provided in sections 910.7A, 910.8, 910.10, and 915.28 until the restitution is paid.

19. Notwithstanding any other provision of law, a public record which is confidential under the provisions of this chapter shall only be subject to release upon order of a court in a proceeding under this chapter.

[C66, 71, 73, 75, 77, §232.54, 232.57; C79, 81, §232.147; 82 Acts, ch 1209, §16]

83 Acts, ch 186, §10057, 10201; 84 Acts, ch 1208, §2; 90 Acts, ch 1271, §1508; 92 Acts, ch 1195, §301; 93 Acts, ch 172, §35, 56; 95 Acts, ch 191, §15; 96 Acts, ch 1110, §3; 97 Acts, ch 164, §4; 98 Acts, ch 1090, §63, 83, 84; 2000 Acts, ch 1123, §2; 2001 Acts, ch 79, §1; 2005 Acts, ch 55, §2; 2006 Acts, ch 1164, §1; 2006 Acts, ch 1185, §76; 2009 Acts, ch 41, §263; 2013 Acts, ch 116, §3; 2015 Acts, ch 58, §1; 2016 Acts, ch 1002, §4 – 9, 17; 2018 Acts, ch 1153, §5 – 7; 2020 Acts, ch 1062, §36

Referred to in §13B.4A, 135L.3, 216A.136, 228.6, 232.19, 232.91, 232.103A, 232.149A, 232.149B, 232.150, 232.151, 232C.4, 235A.17, 280.25, 692.2, 692A.121, 915.10A, 915.25

2016 amendments apply to juvenile delinquency proceedings which are pending or arise on or after July 1, 2016; 2016 Acts, ch 1002, §17
Subsection 10 amended

232.148 Fingerprints — photographs.

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

2. Fingerprints of a child who has been taken into custody shall be taken and filed by a criminal or juvenile justice agency investigating the commission of a public offense other than a simple misdemeanor. In addition, photographs of a child who has been taken into custody may be taken and filed by a criminal or juvenile justice agency investigating the commission of a public offense other than a simple misdemeanor. The criminal or juvenile justice agency shall forward the fingerprints to the department of public safety for inclusion in the automated fingerprint identification system and may also retain a copy of the fingerprint card for comparison with latent fingerprints and the identification of repeat offenders.

3. If a peace officer has reasonable grounds to believe that latent fingerprints found during the investigation of the commission of a public offense are those of a particular child, fingerprints of the child may be taken for immediate comparison with the latent fingerprints regardless of the nature of the offense. If the comparison is negative the fingerprint card and other copies of the fingerprints taken shall be immediately destroyed. If the comparison is positive, the fingerprint card and other copies of the fingerprints taken shall be delivered

to the division of criminal investigation of the department of public safety in the manner and on the forms prescribed by the commissioner of public safety within two working days after the fingerprints are taken. After notification by the child or the child's representative that the child has not had a delinquency petition filed against the child or has not entered into an informal adjustment agreement, the fingerprint card and copies of the fingerprints shall be immediately destroyed.

4. Fingerprint and photograph files of children may be inspected by peace officers when necessary for the discharge of their official duties. The juvenile court may authorize other inspections of such files in individual cases upon a showing that inspection is necessary in the public interest.

5. Fingerprints and photographs of a child shall be removed from the file and destroyed upon notification by the child's guardian ad litem or legal counsel to the department of public safety that either of the following situations apply:

a. A petition alleging the child to be delinquent is not filed and the child has not entered into an informal adjustment, admitting involvement in a delinquent act alleged in the complaint.

b. After a petition is filed, the petition is dismissed or the proceedings are suspended and the child has not entered into a consent decree and has not been adjudicated delinquent on the basis of a delinquent act other than one alleged in the petition in question, or the child has not been placed on youthful offender status.

[C79, 81, §232.148; 82 Acts, ch 1209, §17]

94 Acts, ch 1172, §25; 95 Acts, ch 67, §17; 95 Acts, ch 191, §16, 17; 96 Acts, ch 1034, §11; 97 Acts, ch 126, §32, 33; 98 Acts, ch 1100, §26; 99 Acts, ch 37, §1

Referred to in §13B.4A, 216A.136, 232.91, 232.151, 232C.4, 692.15, 692A.121, 726.23

See also §690.2 and 690.4

232.149 Records of criminal or juvenile justice agencies, intake officers, and juvenile court officers.

1. The taking of a child into custody under the provisions of section 232.19 shall not be considered an arrest.

2. Records and files of a criminal or juvenile justice agency, an intake officer, or a juvenile court officer concerning a child involved in a delinquent act are confidential. The records are subject to sealing under section 232.150 unless the juvenile court waives its jurisdiction over the child so that the child may be prosecuted as an adult for a public offense. A criminal or juvenile justice agency may disclose to individuals involved in the operation of a juvenile diversion program police reports and related information that assist in the operation of the juvenile diversion program.

3. Records and files of a criminal or juvenile justice agency, an intake officer, or a juvenile court officer concerning a defendant transferred under section 803.6 to the juvenile court for the alleged commission of a public offense are public records, except that release of criminal history data, intelligence data, and law enforcement investigatory files is subject to the provisions of section 22.7 and chapter 692, and juvenile court social records shall be deemed confidential criminal identification files under section 22.7, subsection 9. The records are subject to sealing under section 232.150.

4. Notwithstanding subsection 2, if a juvenile who has been placed in detention under section 232.22 escapes from the facility, the criminal or juvenile justice agency may release the name of the juvenile, the facts surrounding the escape, and the offense or alleged offense which resulted in the placement of the juvenile in the facility.

5. Records of an intake officer or juvenile court officer containing a dismissal of a complaint or an informal adjustment of a complaint if no petition is filed relating to the complaint, shall not be available to the public and may only be inspected by or disclosed to the following:

- a. The judge and professional court staff, including juvenile court officers.
- b. The child's counsel or guardian ad litem.
- c. The county attorney and county attorney's assistants.
- d. The superintendent or the superintendent's designee of the school district for the school

attended by the child or the authorities in charge of an accredited nonpublic school attended by the child.

e. A member of the armed forces of the United States who is conducting a background investigation of an individual pursuant to federal law.

f. The statistical analysis center for the purposes stated in section 216A.136.

g. The state public defender.

h. The department of human services.

i. The alleged victim of the delinquent act.

6. Notwithstanding subsections 2 and 5, information from such records and files may be disclosed by a juvenile justice agency, intake officer, or juvenile court officer, when making referrals for placement of the child, to an agency, individual, association, facility, or institution that will have physical custody of the child, or will become responsible for the care, treatment, or supervision of the child upon placement.

[C66, 71, 73, 75, 77, §232.15; C79, 81, §232.149]

83 Acts, ch 186, §10057, 10201; 85 Acts, ch 173, §15; 94 Acts, ch 1172, §26; 95 Acts, ch 191, §18, 19; 97 Acts, ch 126, §34, 35; 2015 Acts, ch 58, §2; 2016 Acts, ch 1002, §10, 17; 2018 Acts, ch 1153, §8, 9

Referred to in §13B.4A, 216A.136, 232.19, 232.91, 232.150, 232.151, 232C.4, 692.2, 692A.121, 915.25

2016 amendment applies to juvenile delinquency proceedings which are pending or arise on or after July 1, 2016; 2016 Acts, ch 1002, §17

232.149A Confidentiality orders.

1. Notwithstanding any other provision of the Code to the contrary, upon the court's own motion or application of a person who was the subject of a complaint or petition alleging the commission of a delinquent act that would be a forcible felony if committed by an adult, the court after hearing, shall order official juvenile court records in the case to be confidential and no longer public records under sections 232.19, 232.147, and 915.25, if the court finds both of the following apply:

a. The case has been dismissed without any adjudication of delinquency and the person is no longer subject to the jurisdiction of the juvenile court in the matter.

b. The child's interest in making the records confidential outweighs the public's interest in the records remaining public records.

2. The records subject to a confidentiality order may be sealed at a later date if section 232.150 applies.

3. Unless an order sealing the records has been entered pursuant to section 232.150, official juvenile court records subject to a confidentiality order may be inspected and their contents shall be disclosed to the following without court order:

a. The judge and professional court staff, including juvenile court officers.

b. The child and the child's counsel.

c. The child's parent, guardian or custodian, court appointed special advocate, and guardian ad litem, and the members of the child advocacy board created in section 237.16 or a local citizen foster care review board created in accordance with section 237.19 who are assigning or reviewing the child's case.

d. The county attorney and the county attorney's assistants.

e. An agency, association, facility, or institution which has custody of the child, or is legally responsible for the care, treatment, or supervision of the child, including but not limited to the department of human services.

f. A court, court professional staff, and adult probation officers in connection with the preparation of a presentence report concerning a person who had been the subject of a juvenile court proceeding.

g. The child's foster parent or an individual providing preadoptive care to the child.

h. A state or local law enforcement agency.

i. The state public defender.

j. The department of corrections.

k. A judicial district department of correctional services.

l. The board of parole.

m. The statistical analysis center for the purposes stated in section 216A.136.

- n. The alleged victim of the delinquent act.
 - o. A member of the armed forces of the United States who is conducting a background investigation of an individual pursuant to federal law.
 - 4. Pursuant to court order, official juvenile court records subject to a confidentiality order may be inspected by and their contents may be disclosed to:
 - a. A person conducting bona fide research for research purposes under whatever conditions the court may deem proper, provided that no personal identifying data shall be disclosed to such a person.
 - b. Persons who have a direct interest in a proceeding or in the work of the court.
- 2006 Acts, ch 1164, §2; 2006 Acts, ch 1185, §77; 2016 Acts, ch 1002, §11, 12, 17
 Referred to in §13B.4A, 216A.136, 232.11, 232.91, 232.147, 232.150, 232.151, 232C.4, 692.2, 692A.121, 915.25
 2016 amendments apply to juvenile delinquency proceedings which are pending or arise on or after July 1, 2016; 2016 Acts, ch 1002, §17

232.149B Public records orders.

1. A rebuttable presumption exists that official juvenile court records in delinquency proceedings that do not involve an allegation of delinquency that would be a forcible felony offense if committed by an adult shall remain confidential as provided by section 232.147.
2. Upon application of any person or upon the court's own motion at any time prior to the termination of juvenile court jurisdiction over the charged juvenile, and after hearing, the court shall order the official juvenile court records in such a delinquency proceeding to be public records if any of the following apply:
 - a. The public's interest in making the records public outweighs the juvenile's interest in maintaining the confidentiality of the records.
 - b. The juvenile has been placed on youthful offender status pursuant to section 232.45, subsection 7, and section 907.3A, subsection 1, and will be transferred back to the district court for sentencing prior to the child's eighteenth birthday.
3. Upon application of any person or upon the court's own motion at any time prior to the termination of juvenile court jurisdiction over the charged juvenile, and after hearing, the court may order the official juvenile court records in such a delinquency proceeding to be public records if the juvenile has been subsequently adjudicated delinquent for a public offense that would be a serious misdemeanor, aggravated misdemeanor, or felony offense if committed by an adult, or another delinquency proceeding is pending seeking such an adjudication.
4. Records subject to a public records order may be sealed at a later date pursuant to section 232.150.

2016 Acts, ch 1002, §13, 17

Referred to in §13B.4A, 216A.136, 232.11, 232.91, 232.150, 232.151, 232C.4, 692.2, 692A.121, 915.25

Section applies to juvenile delinquency proceedings which are pending or arise on or after July 1, 2016; 2016 Acts, ch 1002, §17

232.150 Sealing of records.

1. *a.* In the case of an adjudication of delinquency, the court shall upon its own motion schedule a sealing of records hearing to be held two years after the date of the last official action, or the date the child becomes eighteen years of age, whichever is later. The court shall also schedule a sealing of records hearing upon application of a person who was the subject of a complaint or petition alleging delinquency that did not result in an adjudication. The court, after hearing, shall order the official juvenile court records in the case including those specified in sections 232.147, 232.149, 232.149A, 232.149B, and 915.25, sealed if the court finds all of the following:
 - (1) The person is eighteen years of age or older and two years have elapsed since the last official action in the person's case.
 - (2) The person has not been subsequently convicted of a felony or an aggravated or serious misdemeanor or adjudicated a delinquent child for an act which if committed by an adult would be a felony, an aggravated misdemeanor, or a serious misdemeanor and no proceeding is pending seeking such conviction or adjudication.
 - (3) The person was not placed on youthful offender status, transferred back to district court after the youthful offender's eighteenth birthday, and sentenced for the offense which precipitated the youthful offender placement.

(4) The person was not adjudicated delinquent on an offense involving a violation of section 321J.2.

b. If the person was adjudicated delinquent for an offense which if committed by an adult would be an aggravated misdemeanor or a felony, the court shall not order the records in the case sealed unless, upon application of the person or upon the court’s own motion and after hearing, the court finds that paragraph “a”, subparagraphs (1) and (2), apply and that the sealing is in the best interests of the person and the public.

c. If the person is required to pay monetary restitution to a victim due to a delinquent act and the restitution is unpaid, the records in the case may be sealed, but the name of the court, the title of the action, and the court’s file number shall remain unsealed as provided in section 910.10 and the restitution amount shall be a judgment and lien as provided in sections 910.7A, 910.8, 910.10, and 915.28 until the restitution is paid in full.

2. Reasonable notice of the hearing shall be given to the person who is the subject of the records named in the motion, the county attorney, and the agencies having custody of the records named in the application or motion.

3. Notice and copies of a sealing order shall be sent to each agency or person having custody of the records named in the sealing order.

4. On entry of a sealing order:

a. All agencies and persons having custody of records which are named therein, shall send such records to the court issuing the order. Maintenance or destruction of these records shall be prescribed by the state court administrator.

b. All index references to sealed records shall be deleted.

5. The sealed records shall no longer be deemed to exist as a matter of law, and the juvenile court and any other agency or person who received notice and a copy of the sealing order shall reply to an inquiry that no such records exist, except when such reply is made to an inquiry pursuant to subsection 6.

6. Inspection of sealed records and disclosure of their contents thereafter may be permitted only pursuant to an order of the court upon application of the person who is the subject of such records except that the court in its discretion may permit reports to be inspected by or their contents to be disclosed for research purposes to a person conducting bona fide research under whatever conditions the court deems proper.

[C79, 81, §232.150; 82 Acts, ch 1209, §18]

97 Acts, ch 126, §36; 2006 Acts, ch 1164, §3; 2014 Acts, ch 1105, §1; 2016 Acts, ch 1002, §14, 15, 17; 2018 Acts, ch 1153, §10; 2019 Acts, ch 59, §70

Referred to in §13B.4A, 216A.136, 229A.2, 232.55, 232.91, 232.147, 232.149, 232.149A, 232.149B, 232.151, 232C.4, 692.2, 692A.101, 692A.121

2016 amendments apply to juvenile delinquency proceedings which are pending or arise on or after July 1, 2016; 2016 Acts, ch 1002, §17

232.151 Criminal penalties.

1. Any person who knowingly discloses, receives, or makes use or permits the use of information derived directly or indirectly from the records concerning a child referred to in sections 232.147 through 232.150, except as provided by those sections or section 13B.4A, subsection 2, paragraph “c”, shall be guilty of a serious misdemeanor.

2. This section does not apply to a person or entity authorized to receive or inspect the contents of confidential official juvenile court records, or the confidential records of a criminal or juvenile justice agency, juvenile court officer, or juvenile intake officer, when such person or entity discloses such information to another person or entity also authorized to receive or inspect the confidential information, or discloses to a witness or other interested person the date, time, and nature of a court proceeding concerning the child in order to secure the appearance of the witness or other interested person at the proceeding.

[C79, 81, §232.151]

2014 Acts, ch 1038, §2; 2018 Acts, ch 1041, §121; 2018 Acts, ch 1153, §11

Referred to in §216A.136, 232.91, 232C.4, 692A.121

232.152 Rules of juvenile procedure.

Proceedings under this chapter are subject to rules prescribed by the supreme court under section 602.4201.

[C79, 81, §232.152]

83 Acts, ch 186, §10058, 10201

Rules adopted by the supreme court are published in the compilation "Iowa Court Rules"

232.153 Applicability of this chapter prior to July 1, 1979.

1. Except as provided in subsections 2 and 3 of this section, this chapter does not apply to juvenile court cases brought prior to July 1, 1979 or to acts committed prior to July 1, 1979 which would otherwise bring a child or a child's parent, guardian or custodian within the jurisdiction of the juvenile court pursuant to this chapter.

2. In a case pending on or commenced after July 1, 1979, involving acts committed prior to July 1, 1979, upon the request of any party and the approval of the court:

a. Procedural provisions of this chapter shall apply insofar as they are justly applicable.

b. The court may order a disposition of the case pursuant to the provisions of this chapter.

3. Provisions of this chapter governing the termination, modification or vacation of a dispositional order shall apply to persons to whom a dispositional order has been issued for acts committed prior to July 1, 1979, except that the maximum length of the order and the severity of the disposition shall not be increased. The provisions of this chapter shall not affect the substantive or procedural validity of a judgment entered before July 1, 1979, regardless of the fact that appeal time has not run or that an appeal is pending.

[C81, §232.153]

232.154 through 232.157 Reserved.

SUBCHAPTER IX

INTERSTATE COMPACT ON PLACEMENT OF CHILDREN

232.158 Interstate compact on placement of children.

The interstate compact on the placement of children is hereby enacted into law and entered into with all other jurisdictions legally joining therein in form substantially as follows:

1. *Article I — Purpose and policy.* It is the purpose and policy of the party states to cooperate with each other in the interstate placement of children to the end that:

a. Each child requiring placement shall receive the maximum opportunity to be placed in a suitable environment and with persons or institutions having appropriate qualifications and facilities to provide a necessary and desirable degree and type of care.

b. The appropriate authorities in a state where a child is to be placed may have full opportunity to ascertain the circumstances of the proposed placement, thereby promoting full compliance with applicable requirements for the protection of the child.

c. The proper authorities of the state from which the placement is made may obtain the most complete information on the basis of which to evaluate a projected placement before it is made.

d. Appropriate jurisdictional arrangements for the care of children will be promoted.

2. *Article II — Definitions.* As used in this compact:

a. "Child" means a person who, by reason of minority, is legally subject to parental, guardianship or similar control.

b. "Sending agency" means a party state, officer or employee thereof; a subdivision of a party state, or officer or employee thereof; a court of a party state; a person, corporation, association, charitable agency or other entity which sends, brings, or causes to be sent or brought any child to another party state.

c. "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought, whether by public authorities or private persons or agencies, and whether

for placement with state or local public authorities or for placement with private agencies or persons.

d. “Placement” means the arrangement for the care of a child in a family free or boarding home or in a child-caring agency or institution, but not in an institution caring for the mentally ill, mentally defective, or epileptic, in an institution primarily educational in character, or in a hospital or other medical facility.

3. *Article III — Conditions for placement.*

a. A sending agency shall not send, bring, or cause to be sent or brought into any other party state a child for placement in foster care or as a preliminary to a possible adoption unless the sending agency complies with every requirement set forth in this article and with the applicable laws of the receiving state governing the placement of children in the receiving state.

b. Prior to sending, bringing or causing any child to be sent or brought into a receiving state for placement in foster care or as a preliminary to a possible adoption, the sending agency shall furnish the appropriate public authorities in the receiving state written notice of the intention to send, bring, or place the child in the receiving state. The notice shall contain:

- (1) The name, date and place of birth of the child.
- (2) The identity and address or addresses of the parents or legal guardian.
- (3) The name and address of the person, agency or institution to or with which the sending agency proposes to send, bring or place the child.
- (4) A full statement of the reasons for such proposed action and evidence of the authority pursuant to which the placement is proposed to be made.

c. Any public officer or agency in a receiving state which is in receipt of a notice pursuant to paragraph “b” of this article may request of the sending agency, or any other appropriate officer or agency of or in the sending agency’s state, and shall be entitled to receive therefrom, such supporting or additional information as it may deem necessary under the circumstances to carry out the purpose and policy of this compact.

d. The child shall not be sent, brought, or caused to be sent or brought into the receiving state until the appropriate public authorities in the receiving state shall notify the sending agency, in writing, to the effect that the proposed placement does not appear to be contrary to the interests of the child.

4. *Article IV — Penalty for illegal placement.* The sending, bringing, or causing to be sent or brought into any receiving state of a child in violation of the terms of this compact shall constitute a violation of the laws respecting the placement of children of both the state in which the sending agency is located or from which it sends or brings the child and of the receiving state. Such violation may be punished or subjected to penalty in either jurisdiction in accordance with its laws. In addition to liability for any such punishment or penalty, any such violation shall constitute full and sufficient grounds for the suspension or revocation of any license, permit, or other legal authorization held by the sending agency which empowers or allows it to place, or care for children.

5. *Article V — Retention of jurisdiction.*

a. The sending agency shall retain jurisdiction over the child sufficient to determine all matters in relation to the custody, supervision, care, treatment and disposition of the child which it would have had if the child had remained in the sending agency’s state, until the child is adopted, reaches majority, becomes self-supporting or is discharged with the concurrence of the appropriate authority in the receiving state. Such jurisdiction shall also include the power to effect or cause the return of the child or its transfer to another location and custody pursuant to law. The sending agency shall continue to have financial responsibility for support and maintenance of the child during the period of the placement. Nothing contained herein shall defeat a claim of jurisdiction by a receiving state sufficient to deal with an act of delinquency or crime committed therein.

b. When the sending agency is a public agency, it may enter into an agreement with an authorized public or private agency in the receiving state providing for the performance of one or more services in respect of such case by the latter as agent for the sending agency.

c. Nothing in this compact shall be construed to prevent a private charitable agency authorized to place children in the receiving state from performing services or acting as

agent in that state for a private charitable agency of the sending state; nor to prevent the agency in the receiving state from discharging financial responsibility for the support and maintenance of a child who has been placed on behalf of the sending agency without relieving the responsibility set forth in paragraph “a” hereof.

6. *Article VI — Institutional care of delinquent children.* A child adjudicated delinquent may be placed in an institution in another party jurisdiction pursuant to this compact but no such placement shall be made unless the child is given a court hearing on notice to the parent or guardian with opportunity to be heard, prior to the child being sent to such other party jurisdiction for institutional care and the court finds that:

a. Equivalent facilities for the child are not available in the sending agency’s jurisdiction; and

b. Institutional care in the other jurisdiction is in the best interest of the child and will not produce undue hardship.

7. *Article VII — Compact administrator.* The executive head of each jurisdiction party to this compact shall designate an officer who shall be general coordinator of activities under this compact in the officer’s jurisdiction and who, acting jointly with like officers of other party jurisdictions, shall have power to promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

8. *Article VIII — Limitations.* This compact shall not apply to:

a. The sending or bringing of a child into a receiving state by the child’s parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or guardian and leaving the child with any such relative or nonagency guardian in the receiving state.

b. Any placement, sending or bringing of a child into a receiving state pursuant to any other interstate compact to which both the state from which the child is sent or brought and the receiving state are party, or to any other agreement between said states which has the force of law.

9. *Article IX — Enactment and withdrawal.* This compact shall be open to joinder by any state, territory or possession of the United States, the District of Columbia, the commonwealth of Puerto Rico, and, with the consent of Congress, the government of Canada or any province thereof. It shall become effective with respect to any such jurisdiction when such jurisdiction has enacted the same into law. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until two years after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the governor of each other party jurisdiction. Withdrawal of a party state shall not affect the rights, duties and obligations under this compact of any sending agency therein with respect to a placement made prior to the effective date of withdrawal.

10. *Article X — Construction and severability.* The provisions of this compact shall be liberally construed to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

[S13, §3260-1; C24, §3672, 3675; C27, 31, 35, §3661-a90, -a93, -a95, -a96; C39, §3661.104, 3661.107, 3661.109, 3661.110; C46, 50, 54, 58, 62, 66, §238.33, 238.36, 238.38, 238.39; C71, 73, 75, 77, 79, 81, §238.33]

85 Acts, ch 173, §21 – 23, 30

CS85, §232.158

2008 Acts, ch 1032, §201

Referred to in §232.158A, 232.159, 232.160, 232.161, 232.162, 232.163, 232.164, 232.165, 232.166, 232.167, 422.12A

232.158A Legal risk placement.

1. Notwithstanding any provision of the interstate compact on the placement of children

under section 232.158 to the contrary, the department of human services shall permit the legal risk placement of a child under the interstate compact on the placement of children if the prospective adoptive parent provides a legal risk statement, in writing, acknowledging all of the following:

- a. That the placement is a legal risk placement.
 - b. That the court of the party state of the sending agency retains jurisdiction over the child for purposes of the termination of the parental rights of the biological parents.
 - c. That if termination of parental rights cannot be accomplished in accordance with applicable laws, the child shall be promptly returned to the party state of the sending agency to be returned to the child's biological parent or placed as deemed appropriate by a court of the party state of the sending agency.
 - d. That the prospective adoptive parent assumes full legal, financial, and other risks associated with the legal risk placement and that the prospective adoptive parent agrees to hold the department of human services harmless for any disruption or failure of the placement.
 - e. That the prospective adoptive parent shall provide support and medical and other appropriate care to the child pending the termination of parental rights of the biological parents and shall assume liability for all costs associated with the return of the child to the party state of the sending agency if the placement is disrupted or fails.
2. Any written legal risk statement utilized in establishing a legal risk placement shall, at a minimum, state all of the information required under subsection 1, shall be signed by any prospective adoptive parent, and shall be notarized. The legal risk statement shall also contain the following notice printed in clearly legible type:

If termination of parental rights is not accomplished and return of the child to the biological parent is required, the prospective adoptive parents are encouraged to seek mental health counseling to address any resulting psychological or family problems.

3. For the purposes of this section, “*legal risk placement*” means the placement of a child, who is to be adopted, with a prospective adoptive parent prior to the termination of parental rights of the biological parents, under which the prospective adoptive parent assumes the risk that if the parental rights of the biological parents are not terminated the child shall be returned to the biological parents or placed as deemed appropriate by a court of the party state of the sending agency, and under which the prospective adoptive parent assumes other risks and liabilities specified in a written agreement.

2001 Acts, ch 57, §1; 2018 Acts, ch 1041, §63

Referred to in §232.166, 232.167

232.159 Financial responsibility.

Financial responsibility for any child placed pursuant to the provisions of the interstate compact on the placement of children under section 232.158 shall be determined in accordance with the provisions of article V of that interstate compact in the first instance. However, in the event of partial or complete default of performance thereunder, the provisions of chapters 252 and 252A, fixing responsibility for the support of children also may be invoked.

[C71, 73, 75, 77, 79, 81, §238.34]

85 Acts, ch 173, §30

CS85, §232.159

2008 Acts, ch 1032, §201

Referred to in §232.166, 232.167

232.160 Department of human services as public authority.

The “*appropriate public authorities*” as used in article III of the interstate compact on the placement of children under section 232.158 shall, with reference to this state, mean the state

department of human services and said department shall receive and act with reference to notices required by article III of that interstate compact.

[C71, 73, 75, 77, 79, 81, §238.35]

83 Acts, ch 96, §157, 159

85 Acts, ch 173, §30

CS85, §232.160

2008 Acts, ch 1032, §201

Referred to in §232.166, 232.167

232.161 Department as authority in receiving state.

As used in paragraph “a” of article V of the interstate compact on the placement of children under section 232.158, the phrase “*appropriate authority in the receiving state*” with reference to this state shall mean the state department of human services.

[C71, 73, 75, 77, 79, 81, §238.36]

83 Acts, ch 96, §157, 159

85 Acts, ch 173, §30

CS85, §232.161

2008 Acts, ch 1032, §201

Referred to in §232.166, 232.167

232.162 Authority to enter agreements.

The officers and agencies of this state and its subdivisions having authority to place children may enter into agreements with appropriate officers or agencies of or in other party states pursuant to paragraph “b” of article V of the interstate compact on the placement of children under section 232.158. Any such agreement which contains a financial commitment or imposes a financial obligation on this state or a subdivision or agency of this state shall not be binding unless it has the approval in writing of the administrator of child and family services in the case of the state and the county general assistance director in the case of a subdivision of the state.

[C71, 73, 75, 77, 79, 81, §238.37]

85 Acts, ch 173, §30

CS85, §232.162

92 Acts, ch 1212, §8; 2008 Acts, ch 1032, §201

Referred to in §232.166, 232.167

232.163 Visitation, inspection, or supervision.

1. Any requirements for visitation, inspection, or supervision of children, homes, institutions, or other agencies in another party state which may apply under the provisions of this chapter shall be deemed to be met if performed pursuant to an agreement entered into by appropriate officers or agencies of this state or a subdivision of this state as contemplated by paragraph “b” of article V of the interstate compact on the placement of children contained in section 232.158.

2. If a child is placed outside the residency state of the child’s parent, the sending agency shall provide for a designee to visit the child at least once every twelve months and to submit a written report to the court concerning the child and the visit.

[C71, 73, 75, 77, 79, 81, §238.38]

85 Acts, ch 173, §30

CS85, §232.163

97 Acts, ch 99, §6; 98 Acts, ch 1100, §27; 2008 Acts, ch 1032, §201

Referred to in §232.166, 232.167

232.164 Court authority to place child in another state.

Any court having jurisdiction to place delinquent children may place such a child in an institution of or in another state pursuant to article VI of the interstate compact on the

placement of children, section 232.158, and shall retain jurisdiction as provided in article V of that interstate compact.

[C71, 73, 75, 77, 79, 81, §238.39]

85 Acts, ch 173, §30

CS85, §232.164

2008 Acts, ch 1032, §201

Referred to in §232.166, 232.167

232.165 Executive head.

As used in article VII of the interstate compact on the placement of children, section 232.158, the term “*executive head*” means the governor. The governor is hereby authorized to appoint a compact administrator in accordance with the terms of article VII of that interstate compact.

[C71, 73, 75, 77, 79, 81, §238.40]

85 Acts, ch 173, §30

CS85, §232.165

2008 Acts, ch 1032, §201

Referred to in §232.166, 232.167

232.166 Statutes not affected.

Nothing contained in sections 232.158 through 232.165 shall be deemed to affect or modify the other provisions of this chapter or of chapter 600.

[C71, 73, 75, 77, 79, 81, §238.41]

85 Acts, ch 173, §30

CS85, §232.166

2020 Acts, ch 1063, §91

Referred to in §232.167

Section amended

232.167 Penalty.

A person or agency which violates or aids and abets in the violation of any of the provisions of sections 232.158 through 232.166 commits a fraudulent practice.

88 Acts, ch 1249, §15

232.168 Attorney general to enforce.

The attorney general may, on the attorney general’s own initiative, institute any criminal and civil actions and proceedings under this subchapter, at whatever stage of placement necessary, to enforce the interstate compact on the placement of children, including, but not limited to, seeking enforcement of the provisions of the compact through the courts of a party state. The department of human services shall cooperate with the attorney general and shall refer any placement or proposed placement to the attorney general which may require enforcement measures.

94 Acts, ch 1174, §4; 2020 Acts, ch 1062, §94

Code editor directive applied

232.169 and 232.170 Reserved.

SUBCHAPTER X

INTERSTATE JUVENILE COMPACTS

232.171 Interstate compact on juveniles.

The state of Iowa through its courts and agencies is hereby authorized to enter into interstate compacts on juveniles in behalf of this state with any other contracting state which legally joins therein in substantially the following form and the contracting states solemnly agree:

1. *Article I — Findings and purposes.* That juveniles who are not under proper

supervision and control, or who have absconded, escaped or run away, are likely to endanger their own health, morals and welfare, and the health, morals and welfare of others. The cooperation of the states party to this compact is therefore necessary to provide for the welfare and protection of juveniles and of the public with respect to

- a. Cooperative supervision of delinquent juveniles on probation or parole;
- b. The return, from one state to another, of delinquent juveniles who have escaped or absconded;
- c. The return, from one state to another, of nondelinquent juveniles who have run away from home; and
- d. Additional measures for the protection of juveniles and of the public, which any two or more of the party states may find desirable to undertake cooperatively. In carrying out the provisions of this compact the party states shall be guided by the noncriminal, reformatory and protective policies which guide their laws concerning delinquent, neglected or dependent juveniles generally. It shall be the policy of the states party to this compact to cooperate and observe their respective responsibilities for the prompt return and acceptance of juveniles and delinquent juveniles who become subject to the provisions of this compact. The provisions of this compact shall be reasonably and liberally construed to accomplish the foregoing purposes.

2. *Article II — Existing rights and remedies.* That all remedies and procedures provided by this compact shall be in addition to and not in substitution for other rights, remedies and procedures, and shall not be in derogation of parental rights and responsibilities.

3. *Article III — Definitions.* That, for the purposes of this compact, “*delinquent juvenile*” means any juvenile who has been adjudged delinquent and who, at the time the provisions of this compact are invoked, is still subject to the jurisdiction of the court that has made such adjudication or to the jurisdiction or supervision of an agency or institution pursuant to an order of such court; “*probation or parole*” means any kind of conditional release of juveniles authorized under the laws of the states party hereto; “*court*” means any court having jurisdiction over delinquent, neglected or dependent children; “*state*” means any state, territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico; and “*residence*” or any variant thereof means a place at which a home or regular place of abode is maintained.

4. *Article IV — Return of runaways.*

a. (1) That the parent, guardian, person or agency entitled to legal custody of a juvenile who has not been adjudged delinquent but who has run away without the consent of such parent, guardian, person or agency may petition the appropriate court in the demanding state for the issuance of a requisition for the juvenile’s return. The petition shall state the name and age of the juvenile, the name of the petitioner and the basis of entitlement to the juvenile’s custody, the circumstances of the juvenile’s running away, the juvenile’s location if known at the time application is made, and such other facts as may tend to show that the juvenile who has run away is endangering the juvenile’s own welfare or the welfare of others and is not an emancipated minor. The petition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the document or documents on which the petitioner’s entitlement to the juvenile’s custody is based, such as birth certificates, letters of guardianship, or custody decrees. Such further affidavits and other documents as may be deemed proper may be submitted with such petition. The judge of the court to which this application is made may hold a hearing thereon to determine whether for the purposes of this compact the petitioner is entitled to the legal custody of the juvenile, whether or not it appears that the juvenile has in fact run away without consent, whether or not the juvenile is an emancipated minor, and whether or not it is in the best interest of the juvenile to compel the juvenile’s return to the state. If the judge determines, either with or without a hearing, that the juvenile should be returned, the judge shall present to the appropriate court or to the executive authority of the state where the juvenile is alleged to be located a written requisition for the return of such juvenile. Such requisition shall set forth the name and age of the juvenile, the determination of the court that the juvenile has run away without the consent of a parent, guardian, person or agency entitled to the juvenile’s legal custody, and that it is in the best interest and for the protection of such juvenile that the

juvenile be returned. In the event that a proceeding for the adjudication of the juvenile as a delinquent, neglected or dependent juvenile is pending in the court at the time when such juvenile runs away, the court may issue a requisition for the return of such juvenile upon its own motion, regardless of the consent of the parent, guardian, person or agency entitled to legal custody, reciting therein the nature and circumstances of the pending proceeding. The requisition shall in every case be executed in duplicate and shall be signed by the judge. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of such court. Upon the receipt of a requisition demanding the return of a juvenile who has run away, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing the officer or person to take into custody and detain such juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No juvenile detained upon such order shall be delivered over to the officer whom the court demanding the juvenile shall have appointed to receive the juvenile, unless the juvenile shall first be taken forthwith before a judge of a court in the state, who shall inform the juvenile of the demand made for the juvenile's return, and who may appoint counsel or guardian ad litem for the juvenile. If the judge of such court shall find that the requisition is in order, the judge shall deliver such juvenile over to the officer whom the court demanding the juvenile shall have appointed to receive the juvenile. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

(2) Upon reasonable information that a person is a juvenile who has run away from another state party to this compact without the consent of a parent, guardian, person or agency entitled to the juvenile's legal custody, such juvenile may be taken into custody without a requisition and brought forthwith before a judge of the appropriate court who may appoint counsel or guardian ad litem for such juvenile and who shall determine after a hearing whether sufficient cause exists to hold the person, subject to the order of the court, for the person's own protection and welfare, for such a time not exceeding ninety days as will enable the person's return to another state party to this compact pursuant to a requisition for the person's return from a court of that state. If, at the time when a state seeks the return of a juvenile who has run away, there is pending in the state wherein the juvenile is found any criminal charge, or any proceeding to have the juvenile adjudicated a delinquent juvenile for an act committed in such state, or if the juvenile is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, the juvenile shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the juvenile being returned, shall be permitted to transport such juvenile through any and all states party to this compact, without interference. Upon the juvenile's return to the state from which the juvenile ran away, the juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

b. That the state to which a juvenile is returned under this article shall be responsible for payment of the transportation costs of such return.

c. That "juvenile" as used in this article means any person who is a minor under the law of the state of residence of the parent, guardian, person or agency entitled to the legal custody of such minor.

5. *Article V — Return of escapees and absconders.*

a. (1) That the appropriate person or authority from whose probation or parole supervision a delinquent juvenile has absconded or from whose institutional custody the delinquent juvenile has escaped shall present to the appropriate court or to the executive authority of the state where the delinquent juvenile is alleged to be located a written requisition for the return of such delinquent juvenile. Such requisition shall state the name and age of the delinquent juvenile, the particulars of the juvenile's adjudication as a delinquent juvenile, the circumstances of the breach of the terms of the juvenile's probation or parole or of the juvenile's escape from an institution or agency vested with the juvenile's

legal custody or supervision, and the location of such delinquent juvenile, if known, at the time the requisition is made. The requisition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the judgment, formal adjudication, or order of commitment which subjects such delinquent juvenile to probation or parole or to the legal custody of the institution or agency concerned. Such further affidavits and other documents as may be deemed proper may be submitted with such requisition. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of the appropriate court. Upon the receipt of a requisition demanding the return of a delinquent juvenile who has absconded or escaped, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing the officer or person to take into custody and detain such delinquent juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No delinquent juvenile detained upon such order shall be delivered over to the officer whom the appropriate person or authority demanding the juvenile shall have appointed to receive the juvenile, unless the juvenile shall first be taken forthwith before a judge of an appropriate court in the state, who shall inform the juvenile of the demand made for the juvenile's return and who may appoint counsel or guardian ad litem for the juvenile. If the judge of such court shall find that the requisition is in order, the judge shall deliver such delinquent juvenile over to the officer whom the appropriate person or authority demanding the juvenile shall have appointed to receive the juvenile. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

(2) Upon reasonable information that a person is a delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with the person's legal custody or supervision in any state party to this compact, such person may be taken into custody in any other state party to this compact without a requisition. But in such event, the person must be taken forthwith before a judge of the appropriate court, who may appoint counsel or guardian ad litem for such person and who shall determine, after a hearing, whether sufficient cause exists to hold the person subject to the order of the court for such a time, not exceeding ninety days, as will enable the person's detention under a detention order issued on a requisition pursuant to this article. If, at the time when a state seeks the return of a delinquent juvenile who has either absconded while on probation or parole or escaped from an institution or agency vested with the juvenile's legal custody or supervision, there is pending in the state wherein the juvenile is detained any criminal charge or any proceeding to have the juvenile adjudicated a delinquent juvenile for an act committed in such state, or if the juvenile is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, the juvenile shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the delinquent juvenile being returned, shall be permitted to transport such delinquent juvenile through any and all states party to this compact, without interference. Upon the juvenile's return to the state from which the juvenile escaped or absconded, the delinquent juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

b. That the state to which a delinquent juvenile is returned under this article shall be responsible for payment of the transportation costs of such return.

6. *Article VI — Voluntary return procedure.* That any delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with the juvenile's legal custody or supervision in any state party to this compact, and any juvenile who has run away from any state party to this compact, who is taken into custody without a requisition in another state party to this compact under the provisions of article IV, paragraph "a", or of article V, paragraph "a", may consent to the juvenile's immediate return to the state from which the juvenile absconded, escaped or ran away. Such consent shall be given by the juvenile or delinquent juvenile and the juvenile's counsel or guardian ad litem,

if any, by executing or subscribing a writing, in the presence of a judge of the appropriate court, which states that the juvenile or delinquent juvenile and the juvenile's counsel or guardian ad litem, if any, consent to the juvenile's return to the demanding state. Before such consent shall be executed or subscribed, however, the judge, in the presence of counsel or guardian ad litem, if any, shall inform the juvenile or delinquent juvenile of the juvenile's rights under this compact. When the consent has been duly executed, it shall be forwarded to and filed with the compact administrator of the state in which the court is located and the judge shall direct the officer having the juvenile or delinquent juvenile in custody to deliver the juvenile to the duly accredited officer or officers of the state demanding the juvenile's return, and shall cause to be delivered to such officer or officers a copy of the consent. The court may, however, upon the request of the state to which the juvenile or delinquent juvenile is being returned, order the juvenile to return unaccompanied to such state and shall provide the juvenile with a copy of such court order; in such event a copy of the consent shall be forwarded to the compact administrator of the state to which said juvenile or delinquent juvenile is ordered to return.

7. *Article VII — Cooperative supervision of probationers and parolees.*

a. That the duly constituted judicial and administrative authorities of a state party to this compact, herein called "*sending state*", may permit any delinquent juvenile within such state, placed on probation or parole, to reside in any other state party to this compact, herein called "*receiving state*", while on probation or parole, and the receiving state shall accept such delinquent juvenile, if the parent, guardian or person entitled to the legal custody of such delinquent juvenile is residing or undertakes to reside within the receiving state. Before granting such permission, opportunity shall be given to the receiving state to make such investigations as it deems necessary. The authorities of the sending state shall send to the authorities of the receiving state copies of pertinent court orders, social case studies and all other available information which may be of value to and assist the receiving state in supervising a probationer or parolee under this compact. A receiving state, in its discretion, may agree to accept supervision of a probationer or parolee in cases where the parent, guardian or person entitled to the legal custody of the delinquent juvenile is not a resident of the receiving state, and if so accepted the sending state may transfer supervision accordingly.

b. That each receiving state will assume the duties of visitation and of supervision over any such delinquent juvenile and in the exercise of those duties will be governed by the same standards of visitation and supervision that prevail for its own delinquent juveniles released on probation or parole.

c. That, after consultation between the appropriate authorities of the sending state and of the receiving state as to the desirability and necessity of returning such a delinquent juvenile, the duly accredited officers of a sending state may enter a receiving state and there apprehend and retake any such delinquent juvenile on probation or parole. For that purpose, no formalities will be required, other than establishing the authority of the officer and the identity of the delinquent juvenile to be retaken and returned. The decision of the sending state to retake a delinquent juvenile on probation or parole shall be conclusive upon and not reviewable within the receiving state, but if, at the time the sending state seeks to retake a delinquent juvenile on probation or parole, there is pending against the juvenile within the receiving state any criminal charge or any proceeding to have the juvenile adjudicated a delinquent juvenile for any act committed in such state, or if the juvenile is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, the juvenile shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of the sending state shall be permitted to transport delinquent juveniles being so returned through any and all states party to this compact, without interference.

d. That the sending state shall be responsible under this article for paying the costs of transporting any delinquent juvenile to the receiving state or of returning any delinquent juvenile to the sending state.

8. *Article VIII — Responsibility for costs.*

a. That the provisions of article IV, paragraph "b", article V, paragraph "b", and article VII,

paragraph “d” of this compact shall not be construed to alter or affect any internal relationship among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

b. That nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency or other entity in regard to costs for which such party state or subdivision thereof may be responsible pursuant to article IV, paragraph “b”, article V, paragraph “b”, or article VII, paragraph “d” of this compact.

9. *Article IX — Detention practices.* That, to every extent possible, it shall be the policy of states party to this compact that no juvenile or delinquent juvenile shall be placed or detained in any prison, jail or lockup nor be detained or transported in association with criminal, vicious or dissolute persons.

10. *Article X — Supplementary agreements.* That the duly constituted administrative authorities of a state party to this compact may enter into supplementary agreements with any other state or states party hereto for the cooperative care, treatment and rehabilitation of delinquent juveniles whenever they shall find that such agreements will improve the facilities or programs available for such care, treatment and rehabilitation. Such care, treatment and rehabilitation may be provided in an institution located within any state entering into such supplementary agreement. Such supplementary agreements shall:

a. Provide the rates to be paid for the care, treatment and custody of such delinquent juveniles, taking into consideration the character of facilities, services and subsistence furnished;

b. Provide that the delinquent juvenile shall be given a court hearing prior to the juvenile being sent to another state for care, treatment and custody;

c. Provide that the state receiving such a delinquent juvenile in one of its institutions shall act solely as agent for the state sending such delinquent juvenile;

d. Provide that the sending state shall at all times retain jurisdiction over delinquent juveniles sent to an institution in another state;

e. Provide for reasonable inspection of such institutions by the sending state;

f. Provide that the consent of the parent, guardian, person or agency entitled to the legal custody of said delinquent juvenile shall be secured prior to the juvenile being sent to another state; and

g. Make provision for such other matters and details as shall be necessary to protect the rights and equities of such delinquent juveniles and of the cooperating states.

11. *Article XI — Acceptance of federal and other aid.* That any state party to this compact may accept any and all donations, gifts and grants of money, equipment and services from the federal or any local government, or any agency thereof and from any person, firm or corporation, for any of the purposes and functions of this compact, and may receive and utilize the same subject to the terms, conditions and regulations governing such donations, gifts and grants.

12. *Article XII — Compact administrators.* That the governor of each state party to this compact shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

13. *Article XIII — Execution of compact.* That this compact shall become operative immediately upon its execution by any state as between it and any other state or states so executing. When executed it shall have the full force and effect of law within such state, the form of execution to be in accordance with the laws of the executing state.

14. *Article XIV — Renunciation.* That this compact shall continue in force and remain binding upon each executing state until renounced by it. Renunciation of this compact shall be by the same authority which executed it, by sending six months’ notice in writing of its intention to withdraw from the compact to the other states party hereto. The duties and obligations of a renouncing state under article VII hereof shall continue as to parolees and probationers residing therein at the time of withdrawal until retaken or finally discharged. Supplementary agreements entered into under article X hereof shall be subject

to renunciation as provided by such supplementary agreements, and shall not be subject to the six months' renunciation notice of the present article.

15. *Article XV — Rendition amendment.*

a. This article shall provide additional remedies, and shall be binding only as among and between those party states which specifically execute the same.

b. All provisions and procedures of articles V and VI of the Interstate Compact on Juveniles shall be construed to apply to any juvenile charged with being a delinquent by reason of a violation of any criminal law. Any juvenile charged with being a delinquent by reason of violating any criminal law shall be returned to the requesting state upon a requisition to the state where the juvenile may be found. A petition in such case shall be filed in a court of competent jurisdiction in the requesting state where the violation of criminal law is alleged to have been committed. The petition may be filed regardless of whether the juvenile has left the state before or after the filing of the petition. The requisition described in article V of the compact shall be forwarded by the judge of the court in which the petition has been filed.

16. *Out-of-state confinement amendment.*

a. Whenever the duly constituted judicial or administrative authorities in a sending state shall determine that confinement of a probationer or reconfinement of a parolee is necessary or desirable, said officials may direct that the confinement or reconfinement be in an appropriate institution for delinquent juveniles within the territory of the receiving state, such receiving state to act in that regard solely as agent for the sending state.

b. Escapees and absconders who would otherwise be returned pursuant to article V of the compact may be confined or reconfined in the receiving state pursuant to this amendment. In any such case the information and allegations required to be made and furnished in a requisition pursuant to such article shall be made and furnished, but in place of the demand pursuant to article V, the sending state shall request confinement or reconfinement in the receiving state. Whenever applicable, detention orders as provided in article V may be employed pursuant to this paragraph preliminary to disposition of the escapee or absconder.

c. The confinement or reconfinement of a parolee, probationer, escapee, or absconder pursuant to this amendment shall require the concurrence of the appropriate judicial or administrative authorities of the receiving state.

d. As used in this amendment:

(1) "*Sending state*" means sending state as that term is used in article VII of the compact or the state from which a delinquent juvenile has escaped or absconded within the meaning of article V of the compact.

(2) "*Receiving state*" means any state, other than the sending state, in which a parolee, probationer, escapee, or absconder may be found, provided that said state is a party to this amendment.

e. Every state which adopts this amendment shall designate at least one of its institutions for delinquent juveniles as a "compact institution" and shall confine persons therein as provided in paragraph "a" hereof unless the sending and receiving state in question shall make specific contractual arrangements to the contrary. All states party to this amendment shall have access to "compact institutions" at all reasonable hours for the purpose of inspecting the facilities thereof and for the purpose of visiting such of said state's delinquents as may be confined in the institution.

f. Persons confined in "compact institutions" pursuant to the terms of this compact shall at all times be subject to the jurisdiction of the sending state and may at any time be removed from said "compact institution" for transfer to an appropriate institution within the sending state, for return to probation or parole, for discharge or for any purpose permitted by the laws of the sending state.

g. All persons who may be confined in a "compact institution" pursuant to the provisions of this amendment shall be treated in a reasonable and humane manner. The fact of confinement or reconfinement in a receiving state shall not deprive any person so confined or reconfined of any rights which said person would have had if confined or reconfined in an appropriate institution of the sending state; nor shall any agreement to submit to confinement or reconfinement pursuant to the terms of this amendment be construed as

a waiver of any rights which the delinquent would have had if the delinquent had been confined or reconfined in any appropriate institution of the sending state except that the hearing or hearings, if any, to which a parolee, probationer, escapee, or absconder may be entitled, prior to confinement or reconfinement, by the laws of the sending state may be had before the appropriate judicial or administrative officers of the receiving state. In this event, said judicial and administrative officers shall act as agents of the sending state after consultation with appropriate officers of the sending state.

h. Any receiving state incurring costs or other expenses under this amendment shall be reimbursed in the amount of such costs or other expenses by the sending state unless the states concerned shall specifically otherwise agree. Any two or more states party to this amendment may enter into supplementary agreements determining a different allocation of costs as among themselves.

i. This amendment shall take initial effect when entered into by any two or more states party to the compact and shall be effective as to those states which have specifically enacted this amendment. Rules and regulations necessary to effectuate the terms of this amendment may be promulgated by the appropriate officers of those states which have enacted this amendment.

[C62, 66, 71, 73, 75, 77, §231.14; C79, 81, §232.139]

85 Acts, ch 182, §1

CS85, §232.171

2008 Acts, ch 1032, §201

Referred to in §232.172

See §232.172 for limitations on applicability of this section

232.172 Confinement of delinquent juvenile.

1. For a juvenile under the jurisdiction of this state who is subject to the interstate compact for juveniles under section 232.173, the confinement of the juvenile in an institution located within another compacting state shall be as provided under the compact.

2. This subsection applies to the confinement of a delinquent juvenile under the jurisdiction of this state in an institution located within a noncompacting state, as defined in section 232.173, that entered into the interstate compact on juveniles under section 232.171. In addition to any institution in which the authorities of this state may otherwise confine or order the confinement of the delinquent juvenile, such authorities may, pursuant to the out-of-state confinement amendment to the interstate compact on juveniles in section 232.171, confine or order the confinement of the delinquent juvenile in a compact institution within another party state.

[C66, 71, 73, 75, 77, §231.15; C79, 81, §232.140]

CS85, §232.172

2010 Acts, ch 1192, §75; 2011 Acts, ch 34, §58

232.173 Interstate compact for juveniles.

1. *Article I — Purpose.*

a. The compacting states to this interstate compact recognize that each state is responsible for the proper supervision or return of juveniles, delinquents, and status offenders who are on probation or parole and who have absconded, escaped, or run away from supervision and control and in so doing have endangered their own safety and the safety of others. The compacting states also recognize that each state is responsible for the safe return of juveniles who have run away from home and in doing so have left their state of residence. The compacting states also recognize that Congress, by enacting the Crime Control Act, 4 U.S.C. §112 (1965), has authorized and encouraged compacts for cooperative efforts and mutual assistance in the prevention of crime.

b. It is the purpose of this compact, through means of joint and cooperative action among the compacting states to:

(1) Ensure that the adjudicated juveniles and status offenders subject to this compact are provided adequate supervision and services in the receiving state as ordered by the adjudicating judge or parole authority in the sending state.

(2) Ensure that the public safety interests of the citizens, including the victims of juvenile offenders, in both the sending and receiving states are adequately protected.

(3) Return juveniles who have run away, absconded, or escaped from supervision or control or have been accused of an offense to the state requesting their return.

(4) Make contracts for the cooperative institutionalization in public facilities in member states for delinquent youth needing special services.

(5) Provide for the effective tracking and supervision of juveniles.

(6) Equitably allocate the costs, benefits, and obligations of the compacting states.

(7) Establish procedures to manage the movement between states of juvenile offenders released to the community under the jurisdiction of courts, juvenile departments, or any other criminal or juvenile justice agency which has jurisdiction over juvenile offenders.

(8) Insure immediate notice to jurisdictions where defined offenders are authorized to travel or to relocate across state lines.

(9) Establish procedures to resolve pending charges (detainers) against juvenile offenders prior to transfer or release to the community under the terms of this compact.

(10) Establish a system of uniform data collection on information pertaining to juveniles subject to this compact that allows access by authorized juvenile justice and criminal justice officials, and regular reporting of compact activities to heads of state executive, judicial, and legislative branches and juvenile and criminal justice administrators.

(11) Monitor compliance with rules governing interstate movement of juveniles and initiate interventions to address and correct noncompliance.

(12) Coordinate training and education regarding the regulation of interstate movement of juveniles for officials involved in such activity.

(13) Coordinate the implementation and operation of the compact with the interstate compact for the placement of children, the interstate compact for adult offender supervision, and other compacts affecting juveniles particularly in those cases where concurrent or overlapping supervision issues arise.

c. It is the policy of the compacting states that the activities conducted by the interstate commission created in this compact are the formation of public policies and therefore are public business. Furthermore, the compacting states shall cooperate and observe their individual and collective duties and responsibilities for the prompt return and acceptance of juveniles subject to the provisions of this compact. The provisions of this compact shall be reasonably and liberally construed to accomplish the purposes and policies of the compact.

2. *Article II — Definitions.* As used in this compact, unless the context clearly requires a different construction:

a. “Bylaws” means those bylaws established by the interstate commission for its governance, or for directing or controlling its actions or conduct.

b. “Compact administrator” means the individual in each compacting state appointed pursuant to the terms of this compact, responsible for the administration and management of the state’s supervision and transfer of juveniles subject to the terms of this compact, the rules adopted by the interstate commission, and policies adopted by the state council under this compact.

c. “Compacting state” means any state which has enacted the enabling legislation for this compact.

d. “Commissioner” means the voting representative of each compacting state appointed pursuant to article III of this compact.

e. “Court” means any court having jurisdiction over delinquent, neglected, or dependent children.

f. “Deputy compact administrator” means the individual, if any, in each compacting state appointed to act on behalf of a compact administrator pursuant to the terms of this compact responsible for the administration and management of the state’s supervision and transfer of juveniles subject to the terms of this compact, the rules adopted by the interstate commission, and policies adopted by the state council under this compact.

g. “Interstate commission” means the interstate commission for juveniles created by article III of this compact.

h. “*Juvenile*” means any person defined as a juvenile in any member state or by the rules of the interstate commission, including persons who are any of the following:

(1) An accused delinquent, meaning a person charged with an offense that, if committed by an adult, would be a criminal offense.

(2) An adjudicated delinquent, meaning a person found to have committed an offense that, if committed by an adult, would be a criminal offense.

(3) An accused status offender, meaning a person charged with an offense that would not be a criminal offense if committed by an adult.

(4) An adjudicated status offender, meaning a person found to have committed an offense that would not be a criminal offense if committed by an adult.

(5) A nonoffender, meaning a person in need of supervision who has not been accused or adjudicated a status offender or delinquent.

i. “*Noncompacting state*” means any state which has not enacted the enabling legislation for this compact.

j. “*Probation or parole*” means any kind of supervision or conditional release of juveniles authorized under the laws of the compacting states.

k. “*Rule*” means a written statement by the interstate commission promulgated pursuant to article VI of this compact that is of general applicability, implements, interprets or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the commission, and has the force and effect of statutory law in a compacting state, and includes the amendment, repeal, or suspension of an existing rule.

l. “*State*” means a state of the United States, the District of Columbia or its designee, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Northern Marianas Islands.

3. *Article III — Interstate commission for juveniles.*

a. The compacting states hereby create the interstate commission for juveniles. The commission shall be a body corporate and joint agency of the compacting states. The commission shall have all the responsibilities, powers, and duties set forth in this compact, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.

b. The interstate commission shall consist of commissioners appointed by the appropriate appointing authority in each state pursuant to the rules and requirements of each compacting state and in consultation with the state council for interstate juvenile supervision created in this compact. The commissioner shall be the compact administrator, deputy compact administrator, or designee from that state who shall serve on the interstate commission in such capacity under or pursuant to the applicable law of the compacting state.

c. In addition to the commissioners who are the voting representatives of each state, the interstate commission shall include individuals who are not commissioners, but who are members of interested organizations. Such noncommissioner members must include a member of the national organizations of governors, legislators, state chief justices, attorneys general, interstate compact for adult offender supervision, interstate compact for the placement of children, juvenile justice and juvenile corrections officials, and crime victims. All noncommissioner members of the interstate commission shall be ex officio, nonvoting members. The interstate commission may provide in its bylaws for such additional ex officio, nonvoting members, including members of other national organizations, in such numbers as shall be determined by the commission.

d. Each compacting state represented at any meeting of the commission is entitled to one vote. A majority of the compacting states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the interstate commission.

e. The commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the compacting states, shall call additional meetings. Public notice shall be given of all meetings and meetings shall be open to the public.

f. The interstate commission shall establish an executive committee, which shall include commission officers, members, and others as determined by the bylaws. The executive committee shall have the power to act on behalf of the interstate commission during periods

when the interstate commission is not in session, with the exception of rulemaking or amendment to the compact. The executive committee shall oversee the day-to-day activities of the administration of the compact managed by an executive director and interstate commission staff; administer enforcement and compliance with the provisions of the compact, its bylaws, and rules; and perform such other duties as directed by the interstate commission or set forth in the bylaws.

g. Each member of the interstate commission shall have the right and power to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the interstate commission. A member shall vote in person and shall not delegate a vote to another compacting state. However, a commissioner, in consultation with the state council, shall appoint another authorized representative, in the absence of the commissioner from that state, to cast a vote on behalf of the compacting state at a specified meeting. The bylaws may provide for members' participation in meetings by telephone or other means of telecommunication or electronic communication.

h. The interstate commission's bylaws shall establish conditions and procedures under which the interstate commission shall make its information and official records available to the public for inspection or copying. The interstate commission may exempt from disclosure any information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

i. Public notice shall be given of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The interstate commission and any of its committees may close a meeting to the public where it determines by two-thirds vote that an open meeting would be likely to:

(1) Relate solely to the interstate commission's internal personnel practices and procedures.

(2) Disclose matters specifically exempted from disclosure by statute.

(3) Disclose trade secrets or commercial or financial information which is privileged or confidential.

(4) Involve accusing any person of a crime, or formally censuring any person.

(5) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.

(6) Disclose investigative records compiled for law enforcement purposes.

(7) Disclose information contained in or related to an examination or operating or condition reports prepared by, or on behalf of or for the use of, the interstate commission with respect to a regulated person or entity for the purpose of regulation or supervision of such person or entity.

(8) Disclose information, the premature disclosure of which would significantly endanger the stability of a regulated person or entity.

(9) Specifically relate to the interstate commission's issuance of a subpoena, or its participation in a civil action or other legal proceeding.

j. For every meeting closed pursuant to this provision, the interstate commission's legal counsel shall publicly certify that, in the legal counsel's opinion, the meeting may be closed to the public, and shall reference each relevant exemptive provision. The interstate commission shall keep minutes which shall fully and clearly describe all matters discussed in any meeting and shall provide a full and accurate summary of any actions taken, and the reasons therefore, including a description of each of the views expressed on any item and the record of any roll call vote, reflected in the vote of each member on the question. All documents considered in connection with any action shall be identified in such minutes.

k. The interstate commission shall collect standardized data concerning the interstate movement of juveniles as directed through its rules which shall specify the data to be collected, the means of collection, and data exchange and reporting requirements. Such methods of data collection, exchange, and reporting shall insofar as is reasonably possible conform to up-to-date technology and coordinate its information functions with the appropriate repository of records.

4. *Article IV — Powers and duties of the interstate commission.* The commission shall have the following powers and duties:

- a. To provide for dispute resolution among compacting states.
 - b. To promulgate rules to effect the purposes and obligations as enumerated in this compact, which shall have the force and effect of statutory law and shall be binding in the compacting states to the extent and in the manner provided in this compact.
 - c. To oversee, supervise, and coordinate the interstate movement of juveniles subject to the terms of this compact and any bylaws adopted and rules promulgated by the interstate commission.
 - d. To enforce compliance with the compact provisions, the rules promulgated by the interstate commission, and the bylaws, using all necessary and proper means, including but not limited to the use of judicial process.
 - e. To establish and maintain offices which shall be located within one or more of the compacting states.
 - f. To purchase and maintain insurance and bonds.
 - g. To borrow, accept, hire, or contract for services of personnel.
 - h. To establish and appoint committees and hire staff which it deems necessary for the carrying out of its functions including but not limited to an executive committee as required by article III which shall have the power to act on behalf of the interstate commission in carrying out its powers and duties hereunder.
 - i. To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties and determine their qualifications; and to establish the interstate commission's personnel policies and programs relating to, inter alia, conflicts of interest, rates of compensation, and qualifications of personnel.
 - j. To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of it.
 - k. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve, or use any property, real, personal, or mixed.
 - l. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed.
 - m. To establish a budget and make expenditures and levy dues as provided in article VIII of this compact.
 - n. To sue and be sued.
 - o. To adopt a seal and bylaws governing the management and operation of the interstate commission.
 - p. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.
 - q. To report annually to the legislatures, governors, judiciary, and state councils of the compacting states concerning the activities of the interstate commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the interstate commission.
 - r. To coordinate education, training, and public awareness regarding the interstate movement of juveniles for officials involved in such activity.
 - s. To establish uniform standards of the reporting, collecting, and exchanging of data.
 - t. The interstate commission shall maintain its corporate books and records in accordance with the bylaws.
5. *Article V— Organization and operation of the interstate commission.*
- a. *Bylaws.* The interstate commission shall, by a majority of the members present and voting, within twelve months after the first interstate commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including but not limited to all of the following:
 - (1) Establishing the fiscal year of the interstate commission.
 - (2) Establishing an executive committee and such other committees as may be necessary.
 - (3) Provide for the establishment of committees governing any general or specific delegation of any authority or function of the interstate commission.
 - (4) Providing reasonable procedures for calling and conducting meetings of the interstate commission and ensuring reasonable notice of each such meeting.
 - (5) Establishing the titles and responsibilities of the officers of the interstate commission.

(6) Providing a mechanism for concluding the operations of the interstate commission and the return of any surplus funds that may exist upon the termination of the compact after the payment or reserving of all of its debts and obligations.

(7) Providing “start-up” rules for initial administration of the compact.

(8) Establishing standards and procedures for compliance and technical assistance in carrying out the compact.

b. Officers and staff.

(1) The interstate commission shall, by a majority of the members, elect annually from among its members a chairperson and a vice chairperson, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson or, in the chairperson’s absence or disability, the vice chairperson shall preside at all meetings of the interstate commission. The officers so elected shall serve without compensation or remuneration from the interstate commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for any ordinary and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the interstate commission.

(2) The interstate commission shall, through its executive committee, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation as the interstate commission may deem appropriate. The executive director shall serve as secretary to the interstate commission, but shall not be a member and shall hire and supervise such other staff as may be authorized by the interstate commission.

c. Immunity, defense, and indemnification.

(1) The commission’s executive director and employees shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to any actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided, that any such person shall not be protected from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any such person.

(2) The liability of any commissioner, or the employee or agent of a commissioner, acting within the scope of such person’s employment or duties for acts, errors, or omissions occurring within such person’s state may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees, and agents. Nothing in this subparagraph shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any such person.

(3) The interstate commission shall defend the executive director or the employees or representatives of the interstate commission and, subject to the approval of the attorney general of the state represented by any commissioner of a compacting state, shall defend such commissioner or the commissioner’s representatives or employees in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

(4) The interstate commission shall indemnify and hold the commissioner of a compacting state, or the commissioner’s representatives or employees, or the interstate commission’s representatives or employees, harmless in the amount of any settlement or judgment obtained against such persons arising out of any actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

6. *Article VI — Rulemaking functions of the interstate commission.*

a. The interstate commission shall promulgate and publish rules in order to effectively and efficiently achieve the purposes of the compact.

b. Rulemaking shall occur pursuant to the criteria set forth in this article and the bylaws and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the model state administrative procedures Act, 1981 Act, Uniform Laws Annotated, Vol. 15, p.1 (2000), or such other administrative procedures act, as the interstate commission deems appropriate consistent with due process requirements under the Constitution of the United States as now or hereafter interpreted by the United States supreme court. All rules and amendments shall become binding as of the date specified, as published with the final version of the rule as approved by the commission.

c. When promulgating a rule, the interstate commission shall, at a minimum, do all of the following:

(1) Publish the proposed rule's entire text stating the reasons for that proposed rule.

(2) Allow and invite any and all persons to submit written data, facts, opinions, and arguments, which information shall be added to the record, and be made publicly available.

(3) Provide an opportunity for an informal hearing if petitioned by ten or more persons.

(4) Promulgate a final rule and its effective date, if appropriate, based on input from state or local officials, or interested parties.

d. Allow, not later than sixty days after a rule is promulgated, any interested person to file a petition in the United States district court for the District of Columbia or in the federal district court where the interstate commission's principal office is located for judicial review of such rule. If the court finds that the interstate commission's action is not supported by substantial evidence in the rulemaking record, the court shall hold the rule unlawful and set it aside. For purposes of this lettered paragraph, evidence is substantial if it would be considered substantial evidence under the model state administrative procedures Act.

e. If a majority of the legislatures of the compacting states rejects a rule, those states may, by enactment of a statute or resolution in the same manner used to adopt the compact, cause that such rule shall have no further force and effect in any compacting state.

f. The existing rules governing the operation of the interstate compact on juveniles superseded by this compact shall be null and void twelve months after the first meeting of the interstate commission created hereunder.

g. Upon determination by the interstate commission that a state of emergency exists, it may promulgate an emergency rule which shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided hereunder shall be retroactively applied to said rule as soon as reasonably possible, but no later than ninety days after the effective date of the emergency rule.

7. *Article VII — Oversight, enforcement, and dispute resolution by the interstate commission.*

a. *Oversight.*

(1) The interstate commission shall oversee the administration and operations of the interstate movement of juveniles subject to this compact in the compacting states and shall monitor such activities being administered in noncompacting states which may significantly affect compacting states.

(2) The courts and executive agencies in each compacting state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall be received by all the judges, public officers, commissions, and departments of the state government as evidence of the authorized statute and administrative rules. All courts shall take judicial notice of the compact and the rules. In any judicial or administrative proceeding in a compacting state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the interstate commission, it shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes.

b. *Dispute resolution.*

(1) The compacting states shall report to the interstate commission on all issues and

activities necessary for the administration of the compact as well as issues and activities pertaining to compliance with the provisions of the compact and its bylaws and rules.

(2) The interstate commission shall attempt, upon the request of a compacting state, to resolve any disputes or other issues which are subject to the compact and which may arise among compacting states and between compacting and noncompacting states. The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes among the compacting states.

(3) The interstate commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact using any or all means set forth in article XI of this compact.

8. *Article VIII — Finance.*

a. The interstate commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.

b. The interstate commission shall levy on and collect an annual assessment from each compacting state to cover the cost of the internal operations and activities of the interstate commission and its staff which must be in a total amount sufficient to cover the interstate commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the interstate commission, taking into consideration the population of each compacting state and the volume of interstate movement of juveniles in each compacting state and shall promulgate a rule binding upon all compacting states which governs said assessment.

c. The interstate commission shall not incur any obligations of any kind prior to securing the funds adequate to meet the same; nor shall the interstate commission pledge the credit of any of the compacting states, except by and with the authority of the compacting state.

d. The interstate commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the interstate commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the interstate commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the interstate commission.

9. *Article IX — The state council.* Each member state shall create a state council for interstate juvenile supervision. While each state may determine the membership of its own state council, its membership must include at least one representative from the legislative, judicial, and executive branches of government, victims groups, and the compact administrator, deputy compact administrator, or designee. Each compacting state retains the right to determine the qualifications of the compact administrator or deputy compact administrator. Each state council will advise and may exercise oversight and advocacy concerning that state's participation in interstate commission activities and other duties as may be determined by that state, including but not limited to development of policy concerning operations and procedures of the compact within that state.

10. *Article X — Compacting states, effective date, and amendment.*

a. Any state, the District of Columbia, or its designee, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Northern Marianas Islands as defined in article II of this compact is eligible to become a compacting state.

b. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than thirty-five of the states. The initial effective date shall be the later of July 1, 2004, or upon enactment into law by the thirty-fifth jurisdiction. Thereafter it shall become effective and binding as to any other compacting state upon enactment of the compact into law by that state. The governors of nonmember states or their designees shall be invited to participate in the activities of the interstate commission on a nonvoting basis prior to adoption of the compact by all states and territories of the United States.

c. The interstate commission may propose amendments to the compact for enactment by the compacting states. No amendment shall become effective and binding upon the interstate commission and the compacting states unless and until it is enacted into law by unanimous consent of the compacting states.

11. *Article XI — Withdrawal, default, termination, and judicial enforcement.*

a. Withdrawal.

(1) Once effective, the compact shall continue in force and remain binding upon each and every compacting state; provided that a compacting state may withdraw from the compact by specifically repealing the statute which enacted the compact into law.

(2) The effective date of withdrawal is the effective date of the repeal.

(3) The withdrawing state shall immediately notify the chairperson of the interstate commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The interstate commission shall notify the other compacting states of the withdrawing state's intent to withdraw within sixty days of its receipt thereof.

(4) The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal.

(5) Reinstatement following withdrawal of any compacting state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the interstate commission.

b. Technical assistance, fines, suspension, termination, and default.

(1) If the interstate commission determines that any compacting state has at any time defaulted in the performance of any of its obligations or responsibilities under this compact, or the bylaws or duly promulgated rules, the interstate commission may impose any or all of the following penalties:

(a) Remedial training and technical assistance as directed by the interstate commission.

(b) Alternative dispute resolution.

(c) Fines, fees, and costs in such amounts as are deemed to be reasonable as fixed by the interstate commission.

(d) Suspension or termination of membership in the compact, which shall be imposed only after all other reasonable means of securing compliance under the bylaws and rules have been exhausted and the interstate commission has therefore determined that the offending state is in default. Immediate notice of suspension shall be given by the interstate commission to the governor, the chief justice or the chief judicial officer of the state, the majority and minority leaders of the defaulting state's legislature, and the state council.

(2) The grounds for default include, but are not limited to, failure of a compacting state to perform such obligations or responsibilities imposed upon it by this compact, the bylaws or duly promulgated rules, and any other grounds designated in commission bylaws and rules.

(3) The interstate commission shall immediately notify the defaulting state in writing of the penalty imposed by the interstate commission and of the default pending a cure of the default. The commission shall stipulate the conditions and the time period within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the time period specified by the commission, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the compacting states and all rights, privileges, and benefits conferred by this compact shall be terminated from the effective date of termination.

(4) Within sixty days of the effective date of termination of a defaulting state, the commission shall notify the governor, the chief justice or chief judicial officer, the majority and minority leaders of the defaulting state's legislature, and the state council of such termination.

(5) The defaulting state is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination including any obligations, the performance of which extends beyond the effective date of termination.

(6) The interstate commission shall not bear any costs relating to the defaulting state unless otherwise mutually agreed upon in writing between the interstate commission and the defaulting state.

(7) Reinstatement following termination of any compacting state requires both a reenactment of the compact by the defaulting state and the approval of the interstate commission pursuant to the rules.

c. Judicial enforcement. The interstate commission may, by majority vote of the members, initiate legal action in the United States district court for the District of Columbia

or, at the discretion of the interstate commission, in the federal district where the interstate commission has its offices, to enforce compliance with the provisions of the compact, its duly promulgated rules and bylaws, against any compacting state in default. In the event judicial enforcement is necessary the prevailing party shall be awarded all costs of such litigation including reasonable attorney fees.

d. Dissolution of compact.

(1) The compact dissolves effective upon the date of the withdrawal or default of the compacting state, which reduces membership in the compact to one compacting state.

(2) Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the interstate commission shall be concluded and any surplus funds shall be distributed in accordance with the bylaws.

12. Article XII — Severability and construction.

a. The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

b. The provisions of this compact shall be liberally construed to effectuate its purposes.

13. Article XIII — Binding effect of compact and other laws.

a. Other laws.

(1) Nothing in this compact prevents the enforcement of any other law of a compacting state that is not inconsistent with this compact.

(2) All compacting states' laws other than state constitutions and other interstate compacts conflicting with this compact are superseded to the extent of the conflict.

b. Binding effect of the compact.

(1) All lawful actions of the interstate commission, including all rules and bylaws promulgated by the interstate commission, are binding upon the compacting states.

(2) All agreements between the interstate commission and the compacting states are binding in accordance with their terms.

(3) Upon the request of a party to a conflict over meaning or interpretation of interstate commission actions, and upon a majority vote of the compacting states, the interstate commission may issue advisory opinions regarding such meaning or interpretation.

(4) In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers, or jurisdiction sought to be conferred by such provision upon the interstate commission shall be ineffective and such obligations, duties, powers, or jurisdiction shall remain in the compacting state and shall be exercised by the agency thereof to which such obligations, duties, powers, or jurisdiction are delegated by law in effect at the time this compact becomes effective.

2010 Acts, ch 1192, §76

Referred to in §232.2, 232.172

232.174 Reserved.

SUBCHAPTER XI

VOLUNTARY FOSTER CARE PLACEMENT

232.175 Placement oversight.

Placement oversight shall be provided pursuant to this subchapter when the parent, guardian, or custodian of a child with an intellectual disability or other developmental disability requests placement of the child in foster family care for a period of more than thirty days. The oversight shall be provided through review of the placement every six months by the department's foster care review committees or by a local citizen foster care review board. Court oversight shall be provided prior to the initial placement and at periodic intervals which shall not exceed twelve months. It is the purpose and policy of this subchapter to ensure the existence of oversight safeguards as required by the federal Adoption Assistance

and Child Welfare Act of 1980, Pub. L. No. 96-272, as codified in 42 U.S.C. §671(a)(16), 627(a)(2)(B), and 675(1),(5), while maintaining parental decision-making authority.

89 Acts, ch 169, §2; 92 Acts, ch 1141, §2; 92 Acts, ch 1229, §11; 97 Acts, ch 99, §7; 99 Acts, ch 111, §1, 7; 2012 Acts, ch 1019, §87; 2014 Acts, ch 1026, §50; 2020 Acts, ch 1062, §94

Code editor directive applied

232.176 Jurisdiction.

The court shall have exclusive jurisdiction over voluntary placement proceedings.

89 Acts, ch 169, §3

232.177 Venue.

Venue for voluntary placement proceedings shall be determined in accordance with section 232.62.

89 Acts, ch 169, §4

232.178 Petition.

1. For a placement initiated on or after July 1, 1992, the department shall file a petition to initiate a voluntary placement proceeding prior to the child's placement in accordance with criteria established pursuant to the federal Adoption Assistance and Child Welfare Act of 1980, Pub. L. No. 96-272, as codified in 42 U.S.C. §627(a).

2. The petition and subsequent court documents shall be entitled as follows:

In the interests of, a child.

3. The petition shall state all of the following:

a. The names and residence of the child.

b. The names and residence of the child's living parents, guardian, custodian, and guardian ad litem, if any.

c. The age of the child.

4. The petition shall describe all of the following:

a. The child's emotional, physical, or intellectual disability which requires care and treatment.

b. The reasonable efforts to maintain the child in the child's home.

c. The department's request to the family of a child with an intellectual disability, other developmental disability, or organic mental illness to determine if any services or support provided to the family will enable the family to continue to care for the child in the child's home.

d. The reason the child's parent, guardian, or custodian has requested a foster family care placement.

e. The commitment of the parent, guardian, or custodian in fulfilling the responsibilities defined in the case permanency plan.

f. How the placement will serve the child's best interests.

89 Acts, ch 169, §5; 92 Acts, ch 1229, §12; 99 Acts, ch 111, §2, 7; 2012 Acts, ch 1019, §88; 2014 Acts, ch 1026, §51; 2015 Acts, ch 30, §79; 2019 Acts, ch 24, §26; 2020 Acts, ch 1063, §92

Subsection 1 amended

232.179 Appointment of counsel and guardian ad litem.

Upon the filing of a petition, the court shall appoint a guardian ad litem to represent the best interests of the child unless the court determines that the child already has a guardian ad litem who represents the child's best interests. If the child's parent, guardian, or custodian desires counsel but cannot pay the counsel's expenses, the court may appoint counsel.

89 Acts, ch 169, §6

232.180 Duties of county attorney.

Upon the filing of a petition and the request of the department, the county attorney shall represent the state in all adversary proceedings arising under this subchapter and shall present evidence in support of the petition as provided under section 232.90.

89 Acts, ch 169, §7; 2020 Acts, ch 1062, §94

Code editor director applied

232.181 Social history report.

Upon the filing of a petition, the department shall submit a social history report regarding the child and the child's family. The report shall include a description of the child's disability and resultant functional limitations, the case permanency plan, a description of the proposed foster care placement, and a description of family participation in developing the child's case permanency plan and the commitment of the parent, guardian, or custodian in fulfilling the responsibilities defined in the plan. If the report indicates the child has behaved in a manner that threatened the safety of another person, has committed a violent act causing bodily injury to another person, or has been a victim or perpetrator of sexual abuse, unless otherwise ordered by the court, the child's parent, guardian, or foster parent or other person with custody of the child shall be provided with that information.

89 Acts, ch 169, §8; 92 Acts, ch 1229, §13; 2005 Acts, ch 124, §5

232.182 Initial determination.

1. Upon the filing of a petition, the court shall fix a time for an initial determination hearing and give notice of the hearing to the child's parent, guardian, or custodian, counsel or guardian ad litem, and the department.

2. A parent who does not have custody of the child may petition the court to be made a party to proceedings under this subchapter.

3. An initial determination hearing is open to the public unless the court, on the motion of any of the parties or upon the court's own motion, excludes the public. The court shall exclude the public from a hearing only if the court determines that the possibility of damage or harm to the child outweighs the public's interest in having an open hearing. Upon closing the hearing to the public, the court may admit those persons who have direct interest in the case or in the work of the court.

4. The hearing shall be informal and all relevant and material evidence shall be admitted.

5. After the hearing is concluded, the court shall make and file written findings as to whether reasonable efforts, as defined in section 232.102, subsection 10, have been made and whether the voluntary foster family care placement is in the child's best interests.

a. The court shall order foster family care placement in the child's best interests if the court finds that all of the following conditions exist:

(1) The child has an emotional, physical, or intellectual disability which requires care and treatment.

(2) The child's parent, guardian, or custodian has demonstrated a willingness or ability to fulfill the responsibilities defined in the case permanency plan.

(3) Reasonable efforts have been made and the placement is in the child's best interests.

(4) A determination that services or support provided to the family of a child with an intellectual disability, other developmental disability, or organic mental illness will not enable the family to continue to care for the child in the child's home.

b. If the court finds that reasonable efforts have not been made and that services or support are available to prevent the placement, the court may order the services or support to be provided to the child and the child's family.

c. If the court finds that the foster care placement is necessary and the child's parent, guardian, or custodian has not demonstrated a commitment to fulfill the responsibilities defined in the child's case permanency plan, the court shall cause a child in need of assistance petition to be filed.

5A. If the court orders placement of the child into foster care, the court or the department shall establish a support obligation for the costs of the placement pursuant to section 234.39.

6. The hearing may be waived and the court may issue the findings and order required

under subsection 5 on the basis of the department's written report if all parties agree to the hearing's waiver and the department's written report.

89 Acts, ch 169, §9; 92 Acts, ch 1229, §14, 15; 93 Acts, ch 78, §1; 99 Acts, ch 111, §3, 4, 7; 2009 Acts, ch 41, §240; 2012 Acts, ch 1019, §89; 2017 Acts, ch 54, §74; 2020 Acts, ch 1062, §94

Referred to in §232.183, 234.35
Code editor directive applied

232.183 Dispositional hearing.

1. Following an entry of an initial determination order pursuant to section 232.182, the court shall hold a dispositional hearing in order to determine the future status of the child based on the child's best interests. Notice of the hearing shall be given to the child and the child's parent, guardian, or custodian, and the department.

2. The dispositional hearing shall be held within twelve months of the date the child was placed in foster care.

3. A dispositional hearing is open to the public unless the court, on the motion of any of the parties or upon the court's own motion, excludes the public. The court shall exclude the public from a hearing if the court determines that the possibility of damage or harm to the child outweighs the public's interest in having an open hearing. Upon closing the hearing to the public, the court may admit those persons who have direct interest in the case or in the work of the court.

4. The hearing shall be informal and all relevant and material evidence shall be admitted.

5. Following the hearing, the court shall issue a dispositional order. The dispositional orders which the court may enter, subject to its continuing jurisdiction, are as follows:

a. An order that the child's voluntary placement shall be terminated and the child returned to the child's home and provided with available services and support needed for the child to remain in the home.

b. An order that the child's voluntary placement may continue if the department and the child's parent or guardian continue to agree to the voluntary placement.

c. If the court finds that the child's parent, guardian, or custodian has failed to fulfill responsibilities outlined in the case permanency plan, an order that the child remain in foster care and that the county attorney or department file, within three days, a petition alleging the child to be a child in need of assistance.

d. If the child is fourteen years of age or older, the order shall specify the services needed to assist the child in preparing for the transition from foster care to adulthood. If the child has a case permanency plan, the court shall consider the written transition plan of services and needs assessment developed for the child's case permanency plan. If the child does not have a case permanency plan containing the transition plan and needs assessment at the time the order is entered, the transition plan and needs assessment shall be developed and submitted for the court's consideration no later than six months from the date of the transfer order. The court shall modify the initial transfer order as necessary to specify the services needed to assist the child in preparing for the transition from foster care to adulthood. If the transition plan identifies services or other support needed to assist the child in transitioning from foster care to adulthood and the court deems it to be beneficial to the child, the court may authorize the individual who is the child's guardian ad litem or court appointed special advocate to continue a relationship with and provide advice to the child for a period of time beyond the child's eighteenth birthday.

6. With respect to each child whose placement was approved pursuant to subsection 5, the court shall continue to hold periodic dispositional hearings. The hearings shall not be waived or continued beyond twelve months following the last dispositional hearing. After a dispositional hearing, the court shall enter one of the dispositional orders authorized under subsection 5.

89 Acts, ch 169, §10; 92 Acts, ch 1141, §3; 92 Acts, ch 1229, §16; 93 Acts, ch 172, §36, 56; 97 Acts, ch 99, §8, 9; 2003 Acts, ch 117, §8; 2003 Acts, ch 151, §6; 2016 Acts, ch 1063, §19

232.184 through 232.186 Reserved.

SUBCHAPTER XII
JUVENILE JUSTICE REFORM

232.187 Regional out-of-state placement committees. Repealed by 93 Acts, ch 172, §48, 56.

232.188 Decategorization of child welfare and juvenile justice funding initiative.

1. *Definitions.* For the purposes of this section, unless the context otherwise requires:

a. “*Decategorization governance board*” or “*governance board*” means the group that enters into and implements a decategorization project agreement.

b. “*Decategorization project*” means the county or counties that have entered into a decategorization agreement to implement the decategorization initiative in the county or multicounty area covered by the agreement.

c. “*Decategorization services funding pool*” or “*funding pool*” means the funding designated for a decategorization project from all sources.

2. *Purpose.* The decategorization of the child welfare and juvenile justice funding initiative is intended to establish a system of delivering human services based upon client needs to replace a system based upon a multitude of categorical programs and funding sources, each with different service definitions and eligibility requirements. The purposes of the decategorization initiative include but are not limited to redirecting child welfare and juvenile justice funding to services which are more preventive, family-centered, and community-based in order to reduce use of restrictive approaches which rely upon institutional, out-of-home, and out-of-community services.

3. *Implementation.*

a. Implementation of the initiative shall be through creation of decategorization projects. A project shall consist of either a single county or a group of counties interested in jointly implementing the initiative. Representatives of the department, juvenile court services, and county government shall develop a project agreement to implement the initiative within a project.

b. The initiative shall include community planning activities in the area covered by a project. As part of the community planning activities, the department shall partner with other community stakeholders to develop service alternatives that provide less restrictive levels of care for children and families receiving services from the child welfare and juvenile justice systems within the project area.

c. The decategorization initiative shall not be implemented in a manner that limits the legal rights of children and families to receive services.

4. *Governance board.*

a. In partnership with an interested county or group of counties which has demonstrated the commitment and involvement of the affected county department, or departments, of human services, the juvenile justice system within the project area, and board, or boards, of supervisors in order to form a decategorization project, the department shall develop a process for combining specific state and state-federal funding categories into a decategorization services funding pool for that project. A decategorization project shall be implemented by a decategorization governance board. The decategorization governance board shall develop specific, quantifiable short-term and long-term plans for enhancing the family-centered and community-based services and reducing reliance upon out-of-community care in the project area.

b. The department shall work with the decategorization governance boards to best coordinate planning activities and most effectively target funding resources. A departmental service area manager shall work with the decategorization governance boards in that service area to support board planning and service development activities and to promote the most effective alignment of resources.

c. A decategorization governance board shall coordinate the project’s planning and budgeting activities with the departmental service area manager for the county or counties

comprising the project area and the early childhood Iowa area board or boards for the early childhood Iowa area or areas within which the decategorization project is located.

5. *Funding pool.*

a. The governance board for a decategorization project has authority over the project's decategorization services funding pool and shall manage the pool to provide more flexible, individualized, family-centered, preventive, community-based, comprehensive, and coordinated service systems for children and families served in that project area. A funding pool shall also be used for child welfare and juvenile justice systems enhancements.

b. Notwithstanding section 8.33, moneys designated for a project's decategorization services funding pool that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure as directed by the project's governance board for child welfare and juvenile justice systems enhancements and other purposes of the project for the next two succeeding fiscal years. Such moneys shall be known as "*carryover funding*". Moneys may be made available to a funding pool from one or more of the following sources:

(1) Funds designated for the initiative in a state appropriation.

(2) Child welfare and juvenile justice services funds designated for the initiative by a departmental service area manager.

(3) Juvenile justice program funds designated for the initiative by a chief juvenile court officer.

(4) Carryover funding.

(5) Any other source designating moneys for the funding pool.

c. The services and activities funded from a project's funding pool may vary depending upon the strategies selected by the project's governance board and shall be detailed in an annual child welfare and juvenile justice decategorization services plan developed by the governance board. A decategorization governance board shall involve community representatives and county organizations in the development of the plan for that project's funding pool. In addition, the governance board shall coordinate efforts through communication with the appropriate departmental service area manager regarding budget planning and decategorization service decisions.

d. A decategorization governance board is responsible for ensuring that decategorization services expenditures from that project's funding pool do not exceed the amount of funding available. If necessary, the governance board shall reduce expenditures or discontinue specific services as necessary to manage within the funding pool resources available for a fiscal year.

e. The annual child welfare and juvenile justice decategorization services plan developed for use of the funding pool by a decategorization governance board shall be submitted to the department administrator of child welfare services and the early childhood Iowa state board. In addition, the decategorization governance board shall submit an annual progress report to the department administrator and the early childhood Iowa state board which summarizes the progress made toward attaining the objectives contained in the plan. The progress report shall serve as an opportunity for information sharing and feedback.

6. *Departmental role.* A departmental service area's share of the child welfare appropriation that is not allocated by law for the decategorization initiative shall be managed by and is under the authority of the service area manager. A service area manager is responsible for meeting the child welfare service needs in the counties comprising the service area with the available funding resources.

92 Acts, ch 1229, §18; 98 Acts, ch 1206, §11, 20; 99 Acts, ch 111, §10; 99 Acts, ch 190, §16; 99 Acts, ch 192, §33; 2004 Acts, ch 1116, §14; 2005 Acts, ch 95, §1; 2010 Acts, ch 1031, §297; 2011 Acts, ch 129, §90, 156; 2017 Acts, ch 29, §54

Referred to in §225C.49, 235.7, 237A.1, 249A.26

232.189 Reasonable efforts administrative requirements.

Based upon a model reasonable efforts family court initiative, the director of human services and the chief justice of the supreme court or their designees shall jointly establish and implement a statewide protocol for reasonable efforts, as defined in section 232.102. In

addition, the director and the chief justice shall design and implement a system for judicial and departmental reasonable efforts education for deployment throughout the state. The system for reasonable efforts education shall be developed in a manner which addresses the particular needs of rural areas and shall include but is not limited to all of the following topics:

1. Regular training concerning mental or emotional disorders which may afflict children and the impact children with such disorders have upon their families.
2. The duties of judicial and departmental employees associated with placing a child removed from the child's home into a permanent home and the urgency of the placement for the child.
3. The essential elements, including writing techniques, in developing effective permanency plans.
4. The essential elements of gathering evidence sufficient for the evidentiary standards required for judicial orders under this chapter.

92 Acts, ch 1229, §19; 95 Acts, ch 182, §13; 98 Acts, ch 1190, §28

232.190 Community grant fund. Repealed by its own terms; 2000 Acts, ch 1222, §14.

232.191 Early intervention and follow-up programs.

Contingent on a specific appropriation for these purposes, the department shall do the following:

1. Develop or expand programs providing specific life skills and interpersonal skills training for adjudicated delinquent youth who pose a low or moderate risk to the community.
2. Develop or expand a school-based program addressing truancy and school behavioral problems for youth ages twelve through seventeen.
3. Develop or expand an intensive tracking and supervision program for adjudicated delinquent youth at risk for placement who have been released from resident facilities, which shall include telephonic or electronic tracking and monitoring and intervention by juvenile authorities.
4. Develop or expand supervised community treatment for adjudicated delinquent youth who experience significant problems and who constitute a moderate community risk.

94 Acts, ch 1172, §28

Referred to in §232.52

232.192 through 232.194 Reserved.

232.195 Runaway treatment plan.

A county may develop a runaway treatment plan to address problems with chronic runaway children in the county. The plan shall identify the problems with chronic runaway children in the county and specific solutions to be implemented by the county, including the development of a runaway assessment center.

97 Acts, ch 90, §3; 98 Acts, ch 1100, §28

Referred to in §232.196

232.196 Runaway assessment center.

1. As part of a county runaway treatment plan under section 232.195, a county may establish a runaway assessment center or other plan. The center or other plan, if established, shall provide services to assess a child who is referred to the center or plan for being a chronic runaway and intensive family counseling services designed to address any problem causing the child to run away. A center shall at least meet the requirements established for providing child foster care under chapter 237.

2. *a.* If not sent home with the child's parent, guardian, or custodian, a chronic runaway may be placed in a runaway assessment center by the peace officer who takes the child into custody under section 232.19, if the officer believes it to be in the child's best interest after consulting with the child's parent, guardian, or custodian. A chronic runaway shall not be placed in a runaway assessment center for more than forty-eight hours.

b. If a runaway is placed in an assessment center according to a county plan, the runaway

shall be assessed within twenty-four hours of being placed in the center by a center counselor to determine the following:

(1) The reasons why the child is a runaway.

(2) Whether the initiation or continuation of child in need of assistance or family in need of assistance proceedings is appropriate.

c. As soon as practicable following the assessment, the child and the child's parents, guardian, or custodian shall be provided the opportunity for a counseling session to identify the underlying causes of the runaway behavior and develop a plan to address those causes.

d. A child shall be released from a runaway assessment center, established pursuant to the county plan, to the child's parents, guardian, or custodian not later than forty-eight hours after being placed in the center unless the child is placed in shelter care under section 232.21 or an order is entered under section 232.78. A child whose parents, guardian, or custodian failed to attend counseling at the center or fail to take custody of the child at the end of placement in the center may be the subject of a child in need of assistance petition or such other order as the juvenile court finds to be in the child's best interest.

97 Acts, ch 90, §4; 98 Acts, ch 1100, §29

Referred to in §232.19

CHAPTER 232A

JUVENILE VICTIM RESTITUTION

Referred to in §602.7203, 645.3, 915.28

232A.1 Repealed by 98 Acts, ch 1047,
§67.

232A.2 Program created.

232A.3 Reports required.

232A.4 Repealed by 98 Acts, ch 1090,
§80, 84.

232A.1 Repealed by 98 Acts, ch 1047, §67.

232A.2 Program created.

A juvenile victim restitution program is created which shall be funded through moneys appropriated by the general assembly to the judicial branch. The primary purpose of the program is to provide funds to compensate victims for losses due to the delinquent acts of juveniles.

Upon completion of a district's plan, the judicial branch shall provide funds in conformance with the procedures and policies of the state. The judicial branch shall reclaim any portion of an initial allocation to a judicial district that is unencumbered on December 31 of any year. The judicial branch shall immediately reallocate the reclaimed funds to those judicial districts from which funds were not reclaimed in the manner provided in this section for the original allocation. Any portion of an amount allocated that remains unencumbered on June 30 of any year shall revert to the general fund of the state.

83 Acts, ch 94, §3; 90 Acts, ch 1247, §6; 98 Acts, ch 1047, §23

232A.3 Reports required.

Each judicial district shall submit a report of the progress and financial status of its juvenile victim restitution program to the judicial branch on a quarterly basis. The judicial branch shall prepare and submit annually a report on the progress and financial status of the programs to the general assembly no later than March 15.

83 Acts, ch 94, §4; 90 Acts, ch 1247, §7; 98 Acts, ch 1047, §24

232A.4 Repealed by 98 Acts, ch 1090, §80, 84. See §915.28.

CHAPTER 232B

INDIAN CHILD WELFARE ACT

Referred to in §232.7, 232.90, 232.114, 232D.105, 600.1, 600A.3

232B.1	Short title.	232B.8	Return of custody — improper removal of child from custody — protection of rights of parent or Indian custodian.
232B.2	Purpose — policy of state.	232B.9	Placement preferences.
232B.3	Definitions.	232B.10	Qualified expert witnesses — standard of proof — change of placement.
232B.4	Application of chapter — determination of Indian status.	232B.11	Agreements with tribes for care and custody of Indian children.
232B.5	Indian child custody proceedings — jurisdiction — notice — transfer of proceedings.	232B.12	Payment of foster care expenses.
232B.6	Emergency removal of Indian child — foster care placement — termination of parental rights.	232B.13	Records.
232B.7	Parental rights — voluntary termination or foster care placement.	232B.14	Compliance.

232B.1 Short title.

This chapter shall be known and may be cited as the “*Iowa Indian Child Welfare Act*”.
2003 Acts, ch 153, §2

232B.2 Purpose — policy of state.

The purpose of the Iowa Indian child welfare Act is to clarify state policies and procedures regarding implementation of the federal Indian Child Welfare Act, Pub. L. No. 95-608, as codified in 25 U.S.C. ch. 21. It is the policy of the state to cooperate fully with Indian tribes and tribal citizens in Iowa in order to ensure that the intent and provisions of the federal Indian Child Welfare Act are enforced. This cooperation includes recognition by the state that Indian tribes have a continuing and compelling governmental interest in an Indian child whether or not the child is in the physical or legal custody of an Indian parent, Indian custodian, or an Indian extended family member at the commencement of a child custody proceeding or the child has resided or domiciled on an Indian reservation. The state is committed to protecting the essential tribal relations and best interest of an Indian child by promoting practices, in accordance with the federal Indian Child Welfare Act and other applicable law, designed to prevent the child’s voluntary or involuntary out-of-home placement and, whenever such placement is necessary or ordered, by placing the child, whenever possible, in a foster home, adoptive home, or other type of custodial placement that reflects the unique values of the child’s tribal culture and is best able to assist the child in establishing, developing, and maintaining a political, cultural, and social relationship with the child’s tribe and tribal community.

2003 Acts, ch 153, §3

232B.3 Definitions.

For the purposes of this chapter unless the context otherwise requires:

1. “*Adoptive placement*” means the permanent placement of an Indian child for adoption including, but not limited to, any action under chapter 232, 600, or 600A resulting in a final decree of adoption. “*Adoptive placement*” does not include a placement based upon an act by an Indian child which, if committed by an adult, would be deemed a crime, or upon an award, in a divorce proceeding, of custody to one of the child’s parents.

2. “*Best interest of the child*” means the use of practices in accordance with the federal Indian Child Welfare Act, this chapter, and other applicable law, that are designed to prevent the Indian child’s voluntary or involuntary out-of-home placement, and whenever such placement is necessary or ordered, placing the child, to the greatest extent possible, in a foster home, adoptive placement, or other type of custodial placement that reflects the unique values of the child’s tribal culture and is best able to assist the child in establishing,

developing, and maintaining a political, cultural, and social relationship with the Indian child's tribe and tribal community.

3. "*Child custody proceeding*" means a voluntary or involuntary proceeding that may result in an Indian child's adoptive placement, foster care placement, preadoptive placement, or termination of parental rights.

4. "*Foster care placement*" means the temporary placement of an Indian child in an individual or agency foster care placement or in the personal custody of a guardian or conservator prior to the termination of parental rights, from which the child cannot be returned upon demand to the custody of the parent or Indian custodian but there has not been a termination of parental rights. "*Foster care placement*" does not include a placement based upon an act by an Indian child which, if committed by an adult, would be deemed a crime, or upon an award, in a divorce proceeding, of custody to one of the child's parents.

5. "*Indian*" means a person who is a member of an Indian tribe, or is eligible for membership in an Indian tribe, or who is an Alaska native and a member of a regional corporation as defined in 43 U.S.C. §1606.

6. "*Indian child*" or "*child*" means an unmarried Indian person who is under eighteen years of age or a child who is under eighteen years of age that an Indian tribe identifies as a child of the tribe's community.

7. "*Indian child's family*" or "*extended family member*" means an adult person who is an Indian child's family member or extended family member under the law or custom of the Indian child's tribe or, in absence of such law or custom, an adult person who has any of the following relationships with the Indian child:

- a. Parent.
- b. Sibling.
- c. Grandparent.
- d. Aunt or uncle.
- e. Cousin.
- f. Clan member.
- g. Band member.
- h. Brother-in-law.
- i. Sister-in-law.
- j. Niece.
- k. Nephew.
- l. Stepparent.

8. "*Indian child's tribe*" means a tribe in which an Indian child is a member or eligible for membership.

9. "*Indian custodian*" means an Indian person who under tribal law, tribal custom, or state law, has legal or temporary physical custody of an Indian child.

10. "*Indian organization*" means any of the following entities that is owned or controlled by Indians, or a majority of the members are Indians:

- a. A group.
- b. An association.
- c. A partnership.
- d. A corporation.
- e. Other legal entity.

11. "*Indian tribe*" or "*tribe*" means an Indian tribe, band, nation, or other organized Indian group, or a community of Indians, including any Alaska native village as defined in 43 U.S.C. §1602(c) recognized as eligible for services provided to Indians by the United States secretary of the interior because of the community members' status as Indians.

12. "*Parent*" means a biological parent of an Indian child or a person who has lawfully adopted an Indian child, including adoptions made under tribal law or custom. "*Parent*" does not include an unwed father whose paternity has not been acknowledged or established. Except for purposes of the federal Indian Child Welfare Act as codified in 25 U.S.C. §1913(b), (c), and (d), 1916, 1917, and 1951, "*parent*" does not include a person whose parental rights to that child have been terminated.

13. "*Preadoptive placement*" means the temporary placement of an Indian child in an

individual or agency foster care placement after the termination of parental rights, but prior to or in lieu of an adoptive placement. “*Preadoptive placement*” does not include a placement based upon an act by an Indian child which, if committed by an adult, would be deemed a crime, or upon an award, in a divorce proceeding, of custody to one of the child’s parents.

14. “*Reservation*” means Indian country as defined in 18 U.S.C. §1151 or land that is not covered under that definition but the title to which is either held by the United States in trust for the benefit of an Indian tribe or Indian person or held by an Indian tribe or Indian person subject to a restriction by the United States against alienation.

15. “*Secretary of the interior*” means the secretary of the United States department of the interior.

16. “*Termination of parental rights*” means any action resulting in the termination of the parent-child relationship. “*Termination of parental rights*” does not include a placement based upon an act by an Indian child which, if committed by an adult, would be deemed a crime, or upon an award, in a divorce proceeding, of custody to one of the child’s parents.

17. “*Tribal court*” means a court or body vested by an Indian tribe with jurisdiction over child custody proceedings, including but not limited to a federal court of Indian offenses, a court established and operated under the code or custom of an Indian tribe, or an administrative body of an Indian tribe vested with authority over child custody proceedings.

2003 Acts, ch 153, §4

Referred to in §232.7, 232D.105, 600.1, 600A.3

232B.4 Application of chapter — determination of Indian status.

1. This chapter applies to child custody proceedings involving an Indian child whether the child is in the physical or legal custody of an Indian parent, Indian custodian, or an Indian extended family member or another person at the commencement of the proceedings or whether the child has resided or domiciled on or off an Indian reservation.

2. The court shall require a party seeking the foster care placement of, termination of parental rights over, or the adoption of, an Indian child to seek to determine whether the child is an Indian child through contact with any Indian tribe in which the child may be a member or eligible for membership, the child’s parent, any person who has custody of the child or with whom the child resides, and any other person that reasonably can be expected to have information regarding the child’s possible membership or eligibility for membership in an Indian tribe, including but not limited to the United States department of the interior.

3. A written determination by an Indian tribe that a child is a member of or eligible for membership in that tribe, or testimony attesting to such status by a person authorized by the tribe to provide that determination, shall be conclusive. A written determination by an Indian tribe, or testimony by a person authorized by the tribe to provide that determination or testimony, that a child is not a member of or eligible for membership in that tribe shall be conclusive as to that tribe. If an Indian tribe does not provide evidence of the child’s status as an Indian child, the court shall determine the child’s status.

4. The determination of the Indian status of a child shall be made as soon as practicable in order to serve the best interest of the child and to ensure compliance with the notice requirements of this chapter.

2003 Acts, ch 153, §5

232B.5 Indian child custody proceedings — jurisdiction — notice — transfer of proceedings.

1. An Indian tribe has jurisdiction exclusive as to this state over any child custody proceeding held in this state involving an Indian child who resides or is domiciled within the reservation of that tribe, except when the jurisdiction is otherwise vested in this state by existing federal law. If an Indian child is a ward of a tribal court, the Indian tribe shall retain exclusive jurisdiction, notwithstanding the residence or domicile of the child.

2. The federal Indian Child Welfare Act and this chapter are applicable without exception in any child custody proceeding involving an Indian child. A state court does not have discretion to determine the applicability of the federal Indian Child Welfare Act or this

chapter to a child custody proceeding based upon whether an Indian child is part of an existing Indian family.

3. In a child custody proceeding, the court or any party to the proceeding shall be deemed to know or have reason to know that an Indian child is involved whenever any of the following circumstances exist:

a. A party to the proceeding or the court has been informed by any interested person, an officer of the court, a tribe, an Indian organization, a public or private agency, or a member of the child's extended family that the child is or may be an Indian child.

b. The child who is the subject of the proceeding gives the court reason to believe the child is an Indian child.

c. The court or a party to the proceeding has reason to believe the residence or domicile of the child is in a predominantly Indian community.

4. In any involuntary child custody proceeding, including review hearings following an adjudication, the court shall establish in the record that the party seeking the foster care placement of, or termination of parental rights over, or the adoption of an Indian child has sent notice by registered mail, return receipt requested, to all of the following:

a. The child's parents.

b. The child's Indian custodians.

c. Any tribe in which the child may be a member or eligible for membership.

5. If the identity or location of the child's parent, Indian custodian, or tribe cannot be determined, the notice under subsection 4 shall be provided to the secretary of the interior, who shall have fifteen days after receipt of the notice to provide the notice to the child's parent, Indian custodian, and tribe. A foster care placement or termination of parental rights proceeding involving the child shall not be held until at least ten days after receipt of notice by the child's parent, Indian custodian, and tribe, or the secretary of the interior. Upon request, the child's parent or Indian custodian or tribe shall be granted up to twenty additional days after receipt of the notice to prepare for the proceeding.

6. The court shall also establish in the record that a notice of any involuntary custody proceeding has been sent to the Indian child's tribe. The tribe may provide notice of the proceeding to any of the child's extended family members.

7. The notice in any involuntary child custody proceeding involving an Indian child shall be written in clear and understandable language and shall include all of the following information:

a. The name and tribal affiliation of the Indian child.

b. A copy of the petition by which the proceeding was initiated.

c. A statement listing the rights of the child's parents, Indian custodians, and tribes and, if applicable, the rights of the Indian child's family. The rights shall include all of the following:

(1) The right to intervene in the proceeding.

(2) The right to petition the court to transfer the proceeding to the tribal court of the Indian child's tribe.

(3) The right to be granted up to an additional twenty days from the receipt of the notice to prepare for the proceeding.

(4) The right to request that the court grant further extensions of time.

(5) In the case of an extended family member, the right to intervene and be considered as a preferred placement for the child.

d. A statement of the potential legal consequences of an adjudication on the future custodial rights of the child's parents or Indian custodians.

e. A statement that if the parents or Indian custodians are unable to afford counsel in an involuntary proceeding, counsel will be appointed to represent the parents or custodians.

f. A statement that the court may appoint counsel for the child upon a finding that the appointment is in the best interest of the child.

g. A statement that the information contained in the notice, petition, pleading, and other court documents is confidential.

h. A statement that the child's tribe may provide notice of the proceeding to any of the child's extended family members along with copies of other related documents.

8. In a voluntary child custody proceeding involving an Indian child, including but not

limited to a review hearing, the court shall establish in the record that the party seeking the foster care placement of, termination of parental rights to, or the permanent placement of, an Indian child has sent notice at least ten days prior to the hearing by registered mail, return receipt requested, to all of the following:

- a. The child's parents, except for a parent whose parental rights have been terminated.
- b. The child's Indian custodians, except for a custodian whose parental or Indian custodian rights have been terminated.
- c. Any tribe in which the child may be a member or eligible for membership.

9. The notice in a voluntary child custody proceeding involving an Indian child shall be written in clear and understandable language and shall include all of the following information:

- a. The name and tribal affiliation of the child.
- b. A copy of the petition by which the proceeding was initiated.
- c. A statement listing the rights of the child's parents, Indian custodians, Indian tribe or tribes, and, if applicable, extended family members. The rights shall include all of the following:

- (1) The right to intervene in the proceeding.
- (2) The right to petition the court to transfer a foster care placement or termination of parental rights proceeding to the tribal court of the Indian child's tribe.
- (3) In the case of extended family members, the right to intervene and be considered as a preferred placement for the child.

d. A statement that the information contained in the notice, petition, pleading, and any other court document shall be kept confidential.

e. A statement that the child's tribe may provide notice of the proceeding to any of the child's extended family members along with copies of other related documents.

10. Unless either of an Indian child's parents objects, in any child custody proceeding involving an Indian child who is not domiciled or residing within the jurisdiction of the Indian child's tribe, the court shall transfer the proceeding to the jurisdiction of the Indian child's tribe, upon the petition of any of the following persons:

- a. Either of the child's parents.
- b. The child's Indian custodian.
- c. The child's tribe.

11. Notwithstanding entry of an objection to a transfer of proceedings as described in subsection 10, the court shall reject any objection that is inconsistent with the purposes of this chapter, including but not limited to any objection that would prevent maintaining the vital relationship between Indian tribes and the tribes' children and would interfere with the policy that the best interest of an Indian child require that the child be placed in a foster or adoptive home that reflects the unique values of Indian culture.

12. A transfer of proceedings under subsection 10 may be declined by the tribal court of the Indian child's tribe. If the tribal court declines to assume jurisdiction, the state court shall reassume jurisdiction and shall apply all of the following in any proceeding:

- a. The requirements of the federal Indian Child Welfare Act.
- b. This chapter.
- c. The applicable provisions of any agreement between the Indian child's tribe and the state concerning the welfare, care, and custody of Indian children.

13. If a petition to transfer proceedings as described in subsection 10 is filed, the court shall find good cause to deny the petition only if one or more of the following circumstances are shown to exist:

- a. The tribal court of the child's tribe declines the transfer of jurisdiction.
- b. The tribal court does not have subject matter jurisdiction under the laws of the tribe or federal law.
- c. Circumstances exist in which the evidence necessary to decide the case cannot be presented in the tribal court without undue hardship to the parties or the witnesses, and the tribal court is unable to mitigate the hardship by making arrangements to receive and consider the evidence or testimony by use of remote communication, by hearing the

evidence or testimony at a location convenient to the parties or witnesses, or by use of other means permitted in the tribal court's rules of evidence or discovery.

d. An objection to the transfer is entered in accordance with subsection 10.

14. The Indian child's tribe or tribes and Indian custodian have the right to intervene at any point in any foster care placement or termination of parental rights proceeding involving the child. The Indian child's tribe shall also have the right to intervene at any point in any adoption proceeding involving the child. Any member of the Indian child's family may intervene in an adoption proceeding involving the child for the purpose of petitioning the court for the adoptive placement of the child in accordance with the order of preference provided for in this chapter.

15. The state shall give full faith and credit to the public acts, records, judicial proceedings, and judgments of any Indian tribe applicable to the Indian child custody proceedings.

16. In any proceeding in which the court determines indigency of the Indian child's parent or Indian custodian, the parent or Indian custodian shall have the right to court-appointed counsel in any removal, placement, or termination of parental rights. The child shall also have the right to court-appointed counsel in any removal, placement, termination of parental rights, or other permanency proceedings.

17. Each party to a foster care placement or termination of parental rights proceeding involving an Indian child shall have the right to examine all reports or other documents filed with the court upon which any decision with respect to the proceeding may be based.

18. Any person or court involved in the foster care, preadoptive placement, or adoptive placement of an Indian child shall use the services of the Indian child's tribe or tribes, whenever available through the tribe or tribes, in seeking to secure placement within the order of placement preference established in section 232B.9 and in the supervision of the placement.

19. A party seeking an involuntary foster care placement of or termination of parental rights over an Indian child shall provide evidence to the court that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts have proved unsuccessful. The court shall not order the placement or termination, unless the evidence of active efforts shows there has been a vigorous and concerted level of casework beyond the level that typically constitutes reasonable efforts as defined in sections 232.57 and 232.102. Reasonable efforts shall not be construed to be active efforts. The active efforts must be made in a manner that takes into account the prevailing social and cultural values, conditions, and way of life of the Indian child's tribe. Active efforts shall utilize the available resources of the Indian child's extended family, tribe, tribal and other Indian social service agencies, and individual Indian caregivers. Active efforts shall include but are not limited to all of the following:

a. A request to the Indian child's tribe to convene traditional and customary support and resolution actions or services.

b. Identification and participation of tribally designated representatives at the earliest point.

c. Consultation with extended family members to identify family structure and family support services that may be provided by extended family members.

d. Frequent visitation in the Indian child's home and the homes of the child's extended family members.

e. Exhaustion of all tribally appropriate family preservation alternatives.

f. Identification and provision of information to the child's family concerning community resources that may be able to offer housing, financial, and transportation assistance and actively assisting the family in accessing the community resources.

20. The state of Iowa recognizes that an Indian tribe may contract with another Indian tribe for supervision regarding placement, case management, and the provision of services to an Indian child.

2003 Acts, ch 153, §6

232B.6 Emergency removal of Indian child — foster care placement — termination of parental rights.

1. This chapter shall not be construed to prevent the emergency removal of an Indian child who is a resident of or is domiciled on an Indian reservation, but is temporarily located off the reservation, or is away from the child's parent or Indian custodian, or the emergency placement of such child in a foster home or institution, under applicable state law, in order to prevent imminent physical damage or harm to the child. In a case of emergency removal of an Indian child, regardless of residence or domicile of the child, the state shall ensure that the emergency removal or placement terminates immediately when the removal or placement is no longer necessary to prevent imminent physical damage or harm to the child and shall expeditiously initiate a child custody proceeding subject to the provisions of this chapter, transfer the child to the jurisdiction of the appropriate Indian tribe, or restore the child to the child's parent or Indian custodian, as may be appropriate.

2. Within three business days following the issuance of an order of emergency removal or placement of an Indian child, the court issuing the order shall notify the Indian child's tribe of the emergency removal or placement by registered mail, return receipt requested. The notice shall include the court order, the petition, if applicable, any information required by this chapter, and a statement informing the child's tribe of the tribe's right to intervene in the proceeding.

3. A motion, application, or petition commencing an emergency or temporary removal under section 232.79 or 232.95 or foster care placement proceeding under chapter 232 involving an Indian child shall be accompanied by all of the following:

a. An affidavit containing the names, tribal affiliations, and addresses of the Indian child, and of the child's parents and Indian custodians.

b. A specific and detailed account of the circumstances supporting the removal of the child.

c. All reports or other documents from each public or private agency involved with the emergency or temporary removal that are filed with the court and upon which any decision may be based. The reports shall include all of the following information, when available:

(1) The name of each agency.

(2) The names of agency administrators and professionals involved in the removal.

(3) A description of the emergency justifying the removal of the child.

(4) All observations made and actions taken by the agency.

(5) The date, time, and place of each such action.

(6) The signatures of all agency personnel involved.

(7) A statement of the specific actions taken and to be taken by each involved agency to effectuate the safe return of the child to the custody of the child's parent or Indian custodian.

4. An emergency removal or placement of an Indian child shall immediately terminate, and any court order approving the removal or placement shall be vacated, when the removal or placement is no longer necessary to prevent imminent physical damage or harm to the child. In no case shall an emergency removal or placement order remain in effect for more than fifteen days unless, upon a showing that continuation of the order is necessary to prevent imminent physical damage or harm to the child, the court extends the order for a period not to exceed an additional thirty days. If the Indian child's tribe has been identified, the court shall notify the tribe of the date and time of any hearing scheduled to determine whether to extend an emergency removal or placement order.

5. Upon termination of the emergency removal or placement order, the child shall immediately be returned to the custody of the child's parent or Indian custodian unless any of the following circumstances exist:

a. The child is transferred to the jurisdiction of the child's tribe.

b. In an involuntary foster care placement proceeding pursuant to the federal Indian Child Welfare Act, the court orders that the child shall be placed in foster care upon a determination, supported by clear and convincing evidence, including testimony by qualified expert witnesses, that custody of the child by the child's parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

c. The child's parent or Indian custodian voluntarily consents to the foster care placement of the child pursuant to the provisions of the federal Indian Child Welfare Act.

6. a. Termination of parental rights over an Indian child shall not be ordered in the absence of a determination, supported by evidence beyond a reasonable doubt, including the testimony of qualified expert witnesses, that the continued custody of the child by the child's parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

b. Foster care placement of an Indian child shall not be ordered in the absence of a determination, supported by clear and convincing evidence, including the testimony of qualified expert witnesses, that the continued custody of the child by the child's parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

2003 Acts, ch 153, §7

232B.7 Parental rights — voluntary termination or foster care placement.

1. If an Indian child's parent or Indian custodian voluntarily consents to a foster care placement of the child or to termination of parental rights, the consent shall not be valid unless executed in writing and recorded before a judge of a court of competent jurisdiction and accompanied by the judge's certificate that the terms and consequences of the consent were fully explained in detail and were fully understood by the parent or Indian custodian. The court shall also certify that either the parent or Indian custodian fully understood the explanation in English or that it was interpreted into a language that the parent or Indian custodian understood. Notwithstanding section 600A.4 or any other provision of law, any consent for release of custody given prior to, or within ten days after, the birth of the Indian child shall not be valid.

2. An Indian child's parent or Indian custodian may withdraw consent to a foster care placement at any time and, upon the withdrawal of consent, the child shall be returned to the parent or Indian custodian.

3. In a voluntary proceeding for termination of parental rights to, or adoptive placement of, an Indian child, the consent of the parent may be withdrawn for any reason at any time prior to the entry of a final decree of termination or adoption, as the case may be, and the child shall be returned to the parent.

4. After the entry of a final decree of adoption of an Indian child, the parent may withdraw consent to the adoption upon the grounds that consent was obtained through fraud or duress and may petition the court to vacate the decree. Upon a finding that such consent was obtained through fraud or duress, the court shall vacate the decree and return the child to the parent. However, an adoption which has been effective for at least two years shall not be invalidated under the provisions of this subsection unless otherwise permitted under state law.

2003 Acts, ch 153, §8

232B.8 Return of custody — improper removal of child from custody — protection of rights of parent or Indian custodian.

1. If a final decree of adoption of an Indian child has been vacated or set aside or the adoptive parents voluntarily consent to the termination of their parental rights to the child, a biological parent or prior Indian custodian may petition for return of custody and the court shall grant the petition unless there is a showing, in a proceeding subject to the provisions of this chapter, that the return of custody is not in the best interest of the child.

2. If an Indian child is removed from a foster care home or institution for the purpose of further foster care, preadoptive, or adoptive placement, the placement shall be in accordance with the provisions of this chapter, except when an Indian child is being returned to the parent or Indian custodian from whose custody the child was originally removed.

3. If a petitioner in an Indian child custody proceeding before a state court has improperly removed the child from the custody of the parent or Indian custodian or has improperly retained custody after a visit or other temporary relinquishment of custody, the court shall decline jurisdiction over the petition and shall immediately return the child to the child's

parent or Indian custodian unless returning the child to the parent or Indian custodian would subject the child to a substantial and immediate danger or threat of such danger.

4. If another state or federal law applicable to a child custody proceeding held under state or federal law provides a higher standard of protection to the rights of the parent or Indian custodian of an Indian child than the rights provided under this chapter, the court shall apply the higher standard.

2003 Acts, ch 153, §9

232B.9 Placement preferences.

1. In any adoptive or other permanent placement of an Indian child, preference shall be given to a placement with one of the following, in descending priority order:

- a. A member of the Indian child's family.
- b. Other members of the Indian child's tribe.
- c. Another Indian family.
- d. A non-Indian family approved by the Indian child's tribe.
- e. A non-Indian family that is committed to enabling the child to have extended family visitation and participation in the cultural and ceremonial events of the child's tribe.

2. An emergency removal, foster care, or preadoptive placement of an Indian child shall be in the least restrictive setting which most approximates a family situation and in which the child's special needs, if any, may be met. The child shall also be placed within reasonable proximity to the child's home, taking into account any special needs of the child. In any foster care or preadoptive placement, a preference shall be given to the child's placement with one of the following, in descending priority order:

- a. A member of the child's extended family.
- b. A foster home licensed, approved, or specified by the child's tribe.
- c. An Indian foster home licensed or approved by an authorized non-Indian licensing authority.
- d. A child foster care agency approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet the Indian child's needs.
- e. A non-Indian child foster care agency approved by the child's tribe.
- f. A non-Indian family committed to enabling the child to have extended family visitation and participation in the cultural and ceremonial events of the child's tribe.

3. To the greatest possible extent, a placement made in accordance with subsection 1 or 2 shall be made in the best interest of the child.

4. An adoptive placement of an Indian child shall not be ordered in the absence of a determination, supported by clear and convincing evidence including the testimony of qualified expert witnesses, that the placement of the child is in the best interest of the child.

5. Notwithstanding the placement preferences listed in subsections 1 and 2, if a different order of placement preference is established by the child's tribe or in a binding agreement between the child's tribe and the state entered into pursuant to section 232B.11, the court or agency effecting the placement shall follow the order of preference established by the tribe or in the agreement.

6. As appropriate, the placement preference of the Indian child or parent shall be considered. In applying the preferences, a consenting parent's request for anonymity shall also be given weight by the court or agency effecting the placement. Unless there is clear and convincing evidence that placement within the order of preference applicable under subsection 1, 2, or 5 would be harmful to the Indian child, consideration of the preference of the Indian child or parent or a parent's request for anonymity shall not be a basis for placing an Indian child outside of the applicable order of preference.

7. The prevailing social and cultural standards of the Indian community in which the parent or extended family members of an Indian child reside, or with which such parent or extended family members maintain social and cultural ties, or the prevailing social and cultural standards of the Indian child's tribe shall be applied in qualifying any placement having a preference under this section. A determination of the applicable prevailing social and cultural standards shall be confirmed by the testimony or other documented support of qualified expert witnesses.

8. A record of each foster care placement, emergency removal, preadoptive placement, or adoptive placement of an Indian child, under the laws of this state, shall be maintained in perpetuity by the department of human services in accordance with section 232B.13. The record shall document the active efforts to comply with the applicable order of preference specified in this section.

9. The state of Iowa recognizes the authority of Indian tribes to license foster homes and to license agencies to receive children for control, care, and maintenance outside of the children's own homes, or to place, receive, arrange the placement of, or assist in the placement of children for foster care or adoption. The department of human services and child-placing agencies licensed under chapter 238 may place children in foster homes and facilities licensed by an Indian tribe.

2003 Acts, ch 153, §10

Referred to in §232B.5, 232B.12, 232B.13

232B.10 Qualified expert witnesses — standard of proof — change of placement.

1. For the purposes of this chapter, unless the context otherwise requires, a “*qualified expert witness*” may include, but is not limited to, a social worker, sociologist, physician, psychologist, traditional tribal therapist and healer, spiritual leader, historian, or elder.

2. In considering whether to involuntarily place an Indian child in foster care or to terminate the parental rights of the parent of an Indian child, the court shall require that qualified expert witnesses with specific knowledge of the child's Indian tribe testify regarding that tribe's family organization and child-rearing practices, and regarding whether the tribe's culture, customs, and laws would support the placement of the child in foster care or the termination of parental rights on the grounds that continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

3. In the following descending order of preference, a qualified expert witness is a person who is one of the following:

a. A member of the child's Indian tribe who is recognized by the child's tribal community as knowledgeable regarding tribal customs as the customs pertain to family organization or child-rearing practices.

b. A member of another tribe who is formally recognized by the Indian child's tribe as having the knowledge to be a qualified expert witness.

c. A layperson having substantial experience in the delivery of child and family services to Indians, and substantial knowledge of the prevailing social and cultural standards and child-rearing practices within the Indian child's tribe.

d. A professional person having substantial education and experience in the person's professional specialty and having substantial knowledge of the prevailing social and cultural standards and child-rearing practices within the Indian child's tribe.

e. A professional person having substantial education and experience in the person's professional specialty and having extensive knowledge of the customs, traditions, and values of the Indian child's tribe as the customs, traditions, and values pertain to family organization and child-rearing practices. Prior to accepting the testimony of a qualified expert witness described in this lettered paragraph, the court shall document the efforts made to secure a qualified expert witness described in paragraphs “a”, “b”, “c”, and “d”. The efforts shall include but are not limited to contacting the Indian child's tribe's governing body, that tribe's Indian Child Welfare Act office, and the tribe's social service office.

2003 Acts, ch 153, §11; 2004 Acts, ch 1101, §29

232B.11 Agreements with tribes for care and custody of Indian children.

1. The director of human services or the director's designee shall make a good faith effort to enter into agreements with Indian tribes regarding jurisdiction over child custody proceedings and the care and custody of Indian children whose tribes have land within Iowa, including but not limited to the Sac and Fox tribe, the Omaha tribe, the Ponca tribe, and the Winnebago tribe, and whose tribes have an Indian child who resides in the state of Iowa. An agreement shall seek to promote the continued existence and integrity of the

Indian tribe as a political entity and the vital interest of Indian children in securing and maintaining a political, cultural, and social relationship with their tribes. An agreement shall assure that tribal services and Indian organizations or agencies are used to the greatest extent practicable in planning and implementing any action pursuant to the agreement concerning the care and custody of Indian children. If tribal services are not available, an agreement shall assure that community services and resources developed specifically for Indian families will be used.

2. If an agreement entered into between the tribe and the department of human services pertaining to the funding of foster care placements for Indian children conflicts with any federal or state law, the state in a timely, good faith manner shall agree to amend the agreement in a way that prevents any interruption of services to eligible Indian children.

3. An agreement entered into under this section may be revoked by either party by giving one hundred eighty days' advance written notice to the other party. The revocation shall not affect any action or proceeding over which a court has already assumed jurisdiction, unless the agreement provides otherwise.

2003 Acts, ch 153, §12

Referred to in §232B.9

232B.12 Payment of foster care expenses.

1. If the department of human services has legal custody of an Indian child and that child is placed in foster care according to the placement preferences under section 232B.9 the state shall pay, subject to any applicable federal funding limitations and requirements, the cost of the foster care in the manner and to the same extent the state pays for foster care of non-Indian children, including the administrative and training costs associated with the placement. In addition, the state shall pay the other costs related to the foster care placement of an Indian child as may be provided for in an agreement entered into between a tribe and the state.

2. The department of human services may, subject to any applicable federal funding limitations and requirements and within funds appropriated for foster care services, purchase care for Indian children who are in the custody of a federally recognized Indian tribe or tribally licensed child-placing agency pursuant to parental consent, tribal court order, or state court order; and the purchase of the care is subject to the same eligibility standards and rates of support applicable to other children for whom the department purchases care.

2003 Acts, ch 153, §13

232B.13 Records.

1. The department of human services shall establish an automated database where a permanent record shall be maintained of every involuntary or voluntary foster care, preadoptive placement, or adoptive placement of an Indian child that is ordered by a court of this state and in which the department was involved. The automated record shall document the active efforts made to comply with the order of placement preference specified in section 232B.9. An Indian child's placement record shall be maintained in perpetuity by the department of human services and shall include but is not limited to the name, birthdate, and gender of the Indian child, and the location of the local department office that maintains the original file and documents containing the information listed in subsection 2.

2. Each county department of human services, state-licensed child-placing agency, private attorney, and medical facility involved in the involuntary or voluntary foster care placement, preadoptive placement, or adoptive placement of an Indian child shall maintain in perpetuity a record of the placement. The record shall include, but is not limited to, all of the following information:

- a. The name and tribal affiliation of the child.
- b. The location of the child's Indian tribe or tribes.
- c. The names and addresses of the child's biological parents.
- d. The child's certificate of degree of Indian blood.
- e. The child's tribal enrollment or other membership documentation, if any.
- f. The child's medical records.

- g. The social and medical history of the child's biological family.
 - h. The names, ages, and gender of the child's siblings.
 - i. The names, ages, and gender of the child's kinship or extended family members.
 - j. The names and addresses of the child's adoptive parents.
 - k. The identity of any agency having files or information relating to the placement.
 - l. All reports concerning the child or the child's family, including detailed information regarding case plans and other efforts to rehabilitate the parents of the child.
 - m. A record of efforts made to place the child within and outside of the placement preferences under section 232B.9.
 - n. A statement of the reason for the final placement decision.
3. If a court orders the foster care, preadoptive placement, or adoptive placement of an Indian child, the court and any state-licensed child-placing agency involved in the placement shall provide the department of human services with the records described in subsections 1 and 2.
 4. A record maintained pursuant to this section by the department of human services, a county department of human services, state-licensed child-placing agency, private attorney, or medical facility shall be made available within seven days of a request for the record by the Indian child's tribe or the secretary of the interior.
 5. Upon the request of an Indian individual who is eighteen years of age or older, or upon the request of an Indian child's parent, Indian custodian, attorney, guardian ad litem, guardian, legal custodian, or caseworker of the Indian child, the department of human services, a county department of human services, state-licensed child-placing agency, private attorney, or medical facility shall provide access to the records pertaining to the Indian individual or child maintained pursuant to this section. The records shall also be made available upon the request of the descendants of the Indian individual or child. A record shall be made available within seven days of a request for the record by any person authorized by this subsection to make the request.
 6. Upon application of an Indian individual who is eighteen years of age or older and was the subject of an adoptive placement, the court that entered the final decree shall inform the individual regarding the individual's tribal affiliation and any of the individual's biological parents, and shall provide such other information as may be necessary to protect any rights arising from the individual's tribal affiliation. In addition, the court shall provide the individual, through an appropriate order, if necessary, with information described in subsection 2 as may be secured from the records maintained pursuant to subsection 2.
 7. If a parent of an Indian child wishes to remain anonymous, identifying records concerning any such parent shall not be released unless necessary to secure, maintain, or enforce the Indian child's right to enrollment or membership in the child's Indian tribe, for determining a right or benefit associated with the enrollment or membership, or for determining a right to an inheritance.

2003 Acts, ch 153, §14

Referred to in §232B.9

232B.14 Compliance.

1. The department of human services, in consultation with Indian tribes, shall establish standards and procedures for the department's review of cases subject to this chapter and methods for monitoring the department's compliance with provisions of the federal Indian Child Welfare Act and this chapter. These standards and procedures and the monitoring methods shall be integrated into the department's structure and plan for the federal government's child and family service review process and any program improvement plan resulting from that process.
2. A court of competent jurisdiction shall vacate a court order and remand the case for appropriate disposition for any of the following violations of this chapter:
 - a. Failure to notify an Indian parent, Indian custodian, or tribe.
 - b. Failure to recognize the jurisdiction of an Indian tribe.
 - c. Failure, without cause as specified under this chapter, to transfer jurisdiction to an Indian tribe appropriately seeking transfer.

d. Failure to give full faith and credit to the public acts, records, or judicial proceedings of an Indian tribe.

e. Failure to allow intervention by an Indian custodian or Indian tribe, or if applicable, an extended family member.

f. Failure to return the child to the child’s parent or Indian custodian when removal or placement is no longer necessary to prevent imminent physical damage or harm.

g. Failure to provide the testimony of qualified expert witnesses as required by this chapter.

h. Any other violation that is not harmless error, including but not limited to a failure to comply with 25 U.S.C. §1911, 1912, 1913, 1915, 1916, or 1917.

3. If a petitioner in an Indian child custody proceeding before a state court has improperly removed the child from the custody of the child’s parent or Indian custodian or has improperly retained custody after a visit or other temporary relinquishment of custody, the court shall decline jurisdiction over the petition and shall immediately return the child to the child’s parent or Indian custodian unless returning the child to the parent or Indian custodian would subject the child to a substantial and immediate danger or threat of such danger.

2003 Acts, ch 153, §15

CHAPTER 232C

EMANCIPATION OF MINORS

232C.1	Emancipation petition — hearing.	232C.3	Determination of emancipation
232C.2	Stay — mediation — referral to family in need of assistance.		— best interests of the minor.
		232C.4	Effect of emancipation order.

232C.1 Emancipation petition — hearing.

1. A minor who desires to become emancipated may file a petition for an order of emancipation in juvenile court if all of the following apply:

- a. The minor is sixteen years of age or older.
 - b. The minor is a resident of this state.
 - c. The minor is not in the care, custody, or control of the state.
2. A petition filed pursuant to this section shall contain the following:
- a. The petitioner’s name, mailing address, and date of birth.
 - b. The name and mailing address of the petitioner’s parents or legal guardian.
 - c. Specific facts to support the petition including but not limited to the following:
 - (1) The minor has demonstrated financial self-sufficiency, including proof of employment or other means of support, which does not include assistance or subsidies from a federal, state, or local governmental agency.
 - (2) The minor has demonstrated an ability to manage the personal affairs of the minor.
 - (3) The minor has demonstrated an ability and commitment to obtain and maintain education, vocational training, or employment.
 - (4) Any other information considered necessary to support the petition.

d. Any one of the following:

- (1) Documentation that the minor has been living on the minor’s own for at least three consecutive months.
- (2) A statement explaining the reasons the minor believes the home of the minor’s parents or legal guardian is not a healthy or safe environment.
- (3) A notarized statement that contains written consent to emancipation by the minor’s parents or legal guardian.

3. The court shall hold a hearing on the petition within ninety days of the filing of the petition. Notice of the hearing, with a copy of the petition attached, shall be served by personal service on the minor’s parent or legal guardian at least thirty days prior to the

hearing date. Any other parties shall be notified as provided by the rules of civil procedure for service of an original notice.

4. The minor may participate in the court proceedings on the minor's own behalf, or may be represented by the minor's own counsel, or the court may appoint a guardian ad litem on behalf of the minor.

2009 Acts, ch 153, §3
Referred to in §232C.2

232C.2 Stay — mediation — referral to family in need of assistance.

1. Prior to an emancipation hearing held pursuant to section 232C.1, the court, on its own motion, may stay the proceedings, and refer the parties to mediation or request that the department of human services investigate any allegations of child abuse or neglect contained in the petition, and order that a written report be prepared and filed by the department.

2. If a minor's parent or guardian objects to the petition filed pursuant to section 232C.1, the juvenile court shall stay the proceedings and refer the parties to mediation unless the juvenile court finds that mediation would not be in the best interests of the minor.

3. If an agreement is reached through mediation, the parties shall file the signed agreement with the juvenile court.

4. Notwithstanding subsections 1 through 3, the juvenile court, on its own motion, may discontinue emancipation proceedings pursuant to this chapter and interpret the petition as a petition to initiate family in need of assistance proceedings and consider the petition under sections 232.122 through 232.127.

2009 Acts, ch 153, §4
Referred to in §232.125, 232C.3

232C.3 Determination of emancipation — best interests of the minor.

1. The juvenile court shall determine emancipation based on the best interests of the minor and shall consider all relevant factors including the following:

a. The potential risks and consequences of emancipation and whether the minor understands the risks and consequences of emancipation.

b. The ability of the minor to be financially self-sufficient.

c. The education level of the minor and success achieved in school.

d. The criminal record of the minor.

e. The desires of the minor.

f. The recommendations of the parents or guardian of the minor.

2. The minor has the burden of proving by clear and convincing evidence that the requirements for ordering emancipation under this section have been met.

3. The juvenile court shall carefully consider the best interests of the minor and after hearing and consideration of the factors enumerated in this section, the juvenile court may order the minor emancipated or deny the petition for emancipation.

4. If, after referral of a petition for the initiation of family in need of assistance proceedings pursuant to section 232C.2, the juvenile court finds, by clear and convincing evidence, that no remedy is available that would result in strengthening or maintaining the familial relationship under the family in need of assistance proceedings pursuant to sections 232.122 through 232.127, the juvenile court may order the minor emancipated as provided in this section.

2009 Acts, ch 153, §5
Referred to in §232.127

232C.4 Effect of emancipation order.

1. An emancipation order shall have the same effect as a minor reaching the age of majority with respect to but not limited to the following:

a. The ability to sue or be sued in the minor's own name.

b. The right to enter into a binding contract.

c. The right to establish a legal residence.

d. The right to incur debts.

e. The right to consent to medical, dental, or psychiatric care.

2. An emancipation order shall have the same effect as the minor reaching the age of majority and the parents are exempt from the following:
 - a. Future child support obligations for the emancipated minor.
 - b. An obligation to provide medical support for the emancipated minor, unless deemed necessary by the court.
 - c. A right to the income or property of the emancipated minor.
 - d. A responsibility for the debts of the emancipated minor.
3. An emancipated minor shall remain subject to voting restrictions under chapter 48A, gambling restrictions under chapter 99B, 99D, 99F, 99G, or 725, internet fantasy sports contest restrictions under chapter 99E, alcohol restrictions under chapter 123, compulsory attendance requirements under chapter 299, and cigarette tobacco restrictions under chapter 453A.
4. An emancipated minor shall not be considered an adult for prosecution except as provided in section 232.8.
5. Notwithstanding sections 232.147 through 232.151, the emancipation order shall be released by the juvenile court subject to rules prescribed by the supreme court.
6. A parent who is absolved of child support obligations pursuant to an emancipation order shall notify the child support recovery unit of the department of human services of the emancipation.
2009 Acts, ch 153, §6; 2011 Acts, ch 34, §59; 2019 Acts, ch 132, §38, 45, 46

CHAPTER 232D MINOR GUARDIANSHIPS

Referred to in §144F.1, 222.34, 232.101A, 232.104, 235A.15, 235B.6, 602.7101, 602.8102(42), 633.10

	SUBCHAPTER I		
	GENERAL PROVISIONS		
232D.101	Short title.	232D.305	Court visitor.
232D.102	Definitions.	232D.306	Hearing on petition.
232D.103	Jurisdiction.	232D.307	Background checks of proposed guardians.
232D.104	Venue.	232D.308	Selection of guardian — qualifications and preferences.
232D.105	Proceedings governed by other law.	232D.309	Emergency appointment of temporary guardian.
232D.106	Applicability of rules of civil procedure.	232D.310	Appointment of a guardian for a minor on a standby basis.
232D.107	through 232D.200 Reserved.	232D.311	Appointment of guardian for minor approaching majority on a standby basis.
	SUBCHAPTER II	232D.312	through 232D.400 Reserved.
	BASIS FOR APPOINTMENT OF GUARDIANS		SUBCHAPTER IV
232D.201	Termination of parental rights and child in need of assistance cases.		APPOINTMENT AND POWERS, DUTIES, AND RESPONSIBILITIES OF GUARDIANS
232D.202	Death of parents.	232D.401	Order appointing guardian and powers of guardian.
232D.203	Guardianship with parental consent.	232D.402	Duties and responsibilities of guardian.
232D.204	Guardianship without parental consent.	232D.403	Guardian's acceptance of appointment and oath and issuance of letters of appointment.
232D.205	through 232D.300 Reserved.	232D.404	through 232D.500 Reserved.
	SUBCHAPTER III		
	ESTABLISHING GUARDIANSHIPS		SUBCHAPTER V
232D.301	Petition.		COURT MONITORING AND ADMINISTRATION OF GUARDIANSHIPS
232D.302	Notice.		
232D.303	Attorney for minor.	232D.501	Reports of guardian.
232D.304	Attorney for parent.		

232D.502	Removal of guardian — appointment of successor guardian.	232D.504	Rights and immunities of a guardian.
232D.503	Termination and modification of guardianships.	232D.505	Expenses.

SUBCHAPTER I GENERAL PROVISIONS

232D.101 Short title.

This chapter shall be known as the “*Iowa Minor Guardianship Proceedings Act*”.

2019 Acts, ch 56, §1, 44, 45

Section takes effect January 1, 2020, and applies to guardianships and guardianship proceedings of minors established or pending before, on, or after that date; 2019 Acts, ch 56, §44, 45

232D.102 Definitions.

1. “*Adult*” means a person eighteen years of age or older or a person declared to be emancipated by a court of competent jurisdiction.

2. “*Conservator*” means a person appointed by a court to have custody and control of the property of a minor.

3. “*Court*” means the juvenile court established under section 602.7101.

4. “*Demonstrated lack of consistent parental participation*” means the refusal of a parent to comply with duties and responsibilities imposed upon a parent by the parent-child relationship, including but not limited to providing the minor with necessary food, clothing, shelter, health care, education, and other care and supervision necessary for the minor’s physical, mental, and emotional health and development.

5. “*Guardian*” means a person appointed by the court to have custody of a minor.

6. “*Legal custodian*” means a person awarded legal custody of a minor.

7. “*Legal custody*” means an award of the rights of legal custody of a minor under which a parent has legal custodial rights and responsibilities toward the minor child including but not limited to decision making affecting the minor’s legal status, medical care, education, extracurricular activities, and religious instruction.

8. “*Limited guardianship*” means a guardianship that grants the guardian less than all powers available under this chapter or otherwise restricts the powers of the guardian.

9. “*Minor*” means an unmarried and unemancipated person under the age of eighteen years.

10. “*Parent*” means a biological or adoptive mother or father of a child, a person whose parental status has been established by operation of law due to the person’s marriage to the mother at the time of the conception or birth of the child, by order of a court of competent jurisdiction, or by an administrative order when authorized by state law. “*Parent*” does not include a person whose parental rights have been terminated.

2019 Acts, ch 56, §2, 44, 45

Section takes effect January 1, 2020, and applies to guardianships and guardianship proceedings of minors established or pending before, on, or after that date; 2019 Acts, ch 56, §44, 45

232D.103 Jurisdiction.

The juvenile court has exclusive jurisdiction in a guardianship proceeding concerning a minor who is alleged to be in need of a guardianship.

2019 Acts, ch 56, §3, 44, 45

Referred to in §232D.311

Section takes effect January 1, 2020, and applies to guardianships and guardianship proceedings of minors established or pending before, on, or after that date; 2019 Acts, ch 56, §44, 45

232D.104 Venue.

1. Venue for guardianship proceedings under this chapter shall be in the judicial district where the minor is found or in the judicial district of the minor’s residence.

2. The court may transfer a guardianship proceeding brought under this chapter to the juvenile court of any county having venue at any stage in the proceedings as follows:

a. When it appears that the best interests of the minor or the convenience of the proceedings shall be served by a transfer, the court may transfer the case to the court of the county of the minor's residence.

b. With the consent of the receiving court, the court may transfer the case to the court of the county where the minor is found.

3. The court shall transfer the case by ordering the transfer and a continuance and by forwarding to the clerk of the receiving court a certified copy of all papers filed together with an order of transfer. The judge of the receiving court may accept the filings of the transferring court or may direct the filing of a new petition and hear the case anew.

2019 Acts, ch 56, §4, 44, 45

Section takes effect January 1, 2020, and applies to guardianships and guardianship proceedings of minors established or pending before, on, or after that date; 2019 Acts, ch 56, §44, 45

232D.105 Proceedings governed by other law.

1. A petition alleging that a minor is in need of a conservatorship is not subject to this chapter. Such proceedings shall be governed by chapter 633 and may be initiated pursuant to section 633.557.

2. A petition for the appointment of a guardian for a minor and a petition for appointment of a conservator of a minor shall not be combined.

3. If a minor guardianship proceeding under this chapter pertains to an Indian child as defined in section 232B.3 and the proceeding is subject to the Iowa Indian child welfare Act under chapter 232B, the proceeding and other actions taken in connection with the proceeding shall comply with chapter 232B.

2019 Acts, ch 56, §5, 44, 45; 2020 Acts, ch 1063, §93

Section takes effect January 1, 2020, and applies to guardianships and guardianship proceedings of minors established or pending before, on, or after that date; 2019 Acts, ch 56, §44, 45

Subsection 1 amended

232D.106 Applicability of rules of civil procedure.

The rules of civil procedure shall govern guardianship proceedings concerning a minor who is alleged to be in need of a guardianship except as otherwise set forth in this chapter.

2019 Acts, ch 56, §6, 44, 45

Section takes effect January 1, 2020, and applies to guardianships and guardianship proceedings of minors established or pending before, on, or after that date; 2019 Acts, ch 56, §44, 45

232D.107 through 232D.200 Reserved.

SUBCHAPTER II

BASIS FOR APPOINTMENT OF GUARDIANS

232D.201 Termination of parental rights and child in need of assistance cases.

1. The court may appoint a guardian for a minor who does not have a guardian if all parental rights have been terminated.

2. The court may appoint a guardian for a minor in a child in need of assistance case pursuant to section 232.101A, 232.103A, or 232.104.

2019 Acts, ch 56, §7, 44, 45

Section takes effect January 1, 2020, and applies to guardianships and guardianship proceedings of minors established or pending before, on, or after that date; 2019 Acts, ch 56, §44, 45

232D.202 Death of parents.

1. The court may appoint a guardian for a minor if both parents are deceased.

2. In appointing a guardian for a minor whose parents are deceased, the court shall give preference to a person, if qualified and suitable, nominated as guardian for a minor by a will

that was executed by the parent or parents having legal custody of the minor at the time of the parent's or parents' death, and that was admitted to probate under chapter 633.

2019 Acts, ch 56, §8, 44, 45

Section takes effect January 1, 2020, and applies to guardianships and guardianship proceedings of minors established or pending before, on, or after that date; 2019 Acts, ch 56, §44, 45

232D.203 Guardianship with parental consent.

1. The court may appoint a guardian for a minor if the court finds all of the following:
 - a. The parent or parents having legal custody of the minor understand the nature of the guardianship and knowingly and voluntarily consent to the guardianship.
 - b. The minor is in need of a guardianship because of any one of the following:
 - (1) The parent having legal custody of the minor has a physical or mental illness that prevents the parent from providing care and supervision of the child.
 - (2) The parent having legal custody of the minor is incarcerated or imprisoned.
 - (3) The parent having legal custody of the minor is on active military duty.
 - (4) The minor is in need of a guardianship for some other reason constituting good cause shown.
 - c. Appointment of a guardian for the minor is in the best interest of the minor.
2. If the guardianship petition requests a guardianship with parental consent, the petition shall include an affidavit signed by the parent or parents verifying that the parent or parents knowingly and voluntarily consent to the guardianship. The consent required by this subsection shall be on a form prescribed by the judicial branch.
3. On or before the date of the hearing on the petition, the parent or parents and the proposed guardian shall file an agreement with the court. This agreement shall state the following:
 - a. The responsibilities of the guardian.
 - b. The responsibilities of the parent or parents.
 - c. The expected duration of the guardianship, if known.
4. If the court grants the petition, it shall approve the guardianship agreement between the custodial parent and the proposed guardian and incorporate its terms by reference unless the court finds the agreement was not reached knowingly and voluntarily or is not in the best interests of the child.

2019 Acts, ch 56, §9, 44, 45

Referred to in §232D.503

Section takes effect January 1, 2020, and applies to guardianships and guardianship proceedings of minors established or pending before, on, or after that date; 2019 Acts, ch 56, §44, 45

232D.204 Guardianship without parental consent.

1. The court may appoint a guardian for a minor without the consent of the parent or parents having legal custody of the minor if the court finds by clear and convincing evidence all of the following:
 - a. There is a person serving as a de facto guardian of the minor.
 - b. There has been a demonstrated lack of consistent parental participation in the life of the minor by the parent. In determining whether a parent has demonstrated a lack of consistent participation in the minor's life, the court may consider all of the following:
 - (1) The intent of the parent in placing the custody, care, and supervision of the minor with the person petitioning as a de facto guardian and the facts and circumstances regarding such placement.
 - (2) The amount of communication and visitation of the parent with the minor during the alleged de facto guardianship.
 - (3) Any refusal of the parent to comply with conditions for retaining custody of the minor set forth in any previous court orders.
2. The court may appoint a guardian for a minor without the consent of the parent or parents having legal custody of the minor if the court finds by clear and convincing evidence all of the following:
 - a. No parent having legal custody of the minor is willing or able to exercise the power the court will grant to the guardian if the court appoints a guardian.

b. Appointment of a guardian for the minor is in the best interest of the minor.

3. Prior to granting a petition for guardianship, the court shall consider whether the filing of a child in need of assistance petition is appropriate under section 232.87. If the court determines a child in need of assistance petition is not appropriate, the court shall make findings of why a child in need of assistance petition is not appropriate.

4. A proceeding under this section shall not create a new eligibility category for the department of human services protective services.

2019 Acts, ch 56, §10, 44, 45

Referred to in §232D.503

Section takes effect January 1, 2020, and applies to guardianships and guardianship proceedings of minors established or pending before, on, or after that date; 2019 Acts, ch 56, §44, 45

232D.205 through 232D.300 Reserved.

SUBCHAPTER III ESTABLISHING GUARDIANSHIPS

232D.301 Petition.

1. Proceedings for guardianship pursuant to this chapter may be initiated by the filing of a petition by any person with an interest in the welfare of the minor.

2. The petition shall list, to the extent known, all of the following:

a. The name, age, and address of the minor who is the subject of the petition.

b. The name and address of the petitioner and the petitioner's relationship to the minor.

c. If the petitioner is not the proposed guardian, the name and address of the proposed guardian and the reason the proposed guardian should be selected.

d. The name and address, to the extent known and ascertainable, of the following:

(1) Any living parents of the minor.

(2) Any legal custodian of the minor.

(3) Any adult who has had the primary care of the minor or with whom the minor has lived for at least six months prior to the filing of the petition.

3. The petition shall contain a concise statement of the factual basis for the petition.

4. The petition shall state whether a limited guardianship is appropriate.

5. Any additional information, to the extent known and reasonably ascertainable, required by section 598B.209 shall be included in an affidavit attached to the petition.

6. The petition may request that a temporary guardian for a minor may be appointed. Such a petition shall specify the duration of the requested temporary guardianship and the reason for a temporary guardianship.

2019 Acts, ch 56, §11, 44, 45

Referred to in §232D.303, 232D.306, 232D.309, 232D.310

Section takes effect January 1, 2020, and applies to guardianships and guardianship proceedings of minors established or pending before, on, or after that date; 2019 Acts, ch 56, §44, 45

232D.302 Notice.

1. The filing of a petition shall be served upon the minor who is the subject of the petition in the manner of an original notice in accordance with the rules of civil procedure governing such notice. Notice to the attorney representing the minor, if any, is notice to the minor.

2. Notice shall be served upon the minor's known parents listed in the petition in accordance with the rules of civil procedure.

3. Notice shall be served upon other known persons listed in the petition in the manner prescribed by the court, which may be notice by mail. Failure of such persons to receive actual notice does not constitute a jurisdictional defect precluding the appointment of a guardian by the court.

4. Notice of the filing of a petition given to a person under subsection 2 or 3 shall include

a statement that the person may register to receive notice of the hearing on the petition and other proceedings and the manner of such registration.

2019 Acts, ch 56, §12, 44, 45

Service of original notice, R.C.P. 1.302 – 1.315

Section takes effect January 1, 2020, and applies to guardianships and guardianship proceedings of minors established or pending before, on, or after that date; 2019 Acts, ch 56, §44, 45

232D.303 Attorney for minor.

1. Upon the filing of a petition for appointment of a guardian pursuant to section 232D.301, the court shall appoint an attorney for the minor, if the court determines that the interests of the minor are or may be inadequately represented.

2. An attorney representing the minor shall advocate for the wishes of the minor to the extent that those wishes are reasonably ascertainable and advocate for best interest of the minor if the wishes of the minor are not reasonably ascertainable.

2019 Acts, ch 56, §13, 44, 45

Section takes effect January 1, 2020, and applies to guardianships and guardianship proceedings of minors established or pending before, on, or after that date; 2019 Acts, ch 56, §44, 45

232D.304 Attorney for parent.

Upon the filing of a petition for appointment of a guardian, the court shall appoint an attorney for the parent identified in the petition if all of the following are true:

1. The parent objects to the appointment of a guardian for the minor.

2. The parent requests appointment of an attorney and the court determines that the parent is unable to pay for an attorney in accordance with section 232D.505.

2019 Acts, ch 56, §14, 44, 45

Section takes effect January 1, 2020, and applies to guardianships and guardianship proceedings of minors established or pending before, on, or after that date; 2019 Acts, ch 56, §44, 45

232D.305 Court visitor.

1. The court may appoint a court visitor for the minor.

2. The same person shall not serve both as the attorney representing the minor and as court visitor.

3. Unless otherwise enlarged or circumscribed by the court, the duties of a court visitor with respect to the minor shall include all of the following:

a. Conducting, if the minor's age is appropriate, an initial in-person interview with the minor.

b. Explaining to the minor, if the minor's age is appropriate, the substance of the petition, the purpose and effect of the guardianship proceeding, the rights of the minor at the hearing, and the general powers and duties of a guardian.

c. Determining, if the minor's age is appropriate, the views of the minor regarding the proposed guardian, the proposed guardian's powers and duties, and the scope and duration of the proposed guardianship.

d. Interviewing the parent or parents and any other person with legal responsibility for the custody, care, or both, of the minor.

e. Interviewing the petitioner, and if the petitioner is not the proposed guardian, interviewing the proposed guardian.

f. Visiting, to the extent feasible, the residence where it is reasonably believed that the minor will live if the guardian is appointed.

g. Making any other investigation the court directs, including but not limited to interviewing any persons providing medical, mental health, educational, social, or other services to the minor.

4. The court visitor shall submit a written report to the court that contains all of the following:

a. A recommendation regarding the appropriateness of a guardianship for the minor.

b. A statement of the qualifications of the guardian together with a statement of whether the minor has expressed agreement with the appointment of the proposed guardian.

c. Any other matters the court visitor deems relevant to the petition for guardianship and the best interests of the minor.

d. Any other matters the court directs.

5. The report of the court visitor shall be made part of the court record unless otherwise ordered by the court.

2019 Acts, ch 56, §15, 44, 45

Section takes effect January 1, 2020, and applies to guardianships and guardianship proceedings of minors established or pending before, on, or after that date; 2019 Acts, ch 56, §44, 45

232D.306 Hearing on petition.

1. The court shall fix the time and place of hearing on the petition and shall prescribe a time not less than twenty days after the date the notice is served unless the court finds there is good cause shown to shorten the time period. The court shall also prescribe the manner of service of the notice of such hearing.

2. The minor who is the subject of a petition filed pursuant to section 232D.301 shall be entitled to attend the hearing on the petition if the minor is of an age appropriate to attend the hearing. A presumption shall exist that a minor fourteen years of age or older is of an age appropriate to attend the hearing.

3. The court shall not exclude a minor entitled to attend the hearing under subsection 2 unless the court finds that there is good cause shown for excluding the minor from attendance.

2019 Acts, ch 56, §16, 44, 45

Section takes effect January 1, 2020, and applies to guardianships and guardianship proceedings of minors established or pending before, on, or after that date; 2019 Acts, ch 56, §44, 45

232D.307 Background checks of proposed guardians.

1. The court shall request criminal record checks and checks of the child abuse, dependent adult abuse, and sex offender registries in this state for all proposed guardians other than financial institutions with Iowa trust powers unless a proposed guardian has undergone the required background checks in this section within the twelve months prior to the filing of a petition.

2. The court shall review the results of background checks in determining the suitability of a proposed guardian for appointment.

3. The judicial branch in conjunction with the department of public safety, the department of human services, and the state chief information officer shall establish procedures for electronic access to the single contact repository necessary to conduct background checks requested under subsection 1.

4. The person who files a petition for appointment of guardian for a minor shall be responsible for paying the fee for the background check conducted through the single contact repository unless the court waives the fee for good cause shown.

2019 Acts, ch 56, §17, 44, 45

Section takes effect January 1, 2020, and applies to guardianships and guardianship proceedings of minors established or pending before, on, or after that date; 2019 Acts, ch 56, §44, 45

232D.308 Selection of guardian — qualifications and preferences.

1. The court shall appoint as guardian a qualified and suitable person who is willing to serve subject to the preferences as to the appointment of a guardian set forth in subsections 2 and 3.

2. In appointing a guardian for a minor, the court shall give preference to a person, if qualified and suitable, nominated as guardian for a minor by a will that was executed by the parent or parents having legal custody of the minor at the time of the parent's or parents' death, and that was admitted to probate under chapter 633.

3. In appointing a guardian for a minor, the court shall give preference, if qualified and suitable, to a person requested by a minor fourteen years of age or older.

2019 Acts, ch 56, §18, 44, 45

Referred to in §232.101A

Section takes effect January 1, 2020, and applies to guardianships and guardianship proceedings of minors established or pending before, on, or after that date; 2019 Acts, ch 56, §44, 45

232D.309 Emergency appointment of temporary guardian.

1. A person authorized to file a petition under section 232D.301 may file a petition for the emergency appointment of a temporary guardian for the minor.

2. The petition shall state all of the following:
 - a. The name and address of the minor and the birthdate of the minor.
 - b. The name and address of the living parents of the minor, if known.
 - c. The name and address of any other person legally responsible for the custody or care of the minor, if known.
 - d. The reason the emergency appointment of a temporary guardian is sought.
3. The court may enter an ex parte order appointing a temporary guardian for a minor on an emergency basis under this section if the court finds that all of the following are met:
 - a. There is not sufficient time to file a petition and hold a hearing pursuant to section 232D.301.
 - b. The appointment of temporary guardian is necessary to avoid immediate or irreparable harm to the minor.
4. Notice of the emergency appointment of a temporary guardian shall be provided to persons required to be listed in the petition under subsection 2.
5. The parents of the minor and any other person legally responsible for the custody or care of the minor may file a written request for a hearing. Such hearing shall be held no later than seven days after the filing of the written request.
6. The powers of the temporary guardian set forth in the ex parte order shall be limited to those necessary to address the emergency situation requiring the appointment of a temporary guardian.
7. The ex parte order shall terminate within thirty days after the order is issued.

2019 Acts, ch 56, §19, 44, 45

Section takes effect January 1, 2020, and applies to guardianships and guardianship proceedings of minors established or pending before, on, or after that date; 2019 Acts, ch 56, §44, 45

232D.310 Appointment of a guardian for a minor on a standby basis.

1. An adult person having physical and legal custody of a minor may execute a verified petition for the appointment of a guardian of the minor upon the express condition that the petition shall be acted upon by the court only upon the occurrence of an event specified or the existence of a described condition of the mental or physical health of the petitioner, the occurrence of which event, or the existence of which condition, shall be established in the manner directed in the petition. The petition, in addition to containing the information required in section 232D.301, shall include a statement that the petitioner understands the result of a guardian being appointed for the minor. An appointment of a guardian for a minor shall only be effective until the minor attains full age.
2. A standby petition may nominate a person for appointment to serve as guardian as well as alternate guardians if the nominated person is unable or unwilling or is removed as guardian. The court in appointing the guardian shall appoint the person or persons nominated by the petitioner unless the person or persons are not qualified or for other good cause and shall give due regard to other requests and recommendations contained in the petition.
3. A standby petition may be deposited with the clerk of the county in which the minor resides or with any person nominated by the petitioner to serve as guardian.
4. A standby petition may be revoked by the petitioner at any time before appointment of a guardian by the court, provided that the petitioner is of sound mind at the time of revocation. Revocation shall be accomplished by the destruction of the petition by the petitioner, or by the execution of an acknowledged instrument of revocation. If the petition has been deposited with the clerk, the revocation may likewise be deposited there.
5. If the standby petition has been deposited with the clerk under the provisions of subsection 3 and has not been revoked under the provisions of subsection 4, the petition may be filed with the court upon the filing of a verified statement to the effect that the occurrence of the event or the condition provided for in the petition has occurred. If the petition has not been deposited with the clerk under the provisions of subsection 3 and has not been revoked under the provisions of subsection 4, then the petition shall be filed with the court at the time a verified statement that the occurrence of the event or the condition provided for in the petition has occurred is filed with the court in the county where the minor then resides.

Upon filing of the petition and verified statement, the person filing the verified statement shall become the petitioner and the proceedings shall be thereafter conducted as provided for in this chapter.

6. A standby petition for the appointment of a guardian for a minor shall not supersede any contradictory provision in a will admitted to probate of a parent, guardian, or custodian having physical and legal custody of a minor in the event of the parent's, guardian's, or custodian's death.

2019 Acts, ch 56, §20, 44, 45

Section takes effect January 1, 2020, and applies to guardianships and guardianship proceedings of minors established or pending before, on, or after that date; 2019 Acts, ch 56, §44, 45

232D.311 Appointment of guardian for minor approaching majority on a standby basis.

Notwithstanding section 232D.103, any adult with an interest in the welfare of a minor who is at least seventeen years and six months of age may file a verified petition pursuant to section 633.556 to initiate a proceeding to appoint a guardian of the minor to take effect on the minor's eighteenth birthday.

2019 Acts, ch 56, §21, 44, 45

Section takes effect January 1, 2020, and applies to guardianships and guardianship proceedings of minors established or pending before, on, or after that date; 2019 Acts, ch 56, §44, 45

232D.312 through 232D.400 Reserved.

SUBCHAPTER IV

APPOINTMENT AND POWERS, DUTIES, AND RESPONSIBILITIES OF GUARDIANS

232D.401 Order appointing guardian and powers of guardian.

1. The order by the court appointing a guardian for a minor shall state the basis for the order.

2. The order by the court appointing a guardian for a minor shall state whether the guardianship is a limited guardianship.

3. An order by the court appointing a guardian for a minor shall state the powers granted to the guardian. Except as otherwise limited by court order, the court may grant the guardian the following powers, which may be exercised without prior court approval:

a. Taking custody of the minor and establishing the minor's permanent residence if otherwise consistent with the terms of any order of competent jurisdiction relating to the custody, placement, detention, or commitment of the minor within the state.

b. Consenting to medical, dental, and other health care treatment and services for the minor.

c. Providing or arranging for the provision of education for the minor including but not limited to preschool education, primary education and secondary education, special education and related services, and vocational services.

d. Consenting to professional services for the minor to ensure the safety and welfare of the minor.

e. Applying for and receiving funds and benefits payable for the support of the minor.

f. Any other powers the court may specify.

4. The court may grant the guardian the following powers, which shall only be exercised with prior court approval:

a. Consenting to the withholding or withdrawal of life-sustaining procedures, as defined in section 144A.2, from the minor, the performance of an abortion on the minor, or the sterilization of the minor.

b. Establishing the residence of the minor outside of the state.

c. Consenting to the marriage of the minor.

d. Consenting to the emancipation of the minor.

5. The guardian shall obtain prior court approval for denial of all visitation, communication, or interaction between the minor and the parents of the minor. The court

shall approve such denial of visitation, communication, or interaction upon a showing by the guardian that significant physical or emotional harm to the minor has resulted or is likely to result to the minor from parental contact. The guardian may place reasonable time, place, or manner restrictions on visitation, communication, or interaction between the minor and the minor's parents without prior court approval.

2019 Acts, ch 56, §22, 44, 45

Referred to in §144A.7, 144F.6, 232.101A, 232D.402

Section takes effect January 1, 2020, and applies to guardianships and guardianship proceedings of minors established or pending before, on, or after that date; 2019 Acts, ch 56, §44, 45

232D.402 Duties and responsibilities of guardian.

1. A guardian is a fiduciary and shall act in the best interest of the minor and exercise reasonable care, diligence, and prudence in performing guardianship duties and responsibilities. The fiduciary duties of a guardian for an adult set forth in chapter 633 are applicable to a guardian under this chapter.

2. Except as otherwise limited by the court, a guardian has the duty and responsibility to ensure the minor's health, education, safety, welfare, and support.

3. A guardian with whom the minor is not living should maintain regular contact with the minor.

4. A guardian should make reasonable efforts to facilitate the continuation of the relationship of the minor and the minor's parents subject to section 232D.401, subsection 5.

5. A guardian shall file the reports with the court required under section 232D.501.

6. A guardian shall promptly inform the court of any change in the permanent residence of the minor and the minor's new address.

7. A guardian shall promptly inform the court of any change in the minor's school or school district.

2019 Acts, ch 56, §23, 44, 45

Section takes effect January 1, 2020, and applies to guardianships and guardianship proceedings of minors established or pending before, on, or after that date; 2019 Acts, ch 56, §44, 45

232D.403 Guardian's acceptance of appointment and oath and issuance of letters of appointment.

The court shall issue letters of appointment to a guardian upon the guardian's acceptance of appointment and the guardian's subscription of an oath, or certification under penalties of perjury, that the guardian will faithfully discharge the duties imposed by law, according to the best of the guardian's ability.

2019 Acts, ch 56, §24, 44, 45

Section takes effect January 1, 2020, and applies to guardianships and guardianship proceedings of minors established or pending before, on, or after that date; 2019 Acts, ch 56, §44, 45

232D.404 through 232D.500 Reserved.

SUBCHAPTER V

COURT MONITORING AND ADMINISTRATION OF GUARDIANSHIPS

232D.501 Reports of guardian.

1. A guardian appointed by the court under this chapter shall file the following reports which shall not be waived by the court:

a. A verified initial care plan filed within sixty days of appointment. The information in the initial care plan shall include but not be limited to the following information:

(1) The minor's current residence and guardian's plan for the minor's living arrangements.

(2) The guardian's plan for payment of the minor's living expenses and other expenses.

(3) The minor's health status and the guardian's plan for meeting the minor's health needs.

(4) The minor's educational training and vocational needs and the guardian's plan for meeting the minor's educational training and vocational needs.

- (5) The guardian's plan for facilitating contacts of the minor with the minor's parents.
- (6) The guardian's plan for contact with and activities on behalf of the minor.
- b. A verified annual report filed within thirty days of the close of the reporting period. The information in the annual report shall include but not be limited to the following information:
 - (1) The current residence and living arrangements of the minor.
 - (2) The sources of the payment for the minor's living expenses and other expenses.
 - (3) The minor's health status and health services provided the minor.
 - (4) The minor's mental, behavioral, or emotional problems, if any, and professional services provided the minor for such problems.
 - (5) The minor's educational status and educational training and vocational services provided the minor.
 - (6) The nature and extent of parental visits and communication with the minor.
 - (7) The nature and extent of the guardian's visits with and activities on behalf of the minor.
 - (8) The need for continuation of guardianship.
 - (9) The ability of the guardian to continue as guardian.
 - (10) The need of the guardian for assistance in providing or arranging for the provision of care for the minor.
- c. A final report filed within thirty days of the termination of the guardianship under section 232D.503.
- 2. The judicial branch shall prescribe the forms for use by the guardian in filing the reports required by this section.
- 3. The clerk of the court shall notify the guardian in writing of the reporting requirements and shall provide information and assistance to the guardian in filing the reports.
- 4. Reports of the guardian shall be reviewed and approved by the court.

2019 Acts, ch 56, §25, 44, 45

Referred to in §232.101A, 232D.402

Section takes effect January 1, 2020, and applies to guardianships and guardianship proceedings of minors established or pending before, on, or after that date; 2019 Acts, ch 56, §44, 45

For all minor guardianship cases in which the guardianship was established and the guardian was appointed prior to January 1, 2020, the initial care plan shall be filed with the previously scheduled annual report; the annual report must comply with the requirements set forth in subsection 1, paragraph "a"; guardians appointed prior to January 1, 2020, have continuing authority to perform acts concerning the protected person that were authorized prior to January 1, 2020, through the date of the guardian's previously scheduled annual report; 2020 Acts, ch 1047, §1 - 3

232D.502 Removal of guardian — appointment of successor guardian.

- 1. The court may remove a guardian for a minor for failure to perform guardianship duties or for other good cause shown.
- 2. The court shall conduct a hearing to determine whether a guardian should be removed on the filing of a petition by a minor under guardianship who is fourteen years of age or older, the parent of a minor, or other person with an interest in welfare of the minor if the court determines that there are reasonable grounds for believing that removal is appropriate based on the allegations stated in the petition.
- 3. The court may conduct a hearing to determine whether the guardian should be removed on the receipt of a written communication from a minor under guardianship who is fourteen years of age or older, the parent of the minor, or other person with an interest in welfare of the minor if the court determines that a hearing would be in the best interest of the minor.
- 4. The court may decline to hold a hearing under subsection 2 or 3 if the same or substantially similar facts were alleged in a petition filed in the preceding six months or in a written communication received in the preceding six months.
- 5. The court may appoint a successor guardian on the removal of a guardian pursuant to subsection 1, the death of a guardian, or the resignation of a guardian.

2019 Acts, ch 56, §26, 44, 45

Section takes effect January 1, 2020, and applies to guardianships and guardianship proceedings of minors established or pending before, on, or after that date; 2019 Acts, ch 56, §44, 45

232D.503 Termination and modification of guardianships.

- 1. A guardianship shall terminate on the minor's death, adoption, emancipation, or attainment of majority.
- 2. The court shall terminate a guardianship established pursuant to section 232D.203 if

the court finds that the basis for the guardianship set forth in section 232D.203 is not currently satisfied unless the court finds that the termination of the guardianship would be harmful to the minor and the minor's interest in continuation of the guardianship outweighs the interest of a parent of the minor in the termination of the guardianship.

3. The court shall terminate a guardianship established pursuant to section 232D.204 if the court finds that the basis for the guardianship set forth in section 232D.204 is not currently satisfied. A person seeking termination of guardianship established pursuant to section 232D.204 has the burden of making a prima facie showing that the guardianship should be terminated. If such a showing is made, the guardian has the burden of going forward to prove by clear and convincing evidence that the guardianship should not be terminated.

4. The court shall modify the powers granted to the guardian if the court finds such powers no longer meet the needs of the minor or are not in the minor's best interest.

5. The court may conduct a hearing to determine whether termination or modification of a guardianship is appropriate on the filing of a petition by a minor fourteen years of age or older who is under guardianship, a guardian, or other person with an interest in the welfare of the minor or on receipt of a written communication from such persons.

2019 Acts, ch 56, §27, 44, 45

Referred to in §232D.501

Section takes effect January 1, 2020, and applies to guardianships and guardianship proceedings of minors established or pending before, on, or after that date; 2019 Acts, ch 56, §44, 45

232D.504 Rights and immunities of a guardian.

1. A guardian is not required to use the guardian's personal funds for the minor's expenses. If a conservator has been appointed for the estate of the minor, the guardian may request and the conservator may approve and pay for the requested reimbursement without prior court approval.

2. A guardian may submit a request, together with the guardian's annual report, for approval by the court of reasonable compensation for services as guardian.

3. Notwithstanding section 137C.25B or any other provision of law to the contrary, a guardian is not liable to a third person for an act or omission of the minor solely by reason of the guardianship.

2019 Acts, ch 56, §28, 44, 45

Section takes effect January 1, 2020, and applies to guardianships and guardianship proceedings of minors established or pending before, on, or after that date; 2019 Acts, ch 56, §44, 45

232D.505 Expenses.

1. Except as otherwise provided by law, the court shall inquire into the ability of the minor or the minor's parent to pay expenses incurred pursuant to the guardianship proceedings established under this chapter. After giving the minor and the parent a reasonable opportunity to be heard, the court may order the minor or the parent to pay all or part of the following:

- a. Costs of legal expenses of the minor and the parent.
- b. Expenses for a court visitor.
- c. Filing fees and other court costs, unless the costs are waived for good cause shown.

2. If the court finds a minor's parents to be indigent, or if the minor has no parent, costs shall be assessed against the county in which the proceeding is pending. For purposes of assessing costs under this subsection, the court shall find a minor's parents to be indigent if the minor's or the parent's income and resources do not exceed one hundred fifty percent of the federal poverty level, or the minor's parent would be unable to pay such costs without prejudicing the parent's ability to provide economic necessities for the parent or the parent's dependents.

2019 Acts, ch 56, §29, 44, 45

Referred to in §232D.304

Section takes effect January 1, 2020, and applies to guardianships and guardianship proceedings of minors established or pending before, on, or after that date; 2019 Acts, ch 56, §44, 45

CHAPTER 233

NEWBORN INFANT CUSTODY RELEASE PROCEDURES
(NEWBORN SAFE HAVEN ACT)

Referred to in §232.2, 232.111, 232.116

233.1	Newborn safe haven Act — definitions.	233.4	Rights of parents.
233.2	Newborn infant custody release procedures.	233.5	Confidentiality protections.
233.3	Immunity.	233.6	Educational and public information.

233.1 Newborn safe haven Act — definitions.

1. This chapter may be cited as the “*Newborn Safe Haven Act*”.
 2. For the purposes of this chapter, unless the context otherwise requires:
 - a. “*First responder*” means an emergency medical care provider, a registered nurse staffing an authorized service program under section 147A.12, a physician assistant staffing an authorized service program under section 147A.13, a fire fighter, or a peace officer as defined in section 801.4.
 - b. “*Institutional health facility*” means a hospital as defined in section 135B.1, including a facility providing medical or health services that is open twenty-four hours per day, seven days per week and is a hospital emergency room or a health care facility as defined in section 135C.1.
 - c. “*Newborn infant*” means a child who is, or who appears to be, thirty days of age or younger.
- 2001 Acts, ch 67, §1, 13; 2002 Acts, ch 1119, §33; 2018 Acts, ch 1050, §1, 2

233.2 Newborn infant custody release procedures.

1. a. A parent of a newborn infant may voluntarily release custody of the newborn infant by relinquishing physical custody of the newborn infant, without expressing an intent to again assume physical custody, at an institutional health facility or by authorizing another person to relinquish physical custody on the parent’s behalf. If physical custody of the newborn infant is not relinquished directly to an individual on duty at the institutional health facility, the parent may take other actions to be reasonably sure that an individual on duty is aware that the newborn infant has been left at the institutional health facility. The actions may include but are not limited to making telephone contact with the institutional health facility or a 911 service.
 - b. In lieu of the procedure described in paragraph “a”, a parent of a newborn infant may make telephone contact with a 911 service and relinquish physical custody of the newborn infant, without expressing an intent to again assume physical custody, to a first responder who responds to the 911 telephone call.
 - c. For the purposes of this chapter and for any judicial proceedings associated with the newborn infant, a rebuttable presumption arises that the person who relinquishes physical custody at an institutional health facility or to a first responder in accordance with this section is the newborn infant’s parent or has relinquished physical custody with the parent’s authorization.
2. a. Unless the parent or other person relinquishing physical custody of a newborn infant clearly expresses an intent to return to again assume physical custody of the newborn infant, an individual on duty at the facility at which physical custody of the newborn infant was relinquished, or a first responder to whom physical custody of the newborn infant was relinquished, pursuant to subsection 1 shall take physical custody of the newborn infant. The individual on duty or first responder may request the parent or other person to provide the name of the parent or parents and information on the medical history of the newborn infant and the newborn infant’s parent or parents. However, the parent or other person is not required to provide the names or medical history information to comply with this section. The individual on duty or first responder may perform reasonable acts necessary to protect the physical health or safety of the newborn infant. The individual on duty and

the institutional health facility in which the individual was on duty and the first responder are immune from criminal or civil liability for any acts or omissions made in good faith to comply with this section.

b. If the physical custody of a newborn infant is relinquished to a first responder, the first responder shall transport the newborn infant to the nearest institutional health facility. The first responder shall provide any parental identification or medical history information to the institutional health facility.

c. If the physical custody of the newborn infant is relinquished at an institutional health facility, the state shall reimburse the institutional health facility for the institutional health facility's actual expenses in providing care to the newborn infant and in performing acts necessary to protect the physical health or safety of the newborn infant. The reimbursement shall be paid from moneys appropriated for this purpose to the department of human services.

d. If the name of the parent is unknown to the institutional health facility, the individual on duty or other person designated by the institutional health facility at which physical custody of the newborn infant was relinquished shall submit the certificate of birth report as required pursuant to section 144.14. If the name of the parent is disclosed to the institutional health facility, the facility shall submit the certificate of birth report as required pursuant to section 144.13. The department of public health shall not file the certificate of birth with the county of birth and shall otherwise maintain the confidentiality of the birth certificate in accordance with section 144.43.

3. As soon as possible after the individual on duty or first responder assumes physical custody of a newborn infant released under subsection 1, the individual or first responder shall notify the department of human services and the department shall take the actions necessary to assume the care, control, and custody of the newborn infant. The department shall immediately notify the juvenile court and the county attorney of the department's action and the circumstances surrounding the action and request an ex parte order from the juvenile court ordering, in accordance with the requirements of section 232.78, the department to take custody of the newborn infant. Upon receiving the order, the department shall take custody of the newborn infant. Within twenty-four hours of taking custody of the newborn infant, the department shall notify the juvenile court and the county attorney in writing of the department's action and the circumstances surrounding the action.

4. a. Upon being notified in writing by the department under subsection 3, the county attorney shall file a petition alleging the newborn infant to be a child in need of assistance in accordance with section 232.87 and a petition for termination of parental rights with respect to the newborn infant in accordance with section 232.111, subsection 2, paragraph "a". A hearing on a child in need of assistance petition filed pursuant to this subsection shall be held at the earliest practicable time. A hearing on a termination of parental rights petition filed pursuant to this subsection shall be held no later than thirty days after the day the physical custody of the newborn child was relinquished in accordance with subsection 1 unless the juvenile court continues the hearing beyond the thirty days for good cause shown.

b. Notice of a petition filed pursuant to this subsection shall be provided to any known parent and others in accordance with the provisions of chapter 232 and shall be served upon any putative father registered with the state registrar of vital statistics pursuant to section 144.12A. In addition, prior to holding a termination of parental rights hearing with respect to the newborn infant, notice by publication shall be provided as described in section 600A.6, subsection 5.

5. Reasonable efforts, as defined in section 232.102, that are made in regard to the newborn infant shall be limited to the efforts made in a timely manner to finalize a permanency plan for the newborn infant.

6. An individual on duty at an institutional health facility or first responder who assumes custody of a newborn infant upon the release of the newborn infant under subsection 1 shall be provided notice of any hearing held concerning the newborn infant at the same time notice is provided to other parties to the hearing and the individual or first responder may provide testimony at the hearing.

233.3 Immunity.

Any person authorized by the parent to assist with release of custody in accordance with section 233.2 by relinquishing physical custody of the newborn infant or to otherwise act on the parent's behalf is immune from criminal prosecution for abandonment or neglect of the newborn infant under section 726.3 or 726.6 and civil liability for any reasonable acts or omissions made in good faith in assisting with the release.

2001 Acts, ch 67, §3, 13

233.4 Rights of parents.

Either parent of a newborn infant whose custody was released in accordance with section 233.2 may intervene in the child in need of assistance or termination of parental rights proceedings held regarding the newborn infant and request that the juvenile court grant custody of the newborn infant to the parent. The requester must show by clear and convincing evidence that the requester is the parent of the newborn infant. If the court determines that the requester is the parent of the newborn infant and that granting custody of the newborn infant to the parent is in the newborn infant's best interest, the court shall issue an order granting custody of the newborn infant to the parent. In addition to such order, the court may order services for the newborn infant and the parent as are in the best interest of the newborn infant.

2001 Acts, ch 67, §4, 13

Referred to in §233.6

233.5 Confidentiality protections.

1. *a.* In addition to any other privacy protection established in law, a record that is developed, acquired, or held in connection with an individual's good faith effort to voluntarily release a newborn infant in accordance with this chapter and any identifying information concerning the individual shall be kept confidential. Such record shall not be inspected or the contents disclosed except as provided in this section.

b. Any transcripts or recording of a 911 service telephone call that is made for the purpose of an individual's good faith effort to voluntarily release custody of a newborn infant in accordance with this chapter and any identifying information concerning the individual shall be kept confidential. Such transcripts or recording of a 911 service telephone call shall not be inspected or the contents disclosed except as provided in this section.

2. A record described in subsection 1 may be inspected and the contents disclosed without court order to the following:

- a.* The court and professional court staff, including juvenile court officers.
- b.* The newborn infant and the newborn infant's counsel.
- c.* The newborn infant's parent, guardian, custodian, and those persons' counsel.
- d.* The newborn infant's court appointed special advocate and guardian ad litem.
- e.* The county attorney and the county attorney's assistants.
- f.* An agency, association, facility, or institution which has custody of the newborn infant, or is legally responsible for the care, treatment, or supervision of the newborn infant.
- g.* The newborn infant's foster parent or an individual providing preadoptive care to the newborn infant.

3. Pursuant to court order a record described in subsection 1 may be inspected by and the contents may be disclosed to any of the following:

a. A person conducting bona fide research for research purposes under whatever conditions the court may deem proper, provided that no personal identifying data shall be disclosed to such a person.

b. Persons who have a direct interest in a proceeding or in the work of the court.

4. Any person who knowingly discloses, receives, or makes use or permits the use of information derived directly or indirectly from such a record or discloses identifying information concerning such individual, except as provided by this section, commits a serious misdemeanor.

2001 Acts, ch 67, §5, 13; 2018 Acts, ch 1050, §4

233.6 Educational and public information.

The department of human services, in consultation with the Iowa department of public health and the department of justice, shall develop and distribute the following:

1. An information card or other publication for distribution by an institutional health facility or a first responder to a parent who releases custody of a newborn infant in accordance with this chapter. The publication shall inform the parent of a parent's rights under section 233.4, explain the request for medical history information under section 233.2, subsection 2, and provide other information deemed pertinent by the departments.

2. Educational materials, public information announcements, and other resources to develop awareness of the availability of the newborn safe haven Act among adolescents, young parents, and others who might avail themselves of this chapter.

3. Signage that may be used to identify the institutional health facilities at which physical custody of a newborn infant may be relinquished in accordance with this chapter.

2001 Acts, ch 67, §6, 13; 2002 Acts, ch 1119, §34; 2019 Acts, ch 59, §72

CHAPTER 233A**TRAINING SCHOOL**

233A.1	State training school — Eldora.	233A.10	Unlawful interference.
233A.2	Superintendent — powers and duties.	233A.11	County attorney to appear for child.
233A.3	Salary.	233A.12	Discharge or parole.
233A.4	Education and training.	233A.13	Binding out or discharge.
233A.5	Procedure to commit.	233A.14	Transfers to other institutions.
233A.6	Visits.	233A.15	Transfers to work in parks.
233A.7	Placing in families.	233A.16	Reserved.
233A.8	Articles of agreement.	233A.17	Cost of care.
233A.9	Resuming custody of child.		

233A.1 State training school — Eldora.

1. Effective January 1, 1992, a diagnosis and evaluation center and other units are established at the state training school to provide court-committed male juvenile delinquents a program which focuses upon appropriate developmental skills, treatment, placements, and rehabilitation.

2. The diagnosis and evaluation center which is used to identify appropriate treatment and placement alternatives for juveniles and any other units for juvenile delinquents which are located at Eldora shall be known as the “*state training school*”. For the purposes of this chapter “*director*” means the director of human services and “*superintendent*” means the administrator in charge of the diagnosis and evaluation center for juvenile delinquents and other units at the state training school.

3. The number of children present at any one time at the state training school shall not exceed the population guidelines established under 1990 Iowa Acts, ch. 1239, §21, as adjusted for subsequent changes in the capacity at the training school.

[S13, §2701-a; C24, 27, 31, 35, 39, §3685; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §242.1; 82 Acts, ch 1260, §25]

83 Acts, ch 96, §157, 159; 90 Acts, ch 1239, §15, 16

C93, §233A.1

2005 Acts, ch 175, §102; 2014 Acts, ch 1026, §143; 2018 Acts, ch 1165, §114

233A.2 Superintendent — powers and duties.

The superintendent has charge and custody of the juveniles committed to the state training school. The superintendent shall administer the state training school and direct the staff in

order to provide a positive living experience designed to prepare the juveniles for a productive future.

[C73, §1651, 1652; C97, §2707; S13, §2707; C24, 27, 31, 35, 39, §3686; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §242.2]

90 Acts, ch 1239, §17

C93, §233A.2

233A.3 Salary.

The salary of the superintendent of the state training school shall be determined by the administrator.

[S13, §2727-3a; C24, 27, 31, 35, 39, §3687; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §242.3; 82 Acts, ch 1260, §26]

C93, §233A.3

233A.4 Education and training.

The state training school shall provide a positive living experience for older juveniles who require secure custody and who live at the state training school for an extended period of time. The education and training programs provided to the juveniles shall reflect the age level and extended period of stay by focusing upon appropriate developmental skills to prepare the juveniles for productive living.

[C73, §1648; C97, §2706; C24, 27, 31, 35, 39, §3688; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §242.4; 82 Acts, ch 1260, §27]

85 Acts, ch 21, §37; 90 Acts, ch 1239, §18

C93, §233A.4

Referred to in §232.53

233A.5 Procedure to commit.

The procedure for the commitment of children to the state training school, except as otherwise provided, shall be the same as provided in chapter 232.

[C73, §1653 – 1659; C97, §2708, 2709; S13, §2708, 2709; C24, 27, 31, 35, 39, §3689; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §242.5]

C93, §233A.5

233A.6 Visits.

Members of the executive council, the attorney general, the lieutenant governor, members of the general assembly, judges of the supreme and district court and court of appeals, magistrates, county attorneys and persons ordained or designated as regular leaders of a religious community are authorized to visit the state training school at reasonable times. No other person shall be granted admission except by permission of the superintendent.

85 Acts, ch 21, §38

CS85, §242.6

C93, §233A.6

233A.7 Placing in families.

All children committed to and received in the state training school may be placed by the department under foster care arrangements, with any persons or in families of good standing and character where they will be properly cared for and educated. The cost of foster care provided under these arrangements shall be paid as provided in section 234.35.

[C73, §1649; C97, §2704; S13, §2704; C24, 27, 31, 35, 39, §3691; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §242.7; 82 Acts, ch 1260, §29]

90 Acts, ch 1270, §47

C93, §233A.7

Referred to in §233A.11

233A.8 Articles of agreement.

Such children shall be so placed under articles of agreement, approved by the administrator and signed by the person or persons taking them and by the superintendent. Said articles

shall provide for the custody, care, education, maintenance, and earnings of said children for a time to be fixed in said articles, which shall not extend beyond the time when the persons bound shall attain the age of eighteen years.

[C73, §1649; C97, §2704; S13, §2704; C24, 27, 31, 35, 39, §3692; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §242.8]

C93, §233A.8

Referred to in §233A.11

233A.9 Resuming custody of child.

In case a child so placed be not given the care, education, treatment, and maintenance required by such agreement, the administrator may cause the child to be taken from the person with whom placed and returned to the institution, or may replace, release, or finally discharge the child as may seem best.

[C73, §1649; C97, §2704; S13, §2704; C24, 27, 31, 35, 39, §3693; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §242.9]

C93, §233A.9

Referred to in §233A.11

233A.10 Unlawful interference.

It shall be unlawful for any parent or other person not a party to such placing of a child to interfere in any manner or assume or exercise any control over such child or the child's earnings. Said earnings shall be used, held, or otherwise applied for the exclusive benefit of such child, in accordance with section 234.37.

[S13, §2704; C24, 27, 31, 35, 39, §3694; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §242.10]

C93, §233A.10

Referred to in §233A.11

233A.11 County attorney to appear for child.

In case legal proceedings are necessary to enforce any right conferred on any child by sections 233A.7 to 233A.10, inclusive, the county attorney of the county in which such proceedings should be instituted shall, on request of the superintendent, approved by the administrator, institute and carry on, in the name of the superintendent, the proceedings in behalf of the superintendent.

[S13, §2704; C24, 27, 31, 35, 39, §3695; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §242.11]

C93, §233A.11

Referred to in §331.756(44)

233A.12 Discharge or parole.

The administrator may at any time after one year's service order the discharge or parole of any inmate as a reward for good conduct, and may, in exceptional cases, discharge or parole inmates without regard to the length of their service or conduct, when satisfied that the reasons therefor are urgent and sufficient. If paroled upon satisfactory evidence of reformation, the order may remain in effect or terminate under such rules as the administrator may prescribe.

[C73, §1660, 1661; C97, §2711; S13, §2711; C24, 27, 31, 35, 39, §3696; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §242.12]

C93, §233A.12

233A.13 Binding out or discharge.

The binding out or the discharge of an inmate as reformed, or having arrived at the age of eighteen years, shall be a complete release from all penalties incurred by the conviction for the offense upon which the child was committed to the school.

[C73, §1661; C97, §2711; S13, §2711; C24, 27, 31, 35, 39, §3697; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §242.13]

C93, §233A.13

Referred to in §232.53

233A.14 Transfers to other institutions.

The administrator may transfer to the state training school minor wards of the state from any institution under the administrator's charge but no person shall be so transferred who is mentally ill or has an intellectual disability. Any child in the state training school who is mentally ill or has an intellectual disability may be transferred by the administrator to the proper state institution.

[C66, 71, 73, 75, 77, 79, 81, §242.14]

C93, §233A.14

2012 Acts, ch 1019, §90; 2018 Acts, ch 1165, §115

233A.15 Transfers to work in parks.

The administrator may detail children, classed as trustworthy, from the state training school, to perform services for the department of natural resources within the state parks, state game and forest areas and other lands under the jurisdiction of the department of natural resources. The department of natural resources shall provide permanent housing and work guidance supervision, but the care and custody of the children so detailed shall remain under employees of the division of child and family services of the department of human services. All such programs shall have as their primary purpose and shall provide for inculcation or the activation of attitudes, skills and habit patterns which will be conducive to the habilitation of the youths involved.

The administrator is hereby authorized to use state-owned mobile housing equipment and facilities in performing such services at temporary locations in the above areas.

[C66, 71, 73, 75, 77, 79, 81, §242.15; 82 Acts, ch 1260, §30]

83 Acts, ch 96, §157, 159

C93, §233A.15

233A.16 Reserved.**233A.17 Cost of care.**

If a child receives unearned income, the department shall reserve a portion of the unearned income for the use of the child as a personal allowance and apply the remaining portion to the cost of the child's custody, care, and maintenance provided pursuant to this chapter.

89 Acts, ch 283, §29

CS89, §242.17

C93, §233A.17

CHAPTER 233B

JUVENILE HOME

Repealed by 2019 Acts, ch 100, §12

SUBTITLE 6

CHILDREN AND FAMILIES

Referred to in §714.8

CHAPTER 234

CHILD AND FAMILY SERVICES

Referred to in §252B.3, 252B.14, 252C.1, 252D.1, 252D.8, 252D.16, 252D.16A, 252E.1, 252E.1A, 252E.16, 252H.2, 252H.4, 252H.21, 252I.2, 252J.1, 598.21C, 598.21G, 598.22, 598.22A, 598.22B, 598.23A, 600.11

	SUBCHAPTER I GENERAL PROVISIONS		SUBCHAPTER III FOSTER CARE EXPENSE
234.1	Definitions.	234.35	When state to pay foster care costs.
234.2	Division created.		
234.3	Child welfare advisory committee. Repealed by 2010 Acts, ch 1031, §393.	234.36 234.37	Reserved. Department may establish accounts for certain children.
234.4	Education of children in departmental programs.	234.38 234.39	Foster care reimbursement rates. Responsibility for cost of services.
234.5	Reserved.	234.40	Corporal punishment.
234.6	Powers and duties of the administrator.	234.41 234.42	Tort actions. Foster care review committees — confidentiality. Repealed by 93 Acts, ch 172, §48, 56.
234.7	Department duties.		
234.8	Fees for child welfare services.		
234.9	through 234.11 Repealed by 93 Acts, ch 54, §12.	234.43	and 234.44 Reserved.
234.12	Department to provide food programs.		
234.12A	Electronic benefits transfer program.		SUBCHAPTER IV MARRIAGE INITIATIVE GRANT FUND
234.13	Fraudulent practices relating to food programs.	234.45	Iowa marriage initiative grant fund.
234.14	Federal grants.		
234.15	through 234.20 Reserved.		SUBCHAPTER V PREPARATION FOR ADULT LIVING PROGRAM
	SUBCHAPTER II FAMILY PLANNING SERVICES	234.46	Preparation for adult living program.
234.21	Services to be offered.		
234.22	Extent of services.		
234.23	Charge for services.		SUBCHAPTER VI CHILD CARE ASSISTANCE AND ADOPTION SUBSIDIES — PROJECTED EXPENDITURES
234.24	Services may be refused.		
234.25	Language to be used.		
234.26	Construction.		
234.27	Policy.	234.47	State child care assistance and adoption subsidy programs — expenditure projections.
234.28	Obscenity laws not applicable.		
234.29	through 234.34 Reserved.		

SUBCHAPTER I

GENERAL PROVISIONS

234.1 Definitions.

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

1. “Administrator” means the administrator of the division.
2. a. “Child” means either a person less than eighteen years of age or a person eighteen or nineteen years of age who meets any of the following conditions:
 - (1) Is in full-time attendance at an accredited school pursuing a course of study leading to a high school diploma.

(2) Is attending an instructional program leading to a high school equivalency diploma.

(3) Has been identified by the director of special education of the area education agency as a child requiring special education as defined in section 256B.2, subsection 1.

b. A person over eighteen years of age who has received a high school diploma or a high school equivalency diploma is not a “child” within the definition in this subsection.

3. “*Division*” or “*state division*” means that division of the department of human services to which the director has assigned responsibility for income and service programs.

4. “*Food assistance program*” means the benefits provided through the United States department of agriculture program administered by the department of human services in accordance with 7 C.F.R. pts. 270 – 283.

5. “*Food programs*” means the food stamp and donated foods programs authorized by federal law under the United States department of agriculture.

[C71, 73, 75, 77, 79, 81, S81, §234.1; 81 Acts, ch 7, §11]

83 Acts, ch 96, §160; 86 Acts, ch 1245, §1419; 92 Acts, ch 1229, §20; 93 Acts, ch 54, §3; 2008 Acts, ch 1073, §1; 2009 Acts, ch 41, §263

Referred to in §217.36, 235.1, 237.1, 237.15, 238.1, 252.14, 425.15

234.2 Division created.

Within the state department of human services, there is hereby created a division of child and family services which shall be administered by the administrator of said division and such other officers and employees as may be hereafter provided.

[C71, 73, 75, 77, 79, 81, §234.2]

234.3 Child welfare advisory committee. Repealed by 2010 Acts, ch 1031, §393.

234.4 Education of children in departmental programs.

If the department of human services has custody or has other responsibility for a child based upon the child’s involvement in a departmental program involving foster care, preadoption or adoption, or subsidized guardianship placement and the child is subject to the compulsory attendance law under chapter 299, the department shall fulfill the responsibilities outlined in section 299.1 and other responsibilities under federal and state law regarding the child’s school attendance. As part of fulfilling the responsibilities described in this section, if the department has custody or other responsibility for placement and care of a child and the child transfers to a different school during or immediately preceding the period of custody or other responsibility, within the first six weeks of the transfer date the department shall assess the student’s degree of success in adjusting to the different school.

2009 Acts, ch 120, §4

234.5 Reserved.

234.6 Powers and duties of the administrator.

1. The administrator shall be vested with the authority to administer the family investment program, state supplementary assistance, food programs, child welfare, and emergency relief, family and adult service programs, and any other form of public welfare assistance and institutions that are placed under the administrator’s administration. The administrator shall perform duties, shall formulate and adopt rules as may be necessary, and shall outline policies, dictate procedure, and delegate such powers as may be necessary for competent and efficient administration. Subject to restrictions that may be imposed by the director of human services and the council on human services, the administrator may abolish, alter, consolidate, or establish subdivisions and may abolish or change offices previously created. The administrator may employ necessary personnel and fix their compensation; may allocate or reallocate functions and duties among any subdivisions now existing or later established; and may adopt rules relating to the employment of personnel and the allocation of their functions and duties among the various subdivisions as competent and efficient administration may require. The administrator shall:

a. Cooperate with the social security administration created by the Social Security

Act and codified at 42 U.S.C. §901, or other agency of the federal government for public welfare assistance, in such reasonable manner as may be necessary to qualify for federal aid, including the making of such reports in such form and containing such information as the social security administration, from time to time, may require, and to comply with such regulations as such social security administration, from time to time, may find necessary to assure the correctness and verification of such reports.

b. Furnish information to acquaint the public generally with the operation of the Acts under the jurisdiction of the administrator.

c. With the approval of the director of human services, the governor, the director of the department of management, and the director of the department of administrative services, set up from the funds under the administrator's control and management an administrative fund and from the administrative fund pay the expenses of operating the division.

d. Notwithstanding any provisions to the contrary in chapter 239B relating to the consideration of income and resources of claimants for assistance, the administrator, with the consent and approval of the director of human services and the council on human services, shall make such rules as may be necessary to qualify for federal aid in the assistance programs administered by the administrator.

e. Have authority to use funds available to the department, subject to any limitations placed on the use thereof by the legislation appropriating the funds, to provide to or purchase, for families and individuals eligible therefor, services including but not limited to the following:

(1) Child care for children or adult day services, in facilities which are licensed or are approved as meeting standards for licensure.

(2) Foster care, including foster family care, group homes, and institutions.

(3) Family-centered services, as defined in section 232.102, subsection 10, paragraph "b".

(4) Family planning.

(5) Protective services.

(6) Services or support provided to a child with an intellectual disability or other developmental disability or to the child's family.

(7) Transportation services.

(8) Any services, not otherwise enumerated in this paragraph "e", authorized by or pursuant to the United States Social Security Act of 1934, as amended.

f. Administer the food programs authorized by federal law, and recommend rules necessary in the administration of those programs to the director for adoption pursuant to chapter 17A.

g. Provide consulting and technical services to the director of the department of education, or the director's designee, upon request, relating to prekindergarten, kindergarten, and before and after school programming and facilities.

h. Recommend rules for their adoption by the council on human services for before and after school child care programs, conducted within and by or contracted for by school districts, that are appropriate for the ages of the children who receive services under the programs.

2. The department of human services shall have the power and authority to use the funds available to it, to purchase services of all kinds from public or private agencies to provide for the needs of children, including but not limited to psychiatric services, supervision, specialized group, foster homes, and institutional care.

3. In determining the reimbursement rate for services purchased by the department of human services from a person or agency, the department shall not include private moneys contributed to the person or agency unless the moneys are contributed for services provided to a specific individual.

[C39, §3661.007; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §234.6]

88 Acts, ch 1134, §56; 89 Acts, ch 206, §2; 92 Acts, ch 1229, §21 – 23; 93 Acts, ch 97, §28; 97 Acts, ch 41, §32; 99 Acts, ch 111, §5, 7; 99 Acts, ch 192, §28; 2001 Acts, ch 64, §5; 2003 Acts, ch 145, §286; 2007 Acts, ch 172, §10; 2010 Acts, ch 1061, §180; 2012 Acts, ch 1019, §92; 2013

Acts, ch 90, §60; 2015 Acts, ch 29, §114; 2016 Acts, ch 1073, §84; 2017 Acts, ch 29, §55, 56; 2017 Acts, ch 54, §75

Referred to in §234.38

Assistant attorney general for human services department, see §13.6

234.7 Department duties.

1. The department of human services shall comply with the provision associated with child foster care licensees under chapter 237 that requires that a child's foster parent be included in, and be provided timely notice of, planning and review activities associated with the child, including but not limited to permanency planning and placement review meetings, which shall include discussion of the child's rehabilitative treatment needs.

2. a. The department of human services shall submit a waiver request to the United States department of health and human services as necessary to provide coverage under the medical assistance program for children who are described by both of the following:

(1) The child needs behavioral health care services and qualifies for the care level provided by a psychiatric medical institution for children licensed under chapter 135H.

(2) The child is in need of treatment to cure or alleviate serious mental illness or disorder, or emotional damage as evidenced by severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others and whose parent, guardian, or custodian is unable to provide such treatment.

b. The waiver request shall provide for appropriately addressing the needs of children described in paragraph "a" by implementing any of the following options: using a wraparound services approach, renegotiating the medical assistance program contract provisions for behavioral health services, or applying another approach for appropriately meeting the children's needs.

c. If federal approval of the waiver request is not received, the department shall submit options to the governor and general assembly to meet the needs of such children through a state-funded program.

95 Acts, ch 182, §14; 2005 Acts, ch 117, §3; 2008 Acts, ch 1032, §38; 2011 Acts, ch 34, §60

234.8 Fees for child welfare services.

The department of human services may charge a fee for child welfare services to a person liable for the cost of the services. The fee shall not exceed the reasonable cost of the services. The fee shall be based upon the person's ability to pay and consideration of the fee's impact upon the liable person's family and the goals identified in the case permanency plan. The department may assess the liable person for the fee and the means of recovery shall include a setoff against an amount owed by a state agency to the person assessed pursuant to section 8A.504. In addition the department may establish an administrative process to recover the assessment through automatic income withholding. The department shall adopt rules pursuant to chapter 17A to implement the provisions of this section. This section does not apply to court-ordered services provided to juveniles which are a charge upon the state pursuant to section 232.141 and services for which the department has established a support obligation pursuant to section 234.39.

92 Acts, ch 1229, §24; 2003 Acts, ch 145, §216

For future amendment to this section effective upon the later of January 1, 2021, or the effective date of rules adopted by the department of revenue to implement 2020 Acts, ch 1064, see 2020 Acts, ch 1064, §10, 28; 2020 Acts, ch 1118, §73, 74

234.9 through 234.11 Repealed by 93 Acts, ch 54, §12.

234.12 Department to provide food programs.

1. The department of human services is authorized to enter into such agreements with agencies of the federal government as are necessary in order to make available to the people of this state any federal food programs which may, under federal laws and regulations, be implemented in this state. Each such program shall be implemented in every county in the state, or in each county where implementation is permitted by federal laws and regulations.

2. The provisions of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, §115, shall not apply to an applicant for or

recipient of food stamp benefits in this state. However, the department of human services may apply contingent eligibility requirements as provided under state law and allowed under federal law.

3. Upon request by the department of human services, the department of inspections and appeals shall conduct investigations into possible fraudulent practices, as described in section 234.13, relating to food programs administered by the department of human services.

[C79, 81, §234.12]

90 Acts, ch 1204, §48; 97 Acts, ch 41, §1; 2017 Acts, ch 54, §76

234.12A Electronic benefits transfer program.

1. The department of human services shall maintain an electronic benefits transfer program utilizing electronic funds transfer systems for the food assistance program. The electronic benefits transfer program implemented under this section shall not require a retailer to make cash disbursements or to provide, purchase, or upgrade electronic funds transfer system equipment as a condition of participation in the program.

2. A point-of-sale terminal which is used only for purchases from a retailer by electronic benefits transfer utilizing electronic funds transfer systems is not a satellite terminal as defined in section 527.2.

3. For the purposes of this section, “*retailer*” means a business authorized by the United States department of agriculture to accept food assistance program benefits.

98 Acts, ch 1066, §1; 98 Acts, ch 1218, §75; 2001 Acts, ch 191, §39; 2005 Acts, ch 175, §104; 2008 Acts, ch 1073, §2, 3; 2009 Acts, ch 182, §130

234.13 Fraudulent practices relating to food programs.

For the purposes of this section, unless the context otherwise requires, “*benefit transfer instrument*” means a food stamp coupon, authorization-to-purchase card, or electronic benefits transfer card. A person commits a fraudulent practice if that person does any of the following:

1. With intent to gain financial assistance to which that person is not entitled, knowingly makes or causes to be made a false statement or representation or knowingly fails to report to an employee of the department of human services any change in income, resources or other circumstances affecting that person’s entitlement to such financial assistance.

2. As a beneficiary of the food programs, transfers any food stamp benefit transfer instrument to any other individual with intent that the benefit transfer instrument be used for the benefit of someone other than persons within the beneficiary’s food stamp household as certified by the department of human services.

3. Knowingly acquires, uses or attempts to use any food stamp benefit transfer instrument which was not issued for the benefit of that person’s food stamp household by the department of human services, or by an agency administering food programs in another state.

4. Acquires, alters, transfers, or redeems a food stamp benefit transfer instrument or possesses a benefit transfer instrument, knowing that the benefit transfer instrument has been received, transferred, or used in violation of this section or the provisions of the federal food stamp program under 7 U.S.C. ch. 51 or the federal regulations issued pursuant to that chapter.

[C79, 81, §234.13; 82 Acts, ch 1260, §120]

96 Acts, ch 1106, §15

Referred to in §234.12

Fraudulent practices, see §714.8 – 714.14

234.14 Federal grants.

The state treasurer is hereby authorized to receive such federal funds as may be made available for carrying out any of the activities and functions of the state division, and all such funds are hereby appropriated for expenditure upon authorization of the administrator.

[C39, §3661.015; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §234.14]

234.15 through 234.20 Reserved.

SUBCHAPTER II
FAMILY PLANNING SERVICES

234.21 Services to be offered.

The state division may offer, provide, or purchase family planning and birth control services to every person who is an eligible applicant or recipient of service or any financial assistance from the department of human services, or who is receiving federal supplementary security income as defined in section 249.1.

[C66, 71, 73, 75, 77, 79, 81, §234.21]

234.22 Extent of services.

Such family planning and birth control services may include interview with trained personnel; distribution of literature; referral to a licensed physician for consultation, examination, tests, medical treatment and prescription; and, to the extent so prescribed, the distribution of rhythm charts, drugs, medical preparations, contraceptive devices and similar products.

[C66, 71, 73, 75, 77, 79, 81, §234.22]

234.23 Charge for services.

In making provision for and offering such services, the state division may charge those persons to whom family planning and birth control services are rendered a fee sufficient to reimburse the state division all or any portion of the costs of the services rendered.

[C66, 71, 73, 75, 77, 79, 81, §234.23]

234.24 Services may be refused.

The refusal of any person to accept family planning and birth control services shall in no way affect the right of such person to receive public assistance or any other public benefit and every person to whom such services are offered shall be so advised initially both orally and in writing. Employees engaged in the administration of this section shall recognize that the right to make decisions concerning family planning and birth control is a fundamental personal right of the individual and nothing in this subchapter shall in any way abridge such individual right, nor shall any individual be required to state the individual's reason for refusing the offer of family planning and birth control services.

[C66, 71, 73, 75, 77, 79, 81, §234.24]

2014 Acts, ch 1026, §143

234.25 Language to be used.

In all cases where the recipient does not speak or read the English language, the services shall not be given unless the interviews shall be conducted in, and all literature shall be written in, a language which the recipient understands.

[C66, 71, 73, 75, 77, 79, 81, §234.25]

234.26 Construction.

This subchapter shall be liberally construed to protect the rights of all individuals to pursue their religious beliefs and to follow the dictates of their own consciences, and to prevent the imposition upon any individual of practices offensive to the individual's moral standards.

[C66, 71, 73, 75, 77, 79, 81, §234.26]

2014 Acts, ch 1026, §143

234.27 Policy.

The general assembly hereby finds, determines, and declares that this subchapter is necessary for the immediate preservation of the public peace, health, and safety.

[C66, 71, 73, 75, 77, 79, 81, §234.27]

2014 Acts, ch 1026, §143

234.28 Obscenity laws not applicable.

The provisions of chapter 728 do not apply to services provided under the terms of this subchapter.

[C66, 71, 73, 75, 77, 79, 81, §234.28]
2014 Acts, ch 1026, §143

234.29 through 234.34 Reserved.

SUBCHAPTER III

FOSTER CARE EXPENSE

234.35 When state to pay foster care costs.

1. The department of human services is responsible for paying the cost of foster care for a child, according to rates established pursuant to section 234.38, under any of the following circumstances:

a. When a court has committed the child to the director of human services or the director's designee.

b. When a court has transferred legal custody of the child to the department of human services.

c. When the department has agreed to provide foster care services for the child for a period of not more than ninety days on the basis of a signed placement agreement between the department and the child's parent or guardian.

d. When the child has been placed in emergency care for a period of not more than thirty days upon approval of the director or the director's designee.

e. When a court has entered an order transferring the legal custody of the child to a foster care placement pursuant to section 232.46, section 232.52, subsection 2, paragraph "d", or section 232.102, subsection 1. However, payment for a group foster care placement shall be limited to those placements which conform to a service area group foster care plan established pursuant to section 232.143.

f. When the department has agreed to provide foster care services for a child who is eighteen years of age or older on the basis of a signed placement agreement between the department and the child or the person acting on behalf of the child.

g. When the department has agreed to provide foster care services for the child on the basis of a signed placement agreement initiated before July 1, 1992, between the department and the child's parent or guardian.

h. When the child is placed in shelter care pursuant to section 232.20, subsection 1, or section 232.21.

i. When the court has entered an order in a voluntary foster care placement proceeding pursuant to section 232.182, subsection 5, placing the child into foster care.

2. Except as provided under section 234.38 for direct payment of foster parents, payment for foster care costs shall be limited to foster care providers with whom the department has a contract in force.

3. Payment for foster care services provided to a child who is eighteen years of age or older shall be limited to the following:

a. For a child who is eighteen years of age, family foster care or independent living arrangements.

b. For a child who is nineteen years of age, independent living arrangements.

c. For a child who is at imminent risk of becoming homeless or failing to graduate from high school or to obtain a general education development diploma, if the services are in the child's best interests, funding is available for the services, and an appropriate alternative service is unavailable.

4. The department shall report annually to the governor and general assembly by January 1 on the numbers of children for whom the state paid for independent living services during the immediately preceding fiscal year. The report shall detail the number of children, by

county, who received such services, were discharged from such services, the voluntary or involuntary status of such services, and the reasons for discharge. The department shall assess the report data as part of any evaluation of independent living services or consideration for improving the services.

[C75, 77, 79, 81, §234.35]

90 Acts, ch 1270, §42, 43; 92 Acts, ch 1229, §25; 93 Acts, ch 172, §37, 56; 2003 Acts, ch 117, §9; 2003 Acts, ch 175, §37; 2004 Acts, ch 1116, §15; 2011 Acts, ch 34, §61; 2014 Acts, ch 1141, §75

Referred to in §225C.49, 233A.7, 234.37, 234.38, 234.39, 234.46, 237.15

See Iowa Acts for special provisions relating to foster care payments in a given fiscal year

Allocation for shelter care and the child welfare emergency services contracting implemented to provide for or prevent the need for shelter care; 2017 Acts, ch 174, §57; 2018 Acts, ch 1165, §28; 2019 Acts, ch 85, §19, 51; 2020 Acts, ch 1121, §1

Limitations on funding for state shelter care; inclusion of child welfare emergency services; 2008 Acts, ch 1187, §16, 79, 97; 2009 Acts, ch 182, §16; 2010 Acts, ch 1181, §7, 13; 2010 Acts, ch 1192, §19; 2011 Acts, ch 129, §15, 128, 156; 2012 Acts, ch 1133, §22; 2013 Acts, ch 138, §18, 148; 2014 Acts, ch 1140, §25; 2015 Acts, ch 137, §18, 138; 2016 Acts, ch 1139, §16; 2017 Acts, ch 174, §18

234.36 Reserved.

234.37 Department may establish accounts for certain children.

The department of human services is authorized to establish an account in the name of any child committed to the director of human services or the director's designee, or whose legal custody has been transferred to the department, or who is voluntarily placed in foster care pursuant to section 234.35. Any money which the child receives from the United States government or any private source shall be placed in the child's account, unless a guardian of the child's property has been appointed and demands the money, in which case it shall be paid to the guardian. The account shall be maintained by the department as trustee for the child in an interest-bearing account at a reputable bank or savings association, except that if the child is residing at an institution administered by the department a limited amount of the child's funds may be maintained in a separate account, which need not be interest bearing, in the child's name at the institution. Any money held in an account in the child's name or in trust for the child under this section may be used, at the discretion of the department and subject to restrictions lawfully imposed by the United States government or other source from which the child receives the funds, for the purchase of personal incidentals, desires and comforts of the child. All of the money held for a child by the department under this section and not used in the child's behalf as authorized by law shall be promptly paid to the child or the child's parent or legal guardian upon termination of the commitment of the child to the director or the director's designee, or upon transfer or cessation of legal custody of the child by the department.

[C75, 77, 79, 81, §234.37]

2012 Acts, ch 1017, §58

Referred to in §233A.10

234.38 Foster care reimbursement rates.

The department of human services shall make reimbursement payments directly to foster parents for services provided to children pursuant to section 234.6, subsection 1, paragraph "e", subparagraph (2), or section 234.35. In any fiscal year, the reimbursement rate shall be based upon sixty-five percent of the United States department of agriculture estimate of the cost to raise a child in the calendar year immediately preceding the fiscal year. The department may pay an additional stipend for a child with special needs.

[C75, 77, 79, 81, §234.38]

90 Acts, ch 1270, §44; 92 Acts, ch 1229, §26; 92 Acts, ch 1247, §46; 92 Acts, 1st Ex, ch 1004, §4; 2016 Acts, ch 1073, §190

Referred to in §234.35

234.39 Responsibility for cost of services.

1. It is the intent of this chapter that an individual receiving foster care services and the individual's parents or guardians shall have primary responsibility for paying the cost of the care and services. The support obligation established and adopted under this section shall be consistent with the limitations on legal liability established under sections 222.78 and 230.15,

and by any other statute limiting legal responsibility for support which may be imposed on a person for the cost of care and services provided by the department. The department shall notify an individual's parents or guardians, at the time of the placement of an individual in foster care, of the responsibility for paying the cost of care and services. Support obligations shall be established as follows:

a. For an individual to whom section 234.35, subsection 1, is applicable, a dispositional order of the juvenile court requiring the provision of foster care, or an administrative order entered pursuant to chapter 252C, or any order establishing paternity and support for a child in foster care, shall establish, after notice and a reasonable opportunity to be heard is provided to a parent or guardian, the amount of the parent's or guardian's support obligation for the cost of foster care provided by the department. The amount of the parent's or guardian's support obligation and the amount of support debt accrued and accruing shall be established in accordance with the child support guidelines prescribed under section 598.21B. However, the court, or the department of human services in establishing support by administrative order, may deviate from the prescribed obligation after considering a recommendation by the department for expenses related to goals and objectives of a case permanency plan as defined under section 237.15, and upon written findings of fact which specify the reason for deviation and the prescribed guidelines amount. Any order for support shall direct the payment of the support obligation to the collection services center for the use of the department's foster care recovery unit. The order shall be filed with the clerk of the district court in which the responsible parent or guardian resides and has the same force and effect as a judgment when entered in the judgment docket and lien index. The collection services center shall disburse the payments pursuant to the order and record the disbursements. If payments are not made as ordered, the child support recovery unit may certify a default to the court and the court may, on its own motion, proceed under section 598.22 or 598.23 or the child support recovery unit may enforce the judgment as allowed by law. An order entered under this paragraph may be modified only in accordance with the guidelines prescribed under section 598.21C, or under chapter 252H.

b. For an individual who is served by the department of human services under section 234.35, and is not subject to a dispositional order of the juvenile court requiring the provision of foster care, the department shall determine the obligation of the individual's parent or guardian pursuant to chapter 252C and in accordance with the child support guidelines prescribed under section 598.21B. However, the department may adjust the prescribed obligation for expenses related to goals and objectives of a case permanency plan as defined under section 237.15. An obligation determined under this paragraph may be modified only in accordance with conditions under section 598.21C, or under chapter 252H.

2. A person entitled to periodic support payments pursuant to an order or judgment entered in any action for support, who also is or has a child receiving foster care services, is deemed to have assigned to the department current and accruing support payments attributable to the child effective as of the date the child enters foster care placement, to the extent of expenditure of foster care funds. The department shall notify the clerk of the district court when a child entitled to support payments is receiving foster care services pursuant to chapter 234. Upon notification by the department that a child entitled to periodic support payments is receiving foster care services, the clerk of the district court shall make a notation of the automatic assignment in the judgment docket and lien index. The notation constitutes constructive notice of assignment. The clerk of court shall furnish the department with copies of all orders and decrees awarding support when the child is receiving foster care services. At the time the child ceases to receive foster care services, the assignment of support shall be automatically terminated. Unpaid support accrued under the assignment of support rights during the time that the child was in foster care remains due to the department up to the amount of unreimbursed foster care funds expended. The department shall notify the clerk of court of the automatic termination of the assignment. Unless otherwise specified in the support order, an equal and proportionate share of any child support awarded shall be presumed to be payable on behalf of each child subject to the order or judgment for purposes of an assignment under this section.

3. The support debt for the costs of services, for which a support obligation is established

pursuant to this section, which accrues prior to the establishment of the support debt, shall be collected, at a maximum, in the amount which is the amount of accrued support debt for the three months preceding the earlier of the following:

a. The provision by the child support recovery unit of the initial notice to the parent or guardian of the amount of the support obligation.

b. The date that the written request for a court hearing is received by the child support recovery unit as provided in section 252C.3 or 252F.3.

4. If the department makes a subsidized guardianship payment for a child, the payment shall be considered a foster care payment for purposes of child support recovery. All provisions of this and other sections, and of rules and orders adopted or entered pursuant to those sections, including for the establishment of a paternity or support order, for the amount of a support obligation, for the modification or adjustment of a support obligation, for the assignment of support, and for enforcement shall apply as if the child were receiving foster care services, or were in foster care placement, or as if foster care funds were being expended for the child. This subsection shall apply regardless of the date of placement in foster care or subsidized guardianship or the date of entry of an order, and foster care and subsidized guardianship shall be considered the same for purposes of child support recovery.

[C75, 77, 79, 81, §234.39]

83 Acts, ch 96, §160; 83 Acts, ch 153, §3; 89 Acts, ch 166, §1; 90 Acts, ch 1270, §45; 92 Acts, ch 1195, §303, 304; 92 Acts, ch 1229, §27; 94 Acts, ch 1171, §8; 95 Acts, ch 52, §1; 96 Acts, ch 1213, §36, 37; 97 Acts, ch 175, §227; 99 Acts, ch 127, §1; 2005 Acts, ch 69, §1; 2016 Acts, ch 1011, §40

Referred to in §232.4, 232.78, 232.182, 234.8, 252A.13, 598.21C, 598.34, 600B.38

234.40 Corporal punishment.

The department of human services shall adopt rules prohibiting corporal punishment of foster children by foster parents licensed by the department. The rules shall allow foster parents to use reasonable physical force to restrain a foster child in order to prevent injury to the foster child, injury to others, the destruction of property, or extremely disruptive behavior. For the purposes of this section, “*corporal punishment*” means the intentional physical punishment of a foster child. A foster parent’s physical contact with the body of a foster child shall not be considered corporal punishment if the contact is reasonable and necessary under the circumstances and is not designed or intended to cause pain or if the foster parent uses reasonable force, as defined under section 704.1.

[C79, 81, §234.40]

92 Acts, ch 1241, §71

Referred to in §232.71B

234.41 Tort actions.

A foster parent licensed by the department of human services stands in the same relationship to the foster parent’s minor foster child, for purposes of tort actions by or on behalf of the foster child against the foster parent, as a biological parent to the biological parent’s minor child who resides at home. This section does not apply to a foster parent whose malicious, willful and wanton conduct causes injury or damage to a foster child or exposes the foster child to a danger caused by violation of a statute or the rules of the department of human services.

[C79, 81, §234.41]

94 Acts, ch 1046, §4

234.42 Foster care review committees — confidentiality. Repealed by 93 Acts, ch 172, §48, 56.

234.43 and 234.44 Reserved.

SUBCHAPTER IV

MARRIAGE INITIATIVE GRANT FUND

234.45 Iowa marriage initiative grant fund.

1. An Iowa marriage initiative grant fund is established in the state treasury under the authority of the department of human services. The grant fund shall consist of moneys appropriated to the fund and notwithstanding section 8.33 such moneys shall not revert to the fund from which appropriated at the close of the fiscal year but shall remain in the Iowa marriage initiative grant fund. Moneys credited to the fund shall be used as directed in appropriations made by the general assembly for funding of services to support marriage and to encourage the formation and maintenance of two-parent families that are secure and nurturing.

2. It is the intent of the general assembly to credit to the Iowa marriage initiative grant fund, federal moneys provided to the state for the express purpose of supporting marriage or two-parent families.

2001 Acts, ch 191, §37

SUBCHAPTER V

PREPARATION FOR ADULT LIVING PROGRAM

234.46 Preparation for adult living program.

1. For the purposes of this section, “*young adult*” means a person who is described by all of the following conditions:

- a. The person is a resident of this state.
- b. The person is age eighteen, nineteen, twenty, twenty-one, or twenty-two.
- c. At the time the person became age eighteen, the person received foster care services that were paid for by the state under section 234.35, services at a state training school, services at a juvenile shelter care home, services at a juvenile detention home, or court-ordered care in accordance with chapter 232 by a relative or another person with a significant relationship with the person, and the person is no longer receiving such services or care.
- d. The person enters into and participates in an individual self-sufficiency plan that complements the person’s own efforts for achieving self-sufficiency and the plan provides for one or more of the following:
 - (1) The person attends an accredited school full-time pursuing a course of study leading to a high school diploma.
 - (2) The person attends an instructional program leading to a high school equivalency diploma.
 - (3) The person is enrolled in or pursuing enrollment in a postsecondary education or training program or work training.
 - (4) The person is employed or seeking employment.

2. The division shall establish a preparation for adult living program directed to young adults. The purpose of the program is to assist persons who are leaving foster care and other court-ordered services at age eighteen or older in making the transition to self-sufficiency. The department shall adopt rules necessary for administration of the program, including but not limited to eligibility criteria for young adult participation and the services and other support available under the program. The rules shall provide for participation of each person who meets the definition of young adult on the same basis, regardless of whether federal financial participation is provided. The services and other support available under the program may include but are not limited to any of the following:

- a. Support for the young adult continuing to reside with the family that provided family foster care to the young adult.
- b. Support for a supervised apartment living arrangement.
- c. Support for participation in education, training, or employment activities.

d. Other assistance to enhance the young adult’s ability to achieve self-sufficiency.

3. This section shall not be construed as granting an entitlement for any program, services, or other support for the persons described in this section. Any state obligation to provide a program, services, or other support pursuant to this section is limited to the extent of the funds appropriated for the purposes of the program.

2006 Acts, ch 1159, §7; 2014 Acts, ch 1140, §89, 90; 2019 Acts, ch 85, §109; 2020 Acts, ch 1051, §1

Subsection 1, paragraph c amended

SUBCHAPTER VI

CHILD CARE ASSISTANCE AND ADOPTION SUBSIDIES — PROJECTED EXPENDITURES

234.47 State child care assistance and adoption subsidy programs — expenditure projections.

The department of human services, the department of management, and the legislative services agency shall utilize a joint process to arrive at consensus projections for expenditures for the state child care assistance program under section 237A.13 and adoption subsidy and other assistance provided under section 600.17.

2008 Acts, ch 1187, §115

CHAPTER 235

CHILD WELFARE

Referred to in §135B.17

235.1	Definitions.	235.4	Licenses.
235.2	Powers and duties of state division.	235.5	Inspections.
235.3	Powers and duties of administrator.	235.6	Short title. Repealed by 2020 Acts, ch 1063, §389.
		235.7	Transition committees.

235.1 Definitions.

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

1. “Administrator” means the same as defined in section 234.1.
2. “Child” means the same as defined in section 234.1.

3. “Child welfare services” means social welfare services for the protection and care of children who are homeless, dependent or neglected, or in danger of becoming delinquent, or who have a mental illness or an intellectual disability or other developmental disability, including, when necessary, care and maintenance in a foster care facility. Child welfare services are designed to serve a child in the child’s home whenever possible. If not possible, and the child is placed outside the child’s home, the placement should be in the least restrictive setting available and in close proximity to the child’s home.

4. “State division” means the same as defined in section 234.1.

[C39, §3661.016; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §235.1]

83 Acts, ch 101, §44; 92 Acts, ch 1229, §28; 94 Acts, ch 1023, §88; 2009 Acts, ch 133, §86; 2012 Acts, ch 1019, §93

235.2 Powers and duties of state division.

The state division, in addition to all other powers and duties given it by law, shall:

1. Administer and enforce the provisions of this chapter.
2. Join and cooperate with the government of the United States through its appropriate agency or instrumentality or with any other officer or agency of the federal government in

planning, establishing, extending and strengthening public and private child welfare services within the state.

3. Make such investigations and to obtain such information as will permit the administrator to determine the need for public child welfare services within the state and within the several county departments thereof.

4. Apply for and receive any funds which are or may be allotted to the state by the United States or any agency thereof for the purpose of developing child welfare services.

5. Make such reports and budget estimates to the governor and to the general assembly as are required by law or such as are necessary and proper to obtain the appropriation of state funds for child welfare services within the state and for all the purposes of this chapter.

6. Cooperate with the several county departments within the state, and all county boards of supervisors and other public or private agencies charged with the protection and care of children, in the development of child welfare services.

7. Aid in the enforcement of all laws of the state for the protection and care of children.

8. Cooperate with the juvenile courts of the state and with the other administrators and divisions of the department of human services regarding the management and control of state institutions and the inmates thereof.

[C39, §3661.017; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §235.2]

83 Acts, ch 96, §157, 159

235.3 Powers and duties of administrator.

The administrator shall:

1. Plan and supervise all public child welfare services and activities within the state as provided by this chapter.

2. Make such reports and obtain and furnish such information from time to time as may be necessary to permit cooperation by the state division with the United States children's bureau, the social security administration, or any other federal agency which is now or may hereafter be charged with any duty regarding child care or child welfare services.

3. Adopt rules as necessary or advisable for the supervision of the private child-caring agencies or their officers which the administrator is empowered to license and supervise.

4. Supervise private institutions for the care of dependent, neglected, and delinquent children, and make reports regarding the institutions.

5. Designate and approve the private and county institutions within the state to which neglected, dependent, and delinquent children may be legally committed and to have supervision of the care of children committed thereto, and the right of visitation and inspection of said institutions at all times.

6. Receive and keep on file annual reports from all institutions to which children subject to the jurisdiction of the juvenile court are committed, compile statistics regarding juvenile delinquency, make reports regarding juvenile delinquency, and study prevention and cure of juvenile delinquency.

7. Require and receive from the clerks of the courts of record within the state duplicates of the findings of the courts upon petitions for adoption, and keep records and compile statistics regarding adoptions.

8. License private child-placing agencies, make reports regarding them, and revoke such licenses.

9. Make such rules and regulations as may be necessary for the distribution and use of funds appropriated for child welfare services.

[C27, 31, 35, §3661-a1, -a2; C39, §3661.018; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §235.3; 82 Acts, ch 1100, §8]

88 Acts, ch 1158, §52; 89 Acts, ch 19, §1; 90 Acts, ch 1204, §49; 2013 Acts, ch 30, §45

Referred to in §602.8102(43)

235.4 Licenses.

Licenses issued to private boarding homes for children and private child-placing agencies by the administrator shall remain in effect for the period for which issued, unless sooner revoked according to law. Thereafter each of such agencies shall apply to the administrator

for a new license, and shall submit to such rules regarding licensing as the administrator prescribes.

[C39, §3661.020; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §235.5]
90 Acts, ch 1204, §50
C91, §235.4

235.5 Inspections.

The department of inspections and appeals shall conduct inspections of private institutions for the care of dependent, neglected, and delinquent children in accordance with procedures established pursuant to chapters 10A and 17A.

90 Acts, ch 1204, §51

235.6 Short title. Repealed by 2020 Acts, ch 1063, §389.

235.7 Transition committees.

1. *Committees established.* The department of human services shall establish and maintain local transition committees to address the transition needs of those children receiving child welfare services who are age sixteen or older and have a case permanency plan as defined in section 232.2. The department shall adopt rules establishing criteria for transition committee membership, operating policies, and basic functions. The rules shall provide flexibility for a committee to adopt protocols and other procedures appropriate for the geographic area addressed by the committee.

2. *Membership.* The department may authorize the governance boards of decategorization of child welfare and juvenile justice funding projects established under section 232.188 to appoint the transition committee membership and may utilize the boundaries of decategorization projects to establish the service areas for transition committees. The committee membership may include but is not limited to department of human services staff involved with foster care, child welfare, and adult services, juvenile court services staff, staff involved with county general relief under chapter 251 or 252, or a regional administrator of the county mental health and disability services region, as defined in section 331.388, in the area, school district and area education agency staff involved with special education, and a child's court appointed special advocate, guardian ad litem, service providers, and other persons knowledgeable about the child.

3. *Duties.* A transition committee shall review and approve the written plan of services required for the child's case permanency plan in accordance with section 232.2, subsection 4, paragraph "g", which, based upon an assessment of the child's needs, would assist the child in preparing for the transition from foster care to adulthood. In addition, a transition committee shall identify and act to address any gaps existing in the services or other support available to meet the child and adult needs of individuals for whom service plans are approved.

2003 Acts, ch 117, §10; 2004 Acts, ch 1090, §33; 2005 Acts, ch 95, §3; 2015 Acts, ch 69, §73
Referred to in §232.2

CHAPTER 235A

CHILD ABUSE

Referred to in §135.43, 232.2, 232.71D, 232.96, 272.2

	SUBCHAPTER I	235A.15	Authorized access — procedures involving other states.
	CHILD ABUSE PREVENTION	235A.16	Requests for child abuse information.
235A.1	Child abuse prevention program.	235A.17	Redissemination of child abuse information.
235A.2	Child abuse prevention program fund.	235A.18	Sealing and expungement of founded child abuse information.
235A.3	through 235A.11 Reserved.	235A.19	Examination, requests for correction or expungement and appeal.
	SUBCHAPTER II	235A.20	Civil remedy.
	CHILD ABUSE INFORMATION REGISTRY	235A.21	Criminal penalties.
235A.12	Legislative findings and purposes.	235A.22	Education program.
235A.13	Definitions.	235A.23	Reports.
235A.14	Creation and maintenance of a central registry.	235A.24	Order for disclosure or release of child abuse information.

SUBCHAPTER I

CHILD ABUSE PREVENTION

235A.1 Child abuse prevention program.

1. *a.* A program for the prevention of child abuse is established within the state department of human services. Any moneys appropriated by the general assembly for child abuse prevention shall be used by the department of human services solely for the purposes of child abuse prevention and shall not be expended for treatment or other service delivery programs regularly maintained by the department. Moneys appropriated for child abuse prevention shall be used by the department through contract with an agency or organization which shall administer the funds with maximum use of voluntary administrative services for the following:

(1) Matching federal funds to purchase services relating to community-based programs for the prevention of child abuse and neglect.

(2) Funding the establishment or expansion of community-based prevention projects or educational programs for the prevention of child abuse and neglect.

(3) To study and evaluate community-based prevention projects and educational programs for the problems of families and children.

b. Funds for the programs or projects shall be applied for and received by a community-based volunteer coalition or council.

2. The director of human services may accept grants, gifts, and bequests from any source for the purposes designated in subsection 1. The director shall remit funds so received to the treasurer of state who shall deposit them in the general fund of the state for the use of the child abuse prevention program.

[82 Acts, ch 1259, §1]

83 Acts, ch 96, §157, 159; 87 Acts, ch 153, §8; 2009 Acts, ch 41, §263; 2010 Acts, ch 1031, §392

Referred to in §144.13A, 217.3A, 235A.2

235A.2 Child abuse prevention program fund.

1. A child abuse prevention program fund is created in the state treasury under the control of the department of human services. The fund is composed of moneys appropriated or available to and obtained or accepted by the treasurer of state for deposit in the fund. The fund shall include moneys transferred to the fund pursuant to an income tax checkoff provided in

chapter 422, subchapter II, if applicable. All interest earned on moneys in the fund shall be credited to and remain in the fund. Section 8.33 does not apply to moneys in the fund.

2. Moneys in the fund that are authorized by the department for expenditure are appropriated, and shall be used, for the purposes described in section 235A.1 of preventing child abuse and neglect.

2008 Acts, ch 1129, §4, 8, 9; 2010 Acts, ch 1193, §158, 163; 2012 Acts, ch 1097, §3, 6; 2020 Acts, ch 1062, §94

Referred to in §422.12K

Code editor directive applied

235A.3 through 235A.11 Reserved.

SUBCHAPTER II

CHILD ABUSE INFORMATION REGISTRY

Referred to in §232.68

235A.12 Legislative findings and purposes.

1. The general assembly finds and declares that a central registry is required to provide a single source for the statewide collection, maintenance, and dissemination of child abuse information. The existence of the central registry is imperative for increased effectiveness in dealing with the problem of child abuse. The general assembly also finds that vigorous protection of rights of individual privacy is an indispensable element of a fair and effective system of collecting, maintaining, and disseminating child abuse information.

2. The purposes of this section and sections 235A.13 through 235A.24 are to facilitate the identification of victims or potential victims of child abuse by making available a single, statewide source of child abuse data; to facilitate research on child abuse by making available a single, statewide source of child abuse data; and to provide maximum safeguards against the unwarranted invasions of privacy which such a registry might otherwise entail.

[C75, 77, 79, 81, §235A.12]

84 Acts, ch 1035, §1; 2004 Acts, ch 1153, §2

235A.13 Definitions.

As used in chapter 232, subchapter III, part 2, and this subchapter, unless the context otherwise requires:

1. “*Assessment data*” means any of the following information pertaining to the department’s evaluation of a family:

a. Identification of the strengths and needs of the child, and of the child’s parent, home, and family.

b. Identification of services available from the department and informal and formal services and other support available in the community to meet identified strengths and needs.

2. “*Child abuse information*” means any or all of the following data maintained by the department in a manual or automated data storage system and individually identified:

a. Report data.

b. Assessment data.

c. Disposition data.

3. “*Confidentiality*” means the withholding of information from any manner of communication, public or private.

4. “*Department*” means the department of human services.

5. “*Disposition data*” means information pertaining to an opinion or decision as to the occurrence of child abuse, including:

a. Any intermediate or ultimate opinion or decision reached by assessment personnel.

b. Any opinion or decision reached in the course of judicial proceedings.

c. The present status of any case.

6. “*Expungement*” means the process of destroying child abuse information.

7. “*Individually identified*” means any report, assessment, or disposition data which names the person or persons responsible or believed responsible for the child abuse.

8. “*Multidisciplinary team*” means a group of individuals who possess knowledge and skills related to the diagnosis, assessment, and disposition of child abuse cases and who are professionals practicing in the disciplines of medicine, nursing, public health, substance abuse, domestic violence, mental health, social work, child development, education, law, juvenile probation, or law enforcement, or a group established pursuant to section 235B.1, subsection 1.

9. “*Near fatality*” means an injury to a child that, as certified by a physician, placed the child in serious or critical condition.

10. “*Report data*” means any of the following information pertaining to an assessment of an allegation of child abuse in which the department has determined the alleged child abuse meets the definition of child abuse:

a. The name and address of the child and the child’s parents or other persons responsible for the child’s care.

b. The age of the child.

c. The nature and extent of the injury, including evidence of any previous injury.

d. Additional information as to the nature, extent, and cause of the injury, and the identity of the person or persons alleged to be responsible for the injury.

e. The names and conditions of other children in the child’s home.

f. A recording made of an interview conducted under chapter 232 in association with a child abuse assessment.

g. Any other information believed to be helpful in establishing the information in paragraph “d”.

11. “*Sealing*” means the process of removing child abuse information from authorized access as provided by this chapter.

[C75, 77, 79, 81, §235A.13; 82 Acts, ch 1066, §1]

84 Acts, ch 1035, §2; 87 Acts, ch 153, §9; 87 Acts, ch 182, §1; 92 Acts, ch 1143, §2; 97 Acts, ch 35, §13, 25; 97 Acts, ch 176, §6, 7, 27 – 31, 43; 99 Acts, ch 96, §26; 2000 Acts, ch 1137, §5, 14; 2002 Acts, ch 1074, §2; 2003 Acts, ch 44, §51; 2003 Acts, ch 62, §1; 2004 Acts, ch 1153, §3; 2018 Acts, ch 1041, §122; 2020 Acts, ch 1062, §94

Referred to in §135.43, 217.30, 232.68, 232.71B, 235A.12, 331.909

For additional definitions, see §232.68

Code editor directive applied

235A.14 Creation and maintenance of a central registry.

1. There is created within the state department of human services a central registry for certain child abuse information. The department shall organize and staff the registry and adopt rules for its operation.

2. The registry shall collect, maintain and disseminate child abuse information as provided for by this chapter.

3. The department shall maintain a toll-free telephone line, which shall be available on a twenty-four hour a day, seven-day a week basis and which the department of human services and all other persons may use to report cases of suspected child abuse and that all persons authorized by this chapter may use for obtaining child abuse information.

4. An oral report of suspected child abuse initially made to the central registry shall be immediately transmitted by the department to the appropriate county department of social services or law enforcement agency, or both.

5. The registry, upon receipt of a report of suspected child abuse, shall search the records of the registry, and if the records of the registry reveal any previous report of child abuse involving the same child or any other child in the same family, or if the records reveal any other pertinent information with respect to the same child or any other child in the same family, the appropriate office of the department of human services or law enforcement agency shall be immediately notified of that fact.

6. The central registry shall include report data and disposition data which is subject to

placement in the central registry under section 232.71D. The central registry shall not include assessment data.

[C75, 77, 79, 81, §235A.14]

83 Acts, ch 96, §157, 159; 97 Acts, ch 176, §8; 2013 Acts, ch 115, §11, 19

Referred to in §232.68, 235A.12, 279.13, 279.69, 321.375

235A.15 Authorized access — procedures involving other states.

1. Notwithstanding chapter 22, the confidentiality of all child abuse information shall be maintained, except as specifically provided by this section.

2. Access to report data and disposition data subject to placement in the central registry pursuant to section 232.71D is authorized only to the following persons or entities:

a. Subjects of a report as follows:

(1) To a child named in a report as a victim of abuse or to the child's attorney or guardian ad litem.

(2) To a parent or to the attorney for the parent of a child named in a report as a victim of abuse.

(3) To a guardian or legal custodian, or that person's attorney, of a child named in a report as a victim of abuse.

(4) To a person or the attorney for the person named in a report as having abused a child.

b. Persons involved in an assessment of child abuse as follows:

(1) To a health practitioner or mental health professional who is examining, attending, or treating a child whom such practitioner or professional believes or has reason to believe has been the victim of abuse or to a health practitioner or mental health professional whose consultation with respect to a child believed to have been the victim of abuse is requested by the department.

(2) To an employee or agent of the department of human services responsible for the assessment of a child abuse report.

(3) To a law enforcement officer responsible for assisting in an assessment of a child abuse allegation or for the temporary emergency removal of a child from the child's home.

(4) To a multidisciplinary team, or to parties to an interagency agreement entered into pursuant to section 280.25, if the department of human services approves the composition of the multidisciplinary team or the relevant provisions of the interagency agreement and determines that access to the team or to the parties to the interagency agreement is necessary to assist the department in the diagnosis, assessment, and disposition of a child abuse case.

(5) In an individual case, to each mandatory reporter who reported the child abuse.

(6) To the county attorney.

(7) To the juvenile court.

(8) To a licensing authority for a facility providing care to a child named in a report, if the licensing authority is notified of a relationship between facility policy and the alleged child abuse under section 232.71B.

(9) To the child protection assistance team established in accordance with section 915.35 for the county in which the report was made.

c. Individuals, agencies, or facilities providing care to a child, but only with respect to disposition data and, if authorized in law to the extent necessary for purposes of an employment evaluation, report data, for cases of founded child abuse placed in the central registry in accordance with section 232.71D as follows:

(1) To an administrator of a psychiatric medical institution for children licensed under chapter 135H.

(2) To an administrator of a child foster care facility licensed under chapter 237 if the data concerns a person employed or being considered for employment by the facility.

(3) To an administrator of a child care facility registered or licensed under chapter 237A if the data concerns a person employed or being considered for employment by or living in the facility.

(4) To the superintendent of the Iowa braille and sight saving school if the data concerns a person employed or being considered for employment or living in the school.

(5) To the superintendent of the Iowa school for the deaf if the data concerns a person employed or being considered for employment or living in the school.

(6) To an administrator of a community mental health center accredited under chapter 230A if the data concerns a person employed or being considered for employment by the center.

(7) To an administrator of a facility or program operated by the state, a city, or a county which provides services or care directly to children, if the data concerns a person employed by or being considered for employment by the facility or program.

(8) To an administrator of an agency certified by the department of human services to provide services under a medical assistance home and community-based services waiver, if the data concerns a person employed by or being considered by the agency for employment.

(9) To the administrator of an agency providing mental health, intellectual disability, or developmental disability services under a regional service system management plan implemented in accordance with section 331.393, if the data concerns a person employed by or being considered by the agency for employment.

(10) To an administrator of a child care resource and referral agency which has entered into an agreement authorized by the department to provide child care resource and referral services. Access is authorized if the data concerns a person providing child care services or a person employed by a provider of such services and the agency includes the provider as a referral or the provider has requested to be included as a referral.

(11) To an administrator of a hospital licensed under chapter 135B if the data concerns a person employed or being considered for employment by the hospital.

(12) To an area education agency or other person responsible for providing early intervention services to children that is funded under part C of the federal Individuals with Disabilities Education Act.

(13) To a federal, state, or local governmental unit, or agent of the unit, that has a need for the information in order to carry out its responsibilities under law to protect children from abuse and neglect.

(14) To a nursing program that is approved by the state board of nursing under section 152.5, if the data relates to a record check performed pursuant to section 152.5A.

d. Report data and disposition data, and assessment data to the extent necessary for resolution of the proceeding, relating to judicial and administrative proceedings as follows:

(1) To a juvenile court involved in an adjudication or disposition of a child named in a report or a child that is the subject of a guardianship proceeding under chapter 232D.

(2) To a district court upon a finding that data is necessary for the resolution of an issue arising in any phase of a case involving child abuse or guardianship proceedings for a child under chapter 232D.

(3) To a court or the department hearing an appeal for correction of report data and disposition data as provided in section 235A.19.

(4) To an expert witness at any stage of an appeal necessary for correction of report data and disposition data as provided in section 235A.19.

(5) To a probation or parole officer, juvenile court officer, court appointed special advocate as defined in section 232.2, or adult correctional officer having custody or supervision of, or conducting an investigation for a court or the board of parole regarding, a person named in a report as a victim of child abuse or as having abused a child.

(6) To the department of justice for purposes of review by the prosecutor's review committee or the commitment of sexually violent predators as provided in chapter 229A.

(7) Each licensing board specified under chapter 147 and the Iowa department of public health for the purpose of licensure, certification or registration, disciplinary investigation, or the renewal of licensure, certification or registration, or disciplinary proceedings of health care professionals.

e. Others as follows, but only with respect to report data and disposition data for cases of founded child abuse subject to placement in the registry pursuant to section 232.71D:

(1) To a person conducting bona fide research on child abuse, but without data identifying individuals named in a child abuse report, unless having that data open to review is essential to the research or evaluation and the authorized registry officials give prior written approval

and the child, the child's guardian or guardian ad litem and the person named in a report as having abused a child give permission to release the data.

(2) To registry or department personnel when necessary to the performance of their official duties or to a person or agency under contract with the department to carry out official duties and functions of the department.

(3) To the department of justice for the sole purpose of the filing of a claim for restitution or compensation pursuant to sections 915.21 and 915.84. Data provided pursuant to this subparagraph is subject to the provisions of section 915.90.

(4) To a legally constituted child protection agency of another state which is investigating or assessing or treating a child named in a report as having been abused or which is investigating or assessing or treating a person named as having abused a child.

(5) To a public or licensed child-placing agency of another state responsible for an adoptive or foster care preplacement or placement evaluation.

(6) To the attorney for the department of human services who is responsible for representing the department.

(7) To the child advocacy and local citizen foster care review boards created pursuant to sections 237.16 and 237.19.

(8) To an employee or agent of the department of human services regarding a person who is providing child care if the person is not registered or licensed to operate a child care facility.

(9) To the board of educational examiners created under chapter 272 for purposes of determining whether a license, certificate, or authorization should be issued, denied, or revoked.

(10) To a legally constituted child protection agency in another state if the agency is conducting a records check of a person who is providing care or has applied to provide care to a child in the other state.

(11) To the legally authorized protection and advocacy agency recognized in section 135C.2, if a person identified in the information as a victim or a perpetrator of abuse resides in or receives services from a facility or agency because the person is diagnosed as having a developmental disability or a mental illness.

(12) To the department of human services for a record check relating to employment or residence pursuant to section 218.13.

(13) To the Iowa board for the treatment of sexual abusers for purposes of certifying sex offender treatment providers.

(14) To an employee or agent of the department responsible for registering or licensing or approving the registration or licensing of an agency or facility, or to an individual providing care to a child and regulated by the department.

(15) To an employee of the department responsible for an adoptive placement, a certified adoption investigator, or licensed child-placing agency responsible for an adoptive placement.

(16) To the superintendent, or the superintendent's designee, of a school district or to the authorities in charge of an accredited nonpublic school for purposes of a volunteer or employment record check.

(17) To the department of inspections and appeals for purposes of record checks of applicants for employment with the department of inspections and appeals.

(18) To a person or agency responsible for the care or supervision of a child named in a report as an alleged victim of abuse or a person named in a report as having allegedly abused a child, if the juvenile court or department deems access to report data and disposition data by the person or agency to be necessary.

(19) To the Iowa veterans home for purposes of record checks of potential volunteers and volunteers in the Iowa veterans home.

(20) To the administrator of a certified nurse aide program, if the data relates to a record check of a student of the program performed pursuant to section 135C.33.

(21) To the administrator of a juvenile detention or shelter care home, if the data relates to a record check of an existing or prospective employee, resident, or volunteer for or in the home.

(22) To the employer or prospective employer of a school bus driver for purposes of an employment record check.

(23) To the administrator of a family support program receiving public funds, if the data relates to a record check of an employee working directly with families.

(24) To an intake officer making a preliminary inquiry pursuant to section 232.28, subsection 3.

(25) To a free clinic as defined in section 135.24A for purposes of record checks of potential volunteers and existing volunteers at the free clinic.

f. Only with respect to disposition data for cases of founded child abuse subject to placement in the central registry pursuant to section 232.71D, to a person who submits written authorization from an individual allowing the person access to data pursuant to this subsection on behalf of the individual in order to verify whether the individual is named in a founded child abuse report as having abused a child.

3. Access to report data and disposition data for a case of child abuse determined to meet the definition of child abuse, which data is not subject to placement in the central registry pursuant to section 232.71D, is authorized only to the following persons:

a. Subjects of a report identified in subsection 2, paragraph "a".

b. Persons involved in an assessment of child abuse identified in subsection 2, paragraph "b", subparagraphs (2), (3), (4), (6), and (7).

c. Others identified in subsection 2, paragraph "e", subparagraphs (2), (3), (6), and (18).

d. The department of justice for purposes of review by the prosecutor's review committee or the commitment of sexually violent predators as provided in chapter 229A.

4. Access to report data for a case of child abuse determined to not meet the definition of child abuse, which data is not subject to placement in the central registry pursuant to section 232.71D, is authorized only to the following:

a. Subjects of a report identified in subsection 2, paragraph "a".

b. Persons involved in an assessment of child abuse identified in subsection 2, paragraph "b", subparagraphs (2), (6), and (7).

c. Others identified in subsection 2, paragraph "e", subparagraphs (2) and (18).

d. The department of justice for purposes of review by the prosecutor's review committee or the commitment of sexually violent predators as provided in chapter 229A.

5. Access to disposition data subject to placement in the central registry pursuant to section 232.71D is authorized to the department of administrative services or to the personnel office of a public employer, as defined in section 20.3, as necessary for presentation in grievance or arbitration procedures provided for in sections 8A.415 and 20.18. Disposition data introduced into a grievance or arbitration proceeding shall not be considered a part of the public record of a case.

6. a. If a child who is a legal resident of another state is present in this state and a report of child abuse is made concerning the child, the department shall act to ensure the safety of the child. The department shall contact the child's state of legal residency to coordinate the assessment of the report. If the child's state of residency refuses to conduct an assessment, the department shall commence an appropriate assessment.

b. If a report of child abuse is made concerning an alleged perpetrator who resides in this state and a child who resides in another state, the department shall assist the child's state of residency in conducting an assessment of the report. The assistance shall include but is not limited to an offer to interview the alleged perpetrator and any other relevant source. If the child's state of residency refuses to conduct an assessment of the report, the department shall commence an appropriate assessment. The department shall seek to develop protocols with states contiguous to this state for coordination in the assessment of a report of child abuse when a person involved with the report is a resident of another state.

7. If the director of human services receives a written request for information regarding a specific case of child abuse involving a fatality or near fatality to a child from the majority or minority leader of the senate or the speaker or the minority leader of the house of representatives, the director or the director's designee shall arrange for a confidential meeting with the requestor or the requestor's designee. In the confidential meeting the director or the director's designee shall share all pertinent information concerning the case, including but not limited to child abuse information. Any written document distributed by the director or the director's designee at the confidential meeting shall not be removed

from the meeting and a participant in the meeting shall be subject to the restriction on redissemination of confidential information applicable to a person under section 235A.17, subsection 3, for confidential information disclosed to the participant at the meeting. A participant in the meeting may issue a report to the governor or make general public statements concerning the department's handling of the case of child abuse.

8. Upon the request of the governor, the department shall disclose child abuse information to the governor or the governor's designee relating to a specific case of child abuse reported to the department.

9. If, apart from a request made pursuant to subsection 7 or 8, the department receives from a member of the public a request for information relating to a case of founded child abuse involving a fatality or near fatality to a child, the response to the request shall be made in accordance with this subsection and subsections 10 and 11. If the request is received before or during performance of an assessment of the case in accordance with section 232.71B, the director of human services or the director's designee shall initially disclose whether or not the assessment will be or is being performed. Otherwise, within five business days of receiving the request or completing the assessment, whichever is later, the director of human services or the director's designee shall consult with the county attorney responsible for prosecution of any alleged perpetrator of the fatality or near fatality and shall disclose information, including but not limited to child abuse information, relating to the case, except for the following:

a. The substance or content of any mental health or psychological information that is confidential under chapter 228.

b. Information that constitutes the substance or contains the content of an attorney work product or is a privileged communication under section 622.10.

c. Information that would reveal the identity of any individual who provided information relating to a report of child abuse or an assessment of such a report involving the child.

d. Information that the director or the director's designee reasonably believes is likely to cause mental or physical harm to a sibling of the child or to another child residing in the child's household.

e. Information that the director or the director's designee reasonably believes is likely to jeopardize the prosecution of any alleged perpetrator of the fatality or near fatality.

f. Information that the director or the director's designee reasonably believes is likely to jeopardize the rights of any alleged perpetrator of the fatality or near fatality to a fair trial.

g. Information that the director or the director's designee reasonably believes is likely to undermine an ongoing or future criminal investigation.

h. Information, the release of which is a violation of federal law or regulation.

10. The information released by the director of human services or the director's designee pursuant to a request made under subsection 9 relating to a case of founded child abuse involving a fatality or near fatality to a child shall include all of the following, unless such information is excepted from disclosure under subsection 9:

a. Any relevant child abuse information concerning the cause of and circumstances surrounding the child fatality or near fatality, including the age and gender of the child and the department's response and findings.

b. Information describing any previous child abuse or neglect investigations of the caregivers responsible for the child abuse or neglect that are pertinent to the child abuse or neglect that led to the child fatality or near fatality, and the results of any such investigations.

c. A summary of information, that would otherwise be confidential under section 217.30, as to whether or not the child or a member of the child's family was utilizing social services provided by the department at the time of the child fatality or near fatality or within the five-year period preceding the fatality or near fatality.

d. Any recommendations made by the department to the county attorney or the juvenile court.

e. The services provided by and actions of the state on behalf of the child that are pertinent to the child abuse or neglect that led to the child fatality or near fatality.

11. a. If a person who made a request for information under subsection 9 does not believe the department has substantially complied with the request, the person may apply to the juvenile court under section 235A.24 for an order for disclosure of additional information.

b. If release of social services information in addition to that released under subsection 10, paragraph “c”, is believed to be in the public’s interest and right to know, the director of human services or the director’s designee may apply to the court under section 235A.24 requesting a review of the information proposed for release and an order authorizing release of the information. A release of information that would otherwise be confidential under section 217.30 concerning social services provided to the child or the child’s family shall not include information concerning financial or medical assistance provided to the child or the child’s family.

12. If an individual who is the subject of a child abuse report listed in subsection 2, paragraph “a”, or another party involved in an assessment under section 232.71B releases in a public forum or to the media information concerning a case of child abuse including but not limited to child abuse information which would otherwise be confidential, the director of human services, or the director’s designee, may respond with relevant information concerning the case of child abuse that was the subject of the release. Prior to releasing the response, the director or the director’s designee shall consult with the child’s parent or guardian, or the child’s guardian ad litem, and apply to the court under section 235A.24 requesting a review of the information proposed for release and an order authorizing release of the information.

[C75, 77, 79, 81, §235A.15; 82 Acts, ch 1066, §2]

83 Acts, ch 96, §157, 159; 85 Acts, ch 173, §16; 85 Acts, ch 174, §1; 86 Acts, ch 1177, §2; 87 Acts, ch 153, §10, 11; 88 Acts, ch 1158, §53; 89 Acts, ch 65, §1; 89 Acts, ch 283, §25; 90 Acts, ch 1221, §3, 4; 90 Acts, ch 1248, §1; 90 Acts, ch 1249, §1; 91 Acts, ch 97, §30; 91 Acts, ch 138, §5, 6; 92 Acts, ch 1141, §4; 92 Acts, ch 1143, §3, 4; 93 Acts, ch 76, §3, 4; 94 Acts, ch 1023, §43; 94 Acts, ch 1156, §1; 95 Acts, ch 93, §1 – 3; 95 Acts, ch 182, §15, 16; 96 Acts, ch 1175, §4; 96 Acts, ch 1183, §28; 97 Acts, ch 176, §9, 32 – 37, 43; 98 Acts, ch 1090, §64, 84; 98 Acts, ch 1100, §97; 98 Acts, ch 1115, §3; 99 Acts, ch 61, §10 – 12, 14; 99 Acts, ch 111, §8; 99 Acts, ch 141, §31; 99 Acts, ch 192, §33; 2000 Acts, ch 1123, §3; 2000 Acts, ch 1137, §6 – 9, 14; 2000 Acts, ch 1153, §1; 2001 Acts, ch 8, §2; 2002 Acts, ch 1034, §2; 2002 Acts, ch 1162, §19; 2003 Acts, ch 107, §2; 2003 Acts, ch 145, §217, 286; 2004 Acts, ch 1116, §27; 2004 Acts, ch 1153, §4 – 7; 2005 Acts, ch 19, §37; 2005 Acts, ch 121, §4 – 8; 2006 Acts, ch 1008, §2; 2006 Acts, ch 1152, §1; 2007 Acts, ch 10, §166; 2007 Acts, ch 22, §55; 2009 Acts, ch 93, §2; 2011 Acts, ch 98, §8; 2012 Acts, ch 1019, §94; 2012 Acts, ch 1047, §1; 2012 Acts, ch 1132, §7; 2013 Acts, ch 42, §13; 2013 Acts, ch 115, §12, 19; 2015 Acts, ch 56, §21; 2015 Acts, ch 69, §74; 2017 Acts, ch 104, §1, 2; 2018 Acts, ch 1104, §2, 5; 2019 Acts, ch 56, §32, 44, 45; 2020 Acts, ch 1102, §10

Referred to in §135.43, 216A.136, 217.30, 232.28, 232.71B, 232.71D, 235A.12, 235A.16, 235A.17, 235A.19, 235A.21, 235A.24, 237.21

Order for disclosure or release of child abuse information, see §235A.24

2019 amendment to subsection 2, paragraph d, subparagraphs (1) and (2), is effective January 1, 2020, and applies to guardianships and guardianship proceedings of minors established or pending before, on, or after that date; 2019 Acts, ch 56, §44, 45

Subsection 2, paragraph c, subparagraph (5) amended

235A.16 Requests for child abuse information.

1. Requests for child abuse information shall be in writing on forms prescribed by the department, except as otherwise provided by subsection 2. Request forms shall require information sufficient to demonstrate authorized access.

2. a. Requests for child abuse information may be made orally by telephone where a person making such a request believes that the information is needed immediately and where information sufficient to demonstrate authorized access is provided. In the event that a request is made orally by telephone, a written request form shall nevertheless be filed within seventy-two hours.

b. The department of inspections and appeals may provide access to the single contact repository established under section 135C.33, subsection 7, for criminal and abuse history checks made by those employers, agencies, and other persons that are authorized access to child abuse information under section 235A.15 and are required by law to perform such checks.

3. Subsections 1 and 2 do not apply to child abuse information that is disseminated to

an employee of the department of human services, to a juvenile court, or to the attorney representing the department as authorized by section 235A.15.

[C75, 77, 79, 81, §235A.16]

87 Acts, ch 153, §12; 2001 Acts, ch 191, §40

Referred to in §216A.136, 235A.12

235A.17 Redissemination of child abuse information.

1. A person, agency, or other recipient of child abuse information authorized to receive such information shall not redisseminate such information, except that redissemination shall be permitted when all of the following conditions apply:

a. The redissemination is for official purposes in connection with prescribed duties or, in the case of a health practitioner, pursuant to professional responsibilities.

b. The person to whom such information would be redisseminated would have independent access to the same information under section 235A.15.

c. A written record is made of the redissemination, including the name of the recipient and the date and purpose of the redissemination.

d. The written record is forwarded to the registry within thirty days of the redissemination.

2. The department of human services may notify orally the mandatory reporter in an individual child abuse case of the results of the case assessment and of the confidentiality provisions of sections 235A.15 and 235A.21. The department shall subsequently transmit a written notice to the mandatory reporter of the results and confidentiality provisions. If the report data and disposition data have been placed in the registry as founded child abuse pursuant to section 232.71D, a copy of the written notice shall be transmitted to the registry and shall be maintained by the registry as provided in section 235A.18. Otherwise, a copy of the written notice shall be retained by the department with the case file.

3. a. For the purposes of this subsection, “*subject of a child abuse report*” means any individual listed in section 235A.15, subsection 2, paragraph “a”, other than the attorney or guardian ad litem of such individual.

b. An individual who is the subject of a child abuse report may redisseminate to the governor or the governor’s designee or to a member of the general assembly or an employee of the general assembly designated by the member, child abuse information that was disseminated to the individual by the department or other official source. The child abuse information may also include the following related information that the individual is allowed under law to possess:

(1) Department of human services information described in section 217.30, subsection 2.

(2) Mental health information as defined in section 228.1.

(3) Juvenile court social records and other information in official juvenile court records described in section 232.147.

c. A person who receives confidential child abuse information and related information redisseminated under this subsection shall not further disseminate, communicate, or attempt to communicate the information to a person who is not authorized by this section or other provision of law to have access to the information.

[C75, 77, 79, 81, §235A.17]

84 Acts, ch 1279, §23; 87 Acts, ch 153, §13; 97 Acts, ch 35, §17, 25; 97 Acts, ch 176, §10, 38, 43; 2000 Acts, ch 1137, §10, 14; 2015 Acts, ch 29, §35; 2019 Acts, ch 125, §3

Referred to in §216A.136, 235A.12, 235A.15, 235A.21

235A.18 Sealing and expungement of founded child abuse information.

1. Report data and disposition data relating to a particular case of alleged abuse which has been determined to be founded child abuse and placed in the central registry in accordance with section 232.71D shall be maintained in the registry as follows:

a. (1) Report and disposition data relating to a particular case of alleged child abuse shall be sealed ten years after the initial placement of the data in the registry unless good cause be shown why the data should remain open to authorized access. If a subsequent report of an alleged case of child abuse involving the child named in the initial data placed in the registry as the victim of abuse or a person named in the data as having abused a child is received by

the department within this ten-year period, or within the period in which the person's name is in the central registry, the data shall be sealed ten years after receipt of the subsequent report unless good cause be shown why the data should remain open to authorized access. Report and disposition data shall be made available to the department of justice if the department requests access to the alleged child abuse records for purposes of review by the prosecutor's review committee or commitment of sexually violent predators under chapter 229A.

(2) Notwithstanding subparagraph (1), a person named in the initial data placed in the registry as having abused a child shall have the person's name removed from the registry after ten years, if not previously removed from the registry pursuant to the other provisions of this subsection, if that person has not had a subsequent case of alleged abuse which resulted in the person's name being placed in the registry as the person responsible for the abuse within the ten-year period.

(3) (a) A person named in the initial data placed in the registry as having abused a child shall have the person's name removed from the registry after five years if the department determined in the report and disposition data that the person committed child abuse as defined in section 232.68, subsection 2, paragraph "a", subparagraph (1), (4), or (6).

(b) Subparagraph division (a) shall not apply, and the name of a person named in the initial data as having abused a child shall remain in the registry as described in subparagraph (1), if the department determined in the initial report and disposition data that the person committed child abuse as defined in section 232.68, subsection 2, paragraph "a", subparagraph (1), (4), or (6), and the child abuse resulted in the child's death or a serious injury.

b. Data sealed in accordance with this section shall be expunged eight years after the date the data was sealed. However, if the report data and the disposition data involve child abuse as defined in section 232.68, subsection 2, paragraph "a", subparagraph (3) or (5), the data shall not be expunged for a period of thirty years. Sealed data shall be made available to the department of justice upon request if the prosecutor's review committee is reviewing records or if a prosecuting attorney has filed a petition to commit a sexually violent predator under chapter 229A.

2. The juvenile or district court and county attorney shall expunge child abuse information upon notice from the registry. The supreme court shall prescribe rules establishing the period of time child abuse information is retained by the juvenile and district courts. A county attorney shall not retain child abuse information in excess of the time period the information would be retained under the rules prescribed by the supreme court. Child abuse information relating to a particular case of child abuse placed in the central registry that a juvenile or district court determines is unfounded in a written finding based upon a preponderance of evidence shall be expunged from the central registry.

3. The department of human services shall adopt rules establishing the period of time child abuse information which is not maintained in the central registry is retained by the department.

[C75, 77, 79, 81, §235A.18]

83 Acts, ch 96, §157, 159; 84 Acts, ch 1279, §24; 85 Acts, ch 173, §17; 89 Acts, ch 230, §20; 90 Acts, ch 1221, §5, 6; 93 Acts, ch 76, §5, 6; 97 Acts, ch 176, §11; 99 Acts, ch 61, §13, 14; 2000 Acts, ch 1137, §11, 14; 2000 Acts, ch 1154, §18; 2011 Acts, ch 28, §5; 2012 Acts, ch 1082, §2; 2013 Acts, ch 115, §13, 19, 20; 2014 Acts, ch 1026, §52

Referred to in §216A.136, 235A.12, 235A.17, 235A.20, 235A.21

235A.19 Examination, requests for correction or expungement and appeal.

1. A subject of a child abuse report, as identified in section 235A.15, subsection 2, paragraph "a", shall have the right to examine report data and disposition data which refers to the subject. The department may prescribe reasonable hours and places of examination. A subject of a child abuse report may provide additional information to the department that is relevant to the report data and disposition data and may request that the department revise the report data and disposition data.

2. At the time the notice of the results of a child abuse assessment performed in accordance with section 232.71B is issued, the department shall provide notice to a person

named in the report as having abused a child of the right to a contested case hearing and shall provide notice to subjects other than the person named in the report as having abused a child of the right to intervene in a contested case proceeding, as provided in subsection 3.

3. *a.* A subject of a child abuse report may file with the department within ninety days of the date of the notice of the results of a child abuse assessment performed in accordance with section 232.71B, a written statement to the effect that report data and disposition data referring to the subject is in whole or in part erroneous, and may request a correction of that data or of the findings of the child abuse assessment report.

b. The department shall provide a person named in a child abuse report as having abused a child, who has been adversely affected by a founded child abuse disposition, notwithstanding the placement of the report data in the central registry pursuant to section 232.71D, with an opportunity for a contested case hearing pursuant to chapter 17A to correct the data or the findings, unless the department corrects the data or findings as requested.

c. The department shall provide a subject of a child abuse report, other than the person named in the report as having abused a child, with an opportunity to file a motion to intervene in the contested case proceeding.

d. The department may defer the hearing until the conclusion of the adjudicatory phase of a pending juvenile or district court case relating to the data or findings. Upon request of any party to the contested case proceeding, the presiding officer may stay the hearing until the conclusion of the adjudicatory phase of a pending juvenile or district court case relating to the data or findings. An adjudication of a child in need of assistance or a criminal conviction in a district court case relating to the child abuse data or findings may be determinative in a contested case proceeding.

e. A party to a contested case proceeding shall file an appeal of the presiding officer's proposed decision to the director within ten days of the presiding officer's proposed decision. If an appeal is not filed within ten days from the date of a proposed decision, the proposed decision shall be the final agency action. If a party files an appeal within ten days from the date of the proposed decision, the director has forty-five days from the date of the proposed decision to issue a ruling. Upon the director's failure to issue a ruling within forty-five days of the date of the proposed decision, the proposed decision shall be the final agency action.

f. The department shall not disclose any report data or disposition data until the conclusion of the proceeding to correct the data or findings, except as follows:

- (1) As necessary for the proceeding itself.
- (2) To the parties and attorneys involved in a judicial proceeding.
- (3) For the regulation of child care or child placement.
- (4) Pursuant to court order.
- (5) To the subject of an assessment or a report.
- (6) For the care or treatment of a child named in a report as a victim of abuse.
- (7) To persons involved in an assessment of child abuse.
- (8) For statutorily authorized record checks for employment of an individual by a provider of adult home care, adult health facility care, or other adult placement facility care.
- (9) For others identified in section 235A.15, subsection 2, paragraph "d", subparagraph (7), and section 235A.15, subsection 2, paragraph "e", subparagraphs (9) and (16).

4. A person named in a child abuse report as having abused a child, who has been adversely affected by a founded child abuse disposition, notwithstanding the placement of the report data in the central registry pursuant to section 232.71D, may appeal the decision resulting from a hearing held pursuant to subsection 3 to the district court of Polk county or to the district court of the district in which the person named in the report as having abused a child resides. Immediately upon appeal the court shall order the department to file with the court a certified copy of the report data or disposition data. Appeal shall be taken in accordance with chapter 17A.

5. Upon the request of the appellant, the record and evidence in such cases shall be closed to all but the court and its officers, and access to the record and evidence shall be prohibited unless otherwise ordered by the court. The clerk shall maintain a separate docket for such actions. A person other than the appellant shall not permit a copy of any of the testimony or pleadings or the substance of the testimony or pleadings to be made available to any person

other than a party to the action or the party's attorney. Violation of the provisions of this subsection shall be a public offense punishable under section 235A.21.

6. Whenever the department corrects or eliminates data as requested or as ordered by the court, the department shall advise all persons who have received the incorrect data of such fact. Upon application to the court and service of notice on the department, any subject of a child abuse report may request and obtain a list of all persons who have received report data or disposition data referring to the subject.

7. In the course of any proceeding provided for by this section, the identity of the person who reported the disputed data and the identity of any person who has been reported as having abused a child may be withheld upon a determination by the department that disclosure of their identities would be detrimental to their interests.

[C75, 77, 79, 81, §235A.19]

85 Acts, ch 173, §18; 89 Acts, ch 230, §21; 92 Acts, ch 1143, §5; 94 Acts, ch 1130, §10; 95 Acts, ch 49, §3; 97 Acts, ch 35, §21, 25; 97 Acts, ch 176, §12, 39, 40, 43; 98 Acts, ch 1100, §98; 2000 Acts, ch 1067, §2; 2005 Acts, ch 121, §9; 2011 Acts, ch 28, §6; 2012 Acts, ch 1082, §3 – 5; 2013 Acts, ch 115, §14, 15, 19

Referred to in §216A.136, 232.71B, 232.71D, 235A.12, 235A.15

235A.20 Civil remedy.

Any aggrieved person may institute a civil action for damages under chapter 669 or 670 or to restrain the dissemination of child abuse information in violation of this chapter, and any person, agency or other recipient proven to have disseminated or to have requested and received child abuse information in violation of this chapter, or any employee of the department who knowingly destroys assessment data except in accordance with rule as established by the department for retention of child abuse information under section 235A.18 shall be liable for actual damages and exemplary damages for each violation and shall be liable for court costs, expenses, and reasonable attorney's fees incurred by the party bringing the action. In no case shall the award for damages be less than one hundred dollars.

[C75, 77, 79, 81, §235A.20]

97 Acts, ch 176, §13, 41, 43

Referred to in §235A.12

235A.21 Criminal penalties.

1. Any person who willfully requests, obtains, or seeks to obtain child abuse information under false pretenses, or who willfully communicates or seeks to communicate child abuse information to any agency or person except in accordance with sections 235A.15 and 235A.17, or any person connected with any research authorized pursuant to section 235A.15 who willfully falsifies child abuse information or any records relating to child abuse information, or any employee of the department who knowingly destroys assessment data except in accordance with rule as established by the department for retention of child abuse information under section 235A.18 is guilty of a serious misdemeanor. Any person who knowingly, but without criminal purposes, communicates or seeks to communicate child abuse information except in accordance with sections 235A.15 and 235A.17 shall be guilty of a simple misdemeanor.

2. Any reasonable grounds for belief that a person has violated any provision of this chapter shall be grounds for the immediate withdrawal of any authorized access such person might otherwise have to child abuse information.

[C75, 77, 79, 81, §235A.21]

97 Acts, ch 176, §14, 42, 43

Referred to in §235A.12, 235A.17, 235A.19

235A.22 Education program.

The department of human services shall require an educational program for employees of the department with access to child abuse information on the proper use and control of child abuse information.

[C75, 77, 79, 81, §235A.22]

97 Acts, ch 176, §15

Referred to in §235A.12

235A.23 Reports.

1. The department of human services may compile statistics, conduct research, and issue reports on child abuse, provided identifying details of the subject of child abuse reports are deleted from any report issued.

2. The department shall issue an annual report on its administrative operation, including information as to the number of requests for child abuse data, the proportion of requests attributable to each type of authorized access, the frequency and nature of irregularities, and other pertinent matters.

[C75, 77, 79, 81, §235A.23]

87 Acts, ch 153, §14; 97 Acts, ch 176, §16

Referred to in §235A.12

235A.24 Order for disclosure or release of child abuse information.

1. *a.* If a person's request for information relating to a case of founded child abuse under section 235A.15, subsection 9, is denied or such person does not believe the department has substantially complied with the request and seeks additional information, the person may apply to the juvenile court for an order compelling disclosure of the information.

b. The director of human services or the director's designee may apply, if the conditions under section 235A.15, subsection 11 or 12, are met, to the court requesting a review of confidential information proposed for release and an order authorizing the release of information. A release of information that would otherwise be confidential under section 217.30 concerning social services provided to the child or the child's family shall not include information concerning financial or medical assistance provided to the child or the child's family.

2. The application shall state in reasonable detail the factors in support of the application. The juvenile court shall have jurisdiction to issue the order. A hearing shall be set immediately upon filing of an application under this section and subsequent proceedings shall be accorded priority by other courts.

3. In considering the application, the court shall weigh the public's interest and right to know the information against the privacy rights of the victim of the child abuse and other individuals who may be affected by the release of the information relating to the case of child abuse.

4. After the court has reviewed the information relating to the case in camera, unless the court finds that a restriction listed in section 235A.15, subsection 9, is applicable, the court may issue an order compelling disclosure or authorizing release of the information relating to the case.

2000 Acts, ch 1137, §12, 14; 2004 Acts, ch 1153, §8

Referred to in §235A.12, 235A.15

CHAPTER 235B
DEPENDENT ADULT ABUSE SERVICES
— INFORMATION REGISTRY

Referred to in §216A.136, 235E.2, 235E.4, 272.2

See also chapter 235E
 Legislative services agency to monitor reporting of dependent adult abuse,
 investigations, and workload and performance of personnel, and report annually by
 February 1; department on aging and departments of human services and inspections
 and appeals to cooperate; 87 Acts, ch 182, §11; 2003 Acts, ch 35, §46, 49;
 2009 Acts, ch 182, §137

	SUBCHAPTER I	235B.11	Civil remedy.
	GENERAL PROVISIONS	235B.12	Criminal penalties.
235B.1	Dependent adult abuse services.	235B.13	Registry reports.
235B.2	Definitions.	235B.14	and 235B.15 Reserved.
235B.3	Dependent adult abuse reports.		
235B.3A	Prevention of additional abuse — notification of rights.		
	SUBCHAPTER II		
	DEPENDENT ADULT ABUSE INFORMATION REGISTRY		SUBCHAPTER III
			MISCELLANEOUS PROVISIONS
235B.4	Legislative findings and purposes.	235B.16	Information, education, and training requirements.
235B.5	Creation and maintenance of a central registry.	235B.16A	Dependent adults — dependency assessments — interagency training.
235B.6	Authorized access.	235B.17	Provision of protective services with the consent of dependent adult — caretaker refusal.
235B.7	Requests for dependent adult abuse information.	235B.18	Provision of services to dependent adult who lacks capacity to consent — hearing — findings.
235B.8	Redissemination of dependent adult abuse information.	235B.19	Emergency order for protective services.
235B.9	Sealing and expungement of dependent adult abuse information.	235B.20	Dependent adult abuse — initiation of charges — penalty.
235B.10	Examination, requests for correction or expungement, and appeal.		

SUBCHAPTER I
GENERAL PROVISIONS

235B.1 Dependent adult abuse services.

The department shall establish and operate a dependent adult abuse services program. The program shall emphasize the reporting and evaluation of cases of abuse of a dependent adult who is unable to protect the adult's own interests or unable to perform activities necessary to meet essential human needs. The program shall include but is not limited to:

1. The establishment of local or regional multidisciplinary teams to assist in assessing the needs of, formulating and monitoring a treatment plan for, and coordinating services to victims of dependent adult abuse. The membership of a team shall include individuals who possess knowledge and skills related to the diagnosis, assessment, and disposition of dependent adult abuse cases and who are professionals practicing in the disciplines of medicine, public health, mental health, social work, law, law enforcement, or other disciplines relative to dependent adults. Members of a team shall include but are not limited to persons representing the area agencies on aging, county attorneys, health care providers, and other persons involved in advocating or providing services to dependent adults.

2. Provisions for information sharing and case consultation among service providers, care providers, and victims of dependent adult abuse.

3. Procedures for referral of cases among service providers, including the referral of victims of dependent adult abuse residing in licensed health care facilities.

4. a. The establishment of a dependent adult protective advisory council. The advisory council shall do all of the following:

(1) Advise the director of human services, the director of the department on aging, the director of inspections and appeals, the director of public health, the director of the department of corrections, and the director of human rights regarding dependent adult abuse.

(2) Evaluate state law and rules and make recommendations to the general assembly and to executive branch departments regarding laws and rules concerning dependent adults.

(3) Receive and review recommendations and complaints from the public, health care facilities, and health care programs concerning the dependent adult abuse services program.

b. (1) The advisory council shall consist of twelve members. Eight members shall be appointed by and serve at the pleasure of the governor. Four of the members appointed shall be appointed on the basis of knowledge and skill related to expertise in the area of dependent adult abuse including professionals practicing in the disciplines of medicine, public health, mental health, long-term care, social work, law, and law enforcement. Two of the members appointed shall be members of the general public with an interest in the area of dependent adult abuse and two of the members appointed shall be members of the Iowa caregivers association. In addition, the membership of the council shall include the director or the director's designee of the department of human services, the department on aging, the Iowa department of public health, and the department of inspections and appeals.

(2) The members of the advisory council shall be appointed to terms of four years beginning May 1. Appointments shall comply with sections 69.16 and 69.16A. Vacancies shall be filled in the same manner as the original appointment.

(3) Members shall receive actual expenses incurred while serving in their official capacity.

(4) The advisory council shall select a chairperson, annually, from its membership.

83 Acts, ch 96, §159, 160; 83 Acts, ch 153, §4; 84 Acts, ch 1178, §3; 85 Acts, ch 180, §1; 87 Acts, ch 182, §2 – 8; 88 Acts, ch 1238, §2; 89 Acts, ch 24, §2, 3; 90 Acts, ch 1204, §52; 90 Acts, ch 1271, §1509; 91 Acts, ch 231, §1; 96 Acts, ch 1130, §1; 2004 Acts, ch 1116, §16; 2008 Acts, ch 1093, §1, 2; 2009 Acts, ch 23, §50; 2010 Acts, ch 1069, §28; 2011 Acts, ch 34, §62; 2013 Acts, ch 30, §46

Referred to in §235A.13, 235B.16A, 235E.5

235B.2 Definitions.

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

1. “*Caretaker*” means a related or nonrelated person who has the responsibility for the protection, care, or custody of a dependent adult as a result of assuming the responsibility voluntarily, by contract, through employment, or by order of the court.

2. “*Court*” means the district court.

3. “*Department*” means the department of human services.

4. “*Dependent adult*” means a person eighteen years of age or older who is unable to protect the person's own interests or unable to adequately perform or obtain services necessary to meet essential human needs, as a result of a physical or mental condition which requires assistance from another, or as defined by departmental rule.

5. a. “*Dependent adult abuse*” means:

(1) Any of the following as a result of the willful or negligent acts or omissions of a caretaker:

(a) Physical injury to, or injury which is at a variance with the history given of the injury, or unreasonable confinement, unreasonable punishment, or assault of a dependent adult.

(b) The commission of a sexual offense under chapter 709 or section 726.2 with or against a dependent adult.

(c) Exploitation of a dependent adult which means the act or process of taking unfair advantage of a dependent adult or the adult's physical or financial resources, without the informed consent of the dependent adult, including theft, by the use of undue influence, harassment, duress, deception, false representation, or false pretenses.

(d) The deprivation of the minimum food, shelter, clothing, supervision, physical or mental health care, or other care necessary to maintain a dependent adult's life or health.

(2) The deprivation of the minimum food, shelter, clothing, supervision, physical or mental health care, and other care necessary to maintain a dependent adult's life or health as a result of the acts or omissions of the dependent adult.

(3) (a) Sexual exploitation of a dependent adult by a caretaker.

(b) "*Sexual exploitation*" means any consensual or nonconsensual sexual conduct with a dependent adult which includes but is not limited to kissing; touching of the clothed or unclothed inner thigh, breast, groin, buttock, anus, pubes, or genitals; or a sex act, as defined in section 702.17. "*Sexual exploitation*" includes the transmission, display, taking of electronic images of the unclothed breast, groin, buttock, anus, pubes, or genitals of a dependent adult by a caretaker for a purpose not related to treatment or diagnosis or as part of an ongoing assessment, evaluation, or investigation. Sexual exploitation does not include touching which is part of a necessary examination, treatment, or care by a caretaker acting within the scope of the practice or employment of the caretaker; the exchange of a brief touch or hug between the dependent adult and a caretaker for the purpose of reassurance, comfort, or casual friendship; or touching between spouses.

(4) (a) Personal degradation of a dependent adult by a caretaker.

(b) (i) "*Personal degradation*" means a willful act or statement by a caretaker intended to shame, degrade, humiliate, or otherwise harm the personal dignity of a dependent adult, or where the caretaker knew or reasonably should have known the act or statement would cause shame, degradation, humiliation, or harm to the personal dignity of a reasonable person. "*Personal degradation*" includes the taking, transmission, or display of an electronic image of a dependent adult by a caretaker, where the caretaker's actions constitute a willful act or statement intended to shame, degrade, humiliate, or otherwise harm the personal dignity of the dependent adult, or where the caretaker knew or reasonably should have known the act would cause shame, degradation, humiliation, or harm to the personal dignity of a reasonable person.

(ii) "*Personal degradation*" does not include any of the following:

(A) The taking, transmission, or display of an electronic image of a dependent adult for the purpose of reporting dependent adult abuse to law enforcement, the department, or any other regulatory agency that oversees caretakers or enforces abuse or neglect provisions, or for the purpose of treatment or diagnosis or as part of an ongoing investigation.

(B) The taking, transmission, or display of an electronic image by a caretaker who takes, transmits, or displays the electronic image in accordance with the confidentiality policy and release of information or consent policies of a contractor, employer, or facility or program not covered under section 235E.1, subsection 5, paragraph "a", subparagraph (3).

(C) A statement by a caretaker who is the spouse of a dependent adult that is not intended to shame, degrade, humiliate, or otherwise harm the personal dignity of the dependent adult spouse.

b. "*Dependent adult abuse*" does not include any of the following:

(1) Circumstances in which the dependent adult declines medical treatment if the dependent adult holds a belief or is an adherent of a religion whose tenets and practices call for reliance on spiritual means in place of reliance on medical treatment.

(2) Circumstances in which the dependent adult's caretaker, acting in accordance with the dependent adult's stated or implied consent, declines medical treatment if the dependent adult holds a belief or is an adherent of a religion whose tenets and practices call for reliance on spiritual means in place of reliance on medical treatment.

(3) The withholding or withdrawing of health care from a dependent adult who is terminally ill in the opinion of a licensed physician, when the withholding or withdrawing of health care is done at the request of the dependent adult or at the request of the dependent adult's next of kin, attorney in fact, or guardian pursuant to the applicable procedures under chapter 125, 144A, 144B, 222, 229, or 633.

6. "*Emergency shelter services*" means and includes, but is not limited to, secure crisis shelters or housing for victims of dependent adult abuse.

7. "*Family or household member*" means a spouse, a person cohabiting with the dependent adult, a parent, or a person related to the dependent adult by consanguinity or affinity, but does not include children of the dependent adult who are less than eighteen years of age.

8. “*Immediate danger to health or safety*” means a situation in which death or severe bodily injury could reasonably be expected to occur without intervention.

9. “*Individual employed as an outreach person*” means a natural person who, in the course of employment, makes regular contacts with dependent adults regarding available community resources.

10. “*Legal holiday*” means a legal public holiday as defined in section 1C.1.

11. “*Person*” means person as defined in section 4.1.

12. “*Recklessly*” means that a person acts or fails to act with respect to a material element of a public offense, when the person is aware of and consciously disregards a substantial and unjustifiable risk that the material element exists or will result from the act or omission. The risk must be of such a nature and degree that disregard of the risk constitutes a gross deviation from the standard conduct that a reasonable person would observe in the situation.

13. “*Serious injury*” means the same as defined in section 702.18.

14. “*Support services*” includes but is not limited to community-based services including area agency on aging assistance, mental health services, fiscal management, home health services, housing-related services, counseling services, transportation services, adult day services, respite services, legal services, and advocacy services.

87 Acts, ch 182, §9; 88 Acts, ch 1238, §3; 91 Acts, ch 231, §2; 92 Acts, ch 1143, §6, 7; 93 Acts, ch 76, §7; 95 Acts, ch 51, §3; 96 Acts, ch 1130, §2; 2001 Acts, ch 64, §7; 2006 Acts, ch 1030, §26; 2008 Acts, ch 1093, §3; 2009 Acts, ch 107, §1; 2010 Acts, ch 1073, §1; 2019 Acts, ch 39, §1; 2019 Acts, ch 122, §1

Referred to in §235B.3, 235B.16A, 633B.116, 633B.118, 692A.102, 726.8, 915.84

235B.3 Dependent adult abuse reports.

1. a. (1) The department shall receive dependent adult abuse reports and shall collect, maintain, and disseminate the reports by establishing a central registry for dependent adult abuse information. The department shall evaluate the reports expeditiously.

(2) However, the department of inspections and appeals is solely responsible for the evaluation and disposition of dependent adult abuse cases within facilities and programs pursuant to chapter 235E and shall inform the department of human services of such evaluations and dispositions pursuant to section 235E.2.

(3) If, in the course of an assessment or evaluation of a report of dependent adult abuse, the department of human services or the department of inspections and appeals determines the case involves wages, workplace safety, or other labor and employment matters under the jurisdiction of the division of labor services of the department of workforce development, the relevant portions of the case shall be referred to the division.

(4) If, in the course of an assessment or evaluation of a report of dependent adult abuse, the department of human services or the department of inspections and appeals determines that the case involves discrimination under the jurisdiction of the civil rights commission, the relevant portions of the case shall be referred to the commission.

b. Reports of dependent adult abuse which is the result of the acts or omissions of the dependent adult shall be collected and maintained in the files of the dependent adult as assessments only and shall not be included in the central registry.

c. A report of dependent adult abuse that meets the definition of dependent adult abuse under section 235B.2, subsection 5, paragraph “a”, subparagraph (1), subparagraph division (a) or (d), or section 235B.2, subsection 5, paragraph “a”, subparagraph (4), which the department determines is minor, isolated, and unlikely to reoccur shall be collected and maintained by the department as an assessment only for a five-year period and shall not be included in the central registry and shall not be considered to be founded dependent adult abuse. However, a subsequent report of dependent adult abuse that meets the definition of dependent adult abuse under section 235B.2, subsection 5, paragraph “a”, subparagraph (1), subparagraph division (a) or (d), or section 235B.2, subsection 5, paragraph “a”, subparagraph (4), that occurs within the five-year period and that is committed by the caretaker responsible for the act or omission which was the subject of the previous report of dependent adult abuse which the department determined was minor, isolated, and unlikely to reoccur shall not be considered minor, isolated, and unlikely to reoccur.

2. A person who, in the course of employment, examines, attends, counsels, or treats a dependent adult and reasonably believes the dependent adult has suffered abuse, shall report the suspected dependent adult abuse to the department. Persons required to report include all of the following:

- a. A member of the staff of a community mental health center.
- b. A peace officer.
- c. An in-home homemaker-home health aide.
- d. An individual employed as an outreach person.
- e. A health practitioner, as defined in section 232.68.
- f. A member of the staff or an employee of a supported community living service, sheltered workshop, or work activity center.
- g. A social worker.
- h. A certified psychologist.

3. a. If a staff member or employee is required to report pursuant to this section, the person shall immediately notify the department and shall also immediately notify the person in charge or the person's designated agent.

b. The employer or supervisor of a person who is required to or may make a report pursuant to this section shall not apply a policy, work rule, or other requirement that interferes with the person making a report of dependent adult abuse or that results in the failure of another person to make the report.

4. An employee of a financial institution may report suspected financial exploitation of a dependent adult to the department.

5. Any other person who believes that a dependent adult has suffered abuse may report the suspected abuse to the department of human services.

6. Following the reporting of suspected dependent adult abuse, the department of human services or an agency approved by the department shall complete an assessment of necessary services and shall make appropriate referrals for receipt of these services. The assessment shall include interviews with the dependent adult, and, if appropriate, with the alleged perpetrator of the dependent adult abuse and with any person believed to have knowledge of the circumstances of the case. The department may provide necessary protective services and may establish a sliding fee schedule for those persons able to pay a portion of the protective services.

7. Upon a showing of probable cause that a dependent adult has been abused, a court may authorize a person, also authorized by the department, to make an evaluation, to enter the residence of, and to examine the dependent adult. Upon a showing of probable cause that a dependent adult has been financially exploited, a court may authorize a person, also authorized by the department, to make an evaluation, and to gain access to the financial records of the dependent adult.

8. If the department determines that disclosure is necessary for the protection of a dependent adult, the department may disclose to a subject of a dependent adult abuse report referred to in section 235B.6, subsection 2, paragraph "a", that an individual is listed in the child or dependent adult abuse registry or is required to register with the sex offender registry in accordance with chapter 692A.

9. The department shall inform the appropriate county attorneys of any reports of dependent adult abuse. The department may request information from any person believed to have knowledge of a case of dependent adult abuse. The person, including but not limited to a county attorney, a law enforcement agency, a multidisciplinary team, a social services agency in the state, or any person who is required pursuant to subsection 2 to report dependent adult abuse, whether or not the person made the specific dependent adult abuse report, shall cooperate and assist in the evaluation upon the request of the department. If the department's assessment reveals that dependent adult abuse exists which might constitute a criminal offense, a report shall be made to the appropriate law enforcement agency. County attorneys and appropriate law enforcement agencies shall also take any other lawful action necessary or advisable for the protection of the dependent adult.

a. If, upon completion of the evaluation or upon referral from the department of inspections and appeals, the department determines that the best interests of the dependent

adult require court action, the department shall initiate action for the appointment of a guardian or conservator or for admission or commitment to an appropriate institution or facility pursuant to the applicable procedures under chapter 125, 222, 229, or 633, or shall pursue other remedies provided by law. The appropriate county attorney shall assist the department in the preparation of the necessary papers to initiate the action and shall appear and represent the department at all district court proceedings.

b. The department shall assist the court during all stages of court proceedings involving a suspected case of dependent adult abuse.

c. In every case involving abuse which is substantiated by the department and which results in a judicial proceeding on behalf of the dependent adult, legal counsel shall be appointed by the court to represent the dependent adult in the proceedings. The court may also appoint a guardian ad litem to represent the dependent adult if necessary to protect the dependent adult's best interests. The same attorney may be appointed to serve both as legal counsel and as guardian ad litem. Before legal counsel or a guardian ad litem is appointed pursuant to this section, the court shall require the dependent adult and any person legally responsible for the support of the dependent adult to complete under oath a detailed financial statement. If, on the basis of that financial statement, the court deems that the dependent adult or the legally responsible person is able to bear all or a portion of the cost of the legal counsel or guardian ad litem, the court shall so order. In cases where the dependent adult or the legally responsible person is unable to bear the cost of the legal counsel or guardian ad litem, the expense shall be paid by the county.

10. A person participating in good faith in reporting or cooperating with or assisting the department in evaluating a case of dependent adult abuse has immunity from liability, civil or criminal, which might otherwise be incurred or imposed based upon the act of making the report or giving the assistance. The person has the same immunity with respect to participating in good faith in a judicial proceeding resulting from the report or cooperation or assistance or relating to the subject matter of the report, cooperation, or assistance.

11. It shall be unlawful for any person or employer to discharge, suspend, or otherwise discipline a person required to report or voluntarily reporting an instance of suspected dependent adult abuse pursuant to subsection 2 or 5, or cooperating with, or assisting the department of human services in evaluating a case of dependent adult abuse, or participating in judicial proceedings relating to the reporting or cooperation or assistance based solely upon the person's reporting or assistance relative to the instance of dependent adult abuse. A person or employer found in violation of this subsection is guilty of a simple misdemeanor.

12. A person required by this section to report a suspected case of dependent adult abuse who knowingly and willfully fails to do so commits a simple misdemeanor. A person required by this section to report a suspected case of dependent adult abuse who knowingly fails to do so or who knowingly, in violation of subsection 3, interferes with the making of such a report or applies a requirement that results in such a failure is civilly liable for the damages proximately caused by the failure.

13. The department of inspections and appeals shall adopt rules which require facilities or programs to separate an alleged dependent adult abuser from a victim following an allegation of perpetration of abuse and prior to the completion of an investigation of the allegation.

91 Acts, ch 231, §3; 92 Acts, ch 1143, §8, 9; 93 Acts, ch 72, §6; 95 Acts, ch 51, §4; 96 Acts, ch 1130, §3 – 5; 98 Acts, ch 1181, §13; 99 Acts, ch 129, §17; 2001 Acts, ch 122, §7 – 10; 2003 Acts, ch 98, §2; 2003 Acts, ch 123, §2; 2003 Acts, ch 166, §27; 2003 Acts, ch 179, §69; 2004 Acts, ch 1116, §17, 18; 2006 Acts, ch 1030, §27; 2007 Acts, ch 159, §15; 2008 Acts, ch 1093, §4 – 6; 2009 Acts, ch 41, §263; 2009 Acts, ch 136, §7; 2019 Acts, ch 122, §2

Referred to in §235B.16

235B.3A Prevention of additional abuse — notification of rights.

If a peace officer has reason to believe that dependent adult abuse, which is criminal in nature, has occurred, the officer shall use all reasonable means to prevent further abuse, including but not limited to any of the following:

1. If requested, remaining on the scene as long as there is a danger to the dependent adult's physical safety without the presence of a peace officer, including but not limited to

staying in the dwelling unit, or if unable to remain at the scene, assisting the dependent adult in leaving the residence and securing support services or emergency shelter services.

2. Assisting the dependent adult in obtaining medical treatment necessitated by the dependent adult abuse, including providing assistance to the dependent adult in obtaining transportation to the emergency room of the nearest hospital.

3. Providing a dependent adult with immediate and adequate notice of the dependent adult's rights. The notice shall consist of handing the dependent adult a document that includes the telephone numbers of shelters, support groups, and crisis lines operating in the area and contains the following written statement of rights; requesting the dependent adult to read the document; and asking the dependent adult whether the dependent adult understands the rights:

[1] You have the right to ask the court for the following help on a temporary basis:

[a] Keeping the alleged perpetrator away from you, your home, and your place of work.

[b] The right to stay at your home without interference from the alleged perpetrator.

[c] Professional counseling for you, your family, or household members, and the alleged perpetrator of the dependent adult abuse.

[2] If you are in need of medical treatment, you have the right to request that the peace officer present assist you in obtaining transportation to the nearest hospital or otherwise assist you.

[3] If you believe that police protection is needed for your physical safety, you have the right to request that the peace officer present remain at the scene until you and other affected parties can leave or safety is otherwise ensured.

96 Acts, ch 1130, §6; 2009 Acts, ch 133, §87, 88; 2017 Acts, ch 54, §32; 2018 Acts, ch 1026, §71

Similar provisions, §235E.3, 236.12, 236A.13, 709.22

SUBCHAPTER II

DEPENDENT ADULT ABUSE INFORMATION REGISTRY

235B.4 Legislative findings and purposes.

1. The general assembly finds and declares that a central registry is required to provide a single source for the statewide collection, maintenance, and dissemination of dependent adult abuse information. Such a registry is imperative for increased effectiveness in dealing with the problem of dependent adult abuse. The general assembly also finds that vigorous protection of rights of individual privacy is an indispensable element of a fair and effective system of collecting, maintaining, and disseminating dependent adult abuse information.

2. The purposes of this section and sections 235B.5 through 235B.13 are to facilitate the identification of victims or potential victims of dependent adult abuse by making available a single, statewide source of dependent adult abuse data; to facilitate research on dependent adult abuse by making available a single, statewide source of dependent adult abuse data; and to provide maximum safeguards against the unwarranted invasions of privacy which such a registry might otherwise entail.

91 Acts, ch 231, §4; 2015 Acts, ch 30, §80

Referred to in §235E.4

235B.5 Creation and maintenance of a central registry.

1. There is created within the department a central registry for dependent adult abuse information. The department shall organize and staff the registry and adopt rules for its operation.

2. The registry shall collect, maintain, and disseminate dependent adult abuse information as provided in this chapter.

3. The department shall maintain a toll-free telephone line, which shall be available on a twenty-four-hour-a-day, seven-day-a-week basis and which the department and all other persons may use to report cases of suspected dependent adult abuse and that all persons authorized by this chapter may use for obtaining dependent adult abuse information.

4. An oral report of suspected dependent adult abuse initially made to the central registry shall be immediately transmitted by the department to the appropriate county department of human services or law enforcement agency, or both.

5. An oral report of suspected dependent adult abuse initially made to the central registry regarding a facility or program as defined in section 235E.1 shall be transmitted by the department to the department of inspections and appeals on the first working day following the submitting of the report.

6. The registry, upon receipt of a report of suspected dependent adult abuse, shall search the records of the registry, and if the records of the registry reveal any previous report of dependent adult abuse involving the same adult or if the records reveal any other pertinent information with respect to the same adult, the appropriate office of the department of human services or the appropriate law enforcement agency shall be immediately notified of that fact.

7. The central registry shall include but not be limited to report data, investigation data, and disposition data.

91 Acts, ch 231, §5; 2008 Acts, ch 1093, §7

Referred to in §235B.4, 235E.4, 279.13, 279.69, 321.375

235B.6 Authorized access.

1. Notwithstanding chapter 22, the confidentiality of all dependent adult abuse information shall be maintained, except as specifically provided by subsections 2 and 3.

2. Access to dependent adult abuse information other than unfounded dependent adult abuse information is authorized only to the following persons:

a. A subject of a report including all of the following:

(1) To an adult named in a report as a victim of abuse or to the adult's attorney or guardian ad litem.

(2) To a guardian or legal custodian, or that person's attorney, of an adult named in a report as a victim of abuse.

(3) To the person or the attorney for the person named in a report as having abused an adult.

b. A person involved in an investigation of dependent adult abuse including all of the following:

(1) A health practitioner or mental health professional who is examining, attending, or treating an adult whom such practitioner or professional believes or has reason to believe has been the victim of abuse or to a health practitioner or mental health professional whose consultation with respect to an adult believed to have been the victim of abuse is requested by the department.

(2) An employee or agent of the department responsible for the investigation of a dependent adult abuse report or for the purpose of performing record checks as required under section 135C.33.

(3) A representative of the department involved in the certification or accreditation of an agency or program providing care or services to a dependent adult believed to have been a victim of abuse.

(4) A law enforcement officer responsible for assisting in an investigation of a dependent adult abuse allegation.

(5) A multidisciplinary team, if the department of human services approves the composition of the multidisciplinary team and determines that access to the team is necessary to assist the department in the investigation, diagnosis, assessment, and disposition of a case of dependent adult abuse.

(6) The mandatory reporter who reported the dependent adult abuse in an individual case.

(7) Each board specified under chapter 147 and the Iowa department of public health

for the purpose of licensure, certification or registration, disciplinary investigation, or the renewal of licensure, certification or registration, or disciplinary proceedings of health care professionals.

c. A person providing care to an adult including all of the following:

(1) A licensing authority for a facility, including a facility or program defined in section 235E.1, providing care to an adult named in a report.

(2) A person authorized as responsible for the care or supervision of an adult named in a report as a victim of abuse or a person named in a report as having abused an adult if the court or registry deems access to dependent adult abuse information by such person to be necessary.

(3) An employee or agent of the department responsible for registering or licensing or approving the registration or licensing of a person, or to an individual providing care to an adult and regulated by the department.

(4) The legally authorized protection and advocacy agency recognized pursuant to section 135C.2 if a person identified in the information as a victim or a perpetrator of abuse resided in or receives services from a facility, including a facility or program defined in section 235E.1, or agency because the person is diagnosed as having a developmental disability or a mental illness.

(5) To an administrator of an agency certified by the department of human services to provide services under a medical assistance home and community-based services waiver, if the information concerns a person employed by or being considered by the agency for employment.

(6) To the administrator of an agency providing mental health, intellectual disability, or developmental disability services under a regional service system management plan implemented in accordance with section 331.393, if the information concerns a person employed by or being considered by the agency for employment.

(7) To an administrator of a hospital licensed under chapter 135B if the data concerns a person employed or being considered for employment by the hospital.

(8) An employee of an agency requested by the department to provide case management or other services to the dependent adult.

d. Relating to judicial and administrative proceedings, persons including all of the following:

(1) A court upon a finding that information is necessary for the resolution of an issue arising in any phase of a case involving dependent adult abuse.

(2) A court or agency hearing an appeal for correction of dependent adult abuse information as provided in section 235B.10.

(3) An expert witness or a witness who testifies at any stage of an appeal necessary for correction of dependent adult abuse information as provided in section 235B.10.

(4) A court or administrative agency making a determination regarding an unemployment compensation claim pursuant to section 96.6.

(5) To a juvenile court involved in an adjudication or disposition of a child that is the subject of a guardianship proceeding under chapter 232D.

(6) To a district court upon a finding that data is necessary for the resolution of an issue arising in any phase of a case involving proceedings for a child guardianship under chapter 232D.

e. Other persons including all of the following:

(1) A person conducting bona fide research on dependent adult abuse, but without information identifying individuals named in a dependent adult abuse report, unless having that information open to review is essential to the research or evaluation and the authorized registry officials give prior written approval and the adult, the adult's guardian or guardian ad litem, and the person named in a report as having abused an adult give permission to release the information.

(2) Registry or department personnel when necessary to the performance of their official duties or a person or agency under contract with the department to carry out official duties and functions of the registry.

(3) The department of justice for the sole purpose of the filing of a claim for reparation pursuant to sections 915.21 and 915.84.

(4) A legally constituted adult protection agency of another state which is investigating or treating an adult named in a report as having been abused.

(5) The office of the attorney general.

(6) A health care facility administrator or the administrator's designee, following the appeals process, for the purpose of hiring staff or continued employment of staff.

(7) To the administrator of an agency providing care to a dependent adult in another state, for the purpose of performing an employment background check.

(8) To the superintendent, or the superintendent's designee, of a school district or to the authorities in charge of an accredited nonpublic school for purposes of a volunteer or employment record check.

(9) The department of inspections and appeals for purposes of record checks of applicants for employment with the department of inspections and appeals.

(10) The state or a local long-term care ombudsman if the victim resides in or the alleged perpetrator is an employee of a long-term care facility as defined in section 231.4.

(11) The state office or local office of public guardian as defined in section 231E.3, if the information relates to the provision of legal services for a client served by the state or local office of public guardian.

(12) A nursing program that is approved by the state board of nursing under section 152.5, if the information relates to a record check performed pursuant to section 152.5A.

(13) To the board of educational examiners created under chapter 272 for purposes of determining whether a license, certificate, or authorization should be issued, denied, or revoked.

(14) The department on aging for the purposes of conducting background checks of applicants for employment with the department on aging.

(15) To the Iowa veterans home for purposes of record checks of potential volunteers and volunteers in the Iowa veterans home.

(16) To the administrator of a certified nurse aide program, if the data relates to a record check of a student of the program performed pursuant to section 135C.33.

(17) To the administrator of a juvenile detention or shelter care home, if the data relates to a record check of an existing or prospective employee, resident, or volunteer for or in the home.

(18) To the employer or prospective employer of a school bus driver for purposes of an employment record check.

(19) To a free clinic as defined in section 135.24A for purposes of record checks of potential volunteers and existing volunteers at the free clinic.

f. To a person who submits written authorization from an individual allowing the person access to information on the determination only on whether or not the individual who authorized the access is named in a founded dependent adult abuse report as having abused a dependent adult.

3. Access to unfounded dependent adult abuse information is authorized only to those persons identified in subsection 2, paragraph "a", paragraph "b", subparagraphs (2), (5), and (6), and paragraph "e", subparagraphs (2), (5), and (10).

91 Acts, ch 231, §6; 92 Acts, ch 1163, §50; 95 Acts, ch 50, §1; 95 Acts, ch 93, §4; 96 Acts, ch 1183, §29; 97 Acts, ch 42, §2; 98 Acts, ch 1090, §65, 84; 99 Acts, ch 141, §32; 2000 Acts, ch 1067, §3; 2000 Acts, ch 1153, §2; 2001 Acts, ch 8, §3; 2001 Acts, ch 20, §4, 5; 2002 Acts, ch 1034, §3; 2003 Acts, ch 98, §3 – 5; 2005 Acts, ch 46, §1; 2005 Acts, ch 175, §143; 2006 Acts, ch 1008, §3; 2006 Acts, ch 1030, §28; 2006 Acts, ch 1152, §2; 2007 Acts, ch 10, §167; 2008 Acts, ch 1093, §8, 9; 2008 Acts, ch 1187, §116; 2009 Acts, ch 23, §51, 52; 2009 Acts, ch 93, §3; 2010 Acts, ch 1062, §9; 2011 Acts, ch 98, §9; 2012 Acts, ch 1019, §95; 2012 Acts, ch 1047, §2; 2013 Acts, ch 18, §32; 2014 Acts, ch 1107, §11, 12; 2015 Acts, ch 56, §22; 2015 Acts, ch 69, §75; 2018 Acts, ch 1048, §13; 2018 Acts, ch 1104, §3, 5; 2019 Acts, ch 56, §33, 44, 45

Referred to in §235B.3, 235B.4, 235B.7, 235B.8, 235B.12, 235E.2, 235E.4, 331.909

Subsection 2, paragraph d, subparagraphs (5) and (6), take effect January 1, 2020, and apply to guardianships and guardianship proceedings of minors established or pending before, on, or after that date; 2019 Acts, ch 56, §44, 45

235B.7 Requests for dependent adult abuse information.

1. Requests for dependent adult abuse information shall be in writing on forms prescribed by the department, except as otherwise provided by subsection 2. Request forms shall require information sufficient to demonstrate authorized access.

2. *a.* Requests for dependent adult abuse information may be made orally by telephone if a person making the request believes that the information is needed immediately and if information sufficient to demonstrate authorized access is provided. If a request is made orally by telephone, a written request form shall be filed within seventy-two hours of the oral request.

b. The department of inspections and appeals may provide access to the single contact repository established under section 135C.33, subsection 7, for criminal and abuse history checks made by those employers, agencies, and other persons that are authorized access to dependent adult abuse information under section 235B.6 and are required by law to perform such checks.

3. Subsections 1 and 2 do not apply to dependent adult abuse information that is disseminated to an employee of the department or to the office of the attorney general as authorized by section 235B.6.

91 Acts, ch 231, §7; 2014 Acts, ch 1107, §13; 2018 Acts, ch 1104, §4, 5
Referred to in §235B.4, 235B.12, 235E.4

235B.8 Redissemination of dependent adult abuse information.

1. A recipient of dependent adult abuse information authorized to receive the information shall not redisseminate the information, except that redissemination shall be permitted when all of the following conditions apply:

a. The redissemination is for official purposes in connection with prescribed duties or, in the case of a health practitioner, pursuant to professional responsibilities.

b. The person to whom such information would be redisseminated would have independent access to the same information under section 235B.6.

c. A written record is made of the redissemination, including the name of the recipient and the date and purpose of the redissemination.

d. The written record is forwarded to the registry within thirty days of the redissemination.

2. The department may notify, orally, the mandatory reporter in an individual dependent adult abuse case of the results of the case investigation and of the confidentiality provisions of sections 235B.6 and 235B.12. The department shall subsequently transmit a written notice to the mandatory reporter of the results and confidentiality provisions. A copy of the written notice shall be transmitted to the registry and shall be maintained by the registry as provided in section 235B.9.

91 Acts, ch 231, §8
Referred to in §235B.4, 235B.12, 235E.4

235B.9 Sealing and expungement of dependent adult abuse information.

1. Dependent adult abuse information which is determined by a preponderance of the evidence to be founded, shall be sealed ten years after the receipt of the initial report of such abuse by the registry unless good cause is shown why the information should remain open to authorized access. If a subsequent report of founded dependent adult abuse involving the adult named in the initial report as the victim of abuse or a person named in such report as having abused an adult is received by the registry within the ten-year period, the information shall be sealed ten years after receipt of the subsequent report unless good cause is shown why the information should remain open to authorized access.

2. *a.* Dependent adult abuse reports that are rejected for evaluation, assessment, or disposition for failure to meet the definition of dependent adult abuse shall be expunged three years from the rejection date.

b. Dependent adult abuse information which is determined by a preponderance of the evidence to be unfounded shall be expunged five years from the date it is determined to be unfounded.

3. However, if a correction of dependent adult abuse information is requested under

section 235B.10 and the issue is not resolved at the end of one year the information shall be retained until the issue is resolved and if the dependent adult abuse information is not determined to be founded, the information shall be expunged one year from the date it is determined to be unfounded.

4. The registry, at least annually, shall review and determine the current status of dependent adult abuse reports which are at least one year old and in connection with which no investigatory report has been filed by the department. If no investigatory report has been filed, the registry shall request the department to file a report. If a report is not filed within ninety days subsequent to a request, the report and relative information shall be sealed and remain sealed unless good cause is shown why the information should remain open to authorized access.

5. Dependent adult abuse information which is determined to be minor, isolated, and unlikely to reoccur shall be expunged five years after the receipt of the initial report by the department. If a subsequent report of dependent adult abuse committed by the caretaker responsible for the act or omission which was the subject of the previous report of dependent adult abuse which the department determined was minor, isolated, and unlikely to reoccur is received by the department within the five-year period, the information shall be sealed ten years after receipt of the subsequent report unless good cause can be shown why the information should remain open to authorized access.

91 Acts, ch 231, §9; 2003 Acts, ch 98, §6; 2007 Acts, ch 159, §16; 2009 Acts, ch 136, §8

Referred to in §235B.4, 235B.8, 235E.4

235B.10 Examination, requests for correction or expungement, and appeal.

1. Any person or that person's attorney shall have the right to examine dependent adult abuse information in the registry which refers to that person. The registry may prescribe reasonable hours and places of examination.

2. A person may file with the department within six months of the date of the notice of the results of an investigation, a written statement to the effect that dependent adult abuse information referring to the person is in whole or in part erroneous, and may request a correction of that information or of the findings of the investigation report. The department shall provide the person with an opportunity for an evidentiary hearing pursuant to chapter 17A to correct the information or the findings, unless the department corrects the information or findings as requested. The department shall delay the expungement of information which is not determined to be founded until the conclusion of a proceeding to correct the information or findings. The department may defer the hearing until the conclusion of a court case relating to the information or findings.

3. The decision resulting from the hearing may be appealed to the court of Polk county by the person requesting the correction or to the court of the district in which the person resides. Immediately upon appeal the court shall order the department to file with the court a certified copy of the dependent adult abuse information. Appeal shall be taken in accordance with chapter 17A.

4. Upon the request of the appellant, the record and evidence in such cases shall be closed to all but the court and its officers, and access to the record and evidence shall be prohibited unless otherwise ordered by the court. The clerk shall maintain a separate docket for such actions. A person other than the appellant shall not permit a copy of the testimony or pleadings or the substance of the testimony or pleadings to be made available to any person other than a party to the action or the party's attorney. Violation of the provisions of this subsection shall be a public offense punishable under section 235B.12.

5. If the registry corrects or eliminates information as requested or as ordered by the court, the registry shall advise all persons who have received the incorrect information of the fact. Upon application to the court and service of notice on the registry, an individual may request and obtain a list of all persons who have received dependent adult abuse information referring to the individual.

6. In the course of any proceeding provided for by this section, the identity of the person who reported the disputed information and the identity of any person who has been reported

as having abused an adult may be withheld upon a determination by the registry that disclosure of the person's identity would be detrimental to the person's interest.

91 Acts, ch 231, §10

Referred to in §235B.4, 235B.6, 235B.9, 235E.4

235B.11 Civil remedy.

Any aggrieved person may institute a civil action for damages under chapter 669 or 670 or to restrain the dissemination of dependent adult abuse information in violation of this chapter, and any person proven to have disseminated or to have requested and received dependent adult abuse information in violation of this chapter shall be liable for actual damages and exemplary damages for each violation and shall be liable for court costs, expenses, and reasonable attorney's fees incurred by the party bringing the action. In no case shall the award for damages be less than five hundred dollars.

91 Acts, ch 231, §11

Referred to in §235B.4, 235E.4

235B.12 Criminal penalties.

1. Any person who willfully requests, obtains, or seeks to obtain dependent adult abuse information under false pretenses, or who willfully communicates or seeks to communicate dependent adult abuse information to any person except in accordance with sections 235B.6 through 235B.8, or any person connected with any research authorized pursuant to section 235B.6 who willfully falsifies dependent adult abuse information or any records relating to the information is guilty of a serious misdemeanor. Any person who knowingly, but without criminal purposes, communicates or seeks to communicate dependent adult abuse information except in accordance with sections 235B.6 through 235B.8 is guilty of a simple misdemeanor.

2. Any reasonable grounds for belief that a person has violated any provision of this chapter is grounds for the immediate withdrawal of any authorized access the person might otherwise have to dependent adult abuse information.

91 Acts, ch 231, §12

Referred to in §235B.4, 235B.8, 235B.10, 235E.2, 235E.4

235B.13 Registry reports.

1. The registry may compile statistics, conduct research, and issue reports on dependent adult abuse, provided identifying details of the subjects of dependent adult abuse reports are deleted from any report issued.

2. The registry shall issue an annual report on its administrative operation, including information as to the number of requests for dependent adult abuse data, the proportion of requests attributable to each type of authorized access, the frequency and nature of irregularities, and other pertinent matters.

91 Acts, ch 231, §13

Referred to in §235B.4, 235E.4

235B.14 and 235B.15 Reserved.

SUBCHAPTER III

MISCELLANEOUS PROVISIONS

235B.16 Information, education, and training requirements.

1. The department on aging, in cooperation with the department, shall conduct a public information and education program. The elements and goals of the program include but are not limited to:

a. Informing the public regarding the laws governing dependent adult abuse and the reporting requirements for dependent adult abuse.

b. Providing caretakers with information regarding services to alleviate the emotional,

psychological, physical, or financial stress associated with the caretaker and dependent adult relationship.

c. Affecting public attitudes regarding the role of a dependent adult in society.

2. The department, in cooperation with the department on aging and the department of inspections and appeals, shall institute a program of education and training for persons, including members of provider groups and family members, who may come in contact with dependent adult abuse. The program shall include but is not limited to instruction regarding recognition of dependent adult abuse and the procedure for the reporting of suspected abuse.

3. The content of the continuing education required pursuant to chapter 272C for a licensed professional providing care or service to a dependent adult shall include, but is not limited to, the responsibilities, obligations, powers, and duties of a person regarding the reporting of suspected dependent adult abuse, and training to aid the professional in identifying instances of dependent adult abuse.

4. The department of inspections and appeals shall provide training to investigators regarding the collection and preservation of evidence in the case of suspected dependent adult abuse.

5. a. For the purposes of this subsection, “licensing board” means a board designated in section 147.13, the board of educational examiners created in section 272.2, or a licensing board as defined in section 272C.1.

b. A person required to report cases of dependent adult abuse pursuant to sections 235B.3 and 235E.2, other than a physician whose professional practice does not regularly involve providing primary health care to adults, shall complete two hours of training relating to the identification and reporting of dependent adult abuse within six months of initial employment or self-employment which involves the examination, attending, counseling, or treatment of adults on a regular basis. Within one month of initial employment or self-employment, the person shall obtain a statement of the abuse reporting requirements from the person’s employer or, if self-employed, from the department. The person shall complete at least two hours of additional dependent adult abuse identification and reporting training every three years. If the person completes at least one hour of additional dependent adult abuse identification and reporting training prior to the three-year expiration period, the person shall be deemed in compliance with the training requirements of this section for an additional three years.

c. The core training curriculum relating to the identification and reporting of dependent adult abuse, as provided in paragraph “b”, shall be developed by the department pursuant to subsection 2 and provided by the department.

d. An employer of a person required to report cases of dependent adult abuse pursuant to sections 235B.3 and 235E.2 may provide supplemental training, specific to the identification and reporting of dependent adult abuse as it relates to the person’s professional practice, in addition to the core training provided by the department.

e. A licensing board with authority over the license of a person required to report cases of dependent adult abuse pursuant to sections 235B.3 and 235E.2 shall require as a condition of licensure that the person is in compliance with the requirements for abuse training under this subsection. The licensing board shall require the person upon licensure renewal to accurately document for the licensing board the person’s completion of the training requirements. However, the licensing board may adopt rules providing for waiver or suspension of the compliance requirements, if the waiver or suspension is in the public interest, applicable to a person who is engaged in active duty in the military service of this state or of the United States, to a person for whom compliance with the training requirements would impose a significant hardship, or to a person who is practicing a licensed profession outside this state or is otherwise subject to circumstances that would preclude the person from encountering dependent adult abuse in this state.

f. For persons required to report cases of dependent adult abuse pursuant to sections 235B.3 and 235E.2, who are not engaged in a licensed profession that is subject to the authority of a licensing board but are employed by a facility or program subject to licensure, registration, or approval by a state agency, the agency shall require as a condition of the renewal of the facility’s or program’s licensure, registration, or approval, that such persons

employed by the facility or program are in compliance with the training requirements of this subsection.

g. For peace officers, the elected or appointed official designated as the head of the agency employing the peace officer shall ensure compliance with the training requirements of this subsection.

h. For persons required to report cases of dependent adult abuse pursuant to sections 235B.3 and 235E.2 who are employees of state departments and political subdivisions of the state, the department director or the chief administrator of the political subdivision shall ensure the persons' compliance with the training requirements of this subsection.

6. The department shall require an educational program for employees of the registry on the proper use and control of dependent adult abuse information.

91 Acts, ch 231, §14; 92 Acts, ch 1143, §10; 92 Acts, ch 1163, §51; 2001 Acts, ch 122, §11; 2002 Acts, ch 1119, §35; 2007 Acts, ch 10, §168 – 170; 2008 Acts, ch 1093, §10; 2009 Acts, ch 23, §53, 54; 2013 Acts, ch 129, §55, 56; 2019 Acts, ch 91, §4 – 6

Referred to in §235E.4, 272.31

235B.16A Dependent adults — dependency assessments — interagency training.

1. The dependent adult protective advisory council established pursuant to section 235B.1 shall recommend a uniform assessment instrument and process for adoption and use by the department of human services and other agencies involved with assessing a dependent adult's degree of dependency and determining whether dependent adult abuse has occurred. However, this section shall not apply to dependent adult abuse assessments and determinations made under chapter 235E.

2. The instrument and process design under subsection 1 shall address but is not limited to all of the following:

a. Evaluation of conformity with applicable federal law and regulations on the part of the persons employing, housing, or providing services to the dependent adult.

b. Provision for the final step in the dependency assessment of a dependent adult to be a formal assessment of the existence of risk to the health or safety of the individual or of the degree of the individual's impairment in ability under the definition of dependent adult in section 235B.2.

c. If the assessment under paragraph "b" determines that a risk to the health or safety of the individual exists or the individual has a significant impairment in ability, and the individual being assessed agrees, provision for a case manager to be assigned to assist in preparing and implementing a safety plan which includes protective services for the individual.

d. If the assessment under paragraph "b" determines that a risk to the health or safety of the individual exists or the individual has a significant impairment in ability, the individual being assessed does not agree to the safety plan provisions under paragraph "c" or accept other services, and the options available under sections 235B.17, 235B.18, and 235B.19 are not utilized, provision for the department of human services to maintain periodic contact with the individual in accordance with rules adopted for this purpose. The purpose of the contact is to assess any increased risk or impairment and to monitor the individual's goals, feelings, and concerns so that the department can intervene when necessary or offer services and other support to maintain or sustain the individual's safety and independence when the individual is ready to agree to a safety plan or accept services.

3. The department of human services and other agencies involved with assessing a dependent adult's degree of dependency and whether dependent adult abuse has occurred shall adopt rules and take other steps necessary to implement the uniform assessment instrument and process addressed by this section on or before July 1, 2010.

4. The department of human services shall cooperate with the department on aging, the departments of inspections and appeals, public health, public safety, and workforce development, the civil rights commission, and other state and local agencies performing inspections or otherwise visiting residential settings where dependent adults live, to regularly provide training to the appropriate staff in the agencies concerning each agency's

procedures involving dependent adults, and to build awareness concerning dependent adults and reporting of dependent adult abuse.

2009 Acts, ch 136, §9; 2013 Acts, ch 30, §47

Referred to in §235E.4

235B.17 Provision of protective services with the consent of dependent adult — caretaker refusal.

1. If a caretaker of a dependent adult, who consents to the receipt of protective services, refuses to allow provision of the services, the department may petition the court with probate jurisdiction in the county in which the dependent adult resides for an order enjoining the caretaker from interfering with the provision of services.

2. The petition shall be verified and shall allege specific facts sufficient to demonstrate that the dependent adult is in need of protective services and consents to the provision of services and that the caretaker refuses to allow provision of the services. The petition shall include all of the following:

a. The name, date of birth, and address of the dependent adult alleged to be in need of protective services.

b. The protective services required.

c. The name and address of the caretaker refusing to allow the provision of services.

3. The court shall set the case for hearing within fourteen days of the filing of the petition. The dependent adult and the caretaker refusing to allow the provision of services shall receive at least five days' notice of the hearing.

4. If the judge finds by clear and convincing evidence that the dependent adult is in need of protective services and consents to the services and that the caretaker refuses to allow the services, the judge may issue an order enjoining the caretaker from interfering with the provision of the protective services.

96 Acts, ch 1130, §7; 2009 Acts, ch 107, §2

Referred to in §235B.16A, 235E.4

235B.18 Provision of services to dependent adult who lacks capacity to consent — hearing — findings.

1. If the department reasonably determines that a dependent adult is a victim of dependent adult abuse and lacks capacity to consent to the receipt of protective services, the department may petition the district court in the county in which the dependent adult resides for an order authorizing the provision of protective services. The petition shall allege specific facts sufficient to demonstrate that the dependent adult is in need of protective services and lacks capacity to consent to the receipt of services.

2. The petition specified in subsection 1 shall be verified and shall include all of the following:

a. The name, date of birth, and address of the dependent adult alleged to be in need of protective services.

b. The nature of the dependent adult abuse.

c. The protective services required.

3. The court shall set the case for hearing within fourteen days of the filing of the petition. The dependent adult shall receive at least five days' notice of the hearing. The dependent adult has the right to be present and represented by counsel at the hearing. If the dependent adult, in the determination of the judge, lacks the capacity to waive the right of counsel, the court may appoint a guardian ad litem for the dependent adult.

4. If, at the hearing, the judge finds by clear and convincing evidence that the dependent adult is in need of protective services and lacks the capacity to consent to the receipt of protective services, the judge may issue an order authorizing the provision of protective services. The order may include the designation of a person to be responsible for performing or obtaining protective services on behalf of the dependent adult or otherwise consenting to the receipt of protective services on behalf of the dependent adult. Within sixty days of the appointment of such a person the court shall conduct a review to determine if a petition shall be initiated in accordance with section 633.556 for good cause shown. The court may extend

the sixty-day period for an additional sixty days, at the end of which the court shall conduct a review to determine if a petition shall be initiated in accordance with section 633.556. A dependent adult shall not be committed to a mental health facility under this section.

5. A determination by the court that a dependent adult lacks the capacity to consent to the receipt of protective services under this chapter shall not affect incompetency proceedings under sections 633.552, 633.556, 633.558, and 633.560 or any other proceedings, and incompetency proceedings under sections 633.552, 633.556, 633.558, and 633.560 shall not have a conclusive effect on the question of capacity to consent to the receipt of protective services under this chapter. A person previously adjudicated as incompetent under the relevant provisions of chapter 633 is entitled to the care, protection, and services under this chapter.

6. This section shall not be construed and is not intended as and shall not imply a grant of entitlement for services to persons who are not otherwise eligible for the services or for utilization of services which do not currently exist or are not otherwise available.

96 Acts, ch 1130, §8; 2005 Acts, ch 50, §1; 2009 Acts, ch 107, §3; 2019 Acts, ch 57, §3, 43, 44
 Referred to in §235B.16A, 235E.4, 633.701

2019 amendment to subsections 4 and 5 takes effect January 1, 2020, and applies to guardianships and guardianship proceedings for adults and conservatorships and conservatorship proceedings for adults and minors established or pending before, on, or after that date; 2019 Acts, ch 57, §43, 44

235B.19 Emergency order for protective services.

1. If the department determines that a dependent adult is suffering from dependent adult abuse which presents an immediate danger to the health or safety of the dependent adult or which results in irreparable harm to the physical or financial resources or property of the dependent adult, and that the dependent adult lacks capacity to consent to receive protective services and that no consent can be obtained, the department may petition the court with probate jurisdiction in the county in which the dependent adult resides for an emergency order authorizing protective services.

2. The petition shall be verified and shall include all of the following:

a. The name, date of birth, and address of the dependent adult who needs protective services.

b. The nature of the dependent adult abuse.

c. The services required.

3. a. The department shall serve a copy of the petition and any order authorizing protective services, if issued, on the dependent adult and on persons who are competent adults and reasonably ascertainable at the time the petition is filed in accordance with the following priority:

(1) An attorney in fact named by the dependent adult in a durable power of attorney for health care pursuant to chapter 144B.

(2) The dependent adult's spouse, if not legally separated from the dependent adult.

(3) The dependent adult's children.

(4) The dependent adult's parents.

(5) The dependent adult's grandchildren.

(6) The dependent adult's siblings.

(7) The dependent adult's grandparents.

(8) The dependent adult's aunts and uncles.

(9) The dependent adult's nieces and nephews.

(10) The dependent adult's cousins.

b. When the department has served a person in one of the categories specified in paragraph "a", the department shall not be required to serve a person in any other category.

c. The department shall serve the dependent adult's copy of the petition and order personally upon the dependent adult. Service of the petition and all other orders and notices shall be in a sealed envelope with the proper postage on the envelope, addressed to the person being served at the person's last known post office address, and deposited in a mail receptacle provided by the United States postal service. The department shall serve such copies of emergency orders authorizing protective services and notices within three days after filing the petition and receiving such orders.

d. The department and all persons served by the department with notices under this subsection shall be prohibited from all of the following without prior court approval after the department's petition has been filed:

(1) Selling, removing, or otherwise disposing of the dependent adult's personal property.

(2) Withdrawing funds from any bank, savings association, credit union, or other financial institution, or from an account containing securities in which the dependent adult has an interest.

4. Upon finding that there is probable cause to believe that the dependent adult abuse presents an immediate threat to the health or safety of the dependent adult or which results in irreparable harm to the physical or financial resources or property of the dependent adult, and that the dependent adult lacks capacity to consent to the receipt of services, the court may do any of the following:

a. Order removal of the dependent adult to safer surroundings.

b. Order the provision of medical services.

c. Order the provision of other available services necessary to remove conditions creating the danger to health or safety, including the services of peace officers or emergency services personnel and the suspension of the powers granted to a guardian or conservator and the subsequent appointment of a new temporary guardian or new temporary conservator pursuant to subsection 5 pending a decision by the court on whether the powers of the initial guardian or conservator should be reinstated or whether the initial guardian or conservator should be removed.

5. a. Notwithstanding sections 633.556 and 633.569, upon a finding that there is probable cause to believe that the dependent adult abuse presents an immediate danger to the health or safety of the dependent adult or is producing irreparable harm to the physical or financial resources or property of the dependent adult, and that the dependent adult lacks capacity to consent to the receipt of services, the court may order the appointment of a temporary guardian or temporary conservator without notice to the dependent adult or the dependent adult's attorney if all of the following conditions are met:

(1) It clearly appears from specific facts shown by affidavit or by the verified petition that a dependent adult's decision-making capacity is so impaired that the dependent adult is unable to care for the dependent adult's personal safety or to attend to or provide for the dependent adult's basic necessities or that immediate and irreparable injury, loss, or damage will result to the physical or financial resources or property of the dependent adult before the dependent adult or the dependent adult's attorney can be heard in opposition.

(2) The department certifies to the court in writing any efforts the department has made to give the notice or the reasons supporting the claim that notice should not be required.

(3) The department files with the court a request for a hearing on the petition for the appointment of a temporary guardian or temporary conservator.

(4) The department certifies that the notice of the petition, order, and all filed reports and affidavits will be sent to the dependent adult by personal service within the time period the court directs but not more than seventy-two hours after entry of the order of appointment.

b. An order of appointment of a temporary guardian or temporary conservator entered by the court under paragraph "a" shall expire as prescribed by the court but within a period of not more than thirty days unless extended by the court for good cause.

c. A hearing on the petition for the appointment of a temporary guardian or temporary conservator shall be held within the time specified in paragraph "b". If the department does not proceed with a hearing on the petition, the court, on the motion of any party or on its own motion, may dismiss the petition.

6. The emergency order expires at the end of seventy-two hours from the time of the order unless the seventy-two-hour period ends on a Saturday, Sunday, or legal holiday in which event the order is automatically extended to 4:00 p.m. on the first succeeding business day. An order may be renewed for not more than fourteen additional days. A renewal order that ends on a Saturday, Sunday, or legal holiday is automatically extended to 4:00 p.m. on the first succeeding business day. The court may modify or terminate the emergency order on the petition of the department, the dependent adult, or any person interested in the dependent adult's welfare.

7. If the department cannot obtain an emergency order under this section due to inaccessibility of the court, the department may contact law enforcement to remove the dependent adult to safer surroundings, authorize the provision of medical treatment, and order the provision of or provide other available services necessary to remove conditions creating the immediate danger to the health or safety of the dependent adult or which are producing irreparable harm to the physical or financial resources or property of the dependent adult. The department shall obtain an emergency order under this section not later than 4:00 p.m. on the first succeeding business day after the date on which protective or other services are provided. If the department does not obtain an emergency order within the prescribed time period, the department shall cease providing protective services and, if necessary, make arrangements for the immediate return of the person to the place from which the person was removed, to the person's place of residence in the state, or to another suitable place. A person, agency, or institution acting in good faith in removing a dependent adult or in providing services under this subsection, and an employer of or person under the direction of such a person, agency, or institution, shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed as the result of the removal or provision of services.

8. Upon a finding of probable cause to believe that dependent adult abuse has occurred and is either ongoing or is likely to reoccur, the court may also enter orders as may be appropriate to third persons enjoining them from specific conduct. The orders may include temporary restraining orders which impose criminal sanctions if violated. The court may enjoin third persons from any of the following:

- a. Removing the dependent adult from the care or custody of another.
- b. Committing dependent adult abuse on the dependent adult.
- c. Living at the dependent adult's residence.
- d. Contacting the dependent adult in person or by telephone.
- e. Selling, removing, or otherwise disposing of the dependent adult's personal property.
- f. Withdrawing funds from any bank, savings association, credit union, or other financial institution, or from a stock account in which the dependent adult has an interest.
- g. Negotiating any instruments payable to the dependent adult.
- h. Selling, mortgaging, or otherwise encumbering any interest that the dependent adult has in real property.
- i. Exercising any powers on behalf of the dependent adult through representatives of the department, any court-appointed guardian or guardian ad litem, or any official acting on the dependent adult's behalf.
- j. Engaging in any other specified act which, based upon the facts alleged, would constitute harm or a threat of imminent harm to the dependent adult or would cause damage to or the loss of the dependent adult's property.

9. This section shall not be construed and is not intended as and shall not imply a grant of entitlement for services to persons who are not otherwise eligible for the services or for utilization of services which do not currently exist or are not otherwise available.

96 Acts, ch 1130, §9; 2005 Acts, ch 50, §2 – 5; 2006 Acts, ch 1080, §1; 2008 Acts, ch 1187, §117, 118; 2011 Acts, ch 129, §91, 156; 2012 Acts, ch 1017, §59, 60; 2015 Acts, ch 29, §36; 2017 Acts, ch 44, §1; 2019 Acts, ch 57, §4, 43, 44

Referred to in §235B.16A, 235E.4, 633.701

2019 amendment to subsection 5, paragraph a, unnumbered paragraph 1 takes effect January 1, 2020, and applies to guardianships and guardianship proceedings for adults and conservatorships and conservatorship proceedings for adults and minors established or pending before, on, or after that date; 2019 Acts, ch 57, §43, 44

235B.20 Dependent adult abuse — initiation of charges — penalty.

1. Charges of dependent adult abuse may be initiated upon complaint of private individuals or as a result of investigations by social service agencies or on the direct initiative of a county attorney or law enforcement agency.

2. A caretaker who intentionally commits dependent adult abuse on a dependent adult in violation of this chapter is guilty of a class "C" felony if the intentional dependent adult abuse results in serious injury.

3. A caretaker who recklessly commits dependent adult abuse on a dependent adult in

violation of this chapter is guilty of a class “D” felony if the reckless dependent adult abuse results in serious injury.

4. A caretaker who intentionally commits dependent adult abuse on a dependent adult in violation of this chapter is guilty of a class “C” felony if the intentional dependent adult abuse results in physical injury.

5. A caretaker who commits dependent adult abuse by exploiting a dependent adult in violation of this chapter is guilty of a class “D” felony if the value of the property, assets, or resources exceeds one hundred dollars.

6. A caretaker who recklessly commits dependent adult abuse on a person in violation of this chapter is guilty of an aggravated misdemeanor if the reckless dependent adult abuse results in physical injury.

7. A caretaker who otherwise intentionally or knowingly commits dependent adult abuse upon a dependent adult in violation of this chapter is guilty of a serious misdemeanor.

8. A caretaker who commits dependent adult abuse by exploiting a dependent adult in violation of this chapter is guilty of a simple misdemeanor if the value of the property, assets, or resources is one hundred dollars or less.

9. A caretaker alleged to have committed a violation of this chapter shall be charged with the respective offense cited, unless a charge may be brought based upon a more serious offense, in which case the charge of the more serious offense shall supersede the less serious charge.

96 Acts, ch 1130, §10; 2009 Acts, ch 107, §4

Referred to in §235E.4, 272C.15, 671A.2, 901C.3

CHAPTER 235C

COUNCIL ON CHEMICALLY EXPOSED INFANTS AND CHILDREN

Repealed by 2008 Acts, ch 1058, §25

CHAPTER 235D

DOMESTIC AND SEXUAL VIOLENCE CENTER EMPLOYMENT — CRIMINAL HISTORY CHECKS

235D.1 Criminal history check —
applicants at domestic abuse
or sexual assault centers.

235D.1 Criminal history check — applicants at domestic abuse or sexual assault centers.

An applicant for employment at a domestic abuse or sexual assault center shall be subject to a national criminal history check through the federal bureau of investigation. The domestic abuse or sexual assault center shall request the criminal history check and shall provide the applicant’s fingerprints to the department of public safety for submission through the state criminal history repository to the federal bureau of investigation. The applicant shall authorize release of the results of the criminal history check to the domestic abuse or sexual assault center. The applicant shall pay the actual cost of the fingerprinting and criminal history check, if any. Unless the criminal history check was completed within the ninety calendar days prior to the date the application is received by the domestic abuse or sexual assault center, the center shall reject and return the application to the applicant. The results of a criminal history check conducted pursuant to this section shall not be considered a public record under chapter 22. For purposes of this section, “*domestic abuse or sexual assault center*” means a crime victim center as defined in section 915.20A.

2005 Acts, ch 158, §44; 2019 Acts, ch 24, §27

CHAPTER 235E

DEPENDENT ADULT ABUSE IN FACILITIES AND PROGRAMS

Referred to in §235B.3, 235B.16A, 235F.1

235E.1	Definitions.	235E.5	Rulemaking authority.
235E.2	Dependent adult abuse reports in facilities and programs.	235E.6	Dependent adult abuse finding — notification to employer and employee.
235E.3	Prevention of additional dependent adult abuse — notification of rights.	235E.7	Appeal process — dependent adult abuse.
235E.4	Chapter 235B application.		

235E.1 Definitions.

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

1. “*Caretaker*” means a person who is a staff member of a facility or program who provides care, protection, or services to a dependent adult voluntarily, by contract, through employment, or by order of the court.

2. “*Court*” means the district court.

3. “*Department*” means the department of inspections and appeals.

4. “*Dependent adult*” means a person eighteen years of age or older whose ability to perform the normal activities of daily living or to provide for the person’s own care or protection is impaired, either temporarily or permanently.

5. a. “*Dependent adult abuse*” means:

(1) Any of the following as a result of the willful misconduct or gross negligence or reckless acts or omissions of a caretaker, taking into account the totality of the circumstances:

(a) A physical injury to, or injury which is at a variance with the history given of the injury, or unreasonable confinement, unreasonable punishment, or assault of a dependent adult which involves a breach of skill, care, and learning ordinarily exercised by a caretaker in similar circumstances. “*Assault of a dependent adult*” means the commission of any act which is generally intended to cause pain or injury to a dependent adult, or which is generally intended to result in physical contact which would be considered by a reasonable person to be insulting or offensive or any act which is intended to place another in fear of immediate physical contact which will be painful, injurious, insulting, or offensive, coupled with the apparent ability to execute the act.

(b) The commission of a sexual offense under chapter 709 or section 726.2 with or against a dependent adult.

(c) Exploitation of a dependent adult. “*Exploitation*” means a caretaker who knowingly obtains, uses, endeavors to obtain to use, or who misappropriates, a dependent adult’s funds, assets, medications, or property with the intent to temporarily or permanently deprive a dependent adult of the use, benefit, or possession of the funds, assets, medication, or property for the benefit of someone other than the dependent adult.

(d) Neglect of a dependent adult. “*Neglect of a dependent adult*” means the deprivation of the minimum food, shelter, clothing, supervision, physical or mental health care, or other care necessary to maintain a dependent adult’s life or physical or mental health.

(2) Sexual exploitation of a dependent adult by a caretaker whether within a facility or program or at a location outside of a facility or program. “*Sexual exploitation*” means any consensual or nonconsensual sexual conduct with a dependent adult which includes but is not limited to kissing; touching of the clothed or unclothed breast, groin, buttock, anus, pubes, or genitals; or a sex act, as defined in section 702.17. “*Sexual exploitation*” includes the transmission, display, taking of electronic images of the unclothed breast, groin, buttock, anus, pubes, or genitals of a dependent adult by a caretaker for a purpose not related to treatment or diagnosis or as part of an ongoing investigation. “*Sexual exploitation*” does not include touching which is part of a necessary examination, treatment, or care by a caretaker acting within the scope of the practice or employment of the caretaker; the exchange of a brief touch or hug between the dependent adult and a caretaker for the purpose

of reassurance, comfort, or casual friendship; or touching between spouses or domestic partners in an intimate relationship.

(3) Personal degradation of a dependent adult. “*Personal degradation*” means a willful act or statement by a caretaker intended to shame, degrade, humiliate, or otherwise harm the personal dignity of a dependent adult, or where the caretaker knew or reasonably should have known the act or statement would cause shame, degradation, humiliation, or harm to the personal dignity of a reasonable person. “*Personal degradation*” includes the taking, transmission, or display of an electronic image of a dependent adult by a caretaker, where the caretaker’s actions constitute a willful act or statement intended to shame, degrade, humiliate, or otherwise harm the personal dignity of the dependent adult, or where the caretaker knew or reasonably should have known the act would cause shame, degradation, humiliation, or harm to the personal dignity of a reasonable person. “*Personal degradation*” does not include the taking, transmission, or display of an electronic image of a dependent adult for the purpose of reporting dependent adult abuse to law enforcement, the department, or other regulatory agency that oversees caretakers or enforces abuse or neglect provisions, or for the purpose of treatment or diagnosis or as part of an ongoing investigation. “*Personal degradation*” also does not include the taking, transmission, or display of an electronic image by a caretaker in accordance with the facility’s or program’s confidentiality policy and release of information or consent policies.

b. “*Dependent adult abuse*” does not include any of the following:

(1) Circumstances in which the dependent adult declines medical treatment if the dependent adult holds a belief or is an adherent of a religion whose tenets and practices call for reliance on spiritual means in place of reliance on medical treatment.

(2) Circumstances in which the dependent adult’s caretaker, acting in accordance with the dependent adult’s stated or implied consent, declines medical treatment or care.

(3) The withholding or withdrawing of health care from a dependent adult who is terminally ill in the opinion of a licensed physician, when the withholding or withdrawing of health care is done at the request of the dependent adult or at the request of the dependent adult’s next of kin, attorney in fact, or guardian pursuant to the applicable procedures under chapter 125, 144A, 144B, 222, 229, or 633.

6. “*Facility*” means a health care facility as defined in section 135C.1 or a hospital as defined in section 135B.1.

7. “*Intimate relationship*” means a significant romantic involvement between two persons that need not include sexual involvement, but does not include a casual social relationship or association in a business or professional capacity. In determining whether persons are in an intimate relationship, the court may consider the following nonexclusive list of factors:

a. The duration of the relationship.

b. The frequency of interaction.

c. Whether the relationship has been terminated.

d. The nature of the relationship, characterized by either person’s expectation of sexual or romantic involvement.

8. “*Person*” means person as defined in section 4.1.

9. “*Program*” means an elder group home as defined in section 231B.1, an assisted living program certified under section 231C.3, or an adult day services program as defined in section 231D.1.

10. “*Recklessly*” means that a person acts or fails to act with respect to a material element of a public offense, when the person is aware of and consciously disregards a substantial and unjustifiable risk that the material element exists or will result from the act or omission. The risk must be of such a nature and degree that disregard of the risk constitutes a gross deviation from the standard conduct that a reasonable person would observe in the situation.

11. “*Support services*” includes but is not limited to community-based services including area agency on aging assistance, mental health services, fiscal management, home health services, housing-related services, counseling services, transportation services, adult day services, respite services, legal services, and advocacy services.

2008 Acts, ch 1093, §11; 2017 Acts, ch 25, §1, 2

Referred to in §231B.10, 231C.10, 231D.5, 235B.2, 235B.5, 235B.6, 235E.2, 235F.1, 633B.116, 633B.118

235E.2 Dependent adult abuse reports in facilities and programs.

1. *a.* The department shall receive and evaluate reports of dependent adult abuse in facilities and programs. The department shall inform the department of human services of such evaluations and dispositions and those individuals who should be placed on the central registry for dependent adult abuse pursuant to section 235E.7. If the department believes the situation involves an immediate danger to the public health, safety, or welfare requiring immediate agency action to seek emergency placement on the central registry, the department may utilize emergency adjudicative proceedings pursuant to section 17A.18A.

b. Reports of dependent adult abuse which is the result of the acts or omissions of the dependent adult shall be collected and maintained in the files of the dependent adult as assessments only and shall not be included in the central registry.

c. A report of dependent adult abuse that meets the definition of dependent adult abuse under section 235E.1, subsection 5, paragraph “a”, subparagraph (1), subparagraph division (a) or (d), or section 235E.1, subsection 5, paragraph “a”, subparagraph (3), which the department determines is minor, isolated, and unlikely to reoccur shall be collected and maintained by the department of human services as an assessment only for a five-year period and shall not be included in the central registry and shall not be considered to be founded dependent adult abuse. A subsequent report of dependent adult abuse that meets the definition of dependent adult abuse under section 235E.1, subsection 5, paragraph “a”, subparagraph (1), subparagraph division (a) or (d), or section 235E.1, subsection 5, paragraph “a”, subparagraph (3), that occurs within the five-year period, and that is committed by the caretaker responsible for the act or omission which was the subject of the previous report of dependent adult abuse which the department determined was minor, isolated, and unlikely to reoccur, may be considered minor, isolated, and unlikely to reoccur depending on the circumstances of the report.

2. A staff member or employee of a facility or program who, in the course of employment, examines, attends, counsels, or treats a dependent adult in a facility or program and reasonably believes the dependent adult has suffered dependent adult abuse, shall report the suspected dependent adult abuse to the department.

3. *a.* If a staff member or employee is required to make a report pursuant to this section, the staff member or employee shall immediately notify the person in charge or the person’s designated agent who shall then notify the department within twenty-four hours of such notification. If the person in charge is the alleged dependent adult abuser, the staff member shall directly report the abuse to the department within twenty-four hours.

b. The employer or supervisor of a person who is required to or may make a report pursuant to this section shall not apply a policy, work rule, or other requirement that interferes with the person making a report of dependent adult abuse or that results in the failure of another person to make the report.

4. An employee of a financial institution may report suspected financial exploitation of a dependent adult to the department.

5. Any other person who believes that a dependent adult has suffered dependent adult abuse may report the suspected dependent adult abuse to the department of inspections and appeals. The department of inspections and appeals shall transfer any reports received of dependent adult abuse in the community to the department of human services. The department of human services shall transfer any reports received of dependent adult abuse in facilities or programs to the department of inspections and appeals.

6. The department shall inform the appropriate county attorneys of any reports of dependent adult abuse. The department may request information from any person believed to have knowledge of a case of dependent adult abuse. The person, including but not limited to a county attorney, a law enforcement agency, a multidisciplinary team, a social services agency in the state, or any person who is required pursuant to subsection 2 to report dependent adult abuse, whether or not the person made the specific dependent adult abuse report, shall cooperate and assist in the evaluation upon the request of the department. If the department’s assessment reveals that dependent adult abuse exists which might constitute a criminal offense, a report shall be made to the appropriate law enforcement agency. County

attorneys and appropriate law enforcement agencies shall also take any other lawful action necessary or advisable for the protection of the dependent adult.

a. If, upon completion of an investigation, the department determines that the best interests of the dependent adult require court action, the department shall notify the department of human services of the potential need for a guardian or conservator or for admission or commitment to an appropriate institution or facility pursuant to the applicable procedures under chapter 125, 222, 229, or 633, or shall pursue other remedies provided by law. The appropriate county attorney shall assist the department of human services in the preparation of the necessary papers to initiate the action and shall appear and represent the department of human services at all district court proceedings.

b. Investigators within the department shall be specially trained to investigate cases of dependent adult abuse including but not limited to cases involving gerontological, dementia, and wound care issues.

c. The department shall assist the court during all stages of court proceedings involving a suspected case of dependent adult abuse.

d. In every case involving dependent adult abuse which is substantiated by the department and which results in a judicial proceeding on behalf of the dependent adult, legal counsel shall be appointed by the court to represent the dependent adult in the proceedings. The court may also appoint a guardian ad litem to represent the dependent adult if necessary to protect the dependent adult's best interests. The same attorney shall not be appointed to serve both as legal counsel and as guardian ad litem. Before legal counsel or a guardian ad litem is appointed pursuant to this paragraph, the court shall require the dependent adult and any person legally responsible for the support of the dependent adult to complete under oath a detailed financial statement. If, on the basis of that financial statement, the court deems that the dependent adult or the legally responsible person is able to bear all or a portion of the cost of the legal counsel or guardian ad litem, the court shall so order. In cases where the dependent adult or the legally responsible person is unable to bear the cost of the legal counsel or guardian ad litem, the expense shall be paid by the county.

7. A person participating in good faith in reporting or cooperating with or assisting the department in evaluating a case of dependent adult abuse has immunity from liability, civil or criminal, which might otherwise be incurred or imposed based upon the act of making the report or giving the assistance. The person has the same immunity with respect to participating in good faith in a judicial proceeding resulting from the report, cooperation, or assistance or relating to the subject matter of the report, cooperation, or assistance.

8. It shall be unlawful for any person or employer to discharge, suspend, or otherwise discipline a person required to report or voluntarily reporting an instance of suspected dependent adult abuse pursuant to subsection 2 or 5, or cooperating with, or assisting the department in evaluating a case of dependent adult abuse, or participating in judicial proceedings relating to the reporting or cooperation or assistance based solely upon the person's reporting or assistance relative to the instance of dependent adult abuse. A person or employer found in violation of this subsection is guilty of a simple misdemeanor.

9. A person required by this section to report a suspected case of dependent adult abuse pursuant to subsection 2 who knowingly and willfully fails to do so within twenty-four hours commits a simple misdemeanor. A person required by subsection 2 to report a suspected case of dependent adult abuse who knowingly fails to do so or who knowingly interferes with the making of such a report or applies a requirement that results in such a failure is civilly liable for the damages proximately caused by the failure.

10. The department shall adopt rules which require facilities and programs to separate an alleged dependent adult abuser from a victim following an allegation of perpetration of dependent adult abuse and prior to the completion of an investigation of the allegation. Independent of the department's investigation, the facility or program employing the alleged dependent adult abuser shall conduct an investigation of the alleged dependent adult abuse and determine what, if any, employment action should be taken including but not limited to placing the alleged dependent adult abuser on administrative leave or reassigning or terminating the alleged dependent adult abuser as a result of the investigation by the facility or program. If the facility or program terminates the alleged dependent adult abuser as a

result of the investigation by the facility or program or the alleged dependent adult abuser resigns, the alleged dependent adult abuser shall disclose such termination or investigation to any prospective facility or program employer. An alleged dependent adult abuser who fails to disclose such termination or investigation is guilty of a simple misdemeanor.

11. Upon receiving notice from a credible source, the department shall notify a facility or program that subsequently employs a dependent adult abuser when the notice of investigative findings has been issued. Such notification shall occur prior to the completion of an investigation that is founded for dependent adult abuse.

12. An inspector of the department may enter any facility or program without a warrant and may examine all records pertaining to residents, employees, former employees, and the alleged dependent adult abuser. If upon entry, the inspector has knowledge of or learns during the course of an investigation that alleged dependent adult abuse is suspected or is being investigated, the inspector shall inform the facility or program that the inspector is investigating an alleged case of dependent adult abuse. An inspector of the department may contact or interview any resident, employee, former employee, or any other person who might have knowledge about the alleged dependent adult abuse. Prior to the interview, the department shall provide written notification to the person under investigation for dependent adult abuse that the person is under investigation for dependent adult abuse, the nature of the abuse being investigated, the possible civil administrative consequences of founded abuse, the requirement that the department forward a report to law enforcement if the department's investigation reveals a potential criminal offense, that the person has the right to retain legal counsel at the person's expense and may choose to have legal counsel, union representation, or any other desired representative employed by the facility present during the interview, and the fact that the person has the right to decline to be interviewed or to terminate an interview at any time. The person under investigation shall inform the department of the representatives desired to be present during the interview and not delay the interview by more than five working days to make arrangements for the person's representatives to be present at the interview. Any employer representative shall be informed of the requirement to maintain strict confidentiality and of the prohibition against dissemination of such information pursuant to chapter 235B. At the interview, the department shall request and the alleged dependent adult abuser shall provide the alleged dependent adult abuser's most current contact information to facilitate provision of the findings to the alleged dependent adult abuser. An inspector may take or cause to be taken photographs of the dependent adult abuse victim and the vicinity involved. The department shall obtain consent from the dependent adult abuse victim or guardian or other person with a power of attorney over the dependent adult abuse victim prior to taking photographs of the dependent adult abuse victim.

13. a. Notwithstanding section 235B.6 and chapter 22, an employee organization or union representative may observe an investigative interview conducted by the department of an alleged dependent adult abuser if all of the following conditions are met:

(1) The alleged dependent adult abuser is part of a bargaining unit that is party to a collective bargaining agreement under chapter 20 or any other applicable state or federal law.

(2) The alleged dependent adult abuser requests the presence of an employee organization or union representative.

(3) The employee organization or union representative maintains the confidentiality of all information from the interview subject to the penalties provided in section 235B.12 if such confidentiality is breached.

b. This subsection shall only apply to interviews conducted pursuant to this chapter. This subsection does not apply to interviews conducted pursuant to the regulatory activities of chapter 135B, 135C, 231B, 231C, or 231D, or any other state or federal law.

2008 Acts, ch 1093, §12; 2009 Acts, ch 41, §263; 2009 Acts, ch 133, §89; 2010 Acts, ch 1177, §2 - 4; 2015 Acts, ch 80, §16; 2019 Acts, ch 69, §1

Referred to in §235B.3, 235B.16

235E.3 Prevention of additional dependent adult abuse — notification of rights.

If a peace officer has reason to believe that dependent adult abuse, which is criminal in nature, has occurred in a facility or program, the officer shall use all reasonable means to prevent further dependent adult abuse, including but not limited to any of the following:

1. If requested, remaining on the scene as long as there is a danger to the dependent adult's physical safety without the presence of a peace officer, including but not limited to staying in the facility or program, or if unable to remain at the scene, assisting the dependent adult in leaving the facility or program and securing support services or emergency shelter services.

2. Assisting the dependent adult in obtaining medical treatment necessitated by the dependent adult abuse, including providing assistance to the dependent adult in obtaining transportation to the emergency room of the nearest hospital.

3. Providing a dependent adult with immediate and adequate notice of the dependent adult's rights. The notice shall consist of handing the dependent adult a document that includes the telephone numbers of shelters, support groups, and crisis lines operating in the area and contains the following written statement of rights; requesting the dependent adult to read the document; and asking the dependent adult whether the dependent adult understands the rights:

[1] You have the right to ask the court for the following help on a temporary basis:

[a] Keeping the alleged perpetrator away from you, your home, your facility, and your place of work.

[b] The right to stay at your home or facility without interference from the alleged perpetrator.

[c] Professional counseling for you, your family, or household members, and the alleged perpetrator of the dependent adult abuse.

[2] If you are in need of medical treatment, you have the right to request that the peace officer present assist you in obtaining transportation to the nearest hospital or otherwise assist you.

[3] If you believe that police protection is needed for your physical safety, you have the right to request that the peace officer present remain at the scene until you and other affected parties can leave or safety is otherwise ensured.

2008 Acts, ch 1093, §13; 2009 Acts, ch 133, §90, 91; 2017 Acts, ch 54, §33; 2018 Acts, ch 1026, §72

Similar provisions, §235B.3A, 236.12, 236A.13, 709.22

235E.4 Chapter 235B application.

Sections 235B.4 through 235B.20, where not inconsistent with this chapter, shall apply to this chapter.

2008 Acts, ch 1093, §14; 2009 Acts, ch 41, §97; 2009 Acts, ch 133, §92

235E.5 Rulemaking authority.

The department, in cooperation and consultation with the dependent adult protective advisory council established in section 235B.1, affected industry representatives, and professional and consumer groups, may adopt rules pursuant to chapter 17A to administer this chapter.

2008 Acts, ch 1093, §15

235E.6 Dependent adult abuse finding — notification to employer and employee.

Upon a determination that an allegation of perpetration of dependent adult abuse by a caretaker is founded, the department shall provide written notification of the department's findings to the caretaker and the caretaker's employer. In addition, the written notification shall detail the consequences of placement on the central abuse registry, the caretaker's appeal rights, and include a separate appeal request form. The written appeal request form

shall clearly set forth that the caretaker shall not be placed on the central abuse registry until final agency action is taken if an appeal is filed within fifteen days.

2010 Acts, ch 1177, §5; 2013 Acts, ch 90, §61

235E.7 Appeal process — dependent adult abuse.

1. If a request for an appeal is filed within fifteen days of the issuance of the written notification of a finding of dependent adult abuse, the department shall not place the caretaker on the central abuse registry until final agency action is taken. For a request for an appeal filed within fifteen days of the issuance of the written notification of the finding, the contested case hearing shall be held within sixty days of the request. The caretaker may extend the hearing timeframe by thirty days one time. Additional requests for an extension must be agreed upon by all parties or for good cause. The administrative law judge's proposed decision shall be issued within thirty days of the contested case hearing. If further review of the decision is not requested before the proposed decision becomes final, the proposed decision shall be deemed final agency action. If further review is requested, the department's final agency action shall occur within thirty days of the issuance of the administrative law judge's proposed decision. Upon final agency action, further appeal rights shall be governed by chapter 17A.

2. If a caretaker fails to request an appeal within fifteen days, the caretaker shall have sixty days from the issuance of the written notification of the abuse findings to file an appeal pursuant to chapter 17A. However, the caretaker's name shall be placed on the central abuse registry pending the outcome of the appeal.

3. If the caretaker requests an appeal within fifteen days, the caretaker may waive the expedited hearing under subsection 1 to proceed under chapter 17A, but the caretaker's name shall be placed on the central abuse registry pending the outcome of the appeal.

2010 Acts, ch 1177, §6

Referred to in §235E.2

CHAPTER 235F

ELDER ABUSE

Referred to in §13.2, 562A.27A, 562B.25A, 598.7, 602.6306, 633.560A, 664A.1, 664A.2, 664A.5, 664A.7, 915.23, 915.50A

235F.1	Definitions.	235F.4	Appointment of guardian ad litem.
235F.2	Commencement of actions — waiver to juvenile court.	235F.5	Hearings — temporary orders.
235F.3	Plaintiffs proceeding pro se — provision of forms and assistance.	235F.6	Disposition.
		235F.7	Emergency orders.
		235F.8	Procedure.

235F.1 Definitions.

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

1. “*Attorney in fact*” means an agent under a power of attorney pursuant to chapter 633B or an attorney in fact under a durable power of attorney for health care pursuant to chapter 144B.

2. “*Caretaker*” means a related or nonrelated person who has the responsibility for the protection, care, or custody of a vulnerable elder as a result of assuming the responsibility voluntarily, by contract, through employment, or by order of the court. “*Caretaker*” does not include a caretaker as defined in section 235E.1.

3. “*Coercion*” means communication or conduct which unduly compels a vulnerable elder to act or refrain from acting against the vulnerable elder's will and against the vulnerable elder's best interests.

4. “*Conservator*” means the same as defined in section 633.3.

5. a. “*Elder abuse*” means any of the following:

(1) Physical injury to, or injury which is at a variance with the history given of the injury,

or unreasonable confinement, unreasonable punishment, or assault of a vulnerable elder by a person not otherwise governed by chapter 235E.

(2) The commission of a sexual offense under chapter 709 or section 726.2 with or against a vulnerable elder.

(3) Neglect which is the deprivation of the minimum food, shelter, clothing, supervision, or physical or mental health care, or other care necessary to maintain a vulnerable elder's life or health by a caretaker.

(4) Financial exploitation.

b. "Elder abuse" does not include any of the following:

(1) Circumstances in which the vulnerable elder declines medical treatment if the vulnerable elder holds a belief or is an adherent of a religion whose tenets and practices call for reliance on spiritual means in place of reliance on medical treatment.

(2) Circumstances in which the vulnerable elder's caretaker, acting in accordance with the vulnerable elder's stated or implied consent, declines medical treatment if the vulnerable elder holds a belief or is an adherent of a religion whose tenets and practices call for reliance on spiritual means in place of reliance on medical treatment.

(3) The withholding or withdrawing of health care from a vulnerable elder who is terminally ill in the opinion of a licensed physician, when the withholding or withdrawing of health care is done at the request of the vulnerable elder or at the request of the vulnerable elder's next of kin, attorney in fact, or guardian pursuant to the applicable procedures under chapter 125, 144A, 144B, 222, 229, or 633.

(4) Good faith assistance by a family or household member or other person in managing the financial affairs of a vulnerable elder at the request of the vulnerable elder or at the request of a family member, guardian, or conservator of the vulnerable elder.

6. "Family or household member" means a spouse, a person cohabiting with the vulnerable elder, a parent, or a person related to the vulnerable elder by consanguinity or affinity, but does not include children of the vulnerable elder who are less than eighteen years of age.

7. "Fiduciary" means a person or entity with the legal responsibility to make decisions on behalf of and for the benefit of a vulnerable elder and to act in good faith and with fairness. "Fiduciary" includes but is not limited to an attorney in fact, a guardian, or a conservator.

8. "Financial exploitation" relative to a vulnerable elder means when a person stands in a position of trust or confidence with the vulnerable elder and knowingly and by undue influence, deception, coercion, fraud, or extortion, obtains control over or otherwise uses or diverts the benefits, property, resources, belongings, or assets of the vulnerable elder.

9. "Guardian" means the same as defined in section 633.3.

10. "Peace officer" means the same as defined in section 801.4.

11. "Plaintiff" means a vulnerable elder who files a petition under this chapter and includes a substitute petitioner who files a petition on behalf of a vulnerable elder under this chapter.

12. "Present danger of elder abuse" means a situation in which the defendant has recently threatened the vulnerable elder with initial or additional elder abuse, or the potential exists for misappropriation, misuse, or removal of the funds, benefits, property, resources, belongings, or assets of the vulnerable elder combined with reasonable grounds to believe that elder abuse is likely to occur.

13. "Pro se" means a person proceeding on the person's own behalf without legal representation.

14. "Stands in a position of trust or confidence" means the person has any of the following relationships relative to the vulnerable elder:

a. Is a parent, spouse, adult child, or other relative by consanguinity or affinity of the vulnerable elder.

b. Is a caretaker for the vulnerable elder.

c. Is a person who is in a confidential relationship with the vulnerable elder. For the purposes of this paragraph "c", a confidential relationship does not include a legal, fiduciary, or ordinary commercial or transactional relationship the vulnerable elder may have with a bank incorporated under the provisions of any state or federal law, any savings and loan association or savings bank incorporated under the provisions of any state or federal law, any

credit union organized under the provisions of any state or federal law, any attorney licensed to practice law in this state, or any agent, agency, or company regulated under chapter 505, 508, 515, or 543B.

15. “*Substitute petitioner*” means a family or household member, guardian, conservator, attorney in fact, or guardian ad litem for a vulnerable elder, or other interested person who files a petition under this chapter.

16. “*Undue influence*” means taking advantage of a person’s role, relationship, or authority to improperly change or obtain control over the actions or decision making of a vulnerable elder against the vulnerable elder’s best interests.

17. “*Vulnerable elder*” means a person sixty years of age or older who is unable to protect himself or herself from elder abuse as a result of a mental or physical condition or because of a personal circumstance which results in an increased risk of harm to the person.

2014 Acts, ch 1107, §1; 2015 Acts, ch 30, §81; 2019 Acts, ch 118, §1

Referred to in §135B.7, 611.23

235F.2 Commencement of actions — waiver to juvenile court.

1. A vulnerable elder or a substitute petitioner may seek relief from elder abuse by filing a verified petition in the district court. Venue shall lie where either party resides. The petition shall state all of the following:

a. The name of the vulnerable elder and the name and address of the vulnerable elder’s attorney, if any. If the vulnerable elder is proceeding pro se, the petition shall state a mailing address for the vulnerable elder.

b. The name of the substitute petitioner if the petition is being filed on behalf of a vulnerable elder, and the name and address of the attorney of the substitute petitioner. If the substitute petitioner is proceeding pro se, the petition shall state a mailing address for the substitute petitioner.

c. The name and address, if known, of the defendant.

d. The relationship of the vulnerable elder to the defendant.

e. The nature of the alleged elder abuse.

f. The name and age of any other individual whose welfare may be affected.

g. The desired relief, including a request for temporary or emergency orders.

2. A temporary or emergency order may be based on a showing of a prima facie case of elder abuse. If the factual basis for the alleged elder abuse is contested, the court shall issue a protective order based upon a finding of elder abuse by a preponderance of the evidence.

3. a. The filing fee and court costs for an order for protection and in a contempt action resulting from an order granted under this chapter or chapter 664A shall be waived for the plaintiff.

b. The clerk of court, the sheriff of any county in this state, and other law enforcement and corrections officers shall perform their duties relating to service of process without charge to the plaintiff.

c. When a permanent order for protection is entered by the court, the court may direct the defendant to pay to the clerk of court the fees for the filing of the petition and reasonable costs of service of process if the court determines the defendant has the ability to pay the plaintiff’s fees and costs.

d. In lieu of personal service of an order for protection issued pursuant to this section, the sheriff of any county in the state, and any other law enforcement and corrections officers may serve a defendant with a short-form notification pursuant to section 664A.4A.

4. If the person against whom relief from elder abuse is being sought is seventeen years of age or younger, the district court shall waive its jurisdiction over the action to the juvenile court.

5. If a substitute petitioner files a petition under this section on behalf of a vulnerable elder, the vulnerable elder shall retain the right to all of the following:

a. To contact and retain counsel.

b. To have access to personal records.

c. To file objections to the protective order.

d. To request a hearing on the petition.

e. To present evidence and cross-examine witnesses at the hearing.

2014 Acts, ch 1107, §2

Referred to in §235F.7

235F.3 Plaintiffs proceeding pro se — provision of forms and assistance.

1. By July 1, 2015, the judicial branch shall prescribe standard forms to be used by vulnerable elders or substitute petitioners seeking protective orders by proceeding pro se in actions under this chapter. Beginning July 1, 2015, the standard forms prescribed by the judicial branch shall be the exclusive forms used by plaintiffs proceeding pro se under this chapter. The judicial branch shall distribute the forms to the clerks of the district courts.

2. The clerk of the district court shall furnish the required forms to persons seeking protective orders through pro se proceedings pursuant to this chapter.

2014 Acts, ch 1107, §3

235F.4 Appointment of guardian ad litem.

The court may on its own motion or on the motion of a party appoint a guardian ad litem for a vulnerable elder if justice requires. The vulnerable elder's attorney shall not also serve as the guardian ad litem.

2014 Acts, ch 1107, §4

235F.5 Hearings — temporary orders.

1. Not less than five and not more than fifteen days after commencing a proceeding and upon notice to the other party, a hearing shall be held at which the plaintiff must prove the allegation of elder abuse by a preponderance of the evidence.

2. The court may enter any temporary order it deems necessary to protect the vulnerable elder from elder abuse prior to the hearing, upon good cause shown in an ex parte proceeding. Present danger of elder abuse constitutes good cause for purposes of this subsection.

3. If a hearing is continued, the court may make or extend any temporary order under subsection 2 that it deems necessary.

4. Upon application of a party, the court shall issue subpoenas requiring attendance and testimony of witnesses and production of papers.

5. The court shall advise the defendant of a right to be represented by counsel of the defendant's choosing and to have a continuance to secure counsel.

6. At the hearing, the allegation of elder abuse may be proven as required under subsection 1 by but is not limited to the testimony from any of the following:

- a. The vulnerable elder.
- b. The guardian, conservator, attorney in fact, or guardian ad litem of the vulnerable elder.
- c. Witnesses to the elder abuse.
- d. Adult protective services workers who have conducted an investigation.

7. The court shall exercise its discretion in a manner that protects the vulnerable elder from traumatic confrontation with the defendant.

8. Hearings shall be recorded.

2014 Acts, ch 1107, §5; 2015 Acts, ch 30, §82

Referred to in §235F.7

235F.6 Disposition.

1. Upon a finding that the defendant has engaged in elder abuse, the court may, if requested by the plaintiff, order any of the following:

a. That the defendant be required to move from the residence of the vulnerable elder if both the vulnerable elder and the defendant are titleholders or contract holders of record of the real property, are named as tenants in the rental agreement concerning the use and occupancy of the dwelling unit, are living in the same residence, or are married to each other.

b. That the defendant provide suitable alternative housing for the vulnerable elder.

c. That a peace officer accompany the party who is leaving or has left the party's residence to remove essential personal effects of the party.

d. That the defendant be restrained from abusing, harassing, intimidating, molesting,

interfering with, or menacing the vulnerable elder, or attempting to abuse, harass, intimidate, molest, interfere with, or menace the vulnerable elder.

e. That the defendant be restrained from entering or attempting to enter on any premises when it appears to the court that such restraint is necessary to prevent the defendant from abusing, harassing, intimidating, molesting, interfering with, or menacing the vulnerable elder.

f. That the defendant be restrained from exercising any powers on behalf of the vulnerable elder through a court-appointed guardian, conservator, or guardian ad litem, an attorney in fact, or another third party.

g. In addition to the relief provided in subsection 2, other relief that the court considers necessary to provide for the safety and welfare of the vulnerable elder.

2. If the court finds that the vulnerable elder has been the victim of financial exploitation, the court may order the relief the court considers necessary to prevent or remedy the financial exploitation, including but not limited to any of the following:

a. Directing the defendant to refrain from exercising control over the funds, benefits, property, resources, belongings, or assets of the vulnerable elder.

b. Requiring the defendant to return custody or control of the funds, benefits, property, resources, belongings, or assets to the vulnerable elder.

c. Requiring the defendant to follow the instructions of the guardian, conservator, or attorney in fact of the vulnerable elder.

d. Prohibiting the defendant from transferring the funds, benefits, property, resources, belongings, or assets of the vulnerable elder to any person other than the vulnerable elder.

3. The court shall not issue an order under this section that does any of the following:

a. Allows any person other than the vulnerable elder to assume responsibility for the funds, benefits, property, resources, belongings, or assets of the vulnerable elder.

b. Grants relief that is more appropriately obtained in a protective proceeding filed under chapter 633 including but not limited to giving control and management of the funds, benefits, property, resources, belongings, or assets of the vulnerable elder to a guardian, conservator, or attorney in fact for any purpose other than the relief granted under subsection 2.

4. The court may approve a consent agreement between the parties entered into to bring about the cessation of elder abuse. A consent agreement approved under this section shall not contain any of the following:

a. A provision that prohibits any party to the action from contacting or cooperating with any government agency including the department of human services, the department of inspections and appeals, the department on aging, the department of justice, law enforcement, and the office of long-term care ombudsman; a licensing or regulatory agency that has jurisdiction over any license or certification held by the defendant; a protection and advocacy agency recognized in section 135C.2; or the defendant's current employer if the defendant's professional responsibilities include contact with vulnerable elders, dependent adults, or minors, if the party contacting or cooperating has a good-faith belief that the information is relevant to the duties or responsibilities of the entity.

b. A provision that prohibits any party to the action from filing a complaint with or reporting a violation of law to any government agency including the department of human services, the department of inspections and appeals, the department on aging, the department of justice, law enforcement, and the office of long-term care ombudsman; a licensing or regulatory agency that has jurisdiction over any license or certification held by the defendant; a protection and advocacy agency recognized in section 135C.2; or the defendant's current employer.

c. A provision that requires any party to the action to withdraw a complaint filed with or a violation reported to any government agency including the department of human services, the department of inspections and appeals, the department on aging, the department of justice, law enforcement, and the office of long-term care ombudsman; a licensing or regulatory agency that has jurisdiction over any license or certification held by the defendant; a protection and advocacy agency recognized in section 135C.2; or the defendant's current employer.

5. A protective order or approved consent agreement shall be for a fixed period of time

not to exceed one year. The court may amend or extend its order or a consent agreement at any time upon a petition filed by either party and after notice and hearing. The court may extend the order if the court, after hearing at which the defendant has the opportunity to be heard, finds that the defendant continues to pose a threat to the safety of the vulnerable elder, persons residing with the vulnerable elder, or members of the vulnerable elder's immediate family, or continues to present a risk of financial exploitation of the vulnerable elder. The number of extensions that may be granted by the court is not limited.

6. The order shall state whether a person is to be taken into custody by a peace officer for a violation of the terms stated in the order.

7. The court may order that the defendant pay the attorney fees and court costs of the vulnerable elder or substitute petitioner.

8. An order or approved consent agreement under this section shall not affect title to real property.

9. A copy of any order or approved consent agreement shall be issued to the plaintiff, the defendant, the county sheriff of the county in which the order or consent decree is initially entered, and the twenty-four-hour dispatcher for the county sheriff. Any subsequent amendment or revocation of an order or consent agreement shall be forwarded by the clerk to all individuals previously notified.

10. The clerk shall notify the county sheriff and the twenty-four-hour dispatcher for the county sheriff in writing so that the county sheriff and the county sheriff's dispatcher receive written notice within six hours of filing the order, approved consent agreement, amendment, or revocation. The clerk may fulfill this requirement by sending the notice by facsimile or other electronic transmission which reproduces the notice in writing within six hours of filing the order.

11. The county sheriff's dispatcher shall notify all law enforcement agencies having jurisdiction over the matter and the twenty-four-hour dispatcher for the law enforcement agencies upon notification by the clerk.

2014 Acts, ch 1107, §6; 2015 Acts, ch 29, §37; 2015 Acts, ch 30, §83

Referred to in §235F.7, 331.424, 598.42, 664A.4

235F.7 Emergency orders.

1. When the court is unavailable from the close of business at the end of the day or week to the resumption of business at the beginning of the day or week, a petition may be filed before a district judge, or district associate judge designated by the chief judge of the judicial district, who may grant emergency relief in accordance with section 235F.6, subsection 1 or 2, if the district judge or district associate judge deems it necessary to protect the vulnerable elder from elder abuse, upon good cause shown in an ex parte proceeding. Present danger of elder abuse constitutes good cause for purposes of this subsection.

2. An emergency order issued under subsection 1 shall expire seventy-two hours after issuance. When the order expires, the plaintiff may seek a temporary order from the court pursuant to section 235F.5.

3. A petition filed and emergency order issued under this section and any documentation in support of the petition and order shall be immediately certified to the court. The certification shall commence a proceeding for purposes of section 235F.2.

2014 Acts, ch 1107, §7

235F.8 Procedure.

1. A proceeding under this chapter shall be held in accordance with the rules of civil procedure, except as otherwise set forth in this chapter and in chapter 664A, and is in addition to any other civil or criminal remedy.

2. The plaintiff's right to relief under this chapter is not affected by the vulnerable elder leaving the vulnerable elder's home to avoid elder abuse.

2014 Acts, ch 1107, §8; 2015 Acts, ch 30, §84

CHAPTER 236

DOMESTIC ABUSE

Referred to in §13.2, 13.31, 135.108, 232.22, 232.52, 562A.27A, 562B.25A, 598.7, 602.6111, 602.6306, 664A.1, 664A.2, 664A.5, 664A.7, 716.7, 911.2B, 915.23, 915.52, 915.94

236.1	Short title.	236.14	Initial appearance required — contact to be prohibited — extension of no-contact order. Repealed by 2006 Acts, ch 1101, §21.
236.2	Definitions.	236.15	Application for designation and funding as a provider of services for victims of domestic abuse.
236.3	Commencement of actions — waiver to juvenile court.	236.15A	Income tax checkoff for domestic abuse services. Repealed by 97 Acts, ch 158, §48; 97 Acts, ch 209, §13, 15.
236.3A	Plaintiffs proceeding pro se — provision of forms and assistance.	236.15B	Income tax checkoff for domestic abuse services. Repealed by 2003 Acts, ch 44, §111.
236.3B	Assistance by county attorney.	236.16	Department powers and duties.
236.4	Hearings — temporary orders.	236.17	Domestic abuse training requirements.
236.5	Disposition.	236.18	Reference to certain criminal provisions.
236.6	Emergency orders.	236.19	Foreign protective orders — registration — enforcement — immunity.
236.7	Procedure.	236.20	Mutual protective orders prohibited — exceptions.
236.8	Violation of order — contempt — penalties — hearings. Repealed by 2006 Acts, ch 1101, §21.		
236.9	Domestic abuse information.		
236.10	Plaintiff's address — confidentiality of records.		
236.11	Duties of peace officer — magistrate.		
236.12	Prevention of further abuse — notification of rights — arrest — liability.		
236.13	Prohibition against referral.		

236.1 Short title.

This chapter may be cited as the “*Domestic Abuse Act*”.
[C81, §236.1]

236.2 Definitions.

For purposes of this chapter, unless a different meaning is clearly indicated by the context:

1. “*Department*” means the department of justice.
2. “*Domestic abuse*” means committing assault as defined in section 708.1 under any of the following circumstances:
 - a. The assault is between family or household members who resided together at the time of the assault.
 - b. The assault is between separated spouses or persons divorced from each other and not residing together at the time of the assault.
 - c. The assault is between persons who are parents of the same minor child, regardless of whether they have been married or have lived together at any time.
 - d. The assault is between persons who have been family or household members residing together within the past year and are not residing together at the time of the assault.
 - e. (1) The assault is between persons who are in an intimate relationship or have been in an intimate relationship and have had contact within the past year of the assault. In determining whether persons are or have been in an intimate relationship, the court may consider the following nonexclusive list of factors:
 - (a) The duration of the relationship.
 - (b) The frequency of interaction.
 - (c) Whether the relationship has been terminated.
 - (d) The nature of the relationship, characterized by either party's expectation of sexual or romantic involvement.
 - (2) A person may be involved in an intimate relationship with more than one person at a time.

3. “*Emergency shelter services*” include but are not limited to secure crisis shelters or housing for victims of domestic abuse.

4. *a.* “*Family or household members*” means spouses, persons cohabiting, parents, or other persons related by consanguinity or affinity.

b. “*Family or household members*” does not include children under age eighteen of persons listed in paragraph “*a*”.

5. “*Intimate relationship*” means a significant romantic involvement that need not include sexual involvement. An intimate relationship does not include casual social relationships or associations in a business or professional capacity.

6. “*Plaintiff*” includes a person filing an action on behalf of an unemancipated minor.

7. “*Pro se*” means a person proceeding on the person’s own behalf without legal representation.

8. “*Support services*” include but are not limited to legal services, counseling services, transportation services, child care services, and advocacy services.

[C81, §236.2]

85 Acts, ch 175, §2; 87 Acts, ch 154, §1; 89 Acts, ch 279, §2, 3; 91 Acts, ch 218, §4; 93 Acts, ch 157, §1; 95 Acts, ch 180, §7; 2002 Acts, ch 1004, §1, 2; 2003 Acts, ch 44, §52; 2009 Acts, ch 41, §263

Referred to in §9E.2, 135B.7, 236.5, 236.13, 507B.4, 598.41, 598C.305, 611.23, 708.2A, 708.2B, 804.7

236.3 Commencement of actions — waiver to juvenile court.

1. A person, including a parent or guardian on behalf of an unemancipated minor, may seek relief from domestic abuse by filing a verified petition in the district court. Venue shall lie where either party resides. The petition shall state the:

a. Name of the plaintiff and the name and address of the plaintiff’s attorney, if any. If the plaintiff is proceeding *pro se*, the petition shall state a mailing address for the plaintiff. A mailing address may be provided by the plaintiff pursuant to section 236.10.

b. Name and address of the parent or guardian filing the petition, if the petition is being filed on behalf of an unemancipated minor. A mailing address may be provided by the plaintiff pursuant to section 236.10.

c. Name and address, if known, of the defendant.

d. Relationship of the plaintiff to the defendant.

e. Nature of the alleged domestic abuse.

f. Name and age of each child under eighteen whose welfare may be affected by the controversy.

g. Name or description of any pet or companion animal owned, possessed, leased, kept, or held by the petitioner, respondent, or minor child of the petitioner or respondent whose welfare may be affected by the controversy. However, this paragraph shall not apply to livestock as defined in section 717.1, held solely or primarily for commercial purposes.

h. Desired relief, including a request for temporary or emergency orders.

2. A temporary or emergency order shall be based on a showing of a *prima facie* case of domestic abuse. If the factual basis for the alleged domestic abuse is contested, the court shall issue a protective order based upon a finding of domestic abuse by a preponderance of the evidence.

3. *a.* The filing fee and court costs for an order for protection and in a contempt action under this chapter shall be waived for the plaintiff.

b. The clerk of court, the sheriff of any county in this state, and other law enforcement and corrections officers shall perform their duties relating to service of process without charge to the plaintiff. When an order for protection is entered by the court, the court may direct the defendant to pay to the clerk of court the fees for the filing of the petition and reasonable costs of service of process if the court determines the defendant has the ability to pay the plaintiff’s fees and costs. In lieu of personal service of an order for protection issued pursuant to this section, the sheriff of any county in this state, and other law enforcement and corrections officers may serve a defendant with a short-form notification pursuant to section 664A.4A.

4. If the person against whom relief from domestic abuse is being sought is seventeen

years of age or younger, the district court shall waive its jurisdiction over the action to the juvenile court.

[C81, §236.3]

85 Acts, ch 175, §3; 86 Acts, ch 1237, §12; 91 Acts, ch 218, §5; 95 Acts, ch 180, §8 – 10; 96 Acts, ch 1034, §12; 2000 Acts, ch 1119, §1; 2001 Acts, ch 43, §1; 2002 Acts, ch 1004, §3; 2002 Acts, ch 1119, §36; 2003 Acts, ch 44, §53; 2003 Acts, ch 151, §7; 2009 Acts, ch 41, §263; 2013 Acts, ch 16, §1, 3; 2014 Acts, ch 1098, §1

Referred to in §9E.2, 232.8, 236.6, 236.19, 598.41, 598C.305, 915.50

236.3A Plaintiffs proceeding pro se — provision of forms and assistance.

1. The department shall prescribe standard forms to be used by plaintiffs seeking protective orders by proceeding pro se in actions under this chapter. The standard forms shall include language in fourteen point boldface type. Standard forms prescribed by the department shall be the exclusive forms used by plaintiffs proceeding pro se, and may be used by other plaintiffs. The department shall distribute the forms to the clerks of the district courts.

2. The clerk of the district court shall furnish the required forms to persons seeking protective orders through pro se proceedings pursuant to this chapter.

91 Acts, ch 218, §6; 2004 Acts, ch 1131, §1

Referred to in §232.8, 915.50

236.3B Assistance by county attorney.

A county attorney's office may provide assistance to a person wishing to initiate proceedings pursuant to this chapter or to a plaintiff at any stage of a proceeding under this chapter, if the individual does not have sufficient funds to pay for legal assistance and if the assistance does not create a conflict of interest for the county attorney's office. The assistance provided may include, but is not limited to, assistance in obtaining or completing forms, filing a petition or other necessary pleading, presenting evidence to the court, and enforcing the orders of the court entered pursuant to this chapter. Providing assistance pursuant to this section shall not be considered the private practice of law for the purposes of section 331.752.

93 Acts, ch 157, §2

Referred to in §232.8, 915.50

236.4 Hearings — temporary orders.

1. Not less than five and not more than fifteen days after commencing a proceeding and upon notice to the other party, a hearing shall be held at which the plaintiff must prove the allegation of domestic abuse by a preponderance of the evidence.

2. The court may enter any temporary order it deems necessary to protect the plaintiff from domestic abuse prior to the hearing, including temporary custody or visitation orders pursuant to subsection 3, upon good cause shown in an ex parte proceeding. Present danger of domestic abuse to the plaintiff constitutes good cause for purposes of this subsection. A temporary order issued pursuant to this subsection shall specifically include notice that the person may be required to relinquish all firearms, offensive weapons, and ammunition upon the issuance of a permanent order pursuant to section 236.5.

3. The court may award temporary custody of or establish temporary visitation rights with regard to children under eighteen years of age. In awarding temporary custody or temporary visitation rights, the court shall give primary consideration to the safety of the alleged victim and the children. If the court finds that the safety of the alleged victim or the children will be jeopardized by unsupervised or unrestricted visitation, the court shall set conditions or restrict visitation as to time, place, duration, or supervision, or deny visitation entirely, as needed to guard the safety of the victim and the children. The court shall also determine whether any other existing orders awarding custody or visitation should be modified.

4. The court may include in the temporary order issued pursuant to this section a grant to the petitioner of the exclusive care, possession, or control of any pets or companion animals owned, possessed, leased, kept, or held by the petitioner, respondent, or minor child of the petitioner or respondent whose welfare may be affected by the controversy. The court may

forbid the respondent from approaching, taking, transferring, encumbering, concealing, molesting, attacking, striking, threatening, harming, or otherwise disposing of the pet or companion animal. This subsection shall not apply to livestock as defined in section 717.1, held solely or primarily for commercial purposes.

5. If a hearing is continued, the court may make or extend any temporary order under subsection 2, 3, or 4 that it deems necessary.

6. Upon application of a party, the court shall issue subpoenas requiring attendance and testimony of witnesses and production of papers.

7. The court shall advise the defendant of a right to be represented by counsel of the defendant's choosing and to have a continuance to secure counsel.

8. Prior to the entry of a temporary order under this section that involves a child-custody determination as defined in section 598B.102, the plaintiff shall furnish information to the court in compliance with section 598B.209.

9. Hearings shall be recorded.

[C81, §236.4]

93 Acts, ch 157, §3; 2010 Acts, ch 1083, §1; 2010 Acts, ch 1159, §1 – 4; 2014 Acts, ch 1098, §2, 3

Referred to in §232.8, 236.6, 915.50

236.5 Disposition.

1. Upon a finding that the defendant has engaged in domestic abuse:

a. The court may order that the plaintiff, the defendant, and the children who are members of the household receive professional counseling, either from a private source approved by the court or from a source appointed by the court. Costs of counseling shall be paid in full or in part by the parties and taxed as court costs. If the court determines that the parties are unable to pay the costs, they may be paid in full or in part from the county treasury.

b. The court may grant a protective order or approve a consent agreement which may contain but is not limited to any of the following provisions:

(1) That the defendant cease domestic abuse of the plaintiff.

(2) That the defendant not knowingly possess, ship, transport, or receive firearms, offensive weapons, and ammunition in violation of section 724.26, subsection 2.

(3) That the defendant grant possession of the residence to the plaintiff to the exclusion of the defendant or that the defendant provide suitable alternate housing for the plaintiff.

(4) That the defendant stay away from the plaintiff's residence, school, or place of employment.

(5) The awarding of temporary custody of or establishing temporary visitation rights with regard to children under eighteen.

(a) In awarding temporary custody or temporary visitation rights, the court shall give primary consideration to the safety of the victim and the children.

(b) If the court finds that the safety of the victim or the children will be jeopardized by unsupervised or unrestricted visitation, the court shall condition or restrict visitation as to time, place, duration, or supervision, or deny visitation entirely, as needed to guard the safety of the victim and the children.

(c) The court shall also determine whether any other existing orders awarding custody or visitation rights should be modified.

(d) Prior to entry of an order or agreement under this section that involves a child-custody determination as defined in section 598B.102, the parties shall furnish information to the court in compliance with section 598B.209.

(6) Unless prohibited pursuant to 28 U.S.C. §1738B, that the defendant pay the clerk a sum of money for the separate support and maintenance of the plaintiff and children under eighteen.

(7) A grant to the petitioner of the exclusive care, possession, or control of any pets or companion animals owned, possessed, leased, kept, or held by the petitioner, respondent, or minor child of the petitioner or respondent whose welfare may be affected by the controversy. The court may forbid the respondent from approaching, taking, transferring, encumbering, concealing, molesting, attacking, striking, threatening, harming, or otherwise disposing of

the pet or companion animal. This subparagraph shall not apply to livestock as defined in section 717.1, held solely or primarily for commercial purposes.

2. An order for counseling, a protective order, or approved consent agreement shall be for a fixed period of time not to exceed one year. The court may amend or extend its order or a consent agreement at any time upon a petition filed by either party and after notice and hearing. The court may extend the order if the court, after hearing at which the defendant has the opportunity to be heard, finds that the defendant continues to pose a threat to the safety of the victim, persons residing with the victim, or members of the victim's immediate family. At the time of the extension, the parties need not meet the requirement in section 236.2, subsection 2, paragraph "d", that the parties lived together during the last year if the parties met the requirements of section 236.2, subsection 2, paragraph "d", at the time of the original order. The number of extensions that can be granted by the court is not limited.

3. The order shall state whether a person is to be taken into custody by a peace officer for a violation of the terms stated in the order.

4. The court may order that the defendant pay the plaintiff's attorney fees and court costs.

5. An order or consent agreement under this section shall not affect title to real property.

6. A copy of any order or approved consent agreement shall be issued to the plaintiff, the defendant, the county sheriff of the county in which the order or consent decree is initially entered, and the twenty-four-hour dispatcher for the county sheriff. Any subsequent amendment or revocation of an order or consent agreement shall be forwarded by the clerk to all individuals and the county sheriff previously notified.

7. The clerk shall notify the county sheriff and the twenty-four-hour dispatcher for the county sheriff in writing so that the county sheriff and the county sheriff's dispatcher receive written notice within six hours of filing the order, approved consent agreement, amendment, or revocation. The clerk may fulfill this requirement by sending the notice by facsimile or other electronic transmission which reproduces the notice in writing within six hours of filing the order.

8. The county sheriff's dispatcher shall notify all law enforcement agencies having jurisdiction over the matter and the twenty-four-hour dispatcher for the law enforcement agencies upon notification by the clerk.

[C81, §236.5]

83 Acts, ch 123, §93, 209; 86 Acts, ch 1179, §1; 87 Acts, ch 154, §2, 3; 89 Acts, ch 85, §1; 91 Acts, ch 218, §7, 8; 91 Acts, ch 219, §3; 93 Acts, ch 157, §4; 95 Acts, ch 180, §11; 96 Acts, ch 1019, §1; 97 Acts, ch 175, §228; 99 Acts, ch 57, §1; 2006 Acts, ch 1129, §2; 2008 Acts, ch 1032, §39, 40; 2009 Acts, ch 133, §222; 2010 Acts, ch 1083, §2; 2010 Acts, ch 1159, §5, 6; 2014 Acts, ch 1098, §4

Referred to in §236.4, 236.6, 236.19, 331.424, 598.41, 598.42, 598C.305, 664A.4, 708.2A, 915.22, 915.50
For restrictions concerning issuance of mutual protective orders, see §236.20

236.6 Emergency orders.

1. When the court is unavailable from the close of business at the end of the day or week to the resumption of business at the beginning of the day or week, a petition may be filed before a district judge, or district associate judge designated by the chief judge of the judicial district, who may grant emergency relief in accordance with section 236.5, subsection 1, paragraph "b", if the district judge or district associate judge deems it necessary to protect the plaintiff from domestic abuse, upon good cause shown in an ex parte proceeding. Present danger of domestic abuse to the plaintiff constitutes good cause for purposes of this subsection.

2. An emergency order issued under subsection 1 shall expire seventy-two hours after issuance. When the order expires, the plaintiff may seek a temporary order from the court pursuant to section 236.4.

3. A petition filed and emergency order issued under this section and any documentation in support of the petition and order shall be immediately certified to the court. The certification shall commence a proceeding for purposes of section 236.3.

[C81, §236.6]

2009 Acts, ch 133, §231

Referred to in §232.8, 598.41, 598C.305, 915.50

236.7 Procedure.

1. A proceeding under this chapter shall be held in accordance with the rules of civil procedure, except as otherwise set forth in this chapter and in chapter 664A, and is in addition to any other civil or criminal remedy.

2. The plaintiff's right to relief under this chapter is not affected by leaving the residence or household to avoid domestic abuse.

[C81, §236.7]

2006 Acts, ch 1101, §1

Referred to in §915.50

236.8 Violation of order — contempt — penalties — hearings. Repealed by 2006 Acts, ch 1101, §21. See §664A.7.

236.9 Domestic abuse information.

1. Criminal or juvenile justice agencies, as defined in section 692.1, shall collect and maintain information on incidents involving domestic abuse and shall provide the information to the department of public safety in the manner prescribed by the department of public safety.

2. The department of public safety may compile statistics and issue reports on domestic abuse in Iowa, provided individual identifying details of the domestic abuse are deleted. The statistics and reports may include nonidentifying information on the personal characteristics of perpetrators and victims. The department of public safety may request the cooperation of the department of justice in compiling the statistics and issuing the reports. The department of public safety may provide nonidentifying information on individual incidents of domestic abuse to persons conducting bona fide research, including but not limited to personnel of the department of justice.

[C81, §236.9]

83 Acts, ch 96, §157, 159; 85 Acts, ch 175, §4; 89 Acts, ch 279, §4; 91 Acts, ch 19, §1; 96 Acts, ch 1034, §13

Referred to in §915.50

236.10 Plaintiff's address — confidentiality of records.

1. A person seeking relief from domestic abuse under this chapter may use any of the following addresses as a mailing address for purposes of filing a petition under this chapter, as well as for the purpose of obtaining any utility or other service:

- a. The mailing address of a shelter or other agency.
- b. A public or private post office box.
- c. Any other mailing address, with the permission of the resident of that address.

2. A person shall report any change of address, whether designated according to subsection 1 or otherwise, to the clerk of court no more than five days after the previous address on record becomes invalid.

3. The entire file or a portion of the file in a domestic abuse case shall be sealed by the clerk of court as ordered by the court to protect the privacy interest or safety of any person.

4. Notwithstanding subsection 3, court orders and support payment records shall remain public records, although the court may order that address and location information be redacted from the public records.

[C81, §236.10]

97 Acts, ch 175, §229; 98 Acts, ch 1170, §1; 2000 Acts, ch 1119, §2; 2000 Acts, ch 1132, §1

Referred to in §236.3, 915.50

236.11 Duties of peace officer — magistrate.

1. A peace officer shall use every reasonable means to enforce an order or court-approved consent agreement entered under this chapter, a temporary or permanent protective order or order to vacate the homestead under chapter 598, an order that establishes conditions of release or is a protective order or sentencing order in a criminal prosecution arising from a domestic abuse assault, or a protective order under chapter 232. If a peace officer has reason to believe that domestic abuse has occurred, the peace officer shall ask the abused person

if any prior orders exist, and shall contact the twenty-four hour dispatcher to inquire if any prior orders exist. If a peace officer has probable cause to believe that a person has violated an order or approved consent agreement entered under this chapter, a temporary or permanent protective order or order to vacate the homestead under chapter 598, an order establishing conditions of release or a protective or sentencing order in a criminal prosecution arising from a domestic abuse assault, or, if the person is an adult, a violation of a protective order under chapter 232, the peace officer shall take the person into custody and shall take the person without unnecessary delay before the nearest or most accessible magistrate in the judicial district in which the person was taken into custody. The magistrate shall make an initial preliminary determination whether there is probable cause to believe that an order or consent agreement existed and that the person taken into custody has violated its terms. The magistrate's decision shall be entered in the record.

2. If a peace officer has probable cause to believe that a person has violated an order or approved consent agreement entered under this chapter, a temporary or permanent protective order or order to vacate the homestead under chapter 598, an order establishing conditions of release or a protective or sentencing order in a criminal prosecution arising from a domestic abuse assault, or a protective order under chapter 232, and the peace officer is unable to take the person into custody within twenty-four hours of making the probable cause determination, the peace officer shall either request a magistrate to make a determination as to whether a rule to show cause or arrest warrant should be issued, or refer the matter to the county attorney.

3. If the magistrate finds probable cause, the magistrate shall order the person to appear either before the court which issued the original order or approved the consent agreement, or before the court in the jurisdiction where the alleged violation took place, at a specified time not less than five days nor more than fifteen days after the initial appearance under this section. The magistrate shall cause the original court to be notified of the contents of the magistrate's order.

4. A peace officer shall not be held civilly or criminally liable for acting pursuant to this section provided that the peace officer acts in good faith, on probable cause, and the officer's acts do not constitute a willful and wanton disregard for the rights or safety of another.

[C81, §236.11]

86 Acts, ch 1179, §2; 87 Acts, ch 154, §5; 88 Acts, ch 1065, §2; 88 Acts, ch 1218, §17, 18; 91 Acts, ch 218, §10; 93 Acts, ch 157, §6; 96 Acts, ch 1134, §4; 2004 Acts, ch 1131, §3; 2017 Acts, ch 54, §76

Referred to in §664A.3, 664A.6, 664A.7

236.12 Prevention of further abuse — notification of rights — arrest — liability.

1. If a peace officer has reason to believe that domestic abuse has occurred, the officer shall use all reasonable means to prevent further abuse including but not limited to the following:

a. If requested, remaining on the scene as long as there is a danger to an abused person's physical safety without the presence of a peace officer, including but not limited to staying in the dwelling unit, or if unable to remain on the scene, assisting the person in leaving the residence.

b. Assisting an abused person in obtaining medical treatment necessitated by an assault, including providing assistance to the abused person in obtaining transportation to the emergency room of the nearest hospital.

c. Providing an abused person with immediate and adequate notice of the person's rights. The notice shall consist of handing the person a document that includes the telephone numbers of shelters, support groups, and crisis lines operating in the area and contains the following statement of rights written in English and Spanish; asking the person to read the document; and asking whether the person understands the rights:

[1] You have the right to ask the court for the following help on a temporary basis:

[a] Keeping your attacker away from you, your home and your place of work.

[b] The right to stay at your home without interference from your attacker.

[c] Getting custody of children and obtaining support for yourself and your minor children if your attacker is legally required to provide such support.

[d] Professional counseling for you, the children who are members of the household, and the defendant.

[2] You have the right to seek help from the court to seek a protective order with or without the assistance of legal representation. You have the right to seek help from the courts without the payment of court costs if you do not have sufficient funds to pay the costs.

[3] You have the right to file criminal charges for threats, assaults, or other related crimes.

[4] You have the right to seek restitution against your attacker for harm to yourself or your property.

[5] If you are in need of medical treatment, you have the right to request that the officer present assist you in obtaining transportation to the nearest hospital or otherwise assist you.

[6] If you believe that police protection is needed for your physical safety, you have the right to request that the officer present remain at the scene until you and other affected parties can leave or until safety is otherwise ensured.

2. a. A peace officer may, with or without a warrant, arrest a person under section 708.2A, subsection 2, paragraph “a”, if, upon investigation, including a reasonable inquiry of the alleged victim and other witnesses, if any, the officer has probable cause to believe that a domestic abuse assault has been committed which did not result in any injury to the alleged victim.

b. Except as otherwise provided in subsection 3, a peace officer shall, with or without a warrant, arrest a person under section 708.2A, subsection 2, paragraph “b”, if, upon investigation, including a reasonable inquiry of the alleged victim and other witnesses, if any, the officer has probable cause to believe that a domestic abuse assault has been committed which resulted in the alleged victim’s suffering a bodily injury.

c. Except as otherwise provided in subsection 3, a peace officer shall, with or without a warrant, arrest a person under section 708.2A, subsection 2, paragraph “c”, if, upon investigation, including a reasonable inquiry of the alleged victim and other witnesses, if any, the officer has probable cause to believe that a domestic abuse assault has been committed with the intent to inflict a serious injury.

d. Except as otherwise provided in subsection 3, a peace officer shall, with or without a warrant, arrest a person under section 708.2A, subsection 2, paragraph “c”, if, upon investigation, including a reasonable inquiry of the alleged victim and other witnesses, if any, the officer has probable cause to believe that a domestic abuse assault has been committed and that the alleged abuser used or displayed a dangerous weapon in connection with the assault.

e. Except as otherwise provided in subsection 3, a peace officer shall, with or without a warrant, arrest a person under section 708.2A, subsection 2, paragraph “d”, if, upon investigation, including a reasonable inquiry of the alleged victim and other witnesses, if any, the officer has probable cause to believe that a domestic abuse assault has been committed by knowingly impeding the normal breathing or circulation of the blood of another by applying pressure to the throat or neck of the other person or by obstructing the nose or mouth of the other person.

f. Except as otherwise provided in subsection 3, a peace officer shall, with or without a warrant, arrest a person under section 708.2A, subsection 5, if, upon investigation, including a reasonable inquiry of the alleged victim and other witnesses, if any, the officer has probable cause to believe that a domestic abuse assault has been committed by knowingly impeding

the normal breathing or circulation of the blood of another by applying pressure to the throat or neck of the other person or by obstructing the nose or mouth of the other person, and causing bodily injury.

3. As described in subsection 2, paragraph “b”, “c”, “d”, “e”, or “f”, the peace officer shall arrest the person whom the peace officer believes to be the primary physical aggressor. The duty of the officer to arrest extends only to those persons involved who are believed to have committed an assault. Persons acting with justification, as defined in section 704.3, are not subject to mandatory arrest. In identifying the primary physical aggressor, a peace officer shall consider the need to protect victims of domestic abuse, the relative degree of injury or fear inflicted on the persons involved, and any history of domestic abuse between the persons involved. A peace officer’s identification of the primary physical aggressor shall not be based on the consent of the victim to any subsequent prosecution or on the relationship of the persons involved in the incident, and shall not be based solely upon the absence of visible indications of injury or impairment.

4. A peace officer is not civilly or criminally liable for actions pursuant to this section taken in good faith.

84 Acts, ch 1258, §1; 85 Acts, ch 175, §5; 86 Acts, ch 1179, §3; 87 Acts, ch 154, §6; 89 Acts, ch 85, §2; 90 Acts, ch 1056, §1, 2; 91 Acts, ch 218, §11; 92 Acts, ch 1163, §52; 2009 Acts, ch 133, §93, 94; 2012 Acts, ch 1002, §1, 2; 2017 Acts, ch 54, §34; 2018 Acts, ch 1026, §73

Referred to in §236.16, 236.17, 664A.3, 664A.6, 804.7, 915.50

Similar provisions, §235B.3, 235E.3, 236A.13, 709.22

236.13 Prohibition against referral.

In a criminal action arising from domestic abuse, as defined in section 236.2, the prosecuting attorney or court shall not refer or order the parties involved to mediation or other nonjudicial procedures prior to judicial resolution of the action.

86 Acts, ch 1179, §4

236.14 Initial appearance required — contact to be prohibited — extension of no-contact order. Repealed by 2006 Acts, ch 1101, §21. See chapter 664A.

236.15 Application for designation and funding as a provider of services for victims of domestic abuse.

Upon receipt of state or federal funding designated for victims of domestic abuse by the department, a public or private nonprofit organization may apply to the department for designation and funding as a provider of emergency shelter services and support services to victims of domestic abuse or sexual assault. The application shall be submitted on a form prescribed by the department and shall include, but not be limited to, information regarding services to be provided, budget, and security measures.

85 Acts, ch 175, §6; 89 Acts, ch 279, §5; 91 Acts, ch 218, §13

236.15A Income tax checkoff for domestic abuse services. Repealed by 97 Acts, ch 158, §48; 97 Acts, ch 209, §13, 15.

236.15B Income tax checkoff for domestic abuse services. Repealed by 2003 Acts, ch 44, §111.

236.16 Department powers and duties.

1. The department shall:

a. Designate and award grants for existing and pilot programs pursuant to this chapter to provide emergency shelter services and support services to victims of domestic abuse.

b. Design and implement a uniform method of collecting data from domestic abuse organizations funded under this chapter.

c. Designate and award moneys for publicizing and staffing a statewide, toll-free telephone hotline for use by victims of domestic abuse. The department may award a grant to a public agency or a private, nonprofit organization for the purpose of operating the hotline. The operation of the hotline shall include informing victims of their rights and

of various community services that are available, referring victims to service providers, receiving complaints concerning misconduct by peace officers and encouraging victims to refer such complaints to the office of ombudsman, providing counseling services to victims over the telephone, and providing domestic abuse victim advocacy.

d. Advertise the toll-free telephone hotline through the use of public service announcements, billboards, print and broadcast media services, and other appropriate means, and contact media organizations to encourage the provision of free or inexpensive advertising concerning the hotline and its services.

e. Develop, with the assistance of the entity operating the telephone hotline and other domestic abuse victim services providers, brochures explaining the rights of victims set forth under section 236.12 and the services of the telephone hotline, and distribute the brochures to law enforcement agencies, victim service providers, health practitioners, charitable and religious organizations, and other entities that may have contact with victims of domestic abuse.

2. The department shall consult and cooperate with all public and private agencies which may provide services to victims of domestic abuse, including but not limited to, legal services, social services, prospective employment opportunities, and unemployment benefits.

3. The department may accept, use, and dispose of contributions of money, services, and property made available by an agency or department of the state or federal government, or a private agency or individual.

85 Acts, ch 175, §7; 89 Acts, ch 279, §6; 91 Acts, ch 218, §15; 2013 Acts, ch 10, §30

236.17 Domestic abuse training requirements.

The department, in cooperation with victim service providers, shall work with various professional organizations to encourage organizations to establish training programs for professionals who work in the area of domestic abuse prevention and services. Domestic abuse training may include, but is not limited to, the following areas:

1. The enforcement of both civil and criminal remedies in domestic abuse matters.
2. The nature, extent, and causes of domestic abuse.
3. The legal rights and remedies available to domestic abuse victims, including crime victim compensation.
4. Services available to domestic abuse victims and their children, including the domestic abuse telephone hotline.
5. The mandatory arrest provisions of section 236.12, and other duties of peace officers pursuant to this chapter.
6. Techniques for intervention in domestic abuse cases.

91 Acts, ch 218, §16; 91 Acts, ch 219, §33

236.18 Reference to certain criminal provisions.

In addition to the provisions contained in this chapter, certain criminal penalties and provisions pertaining to domestic abuse assaults are set forth in chapter 664A and sections 708.2A and 708.2B.

91 Acts, ch 218, §17; 2012 Acts, ch 1021, §52

236.19 Foreign protective orders — registration — enforcement — immunity.

1. As used in this section, “*foreign protective order*” means a protective order entered by a court of another state, Indian tribe, or United States territory that would be an order or court-approved consent agreement entered under this chapter, a temporary or permanent protective order or order to vacate the homestead under chapter 598, or an order that establishes conditions of release or is a protective order or sentencing order in a criminal prosecution arising from a domestic abuse assault if it had been entered in Iowa.

2. A certified or authenticated copy of a permanent foreign protective order may be filed with the clerk of the district court in any county that would have venue if the original action was being commenced in this state or in which the person in whose favor the order was entered may be present.

a. The clerk shall file foreign protective orders that are not certified or authenticated, if

supported by an affidavit of a person with personal knowledge, subject to the penalties for perjury. The person protected by the order may provide this affidavit.

b. The clerk shall provide copies of the order as required by section 236.5, except that notice shall not be provided to the respondent without the express written direction of the person in whose favor the order was entered.

3. a. A valid foreign protective order has the same effect and shall be enforced in the same manner as a protective order issued in this state whether or not filed with a clerk of court or otherwise placed in a registry of protective orders.

b. A foreign protective order is valid if it meets all of the following:

(1) The order states the name of the protected individual and the individual against whom enforcement is sought.

(2) The order has not expired.

(3) The order was issued by a court or tribunal that had jurisdiction over the parties and subject matter under the law of the foreign jurisdiction.

(4) The order was issued in accordance with the respondent's due process rights, either after the respondent was provided with reasonable notice and an opportunity to be heard before the court or tribunal that issued the order, or in the case of an ex parte order, the respondent was granted notice and opportunity to be heard within a reasonable time after the order was issued.

c. Proof that a foreign protective order failed to meet all of the factors listed in paragraph "b" shall be an affirmative defense in any action seeking enforcement of the order.

4. A peace officer shall treat a foreign protective order as a valid legal document and shall make an arrest for a violation of the foreign protective order in the same manner that a peace officer would make an arrest for a violation of a protective order issued within this state.

a. The fact that a foreign protective order has not been filed with the clerk of court or otherwise placed in a registry shall not be grounds to refuse to enforce the terms of the order unless it is apparent to the officer that the order is invalid on its face.

b. A peace officer acting reasonably and in good faith in connection with the enforcement of a foreign protective order shall be immune from civil and criminal liability in any action arising in connection with such enforcement.

5. Filing and service costs in connection with foreign protective orders are waived as provided in section 236.3.

95 Acts, ch 180, §13; 99 Acts, ch 57, §2; 2000 Acts, ch 1132, §2; 2001 Acts, ch 43, §2

Referred to in §664A.1

236.20 Mutual protective orders prohibited — exceptions.

A court in an action under this chapter shall not issue mutual protective orders against the victim and the abuser unless both file a petition requesting a protective order.

95 Acts, ch 180, §14

CHAPTER 236A

SEXUAL ABUSE — PROTECTIVE ORDERS — SERVICES

Referred to in §13.31, 232.22, 664A.1, 664A.2, 664A.5, 664A.7, 915.52, 915.94

236A.1	Short title.	236A.13	Prevention of further abuse — notification of rights — liability.
236A.2	Definitions.	236A.14	Prohibition against referral.
236A.3	Commencement of actions — waiver to juvenile court.	236A.15	Application for designation and funding as a provider of services for victims of sexual abuse.
236A.4	Plaintiffs proceeding pro se — provision of forms and assistance.	236A.16	Department powers and duties.
236A.5	Assistance by county attorney.	236A.17	Sexual abuse training requirements.
236A.6	Hearings — temporary orders.	236A.18	Reference to certain criminal provisions.
236A.7	Disposition.	236A.19	Foreign protective orders — registration — enforcement — immunity.
236A.8	Emergency orders.	236A.20	Mutual protective orders prohibited — exceptions.
236A.9	Procedure.		
236A.10	Sexual abuse information.		
236A.11	Plaintiff's address — confidentiality of records.		
236A.12	Duties of peace officer — magistrate.		

236A.1 Short title.

This chapter may be cited as the “*Sexual Abuse Act*”.
2017 Acts, ch 121, §4

236A.2 Definitions.

For purposes of this chapter, unless a different meaning is clearly indicated by the context:

1. “*Department*” means the department of justice.
2. “*Emergency shelter services*” include but are not limited to secure crisis shelters or housing for victims of sexual abuse.
3. “*Plaintiff*” includes a person filing an action on behalf of an unemancipated minor.
4. “*Pro se*” means proceeding on one’s own behalf without legal representation.
5. “*Sexual abuse*” means any commission of a crime defined in chapter 709 or section 726.2 or 728.12. “*Sexual abuse*” also means any commission of a crime in another jurisdiction under a statute that is substantially similar to any crime defined in chapter 709 or section 726.2 or 728.12.
6. “*Support services*” include but are not limited to legal services, counseling services, transportation services, child care services, and advocacy services.

2017 Acts, ch 121, §5

Referred to in §507B.4

236A.3 Commencement of actions — waiver to juvenile court.

1. A person, including a parent or guardian on behalf of an unemancipated minor, may seek relief from sexual abuse by filing a verified petition in the district court. Venue shall lie where either the plaintiff or defendant resides. The petition shall state the following:

- a. Name of the plaintiff and the name and address of the plaintiff’s attorney, if any. If the plaintiff is proceeding pro se, the petition shall state a mailing address for the plaintiff. A mailing address may be provided by the plaintiff pursuant to section 236A.11.
- b. Name and address of the parent or guardian filing the petition, if the petition is being filed on behalf of an unemancipated minor. A mailing address may be provided by the plaintiff pursuant to section 236A.11.
- c. Name and address, if known, of the defendant.
- d. Nature of the alleged sexual abuse.
- e. Name and age of each child under eighteen whose welfare may be affected by the controversy.
- f. Desired relief, including a request for temporary or emergency orders.

2. A temporary or emergency order shall be based on a showing of a prima facie case of sexual abuse. If the factual basis for the alleged sexual abuse is contested, the court shall issue a protective order based upon a finding of sexual abuse by a preponderance of the evidence.

3. *a.* The filing fee and court costs for an order for protection and in a contempt action under this chapter shall be waived for the plaintiff.

b. The clerk of court, the sheriff of any county in this state, and other law enforcement and corrections officers shall perform their duties relating to service of process without charge to the plaintiff. When an order for protection is entered by the court, the court may direct the defendant to pay to the clerk of court the fees for the filing of the petition and reasonable costs of service of process if the court determines the defendant has the ability to pay the plaintiff's fees and costs. In lieu of personal service of an order for protection issued pursuant to this section, the sheriff of any county in this state and other law enforcement and corrections officers may serve a defendant with a short-form notification pursuant to section 664A.4A.

4. If the person against whom relief from sexual abuse is being sought is seventeen years of age or younger, the district court shall waive its jurisdiction over the action to the juvenile court.

2017 Acts, ch 121, §6

Referred to in §236A.8, 236A.19, 915.50

236A.4 Plaintiffs proceeding pro se — provision of forms and assistance.

1. The department shall prescribe standard forms to be used by plaintiffs seeking protective orders by proceeding pro se in actions under this chapter. The standard forms shall include language in fourteen point boldface type. Standard forms prescribed by the department shall be the exclusive forms used by plaintiffs proceeding pro se, and may be used by other plaintiffs. The department shall distribute the forms to the clerks of the district court.

2. The clerk of the district court shall furnish the required forms to persons seeking protective orders through pro se proceedings pursuant to this chapter.

2017 Acts, ch 121, §7

Referred to in §915.50

236A.5 Assistance by county attorney.

A county attorney's office may provide assistance to a person wishing to initiate proceedings pursuant to this chapter or to a plaintiff at any stage of a proceeding under this chapter, if the person or plaintiff does not have sufficient funds to pay for legal assistance and if the assistance does not create a conflict of interest for the county attorney's office. The assistance provided may include but is not limited to assistance in obtaining or completing forms, filing a petition or other necessary pleading, presenting evidence to the court, and enforcing the orders of the court entered pursuant to this chapter. Providing assistance pursuant to this section shall not be considered the private practice of law for the purposes of section 331.752.

2017 Acts, ch 121, §8

Referred to in §915.50

236A.6 Hearings — temporary orders.

1. Not less than five and not more than fifteen days after commencing a proceeding and upon notice to the defendant, a hearing shall be held at which the plaintiff must prove the allegation of sexual abuse by a preponderance of the evidence.

2. The court may enter any temporary order it deems necessary to protect the plaintiff from sexual abuse prior to the hearing upon good cause shown in an ex parte proceeding. Present danger of sexual abuse to the plaintiff constitutes good cause for purposes of this subsection.

3. If a hearing is continued, the court may make or extend any temporary order under subsection 2 that it deems necessary.

4. Upon application of the plaintiff or defendant, the court shall issue subpoenas requiring attendance and testimony of witnesses and production of papers.

5. The court shall advise the defendant of a right to be represented by counsel of the defendant's choosing and to have a continuance to secure counsel.

6. Hearings shall be recorded.

2017 Acts, ch 121, §9

Referred to in §232.8, 236A.8, 915.50

236A.7 Disposition.

1. Upon a finding that the defendant has engaged in sexual abuse, the court may grant a protective order or approve a consent agreement which may contain but is not limited to any of the following provisions:

a. That the defendant cease sexual abuse of the plaintiff.

b. That the defendant stay away from the plaintiff's residence, school, or place of employment.

2. An order for a protective order or approved consent agreement shall be for a fixed period of time not to exceed one year. The court may amend or extend its order or a consent agreement at any time upon a petition filed by the plaintiff or defendant and after notice and hearing. The court may extend the order if the court, after hearing at which the defendant has the opportunity to be heard, finds that the defendant continues to pose a threat to the safety of the plaintiff, persons residing with the plaintiff, or members of the plaintiff's immediate family. The number of extensions that can be granted by the court is not limited.

3. The order shall state whether the defendant is to be taken into custody by a peace officer for a violation of the terms stated in the order.

4. The court may order that the defendant pay the plaintiff's attorney fees and court costs.

5. An order or consent agreement under this section shall not affect title to real property.

6. A copy of any order or approved consent agreement shall be issued to the plaintiff, the defendant, the county sheriff of the county in which the order or consent decree is initially entered, and the twenty-four-hour dispatcher for the county sheriff. Any subsequent amendment or revocation of an order or consent agreement shall be forwarded by the clerk to all persons and the county sheriff previously notified.

7. The clerk shall notify the county sheriff and the twenty-four-hour dispatcher for the county sheriff in writing so that the county sheriff and the county sheriff's dispatcher receive written notice within six hours of filing the order, approved consent agreement, amendment, or revocation. The clerk may fulfill this requirement by sending the notice by facsimile or other electronic transmission which reproduces the notice in writing within six hours of filing the order.

8. The county sheriff's dispatcher shall notify all law enforcement agencies having jurisdiction over the matter and the twenty-four-hour dispatcher for the law enforcement agencies upon notification by the clerk.

2017 Acts, ch 121, §10

Referred to in §236A.8, 236A.19, 331.424, 664A.4, 915.22, 915.50

For restrictions concerning issuance of mutual protective orders, see §236A.20

236A.8 Emergency orders.

1. When the court is unavailable from the close of business at the end of the day or week to the resumption of business at the beginning of the day or week, a petition may be filed before a district judge, or district associate judge designated by the chief judge of the judicial district, who may grant emergency relief in accordance with section 236A.7, subsection 1, paragraph "b", if the district judge or district associate judge deems it necessary to protect the plaintiff from sexual abuse, upon good cause shown in an ex parte proceeding. Present danger of sexual abuse to the plaintiff constitutes good cause for purposes of this subsection.

2. An emergency order issued under subsection 1 shall expire seventy-two hours after issuance. When the order expires, the plaintiff may seek a temporary order from the court pursuant to section 236A.6.

3. A petition filed and emergency order issued under this section and any documentation

in support of the petition and order shall be immediately certified to the court. The certification shall commence a proceeding for purposes of section 236A.3.

2017 Acts, ch 121, §11

Referred to in §232.8, 915.50

236A.9 Procedure.

A proceeding under this chapter shall be held in accordance with the rules of civil procedure, except as otherwise set forth in this chapter and in chapter 664A, and is in addition to any other civil or criminal remedy.

2017 Acts, ch 121, §12

Referred to in §915.50

236A.10 Sexual abuse information.

1. Criminal or juvenile justice agencies, as defined in section 692.1, shall collect and maintain information on incidents involving sexual abuse and shall provide the information to the department of public safety in the manner prescribed by the department of public safety.

2. The department of public safety may compile statistics and issue reports on sexual abuse in Iowa, provided individual identifying details of the sexual abuse are deleted. The statistics and reports may include nonidentifying information on the personal characteristics of perpetrators and victims. The department of public safety may request the cooperation of the department of justice in compiling the statistics and issuing the reports. The department of public safety may provide nonidentifying information on individual incidents of sexual abuse to persons conducting bona fide research, including but not limited to personnel of the department of justice.

2017 Acts, ch 121, §13

Referred to in §915.50

236A.11 Plaintiff's address — confidentiality of records.

1. A plaintiff seeking relief from sexual abuse under this chapter may use any of the following addresses as a mailing address for purposes of filing a petition under this chapter, as well as for the purpose of obtaining any utility or other service:

- a. The mailing address of a shelter or other agency.
- b. A public or private post office box.
- c. Any other mailing address, with the permission of the resident of that address.

2. A plaintiff shall report any change of address, whether designated according to subsection 1 or otherwise, to the clerk of court no more than five days after the previous address on record becomes invalid.

3. The entire file or a portion of the file in a sexual abuse case shall be sealed by the clerk of court as ordered by the court to protect the privacy interest or safety of any person.

4. Notwithstanding subsection 3, court orders and support payment records shall remain public records, although the court may order that address and location information be redacted from the public records.

2017 Acts, ch 121, §14

Referred to in §236A.3, 915.50

236A.12 Duties of peace officer — magistrate.

1. A peace officer shall use every reasonable means to enforce an order or court-approved consent agreement entered under this chapter, an order that establishes conditions of release or is a protective order or sentencing order in a criminal prosecution arising from a sexual abuse, or a protective order under chapter 232. If a peace officer has reason to believe that sexual abuse has occurred, the peace officer shall ask the abused person if any prior orders exist, and shall contact the twenty-four-hour dispatcher to inquire if any prior orders exist. If a peace officer has probable cause to believe that a person has violated an order or approved consent agreement entered under this chapter, an order establishing conditions of release or a protective or sentencing order in a criminal prosecution arising from sexual abuse, or, if the person is an adult, a violation of a protective order under chapter 232, the peace officer shall

take the person into custody and shall take the person without unnecessary delay before the nearest or most accessible magistrate in the judicial district in which the person was taken into custody. The magistrate shall make an initial preliminary determination whether there is probable cause to believe that an order or consent agreement existed and that the person taken into custody has violated its terms. The magistrate's decision shall be entered in the record.

2. If a peace officer has probable cause to believe that a person has violated an order or approved consent agreement entered under this chapter, an order establishing conditions of release or a protective or sentencing order in a criminal prosecution arising from a sexual abuse, or a protective order under chapter 232, and the peace officer is unable to take the person into custody within twenty-four hours of making the probable cause determination, the peace officer shall either request a magistrate to make a determination as to whether a rule to show cause or arrest warrant should be issued, or refer the matter to the county attorney.

3. If the magistrate finds probable cause, the magistrate shall order the person to appear either before the court which issued the original order or approved the consent agreement, or before the court in the jurisdiction where the alleged violation took place, at a specified time not less than five days nor more than fifteen days after the initial appearance under this section. The magistrate shall cause the original court to be notified of the contents of the magistrate's order.

4. A peace officer shall not be held civilly or criminally liable for acting pursuant to this section provided that the peace officer acts reasonably and in good faith, on probable cause, and the officer's acts do not constitute a willful and wanton disregard for the rights or safety of another.

2017 Acts, ch 121, §15

Referred to in §664A.3, 664A.7

236A.13 Prevention of further abuse — notification of rights — liability.

1. If a peace officer has reason to believe that sexual abuse has occurred, the officer shall use all reasonable means to prevent further abuse including but not limited to the following:

a. If requested, remaining on the scene as long as there is a danger to an abused person's physical safety without the presence of a peace officer, including but not limited to staying in the dwelling unit, or if unable to remain on the scene, assisting the person in leaving the residence.

b. Assisting an abused person in obtaining medical treatment necessitated by an assault, including providing assistance to the abused person in obtaining transportation to the emergency room of the nearest hospital.

c. Providing an abused person with immediate and adequate notice of the person's rights. The notice shall consist of handing the person a document that includes the telephone numbers of shelters, support groups, and crisis lines operating in the area and contains the following statement of rights written in English and Spanish; asking the person to read the document; and asking whether the person understands the rights:

[1] You have the right to ask the court for the following help on a temporary basis:

[a] Keeping your attacker away from you, your home, and your place of work.

[b] The right to stay at your home without interference from your attacker.

[2] You have the right to seek help from the court to seek a protective order with or without the assistance of legal representation. You have the right to seek help from the courts without the payment of court costs if you do not have sufficient funds to pay the costs.

[3] You have the right to file criminal complaints for threats, assaults, or other related crimes.

[4] You have the right to seek restitution against your attacker for harm to yourself or your property.

[5] If you are in need of medical treatment, you have the right to request that the officer present assist you in obtaining transportation to the nearest hospital or otherwise assist you.

[6] If you believe that police protection is needed for your physical safety, you have the right to request that the officer present remain at the scene until you and other affected persons can leave or until safety is otherwise ensured.

2. A peace officer is not civilly or criminally liable for actions pursuant to this section taken reasonably and in good faith.

2017 Acts, ch 121, §16; 2018 Acts, ch 1026, §74

Referred to in §236A.16, 915.50

Similar provisions, §235B.3A, 235E.3, 236.12, 709.22

236A.14 Prohibition against referral.

In a criminal action arising from sexual abuse, the prosecuting attorney or court shall not refer or order the parties involved to participate in mediation or other nonjudicial procedures prior to judicial resolution of the action.

2017 Acts, ch 121, §17

236A.15 Application for designation and funding as a provider of services for victims of sexual abuse.

Upon receipt of state or federal funding designated for victims of sexual abuse by the department, a public or private nonprofit organization may apply to the department for designation and funding as a provider of emergency shelter services and support services to victims of sexual abuse. The application shall be submitted on a form prescribed by the department and shall include but not be limited to information regarding services to be provided, budget, and security measures.

2017 Acts, ch 121, §18

236A.16 Department powers and duties.

1. The department shall do all of the following:

a. Designate and award grants for existing and pilot programs pursuant to this chapter to provide emergency shelter services and support services to victims of sexual abuse.

b. Design and implement a uniform method of collecting data from sexual abuse organizations funded under this chapter.

c. Designate and award moneys for publicizing and staffing a statewide, toll-free telephone hotline for use by victims of sexual abuse. The department may award a grant to a public agency or a private, nonprofit organization for the purpose of operating the hotline. The operation of the hotline shall include informing victims of their rights and of various community services that are available, referring victims to service providers, receiving complaints concerning misconduct by peace officers and encouraging victims to refer such complaints to the office of ombudsman, providing counseling services to victims over the telephone, and providing sexual abuse victim advocacy.

d. Advertise the toll-free telephone hotline through the use of public service announcements, billboards, print and broadcast media services, and other appropriate means, and contact media organizations to encourage the provision of free or inexpensive advertising concerning the hotline and its services.

e. Develop, with the assistance of the entity operating the telephone hotline and other sexual abuse victim services providers, brochures explaining the rights of victims set forth under section 236A.13 and the services of the telephone hotline, and distribute the brochures to law enforcement agencies, victim service providers, health practitioners, charitable and religious organizations, and other entities that may have contact with victims of sexual abuse.

2. The department shall consult and cooperate with all public and private agencies which

may provide services to victims of sexual abuse, including but not limited to legal services, social services, prospective employment opportunities, and unemployment benefits.

3. The department may accept, use, and dispose of contributions of money, services, and property made available by an agency or department of the state or federal government, or a private agency or individual.

2017 Acts, ch 121, §19

236A.17 Sexual abuse training requirements.

The department, in cooperation with victim service providers, shall work with various professional organizations to encourage organizations to establish training programs for professionals who work in the area of sexual abuse prevention and services. Sexual abuse training may include but is not limited to the following areas:

1. The enforcement of both civil and criminal remedies in sexual abuse matters.
2. The nature, extent, and causes of sexual abuse.
3. The legal rights and remedies available to sexual abuse victims, including crime victim compensation.
4. Services available to sexual abuse victims including the sexual abuse telephone hotline.
5. The duties of peace officers pursuant to this chapter.
6. Techniques for intervention in sexual abuse cases.

2017 Acts, ch 121, §20

236A.18 Reference to certain criminal provisions.

In addition to the provisions contained in this chapter, certain criminal penalties and provisions pertaining to sexual abuse are set forth in chapters 664A and 709 and sections 726.2 and 728.12.

2017 Acts, ch 121, §21

236A.19 Foreign protective orders — registration — enforcement — immunity.

1. As used in this section, “*foreign protective order*” means a protective order entered by a court of another state, Indian tribe, or United States territory that would be an order or court-approved consent agreement entered under this chapter, an order that establishes conditions of release, or a protective order or sentencing order in a criminal prosecution arising from a sexual abuse if it had been entered in Iowa.

2. A certified or authenticated copy of a permanent foreign protective order may be filed with the clerk of the district court in any county that would have venue if the original action was being commenced in this state or in which the person in whose favor the order was entered may be present.

a. The clerk shall file foreign protective orders that are not certified or authenticated, if supported by an affidavit of a person with personal knowledge, subject to the penalties for perjury. The person protected by the order may provide this affidavit.

b. The clerk shall provide copies of the order as required by section 236A.7, except that notice shall not be provided to the respondent without the express written direction of the person in whose favor the order was entered.

3. a. A valid foreign protective order has the same effect and shall be enforced in the same manner as a protective order issued in this state whether or not filed with a clerk of court or otherwise placed in a registry of protective orders.

b. A foreign protective order is valid if it meets all of the following:

(1) The order states the name of the protected person and the person against whom enforcement is sought.

(2) The order has not expired.

(3) The order was issued by a court or tribunal that had jurisdiction over the parties and subject matter under the law of the foreign jurisdiction.

(4) The order was issued in accordance with the respondent’s due process rights, either after the respondent was provided with reasonable notice and an opportunity to be heard before the court or tribunal that issued the order, or in the case of an ex parte order, the

respondent was granted notice and opportunity to be heard within a reasonable time after the order was issued.

c. Proof that a foreign protective order failed to meet all of the factors listed in paragraph “b” shall be an affirmative defense in any action seeking enforcement of the order.

4. A peace officer shall treat a foreign protective order as a valid legal document and shall make an arrest for a violation of the foreign protective order in the same manner that a peace officer would make an arrest for a violation of a protective order issued within this state.

a. The fact that a foreign protective order has not been filed with the clerk of court or otherwise placed in a registry shall not be grounds to refuse to enforce the terms of the order unless it is apparent to the officer that the order is invalid on its face.

b. A peace officer acting reasonably and in good faith in connection with the enforcement of a foreign protective order shall be immune from civil and criminal liability in any action arising in connection with such enforcement.

5. Filing and service costs in connection with foreign protective orders are waived as provided in section 236A.3.

2017 Acts, ch 121, §22

Referred to in §664A.1

236A.20 Mutual protective orders prohibited — exceptions.

A court in an action under this chapter shall not issue mutual protective orders against the victim and the abuser unless both file a petition requesting a protective order.

2017 Acts, ch 121, §23

CHAPTER 237

CHILD FOSTER CARE FACILITIES

Referred to in §232.69, 232.196, 234.7, 235A.15, 237A.3A, 237C.1, 237C.3, 261.2, 335.25, 414.22, 423.3, 441.21

	SUBCHAPTER I	237.14	Enhanced foster care services.
	CHILD FOSTER CARE	237.14A	Reasonable and prudent parent standard — immunity from liability.
237.1	Definitions.		
237.2	Purpose.		
237.3	Rules.		
237.4	License required — exceptions.		
237.5	License application and issuance		
	— denial, suspension, or	237.15	Definitions.
	revocation — provisional	237.16	Child advocacy board.
	licenses.	237.17	Foster care registry.
237.5A	Foster parent training.	237.18	Duties of state board.
237.6	Restricted use of facility.	237.19	Local citizen foster care review boards.
237.7	Reports and inspections.		
237.8	Personnel.	237.20	Local board duties.
237.9	Confidential information.	237.21	Confidentiality of records — penalty.
237.10	Reserved.		
237.11	Penalty.	237.22	Case permanency plan.
237.12	Injunctive relief.	237.23	Repealed by 94 Acts, ch 1186, §37, 38.
237.13	Foster home insurance fund.		

SUBCHAPTER I

CHILD FOSTER CARE

237.1 Definitions.

As used in this chapter:

1. “*Administrator*” means the administrator of that division of the department designated by the director of human services to administer this chapter or the administrator’s designee.

2. “Agency” means a person, as defined in section 4.1, subsection 20, which provides child foster care and which does not meet the definition of an individual in subsection 7.

3. “Child” means child as defined in section 234.1, subsection 2.

4. “Child foster care” means the provision of parental nurturing, including but not limited to the furnishing of food, lodging, training, education, supervision, treatment, or other care, to a child on a full-time basis by a person, including a relative of the child if the relative is licensed under this chapter, but not including a guardian of the child. “Child foster care” does not include any of the following care situations:

a. Care furnished by an individual person who receives the child of a personal friend as an occasional and personal guest in the individual person’s home, free of charge and not as a business.

b. Care furnished by an individual person with whom a child has been placed for lawful adoption, unless that adoption is not completed within two years after placement.

c. Care furnished by a private boarding school subject to approval by the state board of education pursuant to section 256.11.

d. Child care furnished by a child care center, a child development home, or a child care home as defined in section 237A.1.

e. Care furnished in a hospital licensed under chapter 135B or care furnished in a nursing facility licensed under chapter 135C.

f. Care furnished by a relative of a child or an individual person with a meaningful relationship with the child where the child is not under the placement, care, or supervision of the department.

5. “Department” means the department of human services.

6. “Facility” means the personnel, program, physical plant, and equipment of a licensee.

7. “Individual” means an individual person or a married couple who provides child foster care in a single-family home environment and which does not meet the definition of an agency in subsection 2.

8. “Licensee” means an individual or an agency licensed by the administrator under this chapter.

9. “Reasonable and prudent parent standard” means the standard characterized by careful and sensible parenting decisions that maintain the health, safety, and best interests of a child, while at the same time encouraging the emotional and developmental growth of a child, that a caregiver shall use when determining whether to allow a child in foster care under the placement, care, or supervision of the department to participate in extracurricular, enrichment, cultural, or social activities. For the purposes of this subsection, “caregiver” means an individual or an agency licensed under this chapter with which a child in foster care has been placed or a juvenile shelter care home approved under chapter 232 in which a child in foster care has been placed.

[C27, 31, 35, §3661-a42, -a43; C39, §3661.056, 3661.057; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, §237.1, 237.2; C81, §237.1; 82 Acts, ch 1016, §1]

83 Acts, ch 96, §157, 159; 86 Acts, ch 1245, §1418; 87 Acts, ch 44, §1; 90 Acts, ch 1039, §14; 99 Acts, ch 192, §29; 2002 Acts, ch 1142, §2, 31; 2016 Acts, ch 1063, §20; 2017 Acts, ch 100, §1; 2019 Acts, ch 126, §4

Referred to in §16.1, 232.2, 232.102, 237.4, 237.13, 282.19, 423.3

237.2 Purpose.

It is the policy of this state to provide appropriate protection for children who are separated from the direct personal care of their parents, relatives, or guardians and, as a result, are subject to difficulty in achieving appropriate physical, mental, emotional, educational, or social development. This chapter shall be construed and administered to further that policy by assuring that child foster care is adequately provided by competently staffed and well-equipped child foster care facilities, including but not limited to residential treatment centers, group homes, and foster family homes.

[C81, §237.2]

237.3 Rules.

1. Except as otherwise provided by subsections 3 and 4, the administrator shall promulgate, after their adoption by the council on human services, and enforce in accordance with chapter 17A, administrative rules necessary to implement this chapter. Formulation of the rules shall include consultation with representatives of child foster care providers, and other persons affected by this chapter. The rules shall encourage the provision of child foster care in a single-family, home environment, exempting the single-family, home facility from inappropriate rules.

2. Rules applicable to licensees shall include but are not limited to:

a. Types of facilities which include but are not limited to group foster care facilities and family foster care homes.

b. The number, qualifications, character, and parenting ability of personnel necessary to assure the health, safety and welfare of children receiving child foster care.

c. Programs for education and in-service training of personnel.

d. The physical environment of a facility.

e. Policies for intake, assessment, admission and discharge.

f. Housing, health, safety, and medical care policies for children receiving child foster care. The medical care policies shall include but are not limited to all of the following:

(1) Provision by the department to the foster care provider at or before the time of a child's placement of the child's health records and any other information possessed or known about the health of the child or about a member of the child's family that pertains to the child's health.

(2) If the health records supplied in accordance with the child's case permanency plan to the foster care provider are incomplete or the provider requests specific health information, provision for obtaining additional health information from the child's parent or other source and supplying the additional information to the foster care provider.

(3) Provision for emergency health coverage of the child while the child is engaged in temporary out-of-state travel with the child's foster family.

g. (1) The adequacy of programs available to children receiving child foster care provided by agencies, including but not limited to:

(a) Dietary services.

(b) Social services.

(c) Activity programs.

(d) Behavior management procedures.

(e) Educational programs, including special education as defined in section 256B.2, subsection 1, paragraph "b", where appropriate, which are approved by the state board of education.

(2) The department shall not promulgate rules which regulate individual licensees in the subject areas enumerated in this paragraph "g".

h. Policies for involvement of biological parents.

i. Records a licensee is required to keep, and reports a licensee is required to make to the administrator.

j. Prior to the licensing of an individual as a foster family home, a required, written social assessment of the quality of the living situation in the home of the individual, and a required compilation of personal references for the individual other than those references given by the individual.

k. Elements of a foster care placement agreement outlining rights and responsibilities associated with an individual providing family foster care. The rights and responsibilities shall include but are not limited to all of the following:

(1) Receiving information prior to the child's placement regarding risk factors concerning the child that are known to the department, including but not limited to notice if the child is required to register under chapter 692A.

(2) Having regularly scheduled meetings with each case manager assigned to the child.

(3) Receiving access to any reports prepared by a service provider who is working with the child unless the access is prohibited by state or federal law.

3. Rules governing fire safety in facilities with child foster care provided by agencies

shall be promulgated by the state fire marshal pursuant to section 100.1, subsection 5 after consultation with the administrator.

4. Rules governing sanitation, water and waste disposal standards for facilities shall be promulgated by the Iowa department of public health pursuant to section 135.11, subsection 12, after consultation with the administrator.

5. In case of a conflict between rules promulgated pursuant to subsections 3 and 4 and local rules, the more stringent requirement applies.

6. Rules of the department shall not prohibit the licensing, as foster family homes, of individuals who are departmental employees not directly engaged in the administration of the child foster care program pursuant to this chapter.

7. If an agency is accredited by the joint commission on the accreditation of health care organizations under the commission's consolidated standards for residential settings or by the council on accreditation of services for families and children, the department shall modify facility licensure standards applied to the agency in order to avoid duplicating standards applied through accreditation.

8. The department, in consultation with the judicial branch, the division of criminal and juvenile justice planning of the department of human rights, residential treatment providers, the foster care provider association, and other parties which may be affected, shall review the licensing rules pertaining to residential treatment facilities, and examine whether the rules allow the facilities to accept and provide effective treatment to juveniles with serious problems who might not otherwise be placed in those facilities.

9. The department shall adopt rules specifying the elements of a preadoptive care agreement outlining the rights and responsibilities associated with a person providing preadoptive care, as defined in section 232.2.

10. The department shall adopt rules to administer the exception to the definition of child care in section 237A.1, subsection 3, paragraph "l", allowing a child care facility, for purposes of providing respite care to a foster family home, to provide care, supervision, or guidance of a child for a period of twenty-four hours or more who is placed with the licensed foster family home.

[C27, 31, 35, §3661-a52; C39, §3661.066; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, §237.11; C81, §237.3]

83 Acts, ch 96, §157, 159; 89 Acts, ch 283, §26; 90 Acts, ch 1023, §1; 92 Acts, ch 1231, §39; 93 Acts, ch 172, §40; 94 Acts, ch 1046, §5; 97 Acts, ch 164, §5, 6; 98 Acts, ch 1047, §25; 2001 Acts, ch 105, §1, 2, 4; 2002 Acts, ch 1102, §1, 2; 2006 Acts, ch 1160, §2; 2009 Acts, ch 41, §241; 2009 Acts, ch 133, §232; 2010 Acts, ch 1193, §115, 116

Referred to in §135H.4, 135H.6

2006 amendment to subsection 2, paragraph k, may be cited as the "Foster Parents Bill of Rights"; 2006 Acts, ch 1160, §1

237.4 License required — exceptions.

An individual or an agency, as defined in section 237.1, shall not provide child foster care unless the individual or agency obtains a license issued by the administrator under this chapter. However, a license is not required of the following:

1. An individual providing child foster care for a total of not more than twenty days in one calendar year.

2. A residential care facility licensed under chapter 135C which is approved for the care of children.

3. A hospital licensed under chapter 135B.

4. A health care facility licensed under chapter 135C.

5. A juvenile detention home or juvenile shelter care home approved under section 232.142.

6. An institution listed in section 218.1.

7. A facility licensed under chapter 125.

8. An individual providing child care as a babysitter at the request of a parent, guardian or relative having lawful custody of the child.

[C27, 31, 35, §3661-a49; C39, §3661.063; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, §237.8; C81, §237.4; 82 Acts, ch 1016, §2]

84 Acts, ch 1050, §1; 87 Acts, ch 44, §2

Referred to in §709.16

237.5 License application and issuance — denial, suspension, or revocation — provisional licenses.

1. An individual or an agency shall apply for a license by completing an application to the administrator upon forms furnished by the administrator. The administrator shall issue or reissue a license if the administrator determines that the applicant or licensee is or upon commencing operation will provide child foster care in compliance with this chapter. An initial license for an individual is valid for one year from the date of issuance. After the first two years of licensure, a license for an individual is valid for two years from the most recent date of issuance except that the administrator, within the administrator's discretion and based upon the performance of the licensee, may require annual renewal of the license or may issue a provisional license pursuant to subsection 3. A license for an agency is valid for up to three years from the date of issuance for the period determined by the administrator in accordance with administrative rules providing criteria for making the determination. The license shall state on its face the name of the licensee, the type of facility, the particular premises for which the license is issued, and the number of children who may be cared for by the facility on the premises at one time. The license shall be posted in a conspicuous place in the physical plant of the facility, except that if the facility is in a single-family home the license may be kept where it is readily available for examination upon request.

2. The administrator, after notice and opportunity for an evidentiary hearing, may deny an application for a license, and may suspend or revoke a license, if the applicant or licensee violates this chapter or the rules promulgated pursuant to this chapter, or knowingly makes a false statement concerning a material fact or conceals a material fact on the license application or in a report regarding operation of the facility submitted to the administrator.

3. The administrator may issue a provisional license for not more than one year to a licensee whose facility does not meet the requirements of this chapter, if written plans to bring the facility into compliance with the applicable requirements are submitted to and approved by the administrator. The plans shall state a specific time when compliance will be achieved. Only one provisional license shall be issued for a facility by reason of the same deficiency.

[C27, 31, 35, §3661-a44, -a46, -a51, -a53, -a54; C39, §3661.058, 3661.060, 3661.065, 3661.067, 3661.068; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, §237.3, 237.5, 237.10, 237.12, 237.13; C81, §237.5]

87 Acts, ch 153, §15; 2002 Acts, ch 1102, §3; 2012 Acts, ch 1039, §1

237.5A Foster parent training.

1. As a condition for initial licensure, each individual licensee shall complete thirty hours of foster parent training offered or approved by the department. However, if the licensee has completed relevant training or has a combination of completed relevant training and experience, and the department deems such training or combination to be an acceptable equivalent to all or a portion of the initial licensure training requirement, or based upon the circumstances of the child and the licensee the department finds there is other good cause, the department may waive all or a portion of the training requirement. Prior to renewal of licensure, each individual licensee shall also annually complete six hours of foster parent training. The training shall include but is not limited to physical care, education, learning disabilities, referral to and receipt of necessary professional services, behavioral assessment and modification, self-assessment, self-living skills, and biological parent contact. An individual licensee may complete the training as part of an approved training program offered by a public or private agency with expertise in the provision of child foster care or

in related subject areas. The department shall adopt rules to implement and enforce this training requirement.

2. A licensee who is unable to complete six hours of foster parent training annually prior to licensure renewal because the licensee is engaged in active duty in the military service shall be considered to be in compliance with the training requirement for licensure renewal.

84 Acts, ch 1279, §25; 87 Acts, ch 117, §1; 2002 Acts, ch 1102, §4; 2004 Acts, ch 1116, §19; 2006 Acts, ch 1159, §6; 2012 Acts, ch 1039, §2

237.6 Restricted use of facility.

A licensee shall not furnish child foster care in a building or on premises not designated in the license. A licensee shall not furnish child foster care to a greater number of children than is designated in the license, unless the administrator so authorizes. Multiple licenses authorizing separate and distinct parts of a facility to provide different categories of child foster care may be issued.

[C27, 31, 35, §3661-a50; C39, §3661.064; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, §237.9; C81, §237.6]

237.7 Reports and inspections.

The administrator may require submission of reports by a licensee, and shall cause at least one annual unannounced inspection of each facility to assess the quality of the living situation and to determine compliance with applicable requirements and standards. The inspections shall be conducted by the department of inspections and appeals. The director of the department of inspections and appeals may examine records of a licensee, including but not limited to corporate records and board minutes, and may inquire into matters concerning a licensee and its employees relating to requirements and standards for child foster care under this chapter.

[C27, 31, 35, §3661-a55; C39, §3661.069; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, §237.14; C81, §237.7]

90 Acts, ch 1204, §53

237.8 Personnel.

1. A person shall not be allowed to provide services in a facility if the person has a disease which is transmissible to other persons through required contact in the workplace, which presents a significant risk of infecting other persons, which presents a substantial possibility of harming other persons, or for which no reasonable accommodation can eliminate the risk of infecting other persons.

2. a. (1) If a person is being considered for licensure under this chapter, or for employment involving direct responsibility for a child or in a facility where children reside, by a licensee under this chapter, or if a person will reside in a facility utilized by a licensee, and if the person has been convicted of a crime or has a record of founded child abuse, the department and the licensee for an employee of the licensee shall perform an evaluation to determine whether the crime or founded child abuse warrants prohibition of licensure, employment, or residence in the facility. The department shall conduct criminal and child abuse record checks in this state and may conduct these checks in other states. The evaluation shall be performed in accordance with procedures adopted for this purpose by the department.

(2) If the criminal and child abuse record checks conducted in this state under subparagraph (1) for an individual being considered for licensure under this chapter, or for employment involving direct responsibility for a child or in a facility where children reside, by a licensee under this chapter, or for an individual who will reside in a facility utilized by a licensee, have been completed and the individual either does not have a record of crime or founded child abuse or the department's evaluation of the record has determined that prohibition of the individual's licensure or employment is not warranted, the individual may be provisionally approved for licensure or employment pending the outcome of the fingerprint-based criminal history check conducted pursuant to subparagraph (4).

(3) An individual being considered for licensure under this chapter, or for employment

involving direct responsibility for a child or in a facility where children reside, by a licensee under this chapter, or for an individual who will reside in a facility utilized by a licensee, shall not be granted a license or be employed and an evaluation shall not be performed under this subsection if the individual has been convicted of any of the following felony offenses:

- (a) Within the five-year period preceding the application date, a drug-related offense.
- (b) Child endangerment or neglect or abandonment of a dependent person.
- (c) Domestic abuse.
- (d) A crime against a child, including but not limited to sexual exploitation of a minor.
- (e) A forcible felony.

(4) If an individual is being considered for licensure under this chapter, or for employment involving direct responsibility for a child or in a facility where children reside, by a licensee under this chapter, or if an individual will reside in a facility utilized by a licensee, or if an individual is subject to licensure under this chapter as a foster parent, in addition to the record checks conducted under subparagraph (1), the individual's fingerprints shall be provided to the department of public safety for submission through the state criminal history repository to the United States department of justice, federal bureau of investigation for a national criminal history check. The cost of the criminal history check conducted under this subparagraph is the responsibility of the department of human services.

(5) If the criminal and child abuse record checks conducted in this state under subparagraph (1) for an individual being considered for licensure as a foster parent have been completed and the individual either does not have a record of crime or founded abuse or the department's evaluation of the record has determined that prohibition of the individual's licensure is not warranted, the individual may be provisionally approved for licensure pending the outcome of the fingerprint-based criminal history check conducted pursuant to subparagraph (4).

(6) An individual applying to be a foster parent licensee shall not be granted a license and an evaluation shall not be performed under this subsection if the individual has been convicted of any of the following felony offenses:

- (a) Within the five-year period preceding the application date, a drug-related offense.
- (b) Child endangerment or neglect or abandonment of a dependent person.
- (c) Domestic abuse.
- (d) A crime against a child, including but not limited to sexual exploitation of a minor.
- (e) A forcible felony.

b. Except as otherwise provided in paragraph "a", if the department determines that a person has committed a crime or has a record of founded child abuse and is licensed, employed by a licensee, or resides in a licensed facility the department shall notify the licensee that an evaluation will be conducted to determine whether prohibition of the person's licensure, employment, or residence is warranted.

c. In an evaluation, the department and the licensee for an employee of the licensee shall consider the nature and seriousness of the crime or founded child abuse in relation to the position sought or held, the time elapsed since the commission of the crime or founded child abuse, the circumstances under which the crime or founded child abuse was committed, the degree of rehabilitation, the likelihood that the person will commit the crime or founded child abuse again, and the number of crimes or founded child abuses committed by the person involved. The department may permit a person who is evaluated to be licensed, employed, or to reside, or to continue to be licensed, employed, or to reside in a licensed facility, if the person complies with the department's conditions relating to the person's licensure, employment, or residence, which may include completion of additional training. For an employee of a licensee, these conditional requirements shall be developed with the licensee. The department has final authority in determining whether prohibition of the person's licensure, employment, or residence is warranted and in developing any conditional requirements under this paragraph.

d. If the department determines that the person has committed a crime or has a record of founded child abuse which warrants prohibition of licensure, employment, or residence, the person shall not be licensed under this chapter and shall not be employed by a licensee or reside in a licensed facility.

3. In addition to the record checks required under subsection 2, the department of human services may conduct dependent adult abuse record checks in this state and may conduct these checks in other states, on a random basis. The provisions of subsection 2, relative to an evaluation following a determination that a person has been convicted of a crime or has a record of founded child abuse, shall also apply to a random check conducted under this subsection.

4. On or after July 1, 1994, a licensee shall inform all new applicants for employment of the possibility of the performance of a record check and shall obtain, from the applicant, a signed acknowledgment of the receipt of the information.

5. On or after July 1, 1994, a licensee shall include the following inquiry in an application for employment:

Do you have a record of founded child or dependent adult abuse
or have you ever been convicted of a crime, in this state or any other
state?

[C81, §237.8]

87 Acts, ch 153, §16; 88 Acts, ch 1134, §57; 89 Acts, ch 283, §27; 90 Acts, ch 1221, §7; 91 Acts, ch 138, §7; 94 Acts, ch 1130, §14; 98 Acts, ch 1190, §29; 2007 Acts, ch 172, §12; 2019 Acts, ch 126, §5, 6

Referred to in §232.142

237.9 Confidential information.

A person who receives information from or through the department concerning a child who has received or is receiving child foster care, a relative or guardian of the child, a single-family, home licensee, or an individual employee of a licensee, shall not disclose that information directly or indirectly, except as authorized by section 217.30, or as authorized or required by section 232.69.

[C81, §237.9]

237.10 Reserved.

237.11 Penalty.

An individual or an agency who provides child foster care without obtaining a license under this chapter or who knowingly violates this chapter or the rules promulgated pursuant to this chapter is guilty of a serious misdemeanor.

[C27, 31, 35, §3661-a57; C39, §3661.071; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, §237.16; C81, §237.11]

237.12 Injunctive relief.

An individual or an agency who provides child foster care without obtaining a license under this chapter or who knowingly violates this chapter or the rules promulgated pursuant to this chapter may be temporarily or permanently enjoined by a court in an action brought by the state, a political subdivision of the state or an interested person.

[C58, 62, 66, 71, 73, 75, 77, 79, §237.16; C81, §237.12]

237.13 Foster home insurance fund.

1. For the purposes of this section, “*foster home*” means an individual, as defined in section 237.1, subsection 7, who is licensed to provide child foster care and shall also be known as a “*licensed foster home*”.

2. The foster home insurance fund shall be administered by the department of human services. The fund shall consist of all moneys appropriated by the general assembly for deposit in the fund. The department shall use moneys in the fund to reimburse foster parents for the cost of purchasing foster care liability insurance and to perform the administrative functions necessary to carry out this section.

3. The department of human services shall adopt rules, pursuant to chapter 17A, to carry out the provisions of this section.

88 Acts, ch 1223, §1; 89 Acts, ch 178, §4; 93 Acts, ch 172, §41; 99 Acts, ch 55, §1 – 5; 2001 Acts, ch 135, §1, 2; 2011 Acts, ch 98, §2, 3; 2020 Acts, ch 1121, §56

Section stricken and rewritten

237.14 Enhanced foster care services.

The department shall provide for enhanced foster care services by establishing supplemental per diem or performance-based contracts that include payment of costs relating to payments of principal and interest for bonds and notes issued pursuant to section 16.57 with facilities licensed under this chapter which provide special services to children who would otherwise be placed in a state juvenile institution or an out-of-state program. Before completion of the department's budget estimate as required by section 8.23, the department shall determine and include in the estimate the amount which should be appropriated for enhanced foster care services for the forthcoming fiscal year in order to provide sufficient services.

90 Acts, ch 1239, §14; 2014 Acts, ch 1080, §84, 98; 2015 Acts, ch 29, §38

237.14A Reasonable and prudent parent standard — immunity from liability.

The department, or any individual, agency, or juvenile shelter care home that applies the reasonable and prudent parent standard reasonably and in good faith in regard to a child in foster care shall have immunity from civil or criminal liability which might otherwise be incurred or imposed. This section shall not remove or limit any existing liability protection afforded under any other law.

2016 Acts, ch 1063, §21

SUBCHAPTER II

FOSTER CARE REVIEW

237.15 Definitions.

For the purposes of this subchapter unless otherwise defined:

1. "*Case permanency plan*" means the same as defined in section 232.2, subsection 4, except the plan shall also include the following:

a. The efforts to place the child with a relative.
b. The rationale for an out-of-state placement, and the efforts to prevent such placement, if the child has been placed out-of-state.

c. Time frames to meet the stated permanency goal and short-term objectives.

2. "*Child receiving foster care*" means a child defined in section 234.1 who is described by any of the following circumstances:

a. The child's foster care placement is the financial responsibility of the state pursuant to section 234.35.

b. The child is under the guardianship of the department.

c. The child has been involuntarily hospitalized for mental illness pursuant to chapter 229.

d. The child is at-risk of being placed outside the child's home, the department or court is providing or planning to provide services to the child, and the department or court has requested the involvement of the state or local board.

3. "*Court appointed special advocate*" means the same as defined in section 232.2.

4. "*Family*" means the social unit consisting of the child and the biological or adoptive parent, stepparent, brother, sister, stepbrother, stepsister, and grandparent of the child.

5. "*Local board*" means a local citizen foster care review board created pursuant to section 237.19.

6. "*Person or court responsible for the child*" means the department, including but not limited to the department of human services, agency, or individual who is the guardian of a child by court order issued by the juvenile or district court and has the responsibility of the care of the child, or the court having jurisdiction over the child.

7. “State board” means the child advocacy board created pursuant to section 237.16.

84 Acts, ch 1279, §26; 88 Acts, ch 1233, §1, 2; 89 Acts, ch 296, §22; 90 Acts, ch 1270, §46; 91 Acts, ch 232, §11; 92 Acts, ch 1141, §5; 92 Acts, ch 1231, §40; 94 Acts, ch 1046, §6; 95 Acts, ch 182, §18, 19; 2000 Acts, ch 1067, §13; 2002 Acts, ch 1162, §20, 21; 2016 Acts, ch 1011, §121

Referred to in §234.39

237.16 Child advocacy board.

1. The child advocacy board is created within the department of inspections and appeals. The state board consists of nine members appointed by the governor, subject to confirmation by the senate and directly responsible to the governor. One member shall be an active court appointed special advocate volunteer, one member shall be an active member of a local citizen foster care review board, and one member shall be a judicial branch employee or judicial officer appointed from nominees submitted by the judicial branch. The appointment is for a term of four years that begins and ends as provided in section 69.19. Vacancies on the state board shall be filled in the same manner as original appointments are made.

2. The members of the state board shall annually select a chairperson, vice chairperson, and other officers the members deem necessary. The members may be entitled to receive reimbursement for actual and necessary expenses incurred in the performance of their duties, subject to available funding. Each member of the board may also be eligible to receive compensation as provided in section 7E.6. The state board shall meet at least twice a year.

3. An employee of the department or of the department of inspections and appeals, an employee of a child-placing agency, an employee of an agency with which the department contracts for services for children under foster care, a foster parent providing foster care, or an employee of the district court is not eligible to serve on the state board. However, the judicial branch employee or judicial officer appointed from nominees submitted by the judicial branch in accordance with subsection 1 shall be eligible to serve on the state board.

84 Acts, ch 1279, §27; 86 Acts, ch 1245, §549; 88 Acts, ch 1233, §3; 89 Acts, ch 296, §23; 92 Acts, ch 1141, §6; 92 Acts, ch 1242, §27; 2002 Acts, ch 1162, §22; 2002 Acts, 2nd Ex, ch 1003, §239, 262; 2006 Acts, ch 1049, §1

Referred to in §10A.104, 232.2, 232.13, 232.147, 232.149A, 235A.15, 237.15
Confirmation, see §2.32

237.17 Foster care registry.

1. The state board shall establish a registry of the placements of all children receiving foster care. The department shall notify the state board of each placement within five working days of the department’s notification of the placement. The notification to the state board shall include information identifying the child receiving foster care and placement information for that child.

2. Within thirty days of the placement or two days after the dispositional hearing the agency responsible for the placement shall submit the case permanency plan to the state board. All subsequent revisions of the case permanency plan shall be submitted when the revisions are developed.

84 Acts, ch 1279, §28; 88 Acts, ch 1233, §4

237.18 Duties of state board.

The state board shall:

1. Review the activities and actions of local boards.
2. Adopt rules pursuant to chapter 17A to:
 - a. Establish a recordkeeping system for the files of local review boards including individual case reviews.
 - b. Accumulate data and develop an annual report regarding children in foster care. The report shall include:
 - (1) Personal data regarding the total number of days of foster care provided and the characteristics of the children receiving foster care.
 - (2) The number of placements of children in foster care.
 - (3) The frequency and results of court reviews.
 - c. Evaluate the judicial and administrative data collected on foster care and disseminate

the data to the governor, the supreme court, the chief judge of each judicial district, the department, and child-placing agencies.

d. Establish mandatory training programs for members of the state and local review boards including an initial training program and periodic in-service training programs. Training shall focus on, but not be limited to, the following:

- (1) The history, philosophy and role of the juvenile court in the child protection system.
- (2) Juvenile court procedures under the juvenile justice act.
- (3) The foster care administrative review process of the department of human services.
- (4) The role and procedures of the citizen's foster care review system.
- (5) The Adoption Assistance and Child Welfare Act of 1980, Pub. L. No. 96-272.
- (6) The purpose of case permanency plans, and the type of information that will be available in those plans.
- (7) The situations where the goals of either reuniting the child with the child's family or adoption would be appropriate.
- (8) The legal processes that may lead to foster care placement.
- (9) The types and number of children involved in those legal processes.
- (10) The types of foster care placement available, with emphasis on the types and number of facilities available on a regional basis.
- (11) The impact of specific physical or mental conditions of a child on the type of placement most appropriate and the kind of progress that should be expected in those situations.

e. Establish procedures for the local review board consistent with the provisions of section 237.20.

f. Establish grounds and procedures for removal of a local review board member.

g. Establish procedures and protocols for administering the court appointed special advocate program in accordance with subsection 7.

3. Assign the cases of children receiving foster care to the appropriate local boards.

4. Assist local boards in reviewing cases of children receiving foster care, as provided in section 237.20.

5. Employ appropriate staff in accordance with available funding. The board shall coordinate with the department of inspections and appeals regarding administrative functions of the board.

6. In conjunction with the legislative services agency and in consultation with the department of human services, supreme court, and private foster care providers, develop and maintain an evaluation program regarding citizen foster care review programming. The evaluation program shall be designed to evaluate the effectiveness of citizen reviews in improving case permanency planning and meeting case permanency planning goals, identify the amount of time children spend in foster care placements, and identify problem issues in the foster care system. The state board shall submit an annual evaluation report to the governor and the general assembly.

7. Administer the court appointed special advocate program, including but not limited to performance of all of the following:

a. Establish standards for the program, including but not limited to standards for selection and screening of volunteers, preservice training, ongoing education, and assignment and supervision of volunteers. Identifying information concerning a court appointed special advocate, other than the advocate's name, shall not be considered to be a public record under chapter 22.

b. Implement the court appointed special advocate program in additional areas of the state.

c. Promote adherence to the national guidelines for state and local court appointed special advocate programs.

d. Issue an annual report of the court appointed special advocate program for submission to the general assembly, the governor, and the supreme court.

e. Employ appropriate court appointed special advocate program staff in accordance with available funding. The state board shall coordinate with the department of inspections and appeals the performance of the administrative functions of the state board.

8. Receive gifts, grants, or donations made for any of the purposes of the state board's programs and disburse and administer the funds received in accordance with the terms of the donor and under the direction of program staff. The funds received shall be used according to any restrictions attached to the funds and any unrestricted funds shall be retained and applied to the applicable program budget for the next succeeding fiscal year.

9. Make recommendations to the general assembly, the department, to child-placing agencies, the governor, the supreme court, the chief judge of each judicial district, and to the judicial branch. The recommendations shall include but are not limited to identification of systemic problems in the foster care and the juvenile justice systems, specific proposals for improvements that assist the systems in being more cost-effective and better able to protect the best interests of children, and necessary changes relating to the data collected and the annual report made under subsection 2, paragraph "b".

84 Acts, ch 1279, §29; 88 Acts, ch 1233, §5 – 8; 92 Acts, ch 1141, §7; 92 Acts, ch 1242, §28; 98 Acts, ch 1047, §26; 2002 Acts, ch 1162, §23, 24; 2003 Acts, ch 35, §45, 49; 2009 Acts, ch 41, §98; 2009 Acts, ch 181, §113

237.19 Local citizen foster care review boards.

1. The state board shall establish local citizen foster care review boards to review cases of children receiving foster care. The department shall discontinue its foster care review process for those children reviewed by local boards as local boards are established and operating. The state board shall select five members and two alternate members to serve on each local board in consultation with the chief judge of each judicial district. The actual number of local boards needed and established shall be determined by the state board. The members of each local board shall consist of persons of the various social, economic, racial, and ethnic groups and various occupations of their district. A person employed by the state board or the department, the department of inspections and appeals, the district court, an employee of an agency with which the department contracts for services for children under foster care, a foster parent providing foster care, or a child-placing agency shall not serve on a local board. The state board shall provide the names of the members of the local boards to the department.

2. Vacancies on a local board shall be filled in the same manner as original appointments. The members shall not receive per diem but shall receive reimbursement for actual and necessary expenses incurred in their duties as members.

84 Acts, ch 1279, §30; 88 Acts, ch 1233, §9; 92 Acts, ch 1141, §8

Referred to in §232.13, 232.147, 232.149A, 235A.15, 237.15

Local boards to be established in additional judicial districts as moneys become available; 88 Acts, ch 1233, §21

237.20 Local board duties.

A local board shall, except in delinquency cases, do the following:

1. Review the case of each child receiving foster care assigned to the local board by the state board to determine whether satisfactory progress is being made toward the goals of the case permanency plan pursuant to section 237.22. The timing and frequency of a review of each case by a local board shall take into consideration the permanency goals, placement setting, and frequency of any court reviews of the case.

a. During each review, the agency responsible for the placement of or services provided to the child shall attend the review and the local board shall review all of the following:

(1) The past, current, and future status of the child and placement as shown through the case permanency plan and case progress reports submitted by the agency responsible for the placement of the child and other information the board may require.

(2) The efforts of the agency responsible for the placement of the child to locate and provide services to the biological or adoptive parents of the child.

(3) The efforts of the agency responsible for the placement of the child to facilitate the return of the child to the home or to find an alternative permanent placement other than foster care if reunion with the parent or previous custodian is not feasible. The agency shall report to the board all factors which either favor or mitigate against a decision or alternative with regard to these matters.

(4) Any problems, solutions, or alternatives which may be capable of investigation, or

other matters with regard to the child which the agency responsible for the placement of the child or the board feels should be investigated with regard to the best interests of the state or of the child.

(5) The compliance of the interested parties with the decision-making rights and responsibilities contained in the family foster care or preadoptive care agreement applicable to a child.

b. The review shall include issues pertaining to the case permanency plan and shall not include issues that do not pertain to the case permanency plan. A person notified pursuant to subsection 4 shall either attend the review or submit testimony as requested by the local board or in accordance with a written protocol jointly developed by the state board and the department. Oral testimony may, upon the request of the testifier or upon motion of the local board, be given in a private setting when to do so would facilitate the presentation of evidence. Local board questions shall pertain to the permanency plan and shall not include issues that do not pertain to the permanency plan.

c. A person who gives oral testimony has the right to representation by counsel at the review.

d. An agency or individual providing services to the child shall submit testimony as requested by the board. The testimony may be written or oral, or may be a tape recorded telephone call. Written testimony from other interested parties may also be considered by the board in its review.

2. a. Submit to the appropriate court within fifteen days after the review under subsection 1, the findings and recommendations of the review. The local board shall ensure that the most recent report is available for a court hearing. The report to the court shall include information regarding the case permanency plan and the progress in attaining the permanency goals. The report shall not include issues that do not pertain to the case permanency plan. The findings and recommendations shall include the proposed date of the next review by the local board. The local board shall notify the persons specified in subsection 4 of the findings and recommendations.

b. If the person or agency responsible for services provided to the child disagrees with the review findings or recommendations, the person or agency shall respond during the review or submit a statement to the local board and the court within ten working days of receiving the local board's report. The response shall explain the reasons the person or agency disagrees with the board's findings or does not plan to implement the board's recommendations.

3. Encourage placement of the child in the most appropriate setting reflecting the provisions of chapter 232.

4. a. Notify the following persons at least ten days before the review of a case of a child receiving foster care:

(1) The person, court, or agency responsible for the child.

(2) The parent or parents of the child unless termination of parental rights has occurred pursuant to section 232.117.

(3) The foster care provider of the child.

(4) The child receiving foster care if the child is fourteen years of age or older. The child shall be informed of the review's purpose and procedure, and of the right to have a guardian ad litem present.

(5) The guardian ad litem of the foster child. An attorney appointed as guardian ad litem shall be eligible for compensation under section 232.141, subsection 2.

(6) The department.

(7) The county attorney.

(8) The person providing services to the child or the child's family.

b. The notice shall include a statement that the person notified has the right to representation by counsel at the review.

84 Acts, ch 1279, §31; 88 Acts, ch 1233, §10 – 15; 89 Acts, ch 64, §1 – 3; 92 Acts, ch 1141, §9 – 12; 97 Acts, ch 164, §7; 99 Acts, ch 135, §22; 2003 Acts, ch 151, §8; 2009 Acts, ch 41, §263; 2009 Acts, ch 181, §114

Referred to in §237.18, 237.21

237.21 Confidentiality of records — penalty.

1. The information and records of or provided to a local board, state board, or court appointed special advocate regarding a child who is receiving foster care or who is under the court's jurisdiction and the child's family when relating to services provided or the foster care placement are not public records pursuant to chapter 22. The state board and local boards, with respect to hearings involving specific children receiving foster care and the child's family, are not subject to chapter 21.

2. Information and records relating to a child receiving foster care and to the child's family shall be provided to a local board or the state board by the department or child-care agency receiving purchase-of-service funds from the department upon request by either board. A court having jurisdiction of a child receiving foster care shall release the information and records the court deems necessary to determine the needs of the child, if the information and records are not obtainable elsewhere, to a local board or the state board upon request by either board. If confidential information and records are distributed to individual members in advance of a meeting of the state board or a local board, the information and records shall be clearly identified as confidential and the members shall take appropriate steps to prevent unauthorized disclosure.

3. A court appointed special advocate may attend family team decision-making meetings or youth transition decision-making meetings upon request by the family or child and disclose case-related observations and recommendations relating to a child or a child's family while attending the meetings.

4. A court appointed special advocate may disclose case-related observations and recommendations to the agency assigned by the court to supervise the case, to the county attorney, or to the child's legal representative or guardian ad litem.

5. Members of the state board and local boards, court appointed special advocates, and the employees of the department and the department of inspections and appeals are subject to standards of confidentiality pursuant to sections 217.30, 228.6, subsection 1, sections 235A.15, 600.16, and 600.16A. Members of the state and local boards, court appointed special advocates, and employees of the department and the department of inspections and appeals who disclose information or records of the board or department, other than as provided in subsections 2, 3, and 4, sections 232.89 and 232.126, and section 237.20, subsection 2, are guilty of a simple misdemeanor.

84 Acts, ch 1279, §32; 87 Acts, ch 117, §2; 88 Acts, ch 1233, §16, 17; 89 Acts, ch 64, §4; 92 Acts, ch 1196, §1; 2005 Acts, ch 55, §3; 2015 Acts, ch 21, §1 - 3

Referred to in §135H.13

237.22 Case permanency plan.

The agency responsible for the placement of the child shall create a case permanency plan. The plan shall include, but not be limited to:

1. Plans for carrying out the voluntary placement agreement or judicial determination pursuant to which the child entered care.

2. Time frames to meet the stated permanency goal and short-term objectives.

3. The type and appropriateness of the placement and services to be provided to the child.

4. The care and services that will be provided to the child, biological parents, and foster parents.

5. How the care and services will meet the needs of the child while in care and will facilitate the child's return home or other permanent placement.

6. The efforts to place the child with a relative.

7. The rationale for an out-of-state placement, and the efforts to prevent such placement, if the child has been placed out of state.

84 Acts, ch 1279, §33; 88 Acts, ch 1233, §18, 19; 94 Acts, ch 1046, §7

Referred to in §237.20

237.23 Repealed by 94 Acts, ch 1186, §37, 38.

CHAPTER 237A

CHILD CARE FACILITIES

Referred to in §235A.15, 239B.24, 256C.3, 279.49

237A.1	Definitions.	237A.19	Penalty.
237A.2	Licensing of child care centers.	237A.20	Injunction.
237A.3	Child care homes.	237A.21	and 237A.22 Repealed by 2010 Acts, ch 1031, §360, 361.
237A.3A	Child development homes.	237A.23	Child care training and development system.
237A.3B	Smoking prohibited.	237A.24	Reserved.
237A.4	Inspection and evaluation.	237A.25	Consumer information.
237A.4A	Child care regulatory fee — child care facility fund.	237A.26	Statewide resource and referral services.
237A.5	Personnel.	237A.27	Crisis child care. Repealed by 2002 Acts, ch 1142, §29, 31.
237A.6	Consultative services.	237A.28	Child care credit fund. Repealed by 2009 Acts, ch 182, §138.
237A.7	Confidential information.	237A.29	Public funding of child care — sanctions.
237A.8	Violations — actions against license or registration.	237A.30	Voluntary child care quality rating system.
237A.9	through 237A.11 Reserved.		
237A.12	Rules.		
237A.13	State child care assistance.		
237A.14	through 237A.18 Repealed by 93 Acts, ch 54, §12.		

237A.1 Definitions.

As used in this chapter unless the context otherwise requires:

1. “*Administrator*” means the administrator of the division of the department designated by the director to administer this chapter.
2. “*Child*” means either of the following:
 - a. A person twelve years of age or younger.
 - b. A person thirteen years of age or older but younger than nineteen years of age who has a developmental disability as defined under the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000, Pub. L. No. 106-402, as codified in 42 U.S.C. §15002(8).
3. “*Child care*” means the care, supervision, and guidance of a child by a person other than the child’s parent, guardian, or custodian for periods of less than twenty-four hours per day per child on a regular basis, but does not include care, supervision, and guidance of a child by any of the following:
 - a. An instructional program for children who are attending prekindergarten as defined by the state board of education under section 256.11 or a higher grade level and are at least four years of age, or are at least three years of age and eligible for special education under chapter 256B, administered by any of the following:
 - (1) A public or nonpublic school system accredited by the department of education or the state board of regents.
 - (2) A nonpublic school system which is not accredited by the department of education or the state board of regents.
 - b. Any of the following church-related programs:
 - (1) An instructional program.
 - (2) A youth program other than a preschool, before or after school child care program, or other child care program.
 - (3) A program providing care to children on church premises while the children’s parents are attending church-related or church-sponsored activities on the church premises.
 - c. Short-term classes of less than two weeks’ duration held between school terms or during a break within a school term.
 - d. A child care center for sick children operated as part of a pediatrics unit in a hospital licensed by the department of inspections and appeals pursuant to chapter 135B.
 - e. A program operated not more than one day per week by volunteers which meets all of the following conditions:
 - (1) Not more than eleven children are served per volunteer.
 - (2) The program operates for less than four hours during any twenty-four-hour period.

(3) The program is provided at no cost to the children's parent, guardian, or custodian.

f. A program administered by a political subdivision of the state which is primarily for recreational or social purposes and is limited to children who are five years of age or older and attending school.

g. An after school program continuously offered throughout the school year calendar to children who are at least five years of age and are enrolled in school, and attend the program intermittently or a summer-only program for such children. The program must be provided through a nominal membership fee or at no cost.

h. A special activity program which meets less than four hours per day for the sole purpose of the special activity. Special activity programs include but are not limited to music or dance classes, organized athletic or sports programs, recreational classes, scouting programs, and hobby or craft clubs or classes.

i. A nationally accredited camp.

j. A structured program for the purpose of providing therapeutic, rehabilitative, or supervisory services to children under any of the following:

(1) A purchase of service or managed care contract with the department.

(2) A contract approved by a governance board of a decategorization of child welfare and juvenile justice funding project created under section 232.188.

(3) An arrangement approved by a juvenile court order.

k. Care provided on-site to children of parents residing in an emergency, homeless, or domestic violence shelter.

l. A child care facility providing respite care to a licensed foster family home for a period of twenty-four hours or more to a child who is placed with that licensed foster family home.

m. A program offered to a child whose parent, guardian, or custodian is engaged solely in a recreational or social activity, remains immediately available and accessible on the physical premises on which the child's care is provided, and does not engage in employment while the care is provided. However, if the recreational or social activity is provided in a fitness center or on the premises of a nonprofit organization, the parent, guardian, or custodian of the child may be employed to teach or lead the activity.

4. "Child care center" or "center" means a facility providing child care or preschool services for seven or more children, except when the facility is registered as a child development home.

5. "Child care facility" or "facility" means a child care center, preschool, or a registered child development home.

6. "Child care home" means a person or program providing child care to five or fewer children at any one time that is not registered to provide child care under this chapter, as authorized under section 237A.3.

7. "Child development home" means a person or program registered under section 237A.3A that may provide child care to six or more children at any one time.

8. "Department" means the department of human services.

9. "Director" means the director of human services.

10. "Infant" means a child who is less than twenty-four months of age.

11. "Involvement with child care" means licensed or registered under this chapter, employed in a child care facility, residing in a child care facility, receiving public funding for providing child care, or providing child care as a child care home provider, or residing in a child care home.

12. "Licensed center" means a center issued a full or provisional license by the department under the provisions of this chapter or a center for which a license is being processed.

13. "Poverty level" means the poverty level defined by the most recently revised poverty income guidelines published by the United States department of health and human services.

14. "Preschool" means a child care facility which provides to children ages three through five, for periods of time not exceeding three hours per day, programs designed to help the children to develop intellectual skills, social skills, and motor skills, and to extend their interest and understanding of the world about them.

15. "School" means kindergarten or a higher grade level.

16. “*State child care advisory committee*” means the state child care advisory committee established pursuant to section 135.173A.

[C75, 77, 79, 81, §237A.1; 82 Acts, ch 1213, §1 – 3]

83 Acts, ch 96, §157, 159; 87 Acts, ch 115, §34; 88 Acts, ch 1097, §1; 89 Acts, ch 206, §3; 90 Acts, ch 1005, §1 – 3; 91 Acts, ch 151, §1; 92 Acts, ch 1083, §1; 92 Acts, ch 1109, §1; 93 Acts, ch 54, §4; 93 Acts, ch 76, §8, 9; 94 Acts, ch 1129, §1; 94 Acts, ch 1175, §1; 97 Acts, ch 151, §1; 99 Acts, ch 192, §1; 2000 Acts, ch 1067, §14; 2001 Acts, ch 105, §3, 4; 2002 Acts, ch 1142, §3 – 8, 31; 2003 Acts, ch 81, §1; 2005 Acts, ch 95, §4; 2010 Acts, ch 1031, §355, 361; 2011 Acts, ch 129, §92, 156; 2015 Acts, ch 88, §1, 5; 2017 Acts, ch 103, §1

Referred to in §135.119, 136A.5B, 237.1, 237.3, 237A.2, 237A.13, 237A.26, 237C.1, 422.12C, 692A.101

237A.2 Licensing of child care centers.

1. A person shall not establish or operate a child care center without obtaining a license under the provisions of this chapter. A center may operate for a specified period of time, to be established by rule of the department, if application for a license has been made. If the department denies an application for an initial license, notwithstanding section 17A.18, the applicant center shall not continue to provide child care pending the outcome of an evidentiary hearing. The department shall issue a license if it determines that all of the following conditions have been met:

a. An application for a license or a renewal has been filed with the administrator on forms provided by the department.

b. The center is maintained to comply with state health and fire laws.

c. The center is maintained to comply with rules adopted under section 237A.12.

2. a. A person denied a license under this section shall receive written notice of the denial stating the reasons for denial and shall be provided with an opportunity for an evidentiary hearing.

b. A license issued under this chapter shall be valid for twenty-four months from the date of issuance. A license shall remain valid unless it is revoked or suspended in accordance with the provisions of section 237A.8 or is reduced to a provisional license under subsection 3. The department may inspect a licensed center at any time. A record of the license shall be kept by the department.

c. The license shall be posted in a conspicuous place in the center and shall state the particular premises in which child care may be offered and the number of individuals who may be received for care at any one time. A greater number of children than is authorized by the license shall not be kept in the center at any one time.

3. The administrator may reduce a previously issued license to a provisional license or issue a provisional license for a period of time not to exceed one year if the center does not meet standards required under this section. A provisional license shall not be renewable in regard to the same standards for more than two consecutive years. A provisional license shall be posted in a conspicuous place in the center as provided in this section. If written plans to bring the center up to standards, giving specific dates for completion of work, are submitted to and approved by the department, the provisional license shall be renewable as provided in this subsection.

4. A program which is not a child care center by reason of the exceptions to the definition of child care in section 237A.1, subsection 3, but which provides care, supervision, and guidance to a child may be issued a license if the program complies with all the provisions of this chapter.

5. If the department has denied or revoked a license because the applicant or person has continually or repeatedly failed to operate a licensed center in compliance with this chapter and rules adopted pursuant to this chapter, the person shall not own or operate a child care center for a period of twelve months from the date the license is denied or revoked. The department shall not act on an application for a license submitted by the applicant or person during the twelve-month period. The applicant or person shall be prohibited

from involvement with child care unless the involvement is specifically permitted by the department.

[C75, §237A.2, 237A.3; C77, 79, 81, §237A.2]

90 Acts, ch 1005, §4; 91 Acts, ch 232, §12; 92 Acts, ch 1163, §54; 99 Acts, ch 192, §2; 2002 Acts, ch 1142, §9, 10, 31; 2003 Acts, ch 44, §54; 2003 Acts, ch 81, §2

237A.3 Child care homes.

1. A person or program providing child care to five children or fewer at any one time is a child care home provider and is not required to register under section 237A.3A as a child development home. However, the person or program may register as a child development home.

2. If a person or program has been prohibited by the department from involvement with child care, the person or program shall not provide child care as a child care home provider and is subject to penalty under section 237A.19 or injunction under section 237A.20 for doing so.

3. The location at which the child care is provided shall be a single-family residence that is owned, rented, or leased by the person or program providing the child care. For purposes of this subsection, a “*single-family residence*” includes an apartment, condominium, townhouse, or other individual unit within a multiple unit residential dwelling, but does not include a commercial or industrial building that is primarily used for purposes other than a residence.

[C75, 77, 79, 81, §237A.3; 82 Acts, ch 1016, §3, ch 1213, §4]

90 Acts, ch 1005, §5; 91 Acts, ch 151, §2; 91 Acts, ch 232, §13; 91 Acts, ch 267, §142; 92 Acts, ch 1163, §55; 93 Acts, ch 76, §10, 11; 94 Acts, ch 1129, §2, 3; 97 Acts, ch 151, §2; 99 Acts, ch 192, §3; 2001 Acts, ch 135, §3; 2002 Acts, ch 1142, §11, 31; 2003 Acts, ch 81, §3; 2008 Acts, ch 1187, §119

Referred to in §237A.1, 237A.19

237A.3A Child development homes.

1. Registration.

a. A person shall not establish or operate a child development home unless the person obtains a certificate of registration. The department shall issue a certificate of registration upon receipt of a statement from the person or upon completion of an inspection conducted by the department or a designee of the department verifying that the person complies with applicable rules adopted by the department pursuant to this section and section 237A.12.

b. The certificate of registration shall be posted in a conspicuous place in the child development home and shall state the name of the registrant, the registration category of the child development home, the maximum number of children who may be present for child care at any one time, and the address of the child development home. In addition, the certificate shall include a checklist of registration compliances.

c. The registration process for a child development home shall be repeated every twenty-four months as provided by rule.

d. A person who holds a child foster care license under chapter 237 shall register as a child development home provider in order to provide child care.

2. *Revocation or denial of registration.* If the department has denied or revoked a certificate of registration because a person has continually or repeatedly failed to operate a registered or licensed child care facility in compliance with this chapter and rules adopted pursuant to this chapter, the person shall not operate or establish a registered child development home for a period of twelve months from the date the registration or license was denied or revoked. The department shall not act on an application for registration submitted by the person during the twelve-month period. The applicant or person shall be prohibited from involvement with child care unless the involvement is specifically permitted by the department.

3. Rules.

a. Three categories of standards shall be applicable to child development homes. The initial designations of the categories, which may be revised by the department, shall be “A”, “B”, and “C”, as ranked from less stringent standards and capacity to more stringent

standards and capacity. The “C” registration category standards shall require the highest level of provider qualifications and allow the greatest capacity of the three categories. The department of human services, in consultation with the Iowa department of public health, shall adopt rules applying standards to each category specifying provider qualifications and training, health and safety requirements, capacity, amount of space available per child, and other minimum requirements. The capacity requirements shall take into consideration the provider’s own children, children who have a mild illness, children receiving part-time child care, and children served as a sibling group in overnight care.

b. The rules shall allow a child development home to be registered in a particular category for which the provider is qualified even though the amount of space required to be available for the maximum number of children authorized for that category exceeds the actual amount of space available in that home. However, the total number of children authorized for the child development home at that category of registration shall be limited by the amount of space available per child.

c. In consultation with the state fire marshal, the department shall adopt rules relating to the provision of fire extinguishers, smoke detectors, and two exits accessible to children in a child development home.

d. The rules shall require a child development home to be located in a single-family residence that is owned, rented, or leased by the person or, for dual registrations, at least one of the persons who is named on the child development home’s certificate of registration. For purposes of this paragraph, a “single-family residence” includes an apartment, condominium, townhouse, or other individual unit within a multiple unit residential dwelling, but does not include a commercial or industrial building that is primarily used for purposes other than a residence.

e. If the department adopts rules establishing a limitation on the number of hours for which substitute care may be utilized by the provider, such a limitation shall not apply to or incorporate substitute care utilized when the provider is engaged in jury duty or in official duties connected with the provider’s membership on a state board, committee, or other policy-related body.

f. The department shall adopt rules to allow registered child development homes providing care to school-aged children to exceed the child-to-staff ratio for school-aged children when a school-aged child’s school starts late, is dismissed early, or is canceled due to inclement weather, a public health emergency, or structural damage regardless of whether the child development home provider is able to be assisted by a department-approved assistant or co-provider, provided the child is currently enrolled at the registered child development home and the registered child development home does not exceed the child development home’s registration capacity.

4. *Number of children.*

a. In determining the number of children present for child care at any one time in a child development home, each child present in the child development home shall be considered as being provided child care unless the child is described by one of the following exceptions:

(1) The child’s parent, guardian, or custodian operates or established the child development home and the child is attending school or the child is provided child care full-time on a regular basis by another person.

(2) The child has been present in the child development home for more than seventy-two consecutive hours and the child is attending school or the child is provided child care full-time on a regular basis by another person.

b. For purposes of determining the number of children present for child care in a child development home, a child receiving foster care from a child development home provider shall be considered to be the child of the provider.

97 Acts, ch 151, §3; 98 Acts, ch 1127, §1, 2, 6; 99 Acts, ch 192, §4 – 11, 37; 2001 Acts, ch 135, §4; 2002 Acts, ch 1142, §12, 31; 2003 Acts, ch 81, §4; 2008 Acts, ch 1084, §12; 2008 Acts, ch 1187, §120; 2010 Acts, ch 1192, §81; 2020 Acts, ch 1097, §1

Referred to in §237A.1, 237A.3, 237A.19, 237A.20

Legislative intent to enact required licensure of child development homes commencing on July 1, 2013, with certain exceptions; transition activities to begin on July 1, 2009, for implementation of intended licensure requirement; department submitted report on December 21,

2010, regarding establishment of sustainable funding sources to support home-based child care providers in meeting proposed licensing requirement; 2009 Acts, ch 179, §210
Subsection 3, NEW paragraph f

237A.3B Smoking prohibited.

Smoking, as defined in section 142D.2, shall not be permitted in a child care facility or child care home.

2008 Acts, ch 1084, §13

237A.4 Inspection and evaluation.

The department shall make periodic inspections of licensed centers to ensure compliance with licensing requirements provided in this chapter, and the local boards of health may make periodic inspections of licensed centers to ensure compliance with health-related licensing requirements provided in this chapter. The department may inspect records maintained by a licensed center and may inquire into matters concerning these centers and the persons in charge. The department shall require that the center be inspected by the state fire marshal or a designee for compliance with rules relating to fire safety before a license is granted or renewed. The department or a designee may periodically visit registered child development homes for the purpose of evaluation of an inquiry into matters concerning compliance with rules adopted under section 237A.12. Evaluation of child development homes under this section may include consultative services provided pursuant to section 237A.6.

[C75, 77, 79, 81, §237A.4]

85 Acts, ch 173, §19; 99 Acts, ch 192, §12; 2002 Acts, ch 1142, §13, 31

237A.4A Child care regulatory fee — child care facility fund.

1. *a.* The department shall implement a regulatory fee for licensure of child care facilities. The fee requirements shall provide for tiered amounts based upon a child care facility's capacity and a child development home's regulatory category at the time of licensure.

b. The regulatory fee for centers shall not exceed one hundred fifty dollars.

c. The regulatory fee for category "A" and "B" child development homes shall not exceed one hundred fifty dollars and the fee for category "C" child development homes shall not exceed one hundred eighty-seven dollars.

d. The department shall adopt rules for implementation of the fee.

2. Regulatory fees collected shall augment existing funding for regulation of child care facilities in order to phase in annual inspections of child development homes and improve inspections of child care centers. The department shall not supplant existing funding for regulation of child care with funding derived from the regulatory fee. The department shall seek to meet the following target percentages of the total number of child development homes in the state inspected annually in phasing in the annual inspection of all child development homes:

a. For the fiscal year beginning July 1, 2009, twenty percent.

b. For the fiscal year beginning July 1, 2010, forty percent.

c. For the fiscal year beginning July 1, 2011, sixty percent.

d. For the fiscal year beginning July 1, 2012, eighty percent.

e. For the fiscal year beginning July 1, 2013, and succeeding fiscal years, one hundred percent.

3. *a.* In phasing in the inspection of child development homes, the department shall give priority to child development homes that have recently become licensed and have paid the regulatory fee implemented pursuant to this section.

b. The results of an inspection of a child care facility shall be made publicly available on the internet page or site implemented by the department in accordance with section 237A.25 and through other means.

4. The target time frame for the department's issuance of the report concerning an inspection or other regulatory visit to a child care facility is sixty calendar days.

5. A child care facility fund is created in the state treasury under the authority of the department. The fund is separate from the general fund of the state. Regulatory fees collected under subsection 1 shall be credited to the fund. Moneys credited to the fund shall

not revert to any other fund and are not subject to transfer except as specifically provided by law. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the fund shall be credited to the fund. Moneys in the fund are annually appropriated to the department to be used for staffing dedicated to monitoring and regulation of child care facilities, contracting, related technology costs, record checks, grants and fee waivers, and other expenses for inspection and regulation of child care facilities. Any full-time equivalent positions paid for out of the fund shall be in addition to other such positions authorized for the department.

2009 Acts, ch 179, §208

237A.5 Personnel.

1. All personnel in licensed or registered facilities shall have good health as evidenced by a report following a preemployment physical examination taken within six months prior to beginning employment. The examination shall include communicable disease tests by a licensed physician as defined in section 135C.1 and shall be repeated every three years after initial employment. Controlled medical conditions which would not affect the performance of the employee in the capacity employed shall not prohibit employment.

2. a. For the purposes of this section, unless the context otherwise requires:

(1) "*Person subject to a record check*" means a person who is described by any of the following:

(a) The person is being considered for licensure or registration or is registered or licensed under this chapter.

(b) The person is being considered by a child care facility for employment involving direct responsibility for a child or with access to a child when the child is alone or is employed with such responsibilities.

(c) The person will reside or resides in a child care facility.

(d) The person has applied for or receives public funding for providing child care.

(e) The person will reside or resides in a child care home that is not registered under this chapter but that receives public funding for providing child care.

(2) "*Person subject to an evaluation*" means a person subject to a record check whose record indicates that the person has committed a transgression.

(3) "*Transgression*" means the existence of any of the following in a person's record:

(a) Conviction of a crime.

(b) A record of having committed founded child or dependent adult abuse.

(c) Listing in the sex offender registry under chapter 692A.

(d) A record of having committed a public or civil offense.

(e) The department has revoked a child care facility registration or license due to the person's continued or repeated failure to operate the child care facility in compliance with this chapter and rules adopted pursuant to this chapter.

b. If an individual person subject to a record check is being considered for employment by a child care facility or child care home provider, in lieu of requesting a record check in this state to be conducted by the department under paragraph "c", the child care facility or child care home may access the single contact repository established pursuant to section 135C.33 as necessary to conduct a criminal and child abuse record check of the individual in this state. A copy of the results of the record check conducted through the single contact repository shall also be provided to the department. If the record check indicates the individual is a person subject to an evaluation, the child care facility or child care home may request that the department perform an evaluation as provided in this subsection. Otherwise, the individual shall not be employed by the child care facility or child care home.

c. Unless a record check has already been conducted in accordance with paragraph "b", the department shall conduct a criminal and child abuse record check in this state for a person who is subject to a record check and may conduct such a check in other states. In addition, the department may conduct a dependent adult abuse, sex offender registry, or other public or civil offense record check in this state or in other states for a person who is subject to a record check.

d. (1) For a person subject to a record check, in addition to any other record check

conducted pursuant to this subsection, the person's fingerprints shall be provided to the department of public safety for submission through the state criminal history repository to the United States department of justice, federal bureau of investigation for a national criminal history check. The department may adopt rules specifying criteria in the public interest for requiring the national criminal history check of a person to be repeated.

(2) Except as otherwise provided by law, the cost of a national criminal history check conducted in accordance with subparagraph (1) and the state record checks conducted in accordance with paragraph "c" that are conducted in connection with a person's involvement with a child care center are not the responsibility of the department. The department is responsible for the cost of such checks conducted in connection with a person's involvement with a child development home or child care home.

(3) If record checks under paragraph "b" or "c" have been conducted on a person subject to a record check and the results do not warrant prohibition of the person's involvement with child care or otherwise present protective concerns, the person may be involved with child care on a provisional basis until the record check under subparagraph (1) has been completed.

(4) If a person subject to a record check refuses to consent to a record check or if the person makes what the person knows to be a false statement of material fact in connection with a record check, the person shall be prohibited from involvement with child care.

e. (1) If a record check performed pursuant to this subsection identifies an individual as a person subject to an evaluation, an evaluation shall be performed to determine whether prohibition of the person's involvement with child care is warranted. The evaluation shall be performed in accordance with procedures adopted for this purpose by the department.

(2) Prior to performing an evaluation, the department shall notify the affected person, licensee, registrant, or child care home applying for or receiving public funding for providing child care, that an evaluation will be conducted to determine whether prohibition of the person's involvement with child care is warranted.

f. If a record check performed in accordance with paragraph "b" or "c" identifies that an individual is a person subject to an evaluation, the department shall perform the evaluation in accordance with this subsection, even if the application which made the person subject to the record check is withdrawn or the circumstances which made the person subject to the record check are no longer applicable. If the department's evaluation determines that prohibition of the person's involvement with child care is warranted, the provisions of this subsection regarding such a prohibition shall apply.

g. A person subject to a record check who is or was employed by a child care facility or child care home provider and is hired by another child care facility or child care home provider shall be subject to a record check in accordance with this subsection. However, if the person was subject to an evaluation because of a transgression in the person's record and the evaluation determined that the transgression did not warrant prohibition of the person's involvement with child care and the latest record checks do not indicate there is a transgression that was committed subsequent to that evaluation, the person may commence employment with the other child care facility or provider in accordance with the department's evaluation and an exemption from any requirements for reevaluation of the latest record checks is authorized. Authorization of an exemption under this paragraph "g" from requirements for reevaluation of the latest record checks by the department is subject to all of the following provisions:

(1) The position with the subsequent employer is substantially the same or has the same job responsibilities as the position for which the previous evaluation was performed.

(2) Any restrictions placed on the person's employment in the previous evaluation by the department shall remain applicable in the person's subsequent employment.

(3) The person subject to the record checks has maintained a copy of the previous evaluation and provides the evaluation to the subsequent employer or the previous employer provides the previous evaluation from the person's personnel file pursuant to the person's authorization. If a physical copy of the previous evaluation is not provided to the subsequent employer, the record checks shall be reevaluated.

(4) Although an exemption under this paragraph "g" may be authorized, the subsequent

employer may instead request a reevaluation of the record checks and may employ the person while the reevaluation is being performed.

h. In an evaluation, the department shall consider the nature and seriousness of the transgression in relation to the position sought or held, the time elapsed since the commission of the transgression, the circumstances under which the transgression was committed, the degree of rehabilitation, the likelihood that the person will commit the transgression again, and the number of transgressions committed by the person involved. In addition to record check information, the department may utilize information from the department's case records in performing the evaluation. The department may permit a person who is evaluated to maintain involvement with child care, if the person complies with the department's conditions and corrective action plan relating to the person's involvement with child care. The department has final authority in determining whether prohibition of the person's involvement with child care is warranted and in developing any conditional requirements and corrective action plan under this paragraph.

i. (1) A person subject to an evaluation shall be prohibited from involvement with child care under any of the following circumstances:

(a) The person has a record of founded child abuse or dependent adult abuse that was determined to be sexual abuse.

(b) The person is listed or is required to be listed on any state sex offender registry or the national sex offender registry.

(c) The person has committed any of the following felony-level offenses:

(i) Child endangerment or neglect or abandonment of a dependent person.

(ii) Domestic abuse.

(iii) A crime against a child including but not limited to sexual exploitation of a minor.

(iv) A forcible felony.

(v) Arson.

(d) The person has a record of a misdemeanor conviction against a child that constitutes one of the following offenses:

(i) Child abuse.

(ii) Child endangerment.

(iii) Sexual assault.

(iv) Child pornography.

(2) If, within five years prior to the date of application for registration or licensure under this chapter, for employment or residence in a child care facility or child care home, or for receipt of public funding for providing child care, a person subject to an evaluation has been convicted of a controlled substance offense or has been found to have committed physical abuse, the person shall be prohibited from involvement with child care for a period of five years from the date of conviction or founded abuse. After the five-year prohibition period, the person may submit an application for registration or licensure under this chapter, or to receive public funding for providing child care, or may request an evaluation, and the department shall perform an evaluation and, based upon the criteria in paragraph "h", shall determine whether prohibition of the person's involvement with child care continues to be warranted.

j. If the department determines, through an evaluation of a person's transgression, that the person's prohibition of involvement with child care is warranted, the person shall be prohibited from involvement with child care. The department may identify a period of time after which the person may request that another record check and evaluation be performed. A person who continues involvement with child care in violation of this subsection is subject to penalty under section 237A.19 or injunction under section 237A.20.

k. If it has been determined that a child receiving child care from a child care facility or a child care home is the victim of founded child abuse committed by an employee, license or registration holder, child care home provider, or resident of the child care facility or child care home for which a report is placed in the central registry pursuant to section 232.71D, the administrator shall provide notification at the time of the determination to the parents, guardians, and custodians of children receiving care from the child care facility or child care

home. A notification made under this paragraph shall identify the type of abuse but shall not identify the victim or perpetrator or circumstances of the founded abuse.

3. On or after July 1, 1994, a licensee or registrant shall inform all new applicants for employment of the possibility of the performance of a record check and shall obtain, from the applicant, a signed acknowledgment of the receipt of the information.

4. On or after July 1, 1994, a licensee or registrant shall include the following inquiry in an application for employment:

Do you have a record of founded child or dependent adult abuse
or have you ever been convicted of a crime, in this state or any other
state?

5. A person who serves as an unpaid volunteer in a child care facility shall not be required to complete training as a mandatory reporter of child abuse under section 232.69 or under any other requirement.

[C75, 77, 79, 81, §237A.5]

83 Acts, ch 153, §5; 85 Acts, ch 184, §1; 87 Acts, ch 153, §17; 88 Acts, ch 1134, §58; 90 Acts, ch 1221, §8; 91 Acts, ch 138, §8; 94 Acts, ch 1130, §15; 97 Acts, ch 45, §1; 98 Acts, ch 1127, §3, 6; 99 Acts, ch 192, §13; 2003 Acts, ch 81, §5, 6; 2006 Acts, ch 1098, §1; 2006 Acts, ch 1184, §108 – 111; 2008 Acts, ch 1187, §121; 2009 Acts, ch 41, §99; 2009 Acts, ch 179, §209; 2010 Acts, ch 1042, §1; 2012 Acts, ch 1074, §2; 2018 Acts, ch 1113, §2, 3; 2019 Acts, ch 59, §73

Referred to in §237A.19

237A.6 Consultative services.

The department shall, and the director of public health may provide consultative services to a person applying for a license or registration, or licensed or registered by the administrator under this chapter.

[C75, 77, 79, 81, §237A.6]

Referred to in §237A.4

237A.7 Confidential information.

1. Anyone who acquires through the administration of this chapter information relative to an individual in a child care facility or to a relative of the individual shall not, directly or indirectly, disclose the information except upon inquiry before a court of law or with the written consent of the individual or, in the case of a child, the written consent of the parent or guardian or as otherwise specifically required or allowed by law.

2. This section shall not prohibit the disclosure of information relative to the structure and operation of a facility nor shall it prohibit the statistical analysis by duly authorized persons of data collected by virtue of this chapter, or the publication of the results of the analysis in a manner which does not disclose information identifying individual persons.

[C75, 77, 79, 81, §237A.7]

99 Acts, ch 192, §14

237A.8 Violations — actions against license or registration.

The administrator, after notice and opportunity for an evidentiary hearing before the department of inspections and appeals, may suspend or revoke a license or certificate of registration issued under this chapter or may reduce a license to a provisional license if the person to whom a license or certificate is issued violates a provision of this chapter or if the person makes false reports regarding the operation of the child care facility to the administrator or a designee of the administrator. The administrator shall notify the parent, guardian, or legal custodian of each child for whom the person provides child care at the time of action to suspend or revoke a license or certificate of registration.

[C75, 77, 79, 81, §237A.8]

83 Acts, ch 153, §6; 90 Acts, ch 1204, §54; 99 Acts, ch 192, §15

Referred to in §237A.2

237A.9 through 237A.11 Reserved.

237A.12 Rules.

1. Subject to the provisions of chapter 17A, the department shall adopt rules setting minimum standards to provide quality child care in the operation and maintenance of child care centers and registered child development homes, relating to all of the following:

a. The number and qualifications of personnel necessary to assure the health, safety, and welfare of children in the facilities. Rules for facilities which are preschools shall be drawn so that any staff-to-children ratios which relate to the age of the children enrolled shall be based on the age of the majority of the children served by a particular class rather than on the age of the youngest child served.

b. Physical facilities.

c. The adequacy of activity programs and food services available to the children. The department shall not restrict the use of or apply nutritional standards to a lunch or other meal which is brought to the center, child development home, or child care home by a school-age child for the child's consumption.

d. Policies established by the center for parental participation.

e. Programs for education and in-service training of staff.

f. Records kept by the facilities.

g. Administration.

h. Health, safety, and medical policies for children.

2. Rules adopted by the state fire marshal for buildings, other than school buildings, used as child care centers as an adjunct to the primary purpose of the building shall take into consideration that children are received for temporary care only and shall not differ from rules adopted for these buildings when they are used by groups of persons congregating from time to time in the primary use and occupancy of the buildings. However, the rules may require a fire-rated separation from the remaining portion of the building if the fire marshal determines that the separation is necessary for the protection of children from a specific flammable hazard.

3. Rules relating to fire safety for child care centers shall be adopted under this chapter by the state fire marshal in consultation with the department. Rules adopted by the state fire marshal for a building which is owned or leased by a school district or accredited nonpublic school and used as a child care facility shall not differ from standards adopted by the state fire marshal for school buildings under chapter 100. Rules relating to sanitation shall be adopted by the department in consultation with the director of public health. All rules shall be developed in consultation with the state child care advisory committee. The state fire marshal shall inspect the facilities.

4. If a building is owned or leased by a school district or accredited nonpublic school and complies with standards adopted by the state fire marshal for school buildings under chapter 100, the building is considered appropriate for use by a child care facility. The rules adopted by the administrator under this section shall not require the facility to comply with building requirements which differ from requirements for use of the building as a school.

5. Standards and requirements set by a city or county for a building which is owned or leased by a school district or accredited nonpublic school and used as a child care facility shall take into consideration that children are received for temporary care only and shall not differ from standards and requirements set for use of the building as a school.

[C75, 77, 79, 81, §237A.12]

85 Acts, ch 173, §20; 91 Acts, ch 151, §3; 92 Acts, ch 1083, §2; 94 Acts, ch 1129, §4, 5; 94 Acts, ch 1175, §2; 99 Acts, ch 192, §16; 2002 Acts, ch 1142, §14 – 16, 31; 2010 Acts, ch 1031, §356, 361

Referred to in §237A.2, 237A.3A, 237A.4

237A.13 State child care assistance.

1. A state child care assistance program is established in the department to assist children in families who meet eligibility guidelines and are described by any of the following circumstances:

a. The child's parent, guardian, or custodian is participating in approved academic, vocational, or technical training.

b. The child's parent, guardian, or custodian is seeking employment. Eligibility for assistance while seeking employment shall be limited to thirty days during a twelve-month period.

c. The child's parent, guardian, or custodian is employed and the family income meets income requirements.

d. The child's parent, guardian, or custodian is absent for a limited period of time due to hospitalization, physical illness, or mental illness, or is present but is unable to care for the child for a limited period as verified by a physician.

e. The child needs protective services to prevent or alleviate child abuse or neglect.

f. The person's family circumstances are described in paragraph "a", "b", "c", or "d", the person is thirteen years of age or older but younger than sixteen years of age, and state child care assistance is approved for the person by the director or the director's designee based on a request for an exception to policy made by the person's parent, guardian, or custodian because special family circumstances exist that would place the safety and well-being of the person at risk if the person is left home alone. The definition of child in section 237A.1 does not apply to child care supported by state child care assistance approved pursuant to this lettered paragraph.

2. Services under the program may be provided in a licensed child care center, a child development home, the home of a relative, the child's own home, a child care home, or in a facility exempt from licensing or registration.

3. The department shall set reimbursement rates as authorized by appropriations enacted for payment of the reimbursements. The department shall conduct a statewide reimbursement rate survey to compile information on each county and the survey shall be conducted at least every two years. The department shall set rates in a manner so as to provide incentives for an unregistered provider to become registered.

4. The department's billing and payment provisions for the program shall allow providers to elect either biweekly or monthly billing and payment for child care provided under the program. The department shall remit payment to a provider within ten business days of receiving a bill or claim for services provided. However, if the department determines that a bill has an error or omission, the department shall notify the provider of the error or omission and identify any correction needed before issuance of payment to the provider. The department shall provide the notice within five business days of receiving the billing from the provider and shall remit payment to the provider within ten business days of receiving the corrected billing.

5. On or before July 1, 2007, the department shall implement a system for making program payments by electronic funds transfer or other electronic means.

6. The department shall not apply waiting list requirements to any of the following persons:

a. Persons deemed to be eligible for benefits under the state child care assistance program in accordance with section 239B.24.

b. A family that is receiving state child care assistance at the time a child is born into the family. The newborn child shall be approved for services when the family reports the birth of the child.

c. Children who need protective services to prevent or alleviate child abuse or neglect.

d. A child in a family that is eligible for state child care assistance and that receives a state adoption subsidy for the child.

7. Based upon the availability of the funding appropriated for state child care assistance for a fiscal year, the department shall establish waiting lists for state child care assistance in descending order of prioritization as follows:

a. Families with an income at or below one hundred percent of the federal poverty level whose members, for at least twenty-eight hours per week in the aggregate, are employed or are participating at a satisfactory level in an approved training program or educational program, and parents with a family income at or below one hundred percent of the federal poverty level who are under the age of twenty-one years and are participating in an educational program leading to a high school diploma or the equivalent.

b. Parents with a family income at or below one hundred percent of the federal poverty

level who are under the age of twenty-one years and are participating, at a satisfactory level, in an approved training program or in an educational program.

c. Families with an income of more than one hundred percent but not more than one hundred forty-five percent of the federal poverty level whose members, for at least twenty-eight hours per week in the aggregate, are employed or are participating at a satisfactory level in an approved training program or educational program.

d. Families with an income at or below two hundred percent of the federal poverty level whose members are employed at least twenty-eight hours per week with a special needs child as a member of the family.

8. Nothing in this section shall be construed as or is intended as, or shall imply, a grant of entitlement for services to persons who are eligible for assistance due to an income level or other eligibility circumstance addressed in this section. Any state obligation to provide services pursuant to this section is limited to the extent of the funds appropriated for the purposes of state child care assistance.

2000 Acts, ch 1067, §15; 2002 Acts, ch 1142, §17, 18, 31; 2003 Acts, ch 81, §7, 8; 2006 Acts, ch 1016, §13; 2006 Acts, ch 1099, §1; 2007 Acts, ch 172, §1; 2007 Acts, ch 215, §99; 2008 Acts, ch 1187, §122; 2014 Acts, ch 1140, §96, 97; 2016 Acts, ch 1108, §22; 2017 Acts, ch 54, §35

Referred to in §234.47, 239B.24

237A.14 through 237A.18 Repealed by 93 Acts, ch 54, §12.

237A.19 Penalty.

1. A person who establishes, conducts, manages, or operates a center without a license commits a serious misdemeanor. Each day of continuing violation after conviction, or notice from the department by certified mail of the violation, shall be considered a separate offense.

2. If registration is required under section 237A.3A, a person who establishes, conducts, manages, or operates a child development home without registering or a person who operates a child development home contrary to section 237A.5, commits a simple misdemeanor. Each day of continuing violation after conviction, or notice from the department by certified mail of the violation, is a separate offense. A single charge alleging continuing violation may be made in lieu of filing charges for each day of violation.

3. A person who establishes, conducts, manages, or operates a child care home in violation of section 237A.3, subsection 2, or a person or program that has been prohibited by the department from involvement with child care but continues that involvement commits a simple misdemeanor. Each day of continuing violation after conviction, or notice from the department by certified mail of the violation, is a separate offense. A single charge alleging continuing violation may be made in lieu of filing charges for each day of violation.

[C77, 79, 81, §237A.19; 82 Acts, ch 1213, §5]

85 Acts, ch 184, §2; 99 Acts, ch 192, §17; 2002 Acts, ch 1142, §19, 31; 2003 Acts, ch 81, §9

Referred to in §237A.3, 237A.5

237A.20 Injunction.

A person who establishes, conducts, manages, or operates a center without a license or a child development home without a certificate of registration, if registration is required under section 237A.3A, may be restrained by temporary or permanent injunction. A person who has been convicted of a crime against a person, a person with a record of founded child abuse, or a person who has been prohibited by the department from involvement with child care may be restrained by temporary or permanent injunction from providing unregistered, registered, or licensed child care or from other involvement with child care. The action may be instituted by the state, the county attorney, a political subdivision of the state, or an interested person.

[C77, 79, 81, §237A.20]

83 Acts, ch 153, §7; 90 Acts, ch 1248, §2; 99 Acts, ch 192, §18; 2002 Acts, ch 1142, §20, 31; 2003 Acts, ch 81, §10

Referred to in §237A.3, 237A.5

237A.21 and 237A.22 Repealed by 2010 Acts, ch 1031, §360, 361.

237A.23 Child care training and development system.

1. The departments of education, public health, and human services shall jointly establish a leadership council for child care training and development in this state. In addition to representatives of the three departments, the leadership council shall include but is not limited to representatives of community colleges, institutions of higher learning under the state board of regents and private institutions of higher education, the Iowa cooperative extension service in agriculture and home economics, and child care resource and referral service agencies.

2. The charge of the council is to develop a proposal for a statewide child care training and development system and to monitor implementation of the proposal. The purpose of the system is to improve support for persons providing or administering child care services. The system shall be developed in a manner so as to incorporate and enhance existing efforts to provide this support.

3. The proposal for the child care training and development system shall include all of the following elements:

a. Identification of core competencies for providers and administrators that may be incorporated into professional standards.

b. Establishing levels for professional development.

c. Implementing a professional experience registry to track the training, educational attainment, and experience of providers and administrators.

d. Implementing a unified training and technical assistance approach for identifying needs, ensuring equal access, and establishing minimum requirements for training and trainers.

e. Establishing an articulation process to permit recognition of training provided by entities that do not grant academic credit by entities that do grant academic credit.

f. Implementing a financing structure to support the training registry.

g. Identifying other means for enhancing the training and development of persons who provide and administer child care.

4. The proposal shall include an implementation plan and budget provisions and may provide for implementation through a contract with a private nonprofit agency.

99 Acts, ch 192, §21, 38; 2000 Acts, ch 1058, §26

237A.24 Reserved.**237A.25 Consumer information.**

1. The department shall develop consumer information material to assist parents in selecting a child care provider. In developing the material, the department shall consult with department of human services staff, department of education staff, the state child care advisory committee, the early childhood Iowa state board, and child care resource and referral services. In addition, the department may consult with other entities at the local, state, and national level.

2. The consumer information material developed by the department for parents and other consumers of child care services shall include but is not limited to all of the following:

a. A pamphlet or other printed material containing consumer-oriented information on locating a quality child care provider.

b. Information explaining important considerations a consumer should take into account in selecting a licensed or registered child care provider.

c. Information explaining how a consumer can identify quality services, including what questions to ask of providers and what a consumer might expect or demand to know before selecting a provider.

d. An explanation of the applicable laws and regulations written in layperson's terms.

e. An explanation of what it means for a provider to be licensed, registered, or unregistered.

f. An explanation of the information considered in registry and record background checks.

g. Other information deemed relevant to consumers.

3. The department shall implement and publicize an internet page or site that provides all of the following:

a. The written information developed pursuant to subsections 1 and 2.

b. Regular informational updates, including when a child care provider was last subject to a state quality review or inspection and, based upon a final score or review, the results indicating whether the provider passed or failed the review or inspection.

c. Capability for a consumer to be able to access information concerning child care providers, such as informational updates, identification of provider location, name, and capacity, and identification of providers participating in the state child care assistance program and those participating in the child care food program, by sorting the information or employing other means that provide the information in a manner that is useful to the consumer. Information regarding provider location shall identify providers located in the vicinity of an address selected by a consumer and provide contact information without listing the specific addresses of the providers.

d. Other information deemed appropriate by the department.

2003 Acts, 1st Ex, ch 2, §18, 209; 2010 Acts, ch 1031, §357, 361; 2017 Acts, ch 29, §57

Referred to in §237A.4A, 237A.30

237A.26 Statewide resource and referral services.

1. The department shall administer the funding for a statewide grant program for child care resource and referral services. Grants shall only be awarded to community-based nonprofit incorporated agencies and public agencies. Grants shall be awarded to facilitate the establishment of regional resource and referral agencies throughout the state, based upon the distribution of the child population in the state.

2. The department shall provide oversight of and annually evaluate an agency which is awarded a grant to provide resource and referral services to a region.

3. An agency which receives a grant to provide resource and referral services shall perform both of the following functions:

a. Organize assistance to child care homes and child care facilities utilizing training levels based upon the child care providers' degrees of experience and interest.

b. Operate in partnership with both public and private interests and coordinate resource and referral services with existing community services.

4. An agency may be required by the department to match the grant with financial resources of not more than twenty-five percent of the amount of the grant. The financial resources may include a private donation, an in-kind contribution, or a public funding source other than a separate state grant for child care service improvement.

5. An agency, to be eligible to receive a grant to provide resource and referral services, must have a board of directors if the agency is an incorporated nonprofit agency or must have an advisory board if the agency is a public agency, to oversee the provision of resource and referral services. The board shall include providers, consumers, and other persons interested in the provision or delivery of child care services.

6. An agency which receives a child care resource and referral grant may be awarded funding to provide various child care-related services, which may include but are not limited to any of the following services:

a. Assist families in selecting quality child care. The agency must provide referrals to registered and licensed child care facilities, and to persons providing care, supervision, and guidance of a child which is not defined as child care under section 237A.1 and may provide referrals to unregistered providers.

b. Assist child care providers in adopting appropriate program and business practices to provide quality child care services.

c. Provide information to the public regarding the availability of child care services in the communities within the agency's region.

d. Actively encourage the development of new and expansion of existing child care facilities in response to identified community needs.

e. Provide specialized services to employers, including the provision of resource and referral services to employee groups identified by the employer and the provision of

technical assistance to develop employer-supported child care programs. The specialized services may include but are not limited to working with employers to identify networks of recommended registered and licensed child care providers for employee groups and to implement employer-supported quality improvement initiatives among the network providers.

f. Refer eligible child care facilities to the federal child care food programs.

g. Loan toys, other equipment, and resource materials to child care facilities.

7. The department may contract with an agency receiving a child care resource and referral grant to perform any of the following functions relating to publicly funded services providing care, supervision, and guidance of a child:

a. Determine an individual's eligibility for the services in accordance with income requirements.

b. Administer a voucher, certificate, or other system for reimbursing an eligible provider of the services.

8. For purposes of improving the quality and consistency of data collection, consultation, and other support to child care home and child development home providers, a resource and referral services agency grantee shall coordinate and assist with publicly and privately funded efforts administered at the community level to provide the support. The support and efforts addressed by a grantee may include but are not limited to community-funded child care home and child development home consultants. Community members involved with the assistance may include but are not limited to the efforts of an early childhood Iowa area board under chapter 256I, and of community representatives of education, health, human services, business, faith, and public interests.

90 Acts, ch 1248, §4; 92 Acts, ch 1083, §5; 99 Acts, ch 192, §22; 2002 Acts, ch 1142, §23 – 26, 31; 2010 Acts, ch 1031, §301; 2011 Acts, ch 98, §1

Referred to in §237A.30, 256C.3

237A.27 Crisis child care. Repealed by 2002 Acts, ch 1142, §29, 31.

237A.28 Child care credit fund. Repealed by 2009 Acts, ch 182, §138.

237A.29 Public funding of child care — sanctions.

1. State funds and federal funds provided to the state in accordance with federal requirements shall not be used to pay for the care, supervision, and guidance of a child for periods of less than twenty-four hours per day on a regular basis unless the care, supervision, and guidance is defined as child care as used in this chapter.

2. a. For the purposes of this subsection, “*fraudulent means*” means knowingly making or causing to be made a false statement or a misrepresentation of a material fact, knowingly failing to disclose a material fact, or committing a fraudulent practice.

b. A child care provider that has been found by the department of inspections and appeals in an administrative proceeding or in a judicial proceeding to have obtained, or has agreed to entry of a civil judgment or judgment by confession that includes a conclusion of law that the child care provider has obtained, by fraudulent means, public funding for provision of child care in an amount equal to or in excess of the minimum amount for a fraudulent practice in the second degree under section 714.10, subsection 1, paragraph “a”, shall be subject to sanction in accordance with this subsection. Such child care provider shall be subject to a period during which receipt of public funding for provision of child care is conditioned upon no further violations and to one or more of the following sanctions as determined by the department of human services:

(1) Ineligibility to receive public funding for provision of child care.

(2) Suspension from receipt of public funding for provision of child care.

(3) Special review of the child care provider's claims for providing publicly funded child care.

c. The following factors shall be considered in determining the sanction or sanctions to be imposed under paragraph “b”, subparagraphs (1) through (3):

(1) Seriousness of the violation.

- (2) Extent of the violation.
- (3) History of prior violations.
- (4) Prior imposition of sanctions.
- (5) Prior provision of provider education.
- (6) Provider willingness to obey program rules.
- (7) Whether a lesser sanction will be sufficient to remedy the problem.

d. In determining the value of the public funding obtained by fraudulent means, if the public funding is obtained by two or more acts of fraudulent means by the same person or in the same location, or is obtained by different persons by two or more acts which occur in approximately the same location or time period so that the acts of fraudulent means used to obtain the public funding are attributable to a single scheme, plan, or conspiracy, these acts may be considered as a single instance of the use of fraudulent means and the value may be the total value of all moneys involved.

3. a. If a child care provider is subject to sanctions under subsection 2, within five business days of the date the sanctions are imposed, the provider shall submit to the department the names and addresses of children receiving child care from the provider. The department shall send information to the parents of the children regarding the provider's actions leading to the imposition of the sanctions and the nature of the sanctions imposed.

b. If the child care provider fails to submit the names and addresses within the time period required by paragraph "a", the department shall request that the attorney general file a petition with the district court of the county in which the provider is located for issuance of a temporary injunction enjoining the provider from providing child care until the names and addresses are submitted to the department. The attorney general may file the petition upon receiving the request from the department. Any temporary injunction may be granted without a bond being required from the department.

c. If the sanctions imposed under subsection 2 involve the provider's suspension or ineligibility for receiving public funding for provision of child care, the department shall not impose those sanctions before the parents of the affected children are informed, and upon request, shall provide assistance to the parents in locating replacement child care.

93 Acts, ch 76, §13; 99 Acts, ch 192, §25; 2002 Acts, ch 1104, §1; 2003 Acts, ch 44, §55; 2003 Acts, ch 81, §11, 12; 2004 Acts, ch 1086, §44; 2013 Acts, ch 30, §241

237A.30 Voluntary child care quality rating system.

1. The department shall work with the early childhood Iowa office in the department of management established in section 256I.5 and the state child care advisory committee in designing and implementing a voluntary quality rating system for each provider type of child care facility.

2. The criteria utilized for the rating system may include but are not limited to any of the following:

- a. Facility type.
- b. Provider staff experience, education, training, and credentials.
- c. Facility director education and training.
- d. An environmental rating score or other direct assessment environmental methodology.
- e. National accreditation.
- f. Facility history of compliance with law and rules.
- g. Child-to-staff ratio.
- h. Curriculum, including the extent to which the curriculum focuses on the stages of child development and on child outcomes.
- i. Business practices.
- j. Staff retention rates.
- k. Evaluation of staff members and program practices.
- l. Staff compensation and benefit practices.
- m. Provider and staff membership in professional early childhood organizations.
- n. Parental involvement with the facility.

3. A facility's quality rating may be included on the internet site and in the consumer information provided by the department pursuant to section 237A.25 and shall be identified

in the child care provider referrals made by child care resource and referral service grantees under section 237A.26.

99 Acts, ch 192, §33; 99 Acts, ch 203, §49; 2002 Acts, ch 1142, §27, 28, 31; 2005 Acts, ch 148, §20; 2006 Acts, ch 1010, §76; 2010 Acts, ch 1031, §302, 358, 361; 2013 Acts, ch 90, §257; 2015 Acts, ch 30, §85, 205, 208; 2019 Acts, ch 24, §28

CHAPTER 237B

CHILDREN'S CENTERS — FACILITY STANDARDS

Repealed by 2016 Acts, ch 1114, §12; see chapter 237C

CHAPTER 237C

CHILDREN'S RESIDENTIAL FACILITIES — CERTIFICATION AND INSPECTION

Referred to in §232.69, 282.34

237C.1	Definitions.	237C.6	Certificate application and issuance — denial, suspension, or revocation.
237C.2	Purpose.	237C.7	Restricted use of facility.
237C.3	Certification standards — consultation with other agencies.	237C.8	Reports and inspections.
237C.4	Rules and standards — requirements.	237C.9	Injunctive relief — civil action.
237C.5	Certificate of approval — certification required.	237C.10	Notice and hearings — judicial review.

237C.1 Definitions.

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

1. "Administrator" means the administrator of that division of the department designated by the director of human services to administer this chapter or the administrator's designee.
2. "Child" or "children" means an individual or individuals under eighteen years of age.
3. "Children's residential facility" means a private facility designed to serve children who have been voluntarily placed for reasons other than an exclusively recreational activity outside of their home by a parent or legal guardian and who are not under the custody or authority of the department of human services, juvenile court, or another governmental agency, that provides twenty-four-hour care, including food, lodging, supervision, education, or other care on a full-time basis by a person other than a relative or guardian of the child, but does not include an entity providing any of the following:
 - a. Care furnished by an individual who receives the child of a personal friend as an occasional and personal guest in the individual's home, free of charge and not as a business.
 - b. Care furnished by an individual with whom a child has been placed for lawful adoption, unless that adoption is not completed within two years after placement.
 - c. Child care furnished by a child care facility as defined in section 237A.1.
 - d. Care furnished in a hospital licensed under chapter 135B or care furnished in a health care facility as defined in section 135C.1.
 - e. Care furnished by a juvenile detention home or juvenile shelter care home approved under section 232.142.
 - f. Care furnished by a child foster care facility licensed under chapter 237.
 - g. Care furnished by an institution listed in section 218.1.
 - h. Care furnished by a facility licensed under chapter 125.
 - i. Care furnished by a psychiatric medical institution for children licensed under chapter 135H.

4. "Department" means the department of human services.
2016 Acts, ch 1114, §1

237C.2 Purpose.

It is the policy of this state to provide appropriate protection for children who are separated from the direct personal care of their parents, relatives, or guardians and, therefore, the purpose of this chapter is to provide for the development, establishment, and enforcement of standards relating to the certification of children's residential facilities.

2016 Acts, ch 1114, §2

237C.3 Certification standards — consultation with other agencies.

1. The department of human services shall consult with the department of education, the department of inspections and appeals, the department of public health, the state fire marshal, and other agencies as determined by the department of human services to establish certification standards for children's residential facilities in accordance with this chapter.

2. Standards established by the department under this chapter shall at a minimum address the basic health and educational needs of children; protection of children from mistreatment, abuse, and neglect; background and records checks of persons providing care to children in facilities certified under this chapter; the use of seclusion, restraint, or other restrictive interventions; health; safety; emergency; and the physical premises on which care is provided by a children's residential facility. The background check requirements shall be substantially equivalent to those applied under chapter 237 for a child foster care facility provider.

3. Standards established by the department under this chapter shall not regulate religious education curricula at children's residential facilities.

2016 Acts, ch 1114, §3

Referred to in §237C.4

237C.4 Rules and standards — requirements.

1. Except as otherwise provided in this section, the department shall adopt rules pursuant to chapter 17A to administer this chapter.

2. Before the administrator issues or reissues a certificate of approval to a children's residential facility under section 237C.6, the facility shall comply with standards adopted by the state fire marshal under chapter 100.

3. Rules governing sanitation, water, and waste disposal standards for children's residential facilities shall be adopted by the department of human services in consultation with the director of public health.

4. Rules governing educational programs and education services provided by children's residential facilities shall be adopted by the state board of education pursuant to section 282.34.

5. In the case of a conflict between rules and standards adopted pursuant to subsections 2 and 3 and local rules and standards, the more stringent requirement applies.

6. Rules adopted under this section shall not regulate religious education curricula at children's residential facilities.

7. Prior to establishing, proposing, adopting, or modifying a standard or rule under section 237C.3, this section, or section 282.34, the department of human services or the department of education, as applicable, shall, at a minimum, do all of the following:

- a. Publish the entire text of the proposed standard, rule, or modification on its internet site.

- b. Make every reasonable effort to notify the children's residential facilities in this state of the proposed standard, rule, or modification.

- c. Allow and invite any and all persons interested in the proposed standard, rule, or modification to submit written data, facts, opinions, comments, and arguments, which information shall be made publicly available and shall be filed with and maintained by the applicable department for at least five years from the date of submission to the applicable department.

2016 Acts, ch 1114, §4

Referred to in §282.34

237C.5 Certificate of approval — certification required.

A person shall not operate a children's residential facility without a certificate of approval to operate issued by the administrator under this chapter.

2016 Acts, ch 1114, §5

237C.6 Certificate application and issuance — denial, suspension, or revocation.

1. A person shall apply for a certificate to operate a children's residential facility by completing and submitting to the administrator an application in a form and format approved by the administrator. The administrator shall issue or reissue a certificate of approval if the administrator determines that the applicant is or upon commencing operation will provide children's residential facility services in compliance with this chapter. A certificate of approval is valid for up to one year from the date of issuance for the period determined by the administrator in accordance with administrative rules providing criteria for making the determination.

2. The certificate of approval shall state on its face the name of the holder of the certificate, the particular premises for which the certificate is issued, and the number of children who may be cared for by the children's residential facility on the premises at one time under the certificate of occupancy issued by the state fire marshal or the state fire marshal's designee. The certificate of approval shall be posted in a conspicuous place in the children's residential facility.

3. The administrator may deny an application for issuance or reissuance of a certificate of approval or suspend or revoke a certificate of approval if the applicant or certificate holder, as applicable, fails to comply with this chapter or the rules adopted pursuant to this chapter or knowingly makes a false statement concerning a material fact or conceals a material fact on the application for the issuance or reissuance of a certificate of approval or in a report regarding operation of the children's residential facility submitted to the administrator. All operations of a children's residential facility shall cease during a period of suspension or revocation. The administrator shall suspend or revoke a certificate of approval of a children's residential facility that fails to comply with section 282.34.

2016 Acts, ch 1114, §6

Referred to in §237C.4

237C.7 Restricted use of facility.

A children's residential facility shall operate only in a building or on premises designated in the certificate of approval.

2016 Acts, ch 1114, §7

237C.8 Reports and inspections.

The administrator may require submission of reports by a certificate of approval holder and shall cause at least one annual unannounced inspection of a children's residential facility to assess compliance with applicable requirements and standards. The inspections shall be conducted by the department of inspections and appeals in addition to initial, renewal, and other inspections that result from complaints or self-reported incidents. The department of inspections and appeals and the department of human services may examine records of a children's residential facility and may inquire into matters concerning the children's residential facility and its employees, volunteers, and subcontractors relating to requirements and standards for children's residential facilities under this chapter.

2016 Acts, ch 1114, §8

237C.9 Injunctive relief — civil action.

1. A person who establishes, conducts, manages, or operates a children's residential facility without a certificate of approval required pursuant to this chapter, or a children's residential facility with a certificate of approval that is not operating in compliance with rules adopted pursuant to this chapter or section 282.34, may be restrained by temporary or permanent injunction from providing children's residential facility services or from other involvement with child care. The action may be instituted by the state or a county attorney.

2. The parent or legal guardian of a child who is placed in a children's residential facility, the state, the department of education, or the school district in which the children's residential facility is located, may bring a civil action seeking relief from conduct constituting a violation of this chapter or section 282.34 or to prevent, restrain, or remedy such violation. A civil action brought by the department of education under this subsection shall be limited to seeking relief from conduct constituting a violation of section 282.34. Multiple petitioners may join in a single action under this subsection.

3. If successful in obtaining injunctive relief under this section, the petitioner shall be awarded reasonable attorney fees and court costs.

2016 Acts, ch 1114, §9

237C.10 Notice and hearings — judicial review.

The procedure governing notice and hearing to deny an application or suspend or revoke a certificate of approval shall be in accordance with rules adopted by the department.

2016 Acts, ch 1114, §10

CHAPTER 238

CHILD-PLACING AGENCIES

Referred to in §232B.9, 600A.6B

Child and family services, see chapter 234

238.1	Definitions.	238.19	Inspection generally.
238.2	“Child-placing agency” defined. Repealed by 2009 Acts, ch 133, §191.	238.20	Minimum inspection — record.
238.3	Authority to license.	238.21	Other inspecting agencies.
238.4	Granting of license conditional.	238.22	Licensee to aid inspection.
238.5	License required.	238.23	Repealed by 2002 Acts, ch 1102, §8.
238.6	Form of license.	238.24	Information confidential — exceptions.
238.7	Posting of license.	238.25	through 238.29 Repealed by 76 Acts, ch 1229, §38.
238.8	Record of license.	238.30	Repealed by 97 Acts, ch 99, §10.
238.9	Term of license.	238.31	Inspection of foster homes.
238.10	Revocation of license.	238.32	Authority to agencies.
238.11	Written charges — findings — notice.	238.33	through 238.41 Transferred to §232.158 – 232.166; 85 Acts, ch 173, §30.
238.12	Appeal — judicial review.	238.42	Agreement in child placements.
238.13	through 238.15 Repealed by 74 Acts, ch 1090, §211.	238.43	Exceptions.
238.16	Rules and regulations.	238.44	Contracts for services — liability for costs.
238.17	Forms for registration and record — preservation.	238.45	Penalty.
238.18	Duty of licensee.		

238.1 Definitions.

For the purpose of this chapter unless the context otherwise requires:

1. “*Administrator*” means the administrator of the division of child and family services of the department of human services.

2. “*Child*” means the same as defined in section 234.1.

3. “*Child-placing agency*” means any agency, whether public, semipublic, or private, which represents that the agency places children permanently or temporarily in private family homes or receives children for placement in private family homes, or which actually engages for gain or otherwise in the placement of children in private family homes.

4. “*Person*” or “*agency*” shall include individuals, institutions, partnerships, voluntary associations, and corporations, other than institutions under the management or control of any division or any administrator of the department of human services.

5. “*State division*” means the same as defined in section 234.1.

[C27, 31, 35, §3661-a58; C39, §3661.072; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §238.1]

83 Acts, ch 96, §157, 159; 84 Acts, ch 1279, §41; 94 Acts, ch 1046, §8; 96 Acts, ch 1034, §14; 2009 Acts, ch 133, §95

Referred to in §238.17, 600A.2

238.2 “Child-placing agency” defined. Repealed by 2009 Acts, ch 133, §191.

238.3 Authority to license.

The administrator may grant a license under this chapter for the period specified in section 238.9 for the conduct of any child-placing agency in this state.

[C27, 31, 35, §3661-a60; C39, §3661.074; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §238.3]

2002 Acts, ch 1102, §5

238.4 Granting of license conditional.

No such license shall be issued unless the person applying shall have shown that the person and the person’s agents are properly equipped by training and experience to find and select suitable temporary or permanent homes for children and to supervise such homes when children are placed in them, to the end that the health, morality, and general well-being of children placed by them shall be properly safeguarded.

[C27, 31, 35, §3661-a61; C39, §3661.075; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §238.4]

238.5 License required.

No person shall conduct a child-placing agency or solicit or receive funds for its support without an unrevoked license issued by the administrator within the twelve months preceding to conduct such agency.

[C27, 31, 35, §3661-a62; C39, §3661.076; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §238.5]

238.6 Form of license.

The license shall state the name of the licensee and the particular premises in which the business may be carried on.

[C27, 31, 35, §3661-a63; C39, §3661.077; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §238.6]

238.7 Posting of license.

Such license shall be kept posted in a conspicuous place on the licensed premises.

[C27, 31, 35, §3661-a64; C39, §3661.078; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §238.7]

238.8 Record of license.

A record of the licenses so issued shall be kept by the administrator.

[C27, 31, 35, §3661-a65; C39, §3661.079; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §238.8]

238.9 Term of license.

A license granted under this chapter shall be valid for three years from the date of issuance unless the license is revoked in accordance with section 238.10.

[C27, 31, 35, §3661-a66; C39, §3661.080; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §238.9]

2002 Acts, ch 1102, §6

Referred to in §238.3

238.10 Revocation of license.

The administrator may, after due notice and hearing, revoke the license:

1. In case the person to whom the same is issued violates any provision of this chapter.
2. When in the opinion of the administrator such agency is maintained in such a way as to waste or misuse funds contributed by the public or without due regard to sanitation or hygiene or to the health, comfort, or well-being of the child cared for or placed by the agency.
3. In case of violation by the licensee or the licensee's agents of any law of the state in a manner disclosing moral turpitude or unfitness to maintain such agency.
4. In case any such agency is conducted by a person of ill repute or bad moral character.
5. In case said agency operates in persistent violation of the reasonable regulations of the administrator governing such agencies.

[S13, §3260-k; C24, §3663; C27, 31, 35, §3661-a67; C39, §3661.081; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §238.10]

Referred to in §238.9

238.11 Written charges — findings — notice.

Written charges against the licensee shall be served upon the licensee at least ten days before hearing shall be had thereon and a written copy of the findings and decisions of the administrator upon hearing shall be served upon the licensee in the manner prescribed for the service of original notice in civil actions.

[C27, 31, 35, §3661-a68; C39, §3661.082; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §238.11]

Service of notice, R.C.P. 1.302 – 1.315

238.12 Appeal — judicial review.

Any licensee feeling aggrieved by any decision of the administrator revoking the licensee's license may appeal to the council on human services in the manner of form prescribed by such council. The council shall, upon receipt of such an appeal give the licensee reasonable notice and opportunity for a fair hearing before such council or its duly authorized representative or representatives. Following such hearing the council on human services shall take its final action and notify the licensee in writing.

Judicial review of the actions of the council may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A.

[C27, 31, 35, §3661-a69; C39, §3661.083; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §238.12]

83 Acts, ch 96, §157, 159; 2003 Acts, ch 44, §114

238.13 through 238.15 Repealed by 74 Acts, ch 1090, §211.

238.16 Rules and regulations.

It shall be the duty of the administrator to provide such general regulations and rules for the conduct of all such agencies as shall be necessary to effect the purposes of this chapter and of all other laws of the state relating to children so far as the same are applicable, and to safeguard the well-being of children placed or cared for by such agencies.

[C27, 31, 35, §3661-a73; C39, §3661.087; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §238.16]

238.17 Forms for registration and record — preservation.

1. The administrator shall prescribe forms for the registration and record of persons cared for by any child-placing agency licensed under this chapter and for reports required by said administrator from the agencies.

2. If, for any reason, a child-placing agency as defined by section 238.1 shall cease to exist, all records of registration and placement and all other records of any kind and character kept

by such child-placing agency shall be turned over to the administrator, for preservation, to be kept by the said administrator as a permanent record.

[C27, 31, 35, §3661-a74; C39, §3661.088; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §238.17]

2009 Acts, ch 133, §233

238.18 Duty of licensee.

A child-placing agency licensed under this chapter shall keep a record and make reports in the form to be prescribed by the administrator. For a child being placed by the agency, the agency's duties shall include compliance with the requirements of section 232.108 relating to visitation or ongoing interaction between the child and the child's siblings.

[C27, 31, 35, §3661-a75; C39, §3661.089; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §238.18]

2007 Acts, ch 67, §6

238.19 Inspection generally.

Authorized employees of the department of inspections and appeals may inspect the premises and conditions of the agency at any time and examine every part of the agency; and may inquire into all matters concerning the agency and the children in the care of the agency.

[S13, §3260-j; C24, §3669, 3684; C27, 31, 35, §3661-a76; C39, §3661.090; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §238.19]

90 Acts, ch 1204, §55

238.20 Minimum inspection — record.

Authorized employees of the department of inspections and appeals shall visit and inspect the premises of licensed child-placing agencies at least once every twelve months and make and preserve written reports of the conditions found.

[C27, 31, 35, §3661-a77; C39, §3661.091; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §238.20]

90 Acts, ch 1204, §56; 2007 Acts, ch 172, §11

238.21 Other inspecting agencies.

Authorized agents of the local board of health in whose jurisdiction a licensed child-placing agency is located may make inspection of the premises.

[C27, 31, 35, §3661-a78; C39, §3661.092; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §238.21]

90 Acts, ch 1204, §57

238.22 Licensee to aid inspection.

The licensees shall give all reasonable information to such inspectors and afford them every reasonable facility for obtaining pertinent information.

[C27, 31, 35, §3661-a79; C39, §3661.093; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §238.22]

238.23 Repealed by 2002 Acts, ch 1102, §8.

238.24 Information confidential — exceptions.

1. Except as authorized by this section, a person who acquires under this chapter or from the records provided for in this chapter, information relative to any agency or relative to any individual cared for by the agency or relative to any relative of the individual, shall not directly or indirectly disclose the information.

2. Disclosure of information acquired under this chapter or from the records provided for in this chapter is authorized under any of the following circumstances:

a. Disclosure made upon inquiry before a court of law, or before some other tribunal, or for the information of the governor, general assembly, medical examiners, administrator,

Iowa department of public health, or the local board of health in the jurisdiction where the agency is located.

b. Disclosure may be made by the administrator to proper persons as may be in the interest of a child cared for by the agency or in the interest of the child's parents or foster parents and not inimical to the child, or as may be necessary to protect the interests of the child's prospective foster parents. However, disclosure of termination and adoption records shall be governed by the provisions of sections 600.16 and 600.16A.

c. Disclosure for purposes of statistical analysis performed by duly authorized persons of data collected under this chapter or the publication of the results of such analysis in such manner as will not disclose confidential information.

[C27, 31, 35, §3661-a81; C39, §3661.095; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §238.24]

92 Acts, ch 1196, §2; 2002 Acts, ch 1102, §7

238.25 through 238.29 Repealed by 76 Acts, ch 1229, §38.

238.30 Repealed by 97 Acts, ch 99, §10.

238.31 Inspection of foster homes.

The administrator shall be satisfied that each licensed child-placing agency is maintaining proper standards in its work, and said administrator may at any time cause the child and home in which the child has been placed to be visited by the administrator's agents for the purpose of ascertaining whether the home is a suitable one for the child, and may continue to visit and inspect the foster home and the conditions therein as they affect said child.

[C27, 31, 35, §3661-a88; C39, §3661.102; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §238.31]

238.32 Authority to agencies.

Any institution incorporated under the laws of this state or maintained for the purpose of caring for, placing out for adoption, or otherwise improving the condition of unfortunate children may, under the conditions specified in this chapter and when licensed in accordance with the provisions of this chapter:

1. Receive children in need of assistance, or delinquent children who are under eighteen years of age, under commitment from the juvenile court, and control and dispose of them subject to the provisions of chapter 232 and chapter 600A.

2. Receive, control, and dispose of all minor children voluntarily surrendered to such institutions.

[S13, §254-a22, 3260-b; C24, §3662; C27, 31, 35, §3661-a89; C39, §3661.103; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §238.32]

Transferring legal custody of a child, §232.102, 232.103

238.33 through 238.41 Transferred to §232.158 – 232.166; 85 Acts, ch 173, §30.

238.42 Agreement in child placements.

Every agency placing a child in a foster home shall enter into a written agreement with the person taking the child, which agreement shall provide that the agency placing the child shall have access at all reasonable times to such child and to the home in which the child is living, and for the return of the child by the person taking the child whenever, in the opinion of the agency placing such child, or in the opinion of the administrator, the best interests of the child shall require it.

[C27, 31, 35, §3661-a97; C39, §3661.111; C46, 50, 54, 58, 62, 66, §238.40; C71, 73, 75, 77, 79, 81, §238.42]

Referred to in §238.43

238.43 Exceptions.

The provisions of section 238.42 shall not apply to children who have been legally adopted.
 [C27, 31, 35, §3661-a98; C39, §3661.112; C46, 50, 54, 58, 62, 66, §238.41; C71, 73, 75, 77, 79, 81, §238.43]

238.44 Contracts for services — liability for costs.

An agency which enters into a contract with a referral agency to provide child placement services is liable for the costs of services which are paid prior to the provision of services, if the services are not subsequently provided.

94 Acts, ch 1174, §5

238.45 Penalty.

Every person who violates any of the provisions of this chapter or who intentionally shall make any false statements or reports to the administrator with reference to the matters contained herein, shall be guilty of a fraudulent practice.

[C27, 31, 35, §3661-a100; C39, §3661.114; C46, 50, 54, 58, 62, 66, §238.43; C71, 73, 75, 77, 79, 81, §238.45]

CHAPTER 239

RESERVED

CHAPTER 239A

PUBLIC WORKS POSITIONS FOR CERTAIN PERSONS

239A.1 Who may be placed.
 239A.2 Projects determined.

239A.3 Target areas selected.

239A.1 Who may be placed.

Any person who is receiving or has obtained approval of an application to receive assistance under chapter 239B, and who is eligible under the promoting independence and self-sufficiency through employment job opportunities and basic skills program, may be referred to the department of workforce development for placement in public works positions available pursuant to this chapter or to such other authority as may be applicable.

[C77, 79, 81, §239A.1]

96 Acts, ch 1186, §23; 97 Acts, ch 41, §32

Referred to in §239A.2, 239A.3

239A.2 Projects determined.

The department of workforce development, in consultation with the director of human services, shall establish a procedure for assignment of persons referred under section 239A.1 to positions available in public works projects. The department of workforce development shall arrange with units of local government for establishment of such projects, which may include any type of work or endeavor that is within the scope of authority of the unit of local government involved so long as the project meets the following requirements:

1. The project must create new employment opportunities and not fund existing employment of persons working for the local government unit or resume funding of projects for which the local government unit has, without fault, terminated employees within the previous six months and has not recalled those employees.
2. The benefits of the project result must inure primarily to the community or public at large.
3. The following conditions of employment must be satisfied:

a. The unit of local government with which the project is arranged must be the employer of the persons hired under the project.

b. The employees under the project must be paid at the same rate as other employees doing similar work for that unit of local government.

c. The employees must be considered regular employees of the unit of local government involved and must be entitled to participate in benefit programs of that unit of local government, including but not limited to workers' compensation, but shall not be entitled to qualify for unemployment compensation benefits on the basis of employment under the project.

[C77, 79, 81, §239A.2; 82 Acts, ch 1161, §27]

83 Acts, ch 96, §157, 159; 96 Acts, ch 1186, §23

Referred to in §239A.3

239A.3 Target areas selected.

The department of workforce development shall select not to exceed two target counties for implementation of sections 239A.1 and 239A.2. In selecting the target county or counties in which this chapter is to be implemented, the department of workforce development shall be guided by the following criteria:

1. The total number of unemployed persons in the county.
2. The number of unemployed persons in the county as a percentage of the available workforce there.
3. The total number of persons receiving assistance under chapter 239B in that county.
4. The number of persons receiving assistance under chapter 239B in that county as a percentage of the total population of the county.
5. The number of unemployed heads of households receiving assistance under chapter 239B in that county.
6. The number of unemployed heads of households receiving assistance under chapter 239B in that county as a percentage of all recipients of such assistance in that county.

[C77, 79, 81, §239A.3]

96 Acts, ch 1186, §23; 97 Acts, ch 41, §32

CHAPTER 239B

FAMILY INVESTMENT PROGRAM

Referred to in §84A.6, 216A.107, 217.30, 217.36, 234.6, 239A.1, 239A.3, 249A.2, 252B.3, 252B.4, 252B.6A, 252B.20, 252B.20A, 252C.1, 252D.8, 252E.1, 252E.2A, 422.9, 541A.2, 598.22A

239B.1	Definitions.	239B.11A	Transitional benefits. Repealed by 2008 Acts, ch 1187, §96, 97.
239B.2	Conditions of eligibility.	239B.12	Immunization.
239B.2A	School attendance. Repealed by 2004 Acts, ch 1043, §11.	239B.13	Needy relative payee — protective payee — vendor payment.
239B.2B	Eligibility of noncitizens.	239B.14	Fraudulent practices — recovery of overpayments.
239B.2C	Absence from home — incarceration.	239B.15	County attorney to enforce.
239B.3	Cash assistance.	239B.16	Appeal — judicial review.
239B.4	Departmental role.	239B.17	PROMISE JOBS program.
239B.5	Compliance with federal law — prohibited electronic benefit transfer transactions.	239B.18	JOBS program participation.
239B.6	Assignment of support rights or benefits.	239B.19	JOBS program availability.
239B.7	Income and resource exemptions, deductions, and disregards.	239B.20	JOBS program health and safety.
239B.8	Family investment agreements.	239B.21	JOBS program — workers' compensation law applicable.
239B.9	Limited benefit plan.	239B.22	JOBS program — participant not state employee.
239B.10	Minor and young parents — other requirements.	239B.23	Child day care provisions. Repealed by 98 Acts, ch 1218, §82.
239B.11	Family investment program account — diversion program subaccount — diversion program.	239B.24	State child care assistance eligibility.

239B.1 Definitions.

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

1. “*Applicant*” means a person who files an application for participation in the family investment program under this chapter.
2. “*Assistance*” means a family investment program payment.
3. “*Child*” means an unmarried person who is less than eighteen years of age or an unmarried person who is eighteen years of age and is engaged full-time in completing high school graduation or equivalency requirements in a manner which is reasonably expected to result in completion of the requirements prior to the person reaching nineteen years of age.
4. “*Department*” means the department of human services.
5. “*Family*” means a family unit that includes at least one child and at least one parent or other specified relative of the child.
6. “*Family investment agreement*” means the agreement developed with a participant in accordance with section 239B.8.
7. “*Family investment program*” means the family investment program under this chapter.
8. “*Limited benefit plan*” means a period of time in which a participant or member of a participant’s family is either eligible for reduced assistance only or ineligible for any assistance under the family investment program, in accordance with section 239B.9.
9. “*Minor parent*” means an applicant or participant parent who is less than eighteen years of age and has never been married.
10. “*Participant*” means a person who is receiving full or partial family investment program assistance. For the purposes of sections 239B.8 and 239B.9, “*participant*” also includes each individual who does not directly receive assistance but who is required to be engaged in work or training options specified in the participant’s family investment agreement entered into under section 239B.8.
11. “*PROMISE JOBS program*” or “*JOBS program*” means the promoting independence and self-sufficiency through employment job opportunities and basic skills program created in section 239B.17.
12. “*Specified relative*” means a person who is, or was at any time, one of the following

relatives of an applicant or participant child, by means of blood relationship, marriage, or adoption, or is a spouse of one of the following relatives:

- a. Parent.
- b. Grandparent.
- c. Great-grandparent.
- d. Great-great-grandparent.
- e. Stepparent of the child, but not the parent of the stepparent.
- f. Sibling.
- g. Stepsibling.
- h. Sibling by at least the half blood.
- i. Uncle or aunt by at least the half blood.
- j. Great-uncle or great-aunt.
- k. Great-great-uncle or great-great-aunt.
- l. First cousin.
- m. Nephew or niece.
- n. Second cousin.

97 Acts, ch 41, §2, 34; 2007 Acts, ch 124, §1

Referred to in §252B.1

239B.2 Conditions of eligibility.

Within available funding, the department shall make assistance available to eligible families under the family investment program. At a minimum, a family shall meet all of the following conditions of eligibility:

1. *Application.* An application for the program is made to the department. The application shall be in writing or reduced to writing in the manner and upon the form prescribed by the department. The application shall be made by the specified relative with whom the child resides or will reside, and shall contain the information required on the application form. One application may be made for several children of the same family if the children reside or will reside with the same specified relative.

2. *Income and resources.* The family meets income and resource guidelines established by the department to attain or retain financial eligibility. In determining a family's income and resources, the department shall consider the income and resources of the child, the child's parent, the child's stepparent living with the child, or any other specified relative with whom the child resides or will reside available to the family unless specifically exempted as provided in section 239B.7 or by rule or unless otherwise provided by federal law. A family's failure to meet the income or resource guidelines shall result in denial of the family's eligibility for the program.

3. *Unemployment.*

a. A determination of eligibility for a family with an unemployed parent shall not include consideration of either parent's number of hours of employment. Both parents must enter into and participate in a family investment agreement and participate in JOBS program activities unless good cause not to participate is established in accordance with rules.

b. Any of the following reasons for refusing employment or training are not good cause:

(1) Unsuitable or unpleasant work or training, if the parent is able to perform the work or training without unusual danger to the parent's health.

(2) The amount of wages or compensation, unless the wages for employment are below the amount customary for the same work in the community.

4. *Written statement — family investment agreement.*

a. The department may require an applicant family to commit to the initial actions the applicant family will take to achieve self-sufficiency as contained in a signed, written statement. An applicant family which fails to commit to the actions as contained in the written statement shall be denied eligibility for the family investment program. If the applicant family becomes a participant family, the family's written statement may be replaced by, incorporated within, or become the family investment agreement for that family.

b. Unless exempt as provided in section 239B.8, a participant family which is eligible for the program shall continue to comply with the provisions of a written statement which

contains actions committed to by the family under paragraph “a” or shall enter into a family investment agreement with the department. A participant family must comply with the provisions of the written statement or the conditions in the agreement in order to retain eligibility. A participant family which does not comply shall be deemed to have chosen a limited benefit plan.

5. *Provision of information.* The family provides requested information to the department. The department shall adopt rules specifying the conditions under which an applicant or participant family is denied eligibility for family investment program assistance for failure to provide requested information.

6. *Cooperation with child support requirements.* The department shall provide for prompt notification of the department’s child support recovery unit if assistance is provided to a child whose parent is absent from the home. An applicant or participant shall cooperate with the child support recovery unit and the department as provided in 42 U.S.C. §608(a)(2) unless the applicant or participant qualifies for good cause or other exception as determined by the department in accordance with the best interest of the child, parent, or specified relative, and with standards prescribed by rule. The authorized good cause or other exceptions shall include participation in a family investment agreement safety plan option to address or prevent family or domestic violence and other consideration given to the presence of family or domestic violence. If a specified relative with whom a child is residing fails to comply with these cooperation requirements, a sanction shall be imposed as defined by rule in accordance with state and federal law.

7. *Periodic reviews.* As a condition of eligibility, the department may require periodic reports from a participant concerning the participant’s income, resources, family composition, and other circumstances. If the participant’s circumstances change, the participant’s assistance may be continued, renewed, suspended, changed in amount, or entirely withdrawn, as determined in accordance with rule.

8. *Out-of-state assistance.* Assistance shall be paid to a participant residing temporarily out-of-state if the participant retains residency in this state and remains otherwise eligible for assistance. The department shall periodically redetermine the eligibility of a participant who is temporarily residing out-of-state.

97 Acts, ch 41, §3, 34; 98 Acts, ch 1218, §50; 99 Acts, ch 100, §1; 2000 Acts, ch 1088, §2; 2009 Acts, ch 41, §263

Referred to in §239B.2B, 239B.3, 239B.9

239B.2A School attendance. Repealed by 2004 Acts, ch 1043, §11.

239B.2B Eligibility of noncitizens.

A person who meets the conditions of eligibility under section 239B.2 and who meets either of the following requirements shall be eligible for participation in the family investment program:

1. The person is a conditional resident alien who was battered or subjected to extreme cruelty, or whose child was battered or subjected to extreme cruelty, perpetrated by the person’s spouse who is a United States citizen or lawful permanent resident as described in 8 C.F.R. §216.5(a)(3).

2. The person was battered or subjected to extreme cruelty, or the person’s child was battered or subjected to extreme cruelty, perpetrated by the person’s spouse who is a United States citizen or lawful permanent resident and the person’s petition has been approved or a petition is pending that sets forth a prima facie case that the person has noncitizen status under any of the following categories:

a. Status as a spouse or child of a United States citizen or lawful permanent resident under the federal Immigration and Nationality Act, §204(a)(1), as codified in 8 U.S.C. §1154(a)(1)(A).

b. Status as a spouse or child who was battered or subjected to extreme cruelty by a United States citizen or lawful permanent resident, under the federal Immigration and Nationality Act, §204(a)(iii), as codified in 8 U.S.C. §1154(a)(1)(A)(iii).

c. Classification as a person lawfully admitted for permanent residence under the federal Immigration and Nationality Act.

d. Suspension of deportation and adjustment of status under the federal Immigration and Nationality Act, §244(a), as in effect before the date of enactment of the federal Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

e. Cancellation of removal or adjustment of status under the federal Immigration and Nationality Act, §240A, as codified in 8 U.S.C. §1229b.

f. Status as an asylee, if asylum is pending, under the federal Immigration and Nationality Act, §208, as codified in 8 U.S.C. §1158.

2002 Acts, ch 1175, §27

239B.2C Absence from home — incarceration.

An individual family member who is absent from the home for more than three months because the individual is incarcerated in jail or a correctional facility shall not be included in the family unit for purposes of assistance.

2012 Acts, ch 1133, §98

239B.3 Cash assistance.

1. a. Within available funding, the department shall provide an ongoing cash assistance grant under the family investment program to a family eligible under section 239B.2.

b. For an eligibility decision involving an applicant family with a specified relative, within thirty days of the date of an application, the department shall authorize issuance of notice of the department's decision to the specified relative.

2. For an applicant or participant family, the department shall calculate and pay the cash assistance grant on a monthly basis, taking into consideration all of the following:

a. The income and resources of the family.

b. Whether the family has entered into a limited benefit plan.

c. The size of the family.

d. Available funding.

3. The department may pay cash assistance and other cash benefits paid under this chapter by warrant, through a direct deposit to a financial institution of a participant, or through an electronic benefits transfer.

4. The department may pay, from funds appropriated for this purpose, a maximum of four hundred dollars toward funeral expenses on the death of a child who is a participant or has been authorized to participate in the family investment program, provided both of the following conditions apply:

a. The decedent does not leave an estate which may be probated with sufficient proceeds to allow for payment of the funeral expenses.

b. Payments which are due the decedent's estate or beneficiary by reason of the liability of a life insurance, death or funeral benefit company, association, or society, or in the form of United States social security, railroad retirement, or veterans' benefits upon the death of the decedent, are deducted from the department's payment under this section.

97 Acts, ch 41, §4, 34; 99 Acts, ch 100, §2

239B.4 Departmental role.

1. The department is the state entity designated to administer federal funds received for purposes of the family investment program and the JOBS program under this chapter, including but not limited to the funding received under the federal temporary assistance for needy families block grant as authorized under the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, as reauthorized under the federal Deficit Reduction Act of 2005, Pub. L. No. 109-171, and as codified in 42 U.S.C. §601 et seq., and as such is the lead agency in preparing and filing state plans, state plan amendments, and other reports required by federal law.

2. The department is responsible for a management information system, eligibility determination, participant grant calculations and issuance of payments, contracting for services, provision of an appeal or resolution process to applicants and participants,

determining the suitability of a family home maintained by a specified relative applicant or participant, and other activities as necessary to administer the family investment program and the JOBS program.

3. The department shall develop and use a screening tool for determining the likely presence of family and domestic violence affecting applicant and participant families. The department shall require the use of the screening tool by trained employees.

4. The department shall continue to work with the department of workforce development and local community collaborative efforts to provide support services for participants. The support services shall be directed to those participant families who would benefit from the support services and are likely to have success in achieving economic independence.

5. The department shall continue to work with religious organizations and other charitable institutions to increase the availability of host homes, referred to as second chance homes, or other living arrangements under the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, §103, and any successor legislation. The purpose of the homes or arrangements is to provide a supportive and supervised living arrangement for minor parents receiving assistance who may receive assistance while living in an alternative setting other than with their parent or legal guardian.

6. The department may adopt rules pursuant to chapter 17A as necessary to administer this chapter.

97 Acts, ch 41, §5, 34; 98 Acts, ch 1218, §51; 2005 Acts, ch 175, §106; 2007 Acts, ch 124, §2

239B.5 Compliance with federal law — prohibited electronic benefit transfer transactions.

1. If, as a condition of receiving federal funds for the family investment program, federal law requires implementation and administration of certain activities during a period when the general assembly is not in session, the department shall proceed to implement and administer those provisions, even if in conflict with other existing state law. However, the period of implementation authorized under this subsection shall end upon the adjournment of the regular session of the general assembly immediately following the commencement of the period of implementation.

2. The department may submit waiver requests to the United States department of health and human services as necessary to implement and administer any provision under this chapter, or to implement any subsequent initiative that requires a waiver from federal law.

3. *a.* The provisions of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, §115, shall not apply to an applicant or participant.

b. However, unless exempt for good cause under rules adopted by the department for this purpose, an applicant or participant convicted under federal or state law of a felony offense, which has as an element the possession, use, or distribution of a controlled substance, as defined in 21 U.S.C. §802(6), shall be required to participate in drug rehabilitation activities or to fulfill other requirements to verify that the applicant or participant does not illegally possess, use, or distribute a controlled substance.

4. *a.* The department shall implement policies and procedures as necessary to comply with provisions of the federal Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, to prevent assistance provided under this chapter from being used in any electronic benefit transfer transaction in any liquor store; any casino, gambling casino, or gaming establishment; or any retail establishment which provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment. For purposes of this paragraph, the definitions found in the federal Middle Class Tax Relief and Job Creation Act and related rules and statutes apply.

b. Unless otherwise precluded by federal law or regulation, policies and procedures implemented under this subsection shall at a minimum impose the prohibition described in paragraph “a” as a condition for continued eligibility for assistance under this chapter.

c. The department may implement additional measures as may be necessary to comply with federal regulations in implementing paragraph “a”.

d. The department shall adopt rules as necessary to implement this subsection.

97 Acts, ch 41, §6, 34; 2013 Acts, ch 138, §90

Referred to in §239B.14, 331.301, 414.1

239B.6 Assignment of support rights or benefits.

1. An assignment of support rights to the department is created by either of the following:

a. An applicant and other persons covered by an application are deemed to have assigned to the department at the time of application all rights to periodic support payments that accrue during the period the family receives assistance to the extent of the amount of assistance received by the applicant and by other persons covered by the application.

b. A determination that a child or another person covered by an application is eligible for assistance under this chapter creates an assignment by operation of law to the department of all rights to periodic support payments that accrue during the period the family receives assistance not to exceed the amount of assistance received by the child and other persons covered by the application.

2. An assignment takes effect upon determination that an applicant or another person covered by an application is eligible for assistance under this chapter, applies to both current and accruing support obligations, and terminates when an applicant or another person covered by an application ceases to receive assistance under this chapter, except with respect to the amount of unpaid support obligations accrued during the assignment. If an applicant or another person covered by an application ceases to receive assistance under this chapter and the applicant or other person covered by the application receives a periodic support payment, subject to limitations under federal law and subject to subsection 3, the department is entitled only to that amount of the periodic support payment above the current periodic support obligation.

3. Any rights to support payments assigned to the department on or before September 30, 2009, shall remain assigned to the department.

4. Assistance paid or payable under this chapter is not transferable or assignable at law or in equity, and none of the assistance paid or payable is subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law.

97 Acts, ch 41, §7, 34; 2008 Acts, ch 1019, §1, 2, 7

Referred to in §252A.13, 252C.2, 598.21C, 598.34, 600B.38

239B.7 Income and resource exemptions, deductions, and disregards.

In determining a family's income and resources for purposes of the family's initial and continuing eligibility for assistance and for determining grant amounts, the provisions of this section shall apply to the family and individual family members.

1. *Work expense deduction.* If an individual's earned income is considered by the department, the individual shall be allowed a work expense deduction equal to twenty percent of the earned income. The work expense deduction is intended to include all work-related expenses other than child care. These expenses shall include but are not limited to all of the following: taxes, transportation, meals, uniforms, and other work-related expenses.

2. *Work-and-earn incentive.* If an individual's earned income is considered by the department, the individual shall be allowed a work-and-earn incentive. The incentive shall be equal to fifty-eight percent of the amount of earned income remaining after all other deductions are applied. The department shall disregard the incentive amount when considering the earned income available to the individual. The incentive shall not have a time limit. The work-and-earn incentive shall not be withdrawn as a penalty for failure to comply with family investment program requirements.

3. *Income consideration.* If an individual has timely reported an absence of income to the department, consideration of the individual's income shall cease beginning in the first month the income is absent.

4. *Interest income.* Interest income shall be disregarded.

5. *Individual development account deposits.* The department shall disregard as income

any moneys an individual deposits in an individual development account established pursuant to chapter 541A.

6. *Motor vehicle disregard.* The department shall disregard the value of one motor vehicle. The countable equity value of any additional motor vehicle shall apply to the resource limitation established in subsection 7.

7. *Resource limitation.*

a. The resource limitation for an applicant family for the family investment program shall be two thousand dollars.

b. The resource limitation for a participant family shall be five thousand dollars.

c. The department shall disregard not more than ten thousand dollars of a self-employed individual's tools of the trade or capital assets in considering the individual's resources.

8. *Individual development account earnings and balance.* The department shall disregard any earnings and the balance of an individual development account established pursuant to chapter 541A in considering an individual's resources.

97 Acts, ch 41, §8, 34 – 36; 99 Acts, ch 192, §33, 34; 2004 Acts, ch 1043, §1, 12; 2007 Acts, ch 124, §3, 4, 6

Referred to in §239B.2

239B.8 Family investment agreements.

The department shall establish a policy regarding the implementation of family investment agreements which limits the period of eligibility for the family investment program based upon the requirements of a family's plan for self-sufficiency. The policy shall require a family's plan to be specified in a family investment agreement between the family and the department. The department shall adopt rules to administer the policy. The components of the policy shall include but are not limited to all of the following:

1. *Participation — exemptions.* A parent living in a home with a child for whom an application for family investment program assistance has been made or for whom the assistance is provided, and all other individual members of the family whose needs are included in the assistance shall be subject to a family investment agreement unless exempt under rules adopted by the department or unless any of the following conditions exists:

a. The individual is less than sixteen years of age and is not a parent.

b. The individual is sixteen through eighteen years of age, is not a parent, and is attending elementary or secondary school, or the equivalent level of vocational or technical education program, on a full-time basis. If an individual loses exempt status under this paragraph and the individual has signed a family investment agreement, the individual shall remain subject to the terms of the agreement until the terms are completed.

c. The individual is not a United States citizen and is not a qualified alien as defined in 8 U.S.C. §1641.

2. *Agreement options.* A family investment agreement shall require an individual who is subject to the agreement to engage in one or more work or training options. An individual's level of engagement in one or more of the work or training options shall be equivalent to the level of commitment required for full-time employment or shall be significant so as to move the individual's level of engagement toward that level. The department shall adopt rules defining option requirements and establishing assistance provisions for child care, transportation, and other support services. A leave from engagement in work or training options shall be offered to a participant parent to address the birth of a child or the placement of a child with the participant parent for adoption or foster care. If such a leave is requested by the parent the combined duration of the leave shall not exceed the minimum leave duration, as outlined in the federal Family and Medical Leave Act of 1993, §102(a) and (b)(1), as codified in 29 U.S.C. §2612(a) and (b)(1). The terms of the leave shall be incorporated into the family investment agreement. The work or training options shall include but are not limited to all of the following:

a. *Employment.* Full-time or part-time employment.

b. *Employment search.* Active job search.

c. *JOBS.* Participation in the JOBS program.

d. *Education.* Participation in other education or training programming.

e. *Family development.* Participation in a family development and self-sufficiency grant program under section 216A.107 or other family development program.

f. *Work experience.* Work experience placement.

g. *Community service.* Unpaid community service.

h. *Parenting skills.* Participation in an arrangement which would strengthen the individual's ability to be a better parent, including but not limited to participation in a parenting education program.

i. *Family or domestic violence.* Participation in a safety plan to address or prevent family or domestic violence. The safety plan may include a temporary waiver period from required participation in the JOBS program or other employment-related activities, as appropriate for the situation of the applicant or participant. All applicants and participants shall be informed regarding the existence of this option. Participation in this option shall be subject to review in accordance with administrative rule.

j. *Incremental family investment agreements.* If an individual participant or the entire family has an acknowledged barrier, the plan for self-sufficiency may be specified in one or more incremental family investment agreements.

3. *Limited benefit plan.* If a participant fails to comply with the provisions of the participant's family investment agreement during the period of the agreement, the limited benefit plan provisions of section 239B.9 shall apply.

4. *Completion of agreement.*

a. Upon the completion of the terms of the agreement, family investment program assistance to a participant family covered by the agreement shall cease or be reduced in accordance with rules.

b. However, if the period in which a participant family is without cash assistance is one month or less and the participant family has not become exempt from JOBS program participation at the time the participant family reapplies for cash assistance, the participant family's family investment agreement shall be reinstated at the time the participant family reapplies. The reinstated agreement may be revised to accommodate changed circumstances present at the time of reapplication.

c. The department shall adopt rules to administer this subsection and to determine when a family is eligible to reenter the family investment program.

5. *Contracts.* The department may contract with the department of workforce development, economic development authority, or any other entity to provide services relating to a family investment agreement.

6. *Confidential information disclosure.* If approved by the director of human services or the director's designee pursuant to a written request, the department shall disclose confidential information described in section 217.30, subsection 2, to other state agencies or to any other entity which is not subject to the provisions of chapter 17A and is providing services to a participant family who is subject to a family investment agreement, if necessary in order for the participant family to receive the services. The department shall adopt rules establishing standards for disclosure of confidential information if disclosure is necessary in order for a participant to receive services.

97 Acts, ch 41, §9, 34; 98 Acts, ch 1218, §52; 99 Acts, ch 192, §33; 2000 Acts, ch 1088, §3; 2001 Acts, ch 128, §1; 2001 Acts, ch 191, §41; 2004 Acts, ch 1043, §2, 3; 2005 Acts, ch 121, §10; 2007 Acts, ch 124, §5; 2008 Acts, ch 1072, §4, 5; 2011 Acts, ch 118, §85, 89; 2016 Acts, ch 1108, §23; 2019 Acts, ch 125, §4

Referred to in §239B.1, 239B.2, 239B.9, 239B.18

239B.9 Limited benefit plan.

1. General provisions.

a. If a participant responsible for signing and fulfilling the terms of a family investment agreement, as defined by the director of human services in accordance with section 239B.8, chooses not to sign or fulfill the terms of the agreement, the participant's family, or the individual participant shall enter into a limited benefit plan. Initial actions in a written statement under section 239B.2, subsection 4, which were committed to by a participant during the application period and which commitment remains in effect, shall be considered

to be a term of the participant's family investment agreement. A limited benefit plan shall apply for the period of time specified in this section. The first month of the limited benefit plan is the first month after the month in which timely and adequate notice of the limited benefit plan is given to the participant as defined by the director of human services. The elements of a limited benefit plan shall be specified in the department's rules.

b. For purposes of this lettered paragraph, "*significant contact with or action in regard to the JOBS program*" means the individual participant communicates to the JOBS program worker the desire to engage in JOBS program activities, signs a new or updated family investment agreement, and takes any other action required by the department in accordance with rules adopted for this purpose. A limited benefit plan applied in error shall not be considered to have been applied. A limited benefit plan is applicable to the individual participant choosing the limited benefit plan and to the individual participant's family members to which the plan is applicable under subsection 2. A limited benefit plan shall either be a first limited benefit plan or a subsequent limited benefit plan. A limited benefit plan shall be applied as follows:

(1) A first limited benefit plan shall provide for continuing ineligibility for assistance until the individual participant completes significant contact with or action in regard to the JOBS program.

(2) A limited benefit plan subsequent to a first limited benefit plan chosen by the same individual participant shall provide for a specified period of ineligibility of six months or less beginning with the effective date of the limited benefit plan and continuing indefinitely following the specified period until the individual participant completes significant contact with or action in regard to the JOBS program. The department shall adopt rules defining the circumstances for which a particular period of ineligibility will be specified.

(3) For a two-parent family in which both parents are responsible for a family investment agreement, a first or subsequent limited benefit plan shall remain applicable until both parents complete significant contact with or action in regard to the JOBS program. A limited benefit plan applied more than once to the same two-parent family shall be treated as a subsequent limited benefit plan.

2. *Plan applied.* The department shall apply the limited benefit plan to the participants responsible for the family investment agreement and other members of the participant's family as follows:

a. *Parent.* If the participant responsible for the family investment agreement is a parent, the limited benefit plan is applicable to the entire participant family.

b. *Needy relative or incapacitated stepparent.* If the participant choosing a limited benefit plan is a needy relative who acts as payee when the parent is in the home but is unable to act as payee, is a needy relative who assumes the role of parent, or is a dependent child's stepparent whose needs are included in the assistance because of incapacity, the limited benefit plan shall apply only to the individual participant choosing the plan.

c. *Minor parent living with adult parent or specified relative.* If the participant family includes a minor parent living with the minor parent's adult parent or specified relative who receives family investment program assistance and both individuals are responsible for developing a family investment agreement, each individual is responsible for a separate family investment agreement, and the limited benefit plan shall be applied as follows:

(1) If the adult parent chooses the limited benefit plan, the requirements of the limited benefit plan shall apply to the entire participant family, even though the minor parent has not chosen the limited benefit plan. However, the minor parent may reapply for assistance as a minor parent living with self-supporting parents or living independently and continue in the family investment agreement process.

(2) If the minor parent chooses the limited benefit plan, the requirements of the limited benefit plan shall apply to the minor parent and any child of the minor parent.

(3) If the specified relative chooses the limited benefit plan, the requirements of the limited benefit plan shall apply only to the specified relative.

d. *Minor parent — only child.* If the minor parent is the only child in the adult parent's or specified relative's home and the minor parent chooses the limited benefit plan, assistance shall not be paid to the adult parent or specified relative in this instance.

e. Children who are mandatory JOBS program participants. If the participant family includes children who are mandatory JOBS program participants, the children shall not have a separate family investment agreement but shall be asked to sign the family investment agreement applicable to the family and to carry out the responsibilities of that family investment agreement. A limited benefit plan shall be applied as follows:

(1) If the parent or specified relative responsible for a family investment agreement meets the responsibilities of the family investment agreement but a child who is a mandatory JOBS program participant chooses an individual limited benefit plan, the family is eligible for reduced assistance during the child's limited benefit plan.

(2) If the child who chooses a limited benefit plan under subparagraph (1) is the only child in the participant family, assistance shall not be paid to the adult parent, parents, or specified relative in this instance.

f. Exempt parent. If a participant family includes a parent, parents, or specified relative who are exempt from JOBS program participation and children who are mandatory JOBS program participants, the children are responsible for completing a family investment agreement. If a child who is a mandatory JOBS program participant chooses the limited benefit plan, the limited benefit plan shall be applied in the manner provided in paragraph "e".

g. Two parents. If the participant family includes two parents, a limited benefit plan shall be applied as follows:

(1) If only one parent of a child in the family is responsible for a family investment agreement and that parent chooses the limited benefit plan, the limited benefit plan cannot be ended by the voluntary participation in a family investment agreement by the exempt parent. If the parent responsible for the family investment agreement chooses a limited benefit plan, the limited benefit plan applies to the entire family.

(2) If both parents of a child in the family are responsible for a family investment agreement, both parents shall sign the agreement. If either parent chooses the limited benefit plan, the limited benefit plan cannot be ended by the participation of the other parent in a family investment agreement.

(3) If the parents from a two-parent family in a limited benefit plan separate, the limited benefit plan shall follow only the parent who chose the limited benefit plan and any children in the home of that parent.

3. *Plan chosen.* A participant shall be considered to have chosen a limited benefit plan under any of the following circumstances:

a. A participant who does not establish an orientation appointment with the JOBS program or who fails to keep or reschedule an orientation appointment shall receive a reminder letter which informs the participant that those who do not attend orientation have elected to choose a limited benefit plan. A participant who chooses not to respond to the reminder letter within ten calendar days from the mailing date shall receive notice establishing the effective date of the limited benefit plan. If a participant is deemed to have chosen a limited benefit plan, timely and adequate notice provisions, as determined by the director of human services, shall apply.

b. A participant who chooses not to sign the family investment agreement after attending a JOBS program orientation shall enter into a limited benefit plan as described in paragraph "a".

c. A participant who has signed a family investment agreement but then chooses a limited benefit plan under circumstances defined by the director of human services.

4. *Reconsideration.* A participant who chooses a limited benefit plan may reconsider that choice as follows:

a. A participant who chooses a first limited benefit plan may reconsider at any time following the effective date of the limited benefit plan. The participant may contact the department or the appropriate JOBS program office any time to begin the reconsideration process.

b. A participant who chooses a subsequent limited benefit plan may reconsider that choice at any time following the period of ineligibility specified in accordance with subsection 1.

5. *Well-being visit.* If a participant has chosen a subsequent limited benefit plan, the

department may conduct a well-being visit or contract for a well-being visit to be conducted, provided funding is available for the costs of such visits. A well-being visit shall meet all of the following criteria:

a. A qualified professional shall attempt to visit with the participant family with a focus upon the children's well-being.

b. The visit shall be conducted during or within four weeks of the second month of the start of the subsequent limited benefit plan.

c. The visit shall serve as an extension of the family investment program and the family investment agreement philosophy of supporting families as they move toward self-sufficiency.

6. *Appeal.* A participant has the right to appeal the establishment of the limited benefit plan only once, at the time the department issues the timely and adequate notice that establishes the limited benefit plan. However, if the reason for the appeal is based on an incorrect grant computation, an error in determining the composition of the family, or another worker error, a hearing shall be granted, regardless of the person's limited benefit plan status.

97 Acts, ch 41, §10, 34; 98 Acts, ch 1218, §55 – 60; 99 Acts, ch 100, §3; 2000 Acts, ch 1088, §4; 2002 Acts, ch 1015, §1, 4; 2004 Acts, ch 1043, §4; 2006 Acts, ch 1016, §9 – 11; 2008 Acts, ch 1111, §1, 2

Referred to in §239B.1, 239B.8

239B.10 Minor and young parents — other requirements.

1. *Living arrangement.* Unless any of the following conditions apply, a minor parent shall be required to live with the minor's parent or legal guardian:

a. The parent or guardian of the minor parent is deceased, missing, or living in another state.

b. The minor parent's health or safety would be jeopardized if the minor parent is required to live with the parent or guardian.

c. The minor parent is in foster care.

d. The minor parent is participating in the job corps solo parent program or independent living program.

e. Other good cause exists, which is identified in rules adopted by the department for this purpose, for the minor parent to participate in the family investment program while living apart from the minor parent's parent or guardian.

2. *Family development.* A minor parent who is a participant and is not required to live with the minor parent's parent or guardian pursuant to subsection 1 shall be required to participate in a family development program identified in rules adopted by the department.

3. *Parenting classes.* Participant parents who are nineteen years of age or younger shall be required to attend parenting classes.

4. *Education.* The department shall require, subject to the availability of child care for a minor parent's children, that a minor parent must either have graduated from high school or have received a high school equivalency diploma, or be engaged full-time in completing high school graduation or equivalency requirements.

5. *Earnings disregard.* In determining family investment program eligibility and calculating the amount of assistance, the department shall disregard earnings of an applicant or a participant who is nineteen years of age or younger who is engaged full-time in completing high school graduation or equivalency requirements.

6. *Family planning.* The department shall do all of the following with newly eligible and existing participant parents:

a. Discuss orally and in writing the financial implications of newly born children on the participant's family.

b. Discuss orally and in writing the available family planning resources.

c. Include family planning counseling as an optional component of the JOBS program.

d. Include the participant's family planning objectives in the family investment agreement.

97 Acts, ch 41, §11, 34; 99 Acts, ch 192, §33

239B.11 Family investment program account — diversion program subaccount — diversion program.

1. An account is established in the state treasury to be known as the family investment program account under control of the department to which shall be credited all funds appropriated by the state for the payment of assistance and JOBS program expenditures. All other moneys received at any time for these purposes, including child support revenues, shall be deposited into the account as provided by law. All assistance and JOBS program expenditures under this chapter shall be paid from the account.

2. a. A diversion program subaccount is created within the family investment program account. The subaccount may be used to provide incentives to divert a family's participation in the family investment program if the family meets the department's income eligibility requirements for the diversion program. Incentives may be provided in the form of payment or services to help a family to obtain or retain employment. The diversion program subaccount may also be used for payments to participants as necessary to cover the expenses of removing barriers to employment and to assist in stabilizing employment. In addition, the diversion program subaccount may be used for funding of services and payments for persons whose family investment program eligibility has ended, in order to help the persons to stabilize or improve their employment status.

b. The diversion program shall be implemented statewide in a manner that preserves local flexibility in program design. The department shall assess and screen individuals who would most likely benefit from diversion program assistance. The department may adopt additional eligibility criteria for the diversion program as necessary for compliance with federal law and for screening those families who would be most likely to become eligible for the family investment program if diversion program incentives would not be provided to the families.

97 Acts, ch 41, §12, 34; 98 Acts, ch 1218, §76; 2000 Acts, ch 1088, §5; 2005 Acts, ch 175, §107
Referred to in §252B.27

239B.11A Transitional benefits. Repealed by 2008 Acts, ch 1187, §96, 97.

239B.12 Immunization.

1. To the extent feasible, the department shall determine the immunization status of children receiving assistance under this chapter. The status shall be determined in accordance with the immunization recommendations adopted by the Iowa department of public health under section 139A.8, including the exemption provisions in section 139A.8, subsection 4. If the department determines a child is not in compliance with the immunization recommendations, the department shall refer the child's parent or guardian to a local public health agency for immunization services for the child and other members of the child's family.

2. The department of human services shall cooperate with the Iowa department of public health to establish an interagency agreement allowing the sharing of pertinent client data, as permitted under federal law and regulation, for the purposes of determining immunization rates of participants, evaluating family investment program efforts to encourage immunizations, and developing strategies to further encourage immunization of participants.

97 Acts, ch 41, §13, 34; 2000 Acts, ch 1066, §43

239B.13 Needy relative payee — protective payee — vendor payment.

1. The department may provide for a needy relative to act as a payee when the parent of a participant family is in the home but is unable to act as the payee.

2. The department may order the cash assistance under this chapter to be paid to a protective payee if it has been demonstrated that the specified relative with whom the child is residing is unable to manage the assistance in the best interest of the child. Protective payment of cash assistance shall not be made beyond a period of two years. The department may petition the district court sitting in probate to establish, pursuant to chapter 633, a conservatorship over a participant. If a conservatorship is established, the participant's cash assistance shall be paid to the conservator. In addition to the cash assistance, an

amount not to exceed ten dollars per case per month may be allowed for conservatorship or guardianship fees if authorized by court order. The department may pay cash assistance or other cash benefits to a third party if the department determines that a third-party payment is essential to assure the proper use of the assistance or benefits.

97 Acts, ch 41, §14, 34

239B.14 Fraudulent practices — recovery of overpayments.

1. *a.* An individual who obtains, or attempts to obtain, or aids or abets an individual to obtain, by means of a willfully false statement or representation, by knowingly failing to disclose a material fact, or by impersonation, or any fraudulent device, any assistance or other benefits under this chapter to which the individual is not entitled, commits a fraudulent practice.

b. An individual who accesses benefits provided under this chapter in violation of any prohibition imposed by the department pursuant to section 239B.5, subsection 4, commits a fraudulent practice.

2. An individual who commits a fraudulent practice under this section is personally liable for the amount of assistance or other benefits fraudulently obtained. The amount of the assistance or other benefits may be recovered from the offender or the offender's estate in an action brought or by claim filed in the name of the state and the recovered funds shall be deposited in the family investment program account. The action or claim filed in the name of the state shall not be considered an election of remedies to the exclusion of other remedies.

3. The department shall adopt rules pursuant to chapter 17A as necessary to recover overpayments of assistance and benefits provided under this chapter. The recovery methods shall include but are not limited to reducing the amount of assistance or benefits provided.

97 Acts, ch 41, §15, 34; 2000 Acts, ch 1088, §6; 2013 Acts, ch 138, §91

Referred to in §217.35

Fraudulent practices; see §714.8 et seq.

Use of recovered moneys generated through fraud and recoupment activities for additional fraud and recoupment activities; see §217.35

239B.15 County attorney to enforce.

Violations of law relating to the family investment program shall be prosecuted by county attorneys. Area prosecutors of the office of the attorney general shall provide prosecution assistance.

97 Acts, ch 41, §16, 34

Referred to in §331.756(43)

239B.16 Appeal — judicial review.

If an applicant's application is not acted upon within a reasonable time, if it is denied in whole or in part, or if a participant's assistance or other benefits under this chapter are modified, suspended, or canceled under a provision of this chapter, the applicant or participant may appeal to the department of human services which shall request the department of inspections and appeals to conduct a hearing. Upon completion of a hearing, the department of inspections and appeals shall issue a decision which is subject to review by the department of human services. Judicial review of the actions of the department of human services may be sought in accordance with chapter 17A. Upon receipt of a notice of the filing of a petition for judicial review, the department of human services shall furnish the petitioner with a copy of any papers filed in support of the petitioner's position, a transcript of any testimony taken, and a copy of the department's decision.

97 Acts, ch 41, §17, 34

239B.17 PROMISE JOBS program.

1. *Program established.* The promoting independence and self-sufficiency through employment job opportunities and basic skills program is established for applicants and participants of the family investment program. The requirements of the JOBS program shall vary as provided in the family investment agreement applicable to a family. The department of workforce development, economic development authority, department of education, and all other state, county, and public educational agencies and institutions providing vocational

rehabilitation, adult education, or vocational or technical training shall assist and cooperate in the JOBS program. The departments, agencies, and institutions shall make agreements and arrangements for maximum cooperation and use of all available resources in the program. The department of human services may contract with the department of workforce development, the economic development authority, or another appropriate entity to provide JOBS program services.

2. *Program activities.* The JOBS program shall include, but is not limited to, provision of the following activities:

- a. Placing applicants and participants in employment and on-the-job training.
- b. Institutional and work experience training for applicants and participants for whom the training is likely to lead to regular employment.
- c. Special work projects for applicants and participants for whom a job in the regular economy cannot be found.
- d. Incentives, opportunities, services, and other benefits to aid applicants and participants, which may include but are not limited to financial education.
- e. Providing services and payments for persons whose family investment program eligibility has ended, in order to help the persons to stabilize or improve their employment status.

97 Acts, ch 41, §18, 34; 2000 Acts, ch 1088, §7; 2006 Acts, ch 1046, §1; 2007 Acts, ch 218, §40; 2011 Acts, ch 118, §85, 89

Referred to in §216A.107, 239B.1

239B.18 JOBS program participation.

Except for participants who are exempt from the requirement to enter into a family investment agreement under section 239B.8, a participant in the family investment program shall participate in JOBS program activities as provided in the participant's family investment agreement. Except for an individual who is not a United States citizen and is not a qualified alien and exempt from the requirement to enter into a family investment agreement under section 239B.8, subsection 1, paragraph "c", a participant who is exempt may voluntarily participate in the JOBS program.

97 Acts, ch 41, §19, 34; 2000 Acts, ch 1088, §8

239B.19 JOBS program availability.

1. Within available funding, the department shall make JOBS program services and benefits available to individuals who are participating in the JOBS program.

2. An individual's efforts under the JOBS program to attain a certificate of general educational development, high school diploma, or adult basic literacy where the individual has not previously received the certification shall be optional except as otherwise required by this chapter or by federal law. The department shall provide incentives to encourage optional efforts to attain such certifications.

3. When needed, arrangements shall be made for the care of children during the absence from the home of an individual participating in the JOBS program.

97 Acts, ch 41, §20, 34

239B.20 JOBS program health and safety.

The director shall establish and maintain reasonable standards for health, safety, and other conditions under the JOBS program.

97 Acts, ch 41, §21, 34

239B.21 JOBS program — workers' compensation law applicable.

A participant, with respect to employment performed under the JOBS program, shall be covered by the workers' compensation law or shall otherwise be provided with comparable protection.

97 Acts, ch 41, §22, 34

239B.22 JOBS program — participant not state employee.

A participant shall not be deemed to be an employee of the state or any of its political subdivisions by reason of participation in the JOBS program. However, this section shall not prevent the participant from having the status of an employee for the purposes of workers' compensation.

97 Acts, ch 41, §23, 34

239B.23 Child day care provisions. Repealed by 98 Acts, ch 1218, §82.

239B.24 State child care assistance eligibility.

1. The following persons are deemed to be eligible for benefits under the state child care assistance program administered by the department in accordance with section 237A.13, notwithstanding the program's eligibility requirements or any waiting list:

- a. A participant who is employed.
- b. Any other person whose earned income is considered in determining eligibility and benefits for a participant.
- c. A person who is participating in activities approved under the JOBS program.

2. A person who is deemed to be eligible for state child care assistance program benefits under this section is subject to all other state child care assistance requirements, including but not limited to provider requirements under chapter 237A, provider reimbursement methodology and rates, and any other requirements established by the department in rule.

99 Acts, ch 192, §35; 2000 Acts, ch 1067, §16; 2000 Acts, ch 1232, §91

Referred to in §237A.13

CHAPTER 240

RESERVED

CHAPTER 241

DISPLACED HOMEMAKERS

Referred to in §249.1

241.1	Definitions.	241.3	Department powers and duties.
241.2	Application for designation and funding as a provider of services for displaced homemakers.	241.4	and 241.5 Repealed by 86 Acts, ch 1245, §2053.
		241.6	Project coordinator.

241.1 Definitions.

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

- 1. "*Displaced homemaker*" means an individual who meets all of the following criteria:
 - a. Has worked principally in the home providing unpaid household services for family members.
 - b. Is not gainfully employed.
 - c. Has had, or would apparently have, difficulty finding appropriate paid employment.
 - d. Has been dependent on the income of another family member but is no longer supported by that income, is or has been dependent on government assistance, or is supported as the parent of a child who is sixteen or seventeen years of age.
- 2. "*Department*" means the department of human services.
- 3. "*Director*" means the director of the department of human services.

[C81, §241.1]

83 Acts, ch 96, §157, 159

241.2 Application for designation and funding as a provider of services for displaced homemakers.

1. Upon receipt of state or federal funding designated to assist displaced homemakers, a public or private nonprofit group may apply to the director for designation and funding as a provider of services to displaced homemakers. The application shall be submitted on a form prescribed by the director and shall include all of the following:

a. A proposal for the establishment of a multipurpose service program for displaced homemakers which provides some or all of the following:

(1) Job counseling specifically designed for a person entering or reentering the job market after a number of years as a homemaker.

(2) Job training and placement services including but not limited to:

(a) Training programs for available jobs in the public and private sectors developed by working with public and private employers, taking into account the skills and job experiences of a homemaker.

(b) Assistance in locating available employment for displaced homemakers, some of which may be in existing job training and placement programs.

(c) Utilization of services of the state employment service, which shall cooperate with the department in locating employment opportunities.

(3) Utilization of services of existing agencies and programs to provide information on and assistance with financial management, legal problems, and health care.

(4) Utilization of services of existing agencies and programs to obtain educational services, including assistance in attaining high school equivalency diplomas and other courses which are of interest and benefit to displaced homemakers.

(5) Outreach and information services with respect to public employment, education, health and unemployment assistance programs which are of interest and benefit to displaced homemakers.

(6) Development and implementation of an educational program designed to promote public and professional awareness of the problems of displaced homemakers and of the availability of services for displaced homemakers.

(7) Development and implementation of a counseling program providing emotional support by qualified personnel or peer groups or both.

b. A proposed budget.

c. Assurance by the applicant that the uniform method of data collection and program evaluation established by the director pursuant to section 241.3, subsection 1, paragraph "c", will be implemented.

d. Any other information the director may require.

2. A public or private nonprofit group which receives designation as a provider of services to displaced homemakers under this chapter shall comply with all applicable department rules.

[C81, §241.2]

2009 Acts, ch 41, §263

Referred to in §241.3

241.3 Department powers and duties.

1. The director shall do all of the following:

a. Designate and award grants for existing and pilot programs, pursuant to section 241.2, to provide services to displaced homemakers.

b. Designate an existing department staff member to perform the duties set forth in section 241.6.

c. Design and implement a uniform method of collecting data on displaced homemakers receiving services under this chapter and of evaluating funded programs.

2. The department shall consult and cooperate with the department of workforce development, the United States commissioner of social security administration, the office on the status of women of the department of human rights, the department of education, and other persons in the executive branch of the state government as the department considers

appropriate to facilitate the coordination of multipurpose service programs established under this chapter with existing programs of a similar nature.

3. The director, in carrying out the provisions of this chapter, may accept, use, and dispose of contributions of money, services, and property made available to the department by an agency or department of the state or federal government, or a private agency or individual.

[C81, §241.3]

86 Acts, ch 1245, §938; 96 Acts, ch 1186, §23; 2001 Acts, ch 61, §16; 2012 Acts, ch 1023, §31
 Referred to in §241.2

241.4 and 241.5 Repealed by 86 Acts, ch 1245, §2053.

241.6 Project coordinator.

The director shall appoint a project coordinator who shall administer appropriated funds, coordinate funded programs, and perform other duties the director assigns to the coordinator.

[C81, §241.6]

Referred to in §241.3

CHAPTERS 241A to 248A

RESERVED

CHAPTER 249

STATE SUPPLEMENTARY ASSISTANCE

Referred to in §63A.2, 142.1, 249A.4, 425.2, 483A.24

Child and family services, see chapter 234

249.1	Definitions.	249.9	Funeral expenses.
249.2	Agreement with federal authority.	249.10	Prior liens, claims, and assignments.
249.3	Eligibility.		
249.4	Application — amount of grant — retroactive benefits.	249.11	Fraud — investigations and audits.
249.5	Judicial review.	249.12	Cost-related system.
249.6	Charge for cashing warrant unlawful.	249.13	County attorney to enforce.
249.7	Assistance inalienable.	249.14	Old-age assistance revolving fund.
249.8	Cancellation of warrants.		

249.1 Definitions.

As used in this chapter:

1. “*Department*” means the department of human services.
2. “*Director*” means the director of human services.
3. “*Federal supplemental security income*” means cash payments made to individuals by the United States government under Tit. XVI of the Social Security Act as amended by Pub. L. No. 92-603, or any other amendments thereto.
4. “*Previous categorical assistance programs*” means the aid to the blind program authorized by chapter 241, the aid to the disabled program authorized by chapter 241A and the old-age assistance program authorized by chapter 249, Code 1973.
5. “*State supplementary assistance*” means cash payments made to individuals:
 - a. By the United States government on behalf of the state of Iowa pursuant to section 249.2.

b. By the state of Iowa directly pursuant to sections 249.3 to 249.5.

[C35, §5926-f1; C39, §3684.01, 3828.001; C46, 50, 54, 58, §241.1, 249.1; C62, 66, 71, 73, §241.1, 241A.1, 249.1; C75, 77, 79, 81, §249.1]

83 Acts, ch 96, §157, 159; 2005 Acts, ch 179, §122; 2006 Acts, ch 1010, §77; 2010 Acts, ch 1061, §180

Referred to in §234.21, 249.3, 249A.3, 403A.23, 427.9

249.2 Agreement with federal authority.

The director may enter into an agreement with the United States secretary of health and human services for federal administration of a program of state supplementary assistance to prescribed categories of persons who are, or would be except for the amount of income they receive from other sources, receiving federal supplemental security income. The agreement may authorize the secretary to make rules, in addition to and not in conflict with state laws and regulations, respecting eligibility for or the amount of state supplementary assistance paid under this section as the secretary finds necessary to achieve efficient and effective administration of both the basic federal supplemental security income program and the state supplementary assistance program administered by the secretary under the agreement. The agreement shall provide for the state of Iowa to reimburse the federal government, from funds appropriated for that purpose, for state supplementary assistance paid by the federal government pursuant to the agreement.

[C35, §5296-f4, -f36; C39, §3684.04, 3828.003, 3828.045; C46, 50, 54, 58, §241.4, 249.2, 249.42; C62, 66, 71, 73, §241.4, 241A.4, 249.2, 249.42; C75, 77, 79, 81, §249.2]

83 Acts, ch 101, §56

Referred to in §249.1

249.3 Eligibility.

The persons eligible to receive state supplementary assistance under section 249.1, subsection 5, paragraph “b”, are:

1. Any person whose needs were taken into account in computing the grant of a recipient, who was eligible for and was receiving assistance under a previous categorical assistance program during the month of December 1973, because the person was deemed essential to the well-being of the recipient in maintaining a living arrangement in the recipient’s own home, so long as the person continues to act in the capacity of essential person to the former recipient and to be in financial need according to standards established by the department.

2. Any person who meets the criteria established by paragraphs “a”, “b”, and “c” of this subsection:

a. Is receiving either:

(1) Care in a licensed adult foster home, boarding home or custodial home, as defined by section 135C.1, or in another type of protective living arrangement as defined by the department; or

(2) Nursing care in the person’s own home, certified by a physician as being required, so long as the cost of the nursing care does not exceed standards established by the department.

b. Is in fact receiving or would, except for income in excess of applicable maximums, be receiving federal supplemental security income.

c. Does not have sufficient income to meet the cost of care in one of the living arrangements defined in paragraph “a” of this subsection, which cost of care shall not exceed the amount established by the rules of the department for each of those living arrangements.

3. Any person living in any living arrangement other than as a patient or resident of a facility licensed under chapter 135C, who meets the criteria established by paragraphs “a”, “b”, and “c”:

a. Lives with a dependent spouse, parent, child or adult child who is sharing the recipient’s living arrangement, so long as the person continues in the relationship of dependent spouse, parent, child or adult child to the recipient and to be in financial need according to standards established by the department.

b. Is in fact receiving or would, except for income in excess of applicable maximums, be receiving federal supplemental security income.

c. Does not have sufficient income to meet the cost of providing for the dependent spouse, parent, child or adult child, according to standards established by the department.

4. At the discretion of the department, persons who meet the criteria listed in all of the following paragraphs:

a. Are either of the following:

(1) Sixty-five years of age or older.

(2) Disabled as defined by 42 U.S.C. §1382c(a)(3), except that being engaged in substantial gainful activity shall not preclude a determination of disability for the purpose of this subparagraph.

b. Live in one of the following:

(1) The individual's own home.

(2) The home of another individual.

(3) A group living arrangement.

(4) A medical facility.

c. Would be eligible for supplemental security income benefits but for having excess income or but for being engaged in substantial gainful activity and having excess income.

d. Are not eligible for another state supplementary assistance group.

e. Receive full medical assistance benefits under chapter 249A and are not required to meet a spend-down or pay a premium to be eligible for such benefits.

f. Are currently eligible for Medicare part B.

g. Have income of at least one hundred twenty percent of the federal poverty level but not exceeding the medical assistance income limit for the eligibility group for the individual person's living arrangement.

[SS15, §2722-i, -j, -k; C24, 27, 31, §5379; C35, §5296-f9, -f12, 5379; C39, §3684.02, 3828.007, 3828.008; C46, 50, 54, 58, §241.2, 249.5, 249.6; C62, 66, 71, 73, §241.2, 241A.2, 249.5, 249.6; C75, 77, 79, 81, §249.3]

2004 Acts, ch 1085, §4, 10, 11; 2005 Acts, ch 175, §108

Referred to in §249.1, 249.4, 422.7(27)

249.4 Application — amount of grant — retroactive benefits.

1. Applications for state supplementary assistance shall be made in the form and manner prescribed by the director or the director's designee, with the approval of the council on human services, pursuant to chapter 17A. Each person who so applies and is found eligible under section 249.3 shall, so long as the person's eligibility continues, receive state supplementary assistance on a monthly basis, from funds appropriated to the department for the purpose.

2. Any person who applies within fifteen months from the date of implementation of eligibility pursuant to section 249.3, subsection 4, and who would have been eligible under that subsection for any period on or after October 1, 2003, may be granted benefits retroactive to October 1, 2003.

[SS15, §2722-m, -p; C24, 27, 31, §5382, 5384; C35, §5296-f17, -f18, 5382, 5384; C39, §3684.06, 3684.09, 3828.013, 3828.014; C46, 50, 54, 58, §241.6, 241.9, 249.10, 249.11; C62, 66, 71, 73, §241.6, 241.9, 241A.5, 241A.6, 249.10, 249.11; C75, 77, 79, 81, §249.4]

83 Acts, ch 96, §157, 159; 2004 Acts, ch 1085, §5, 10, 11

Referred to in §249.1

249.5 Judicial review.

If an application is not acted upon within a reasonable time, if it is denied in whole or in part, or if an award of assistance is modified, suspended, or canceled under a provision of this chapter, the applicant or recipient may appeal to the department of human services, which shall request the department of inspections and appeals to conduct a hearing. Upon completion of a hearing, the department of inspections and appeals shall issue a decision which is subject to review by the department of human services. Judicial review of the actions of the department of human services may be sought in accordance with chapter 17A. Upon receipt of the petition for judicial review, the department of human services shall furnish

the petitioner with a copy of any papers filed by the petitioner in support of the petitioner's position, a transcript of any testimony taken, and a copy of the department's decision.

[C35, §5296-f18; C39, §3684.11, 3828.014; C46, 50, 54, 58, §241.11, 249.11; C62, 66, 71, 73, §241.11, 241A.8, 249.11; C75, 77, 79, 81, §249.5]

90 Acts, ch 1204, §59

Referred to in §249.1

249.6 Charge for cashing warrant unlawful.

It shall be unlawful for any person to charge a fee, service charge or exchange for the cashing of a warrant issued in payment of state supplementary assistance, or to discount or pay less than the face value of any warrant drawn in payment of such assistance, when cashing such a warrant or accepting it in payment of the purchase price of goods, services, rent, taxes or indebtedness.

[C35, §5296-g4; C39, §3828.036; C46, 50, 54, 58, 62, 66, 71, 73, §249.33; C75, 77, 79, 81, §249.6]

249.7 Assistance inalienable.

All rights to state supplementary assistance shall be absolutely inalienable by any assignment, sale, execution or otherwise and, in case of bankruptcy, the assistance shall not pass to or through any trustees or other persons acting on behalf of creditors.

[C35, §5296-f29; C39, §3684.10, 3828.037; C46, 50, 54, 58, §241.10, 249.34; C62, 66, 71, 73, §241.10, 241A.7, 249.34; C75, 77, 79, 81, §249.7]

249.8 Cancellation of warrants.

The director of the department of administrative services, as of January, April, July, and October 1 of each year, shall stop payment on and issue duplicates of all state supplementary assistance warrants which have been outstanding and unredeemed by the treasurer of state for six months or longer. No bond of indemnity shall be required for the issuance of such duplicate warrants which shall be canceled immediately by the director of the department of administrative services. If the original warrants are subsequently presented for payment, warrants in lieu thereof shall be issued by the director of the department of administrative services at the discretion of and upon certification by the director of human services or the director's designee.

[C39, §3828.044; C46, 50, 54, 58, 62, 66, 71, 73, §249.41; C75, 77, 79, 81, §249.8]

2003 Acts, ch 145, §286

249.9 Funeral expenses.

The department may pay, from funds appropriated to it for the purpose, a maximum of four hundred dollars toward funeral expenses on the death of a person receiving state supplementary assistance or who received assistance under a previous categorical assistance program prior to January 1, 1974, provided:

1. The decedent does not leave an estate which may be probated with sufficient proceeds to allow for payment of the funeral claim.

2. Payments which are due the decedent's estate or beneficiary by reason of the liability of a life insurance, death or funeral benefit company, association or society, or in the form of United States social security, railroad retirement, or veterans' benefits upon the death of the decedent, are deducted from the department's liability under this section.

[C35, §5296-f25; C39, §3684.17, 3828.021; C46, 50, 54, 58, §241.17, 249.18; C62, 66, 71, 73, §241.17, 241A.11, 249.18; C75, 77, 79, 81, §249.9]

83 Acts, ch 153, §11; 84 Acts, ch 1297, §1

249.10 Prior liens, claims, and assignments.

Any lien or claim against the estate of a decedent existing on January 1, 1974, which lien was perfected or which claim was filed under the provisions of section 249.19, 249.20, or 249.21, Code 1973, and prior Codes, and which liens or claims have not been satisfied, are void. Any assignment of personal property which was made under the provisions of chapter

249, Code 1973, and prior Codes, is void. The director may in furtherance of this section release any lien or claim created or existing under that chapter. Each release made pursuant to this section shall be executed and acknowledged by the director or the director's authorized designee, and when recorded shall be conclusive in favor of any third person dealing with or concerning the property affected by the release in reliance upon such record.

[C35, §5296-f15, -f16, -g1; C39, §3828.022, 3828.023, 3828.024; C46, 50, 54, 58, 62, 66, 71, 73, §249.19, 249.20, 249.21; C75, 77, 79, 81, §249.10]

2005 Acts, ch 179, §123

249.11 Fraud — investigations and audits.

1. Any person who obtains assistance under this chapter by misrepresentation or by failure with fraudulent intent to bring forth all of the facts required of an applicant for assistance under this chapter, or any person who shall knowingly make false statements concerning an applicant's eligibility for assistance under this chapter, is guilty of a fraudulent practice.

2. The department of inspections and appeals shall conduct investigations and audits as deemed necessary to ensure compliance with state supplementary assistance programs administered under this chapter. The department of inspections and appeals shall cooperate with the department of human services on the development of procedures relating to such investigations and audits to ensure compliance with federal and state single state agency requirements.

[C35, §5296-f31, -f32; C39, §3684.19, 3828.049, 3828.050; C46, 50, 54, 58, §241.19, 249.46, 249.47; C62, 66, 71, 73, §241.19, 241A.12, 249.46, 249.47; C75, 77, 79, 81, §249.11]

90 Acts, ch 1204, §60

Fraudulent practices, see §714.8 – 714.14

249.12 Cost-related system.

1. In order to assure that the necessary data is available to aid the general assembly to determine appropriate funding for the custodial care program, the department of human services shall develop a cost-related system for financial supplementation to individuals who need custodial care and who have insufficient resources to purchase the care needed.

2. All privately operated licensed custodial facilities in Iowa shall cooperate with the department of human services to develop the cost-related plan.

3. Beginning July 1, 2017, privately operated licensed custodial facilities in Iowa shall be reimbursed based on the maximum per diem rates established by the general assembly through the appropriations process.

[C35, §5296-f37; C39, §3828.046; C46, 50, 54, 58, 62, 66, 71, 73, §249.43; C75, 77, 79, 81, §249.12]

83 Acts, ch 96, §157, 159; 2012 Acts, ch 1023, §157; 2017 Acts, ch 174, §108

249.13 County attorney to enforce.

It is the intent of the general assembly that violations of law relating to the family investment program, medical assistance, and supplemental assistance shall be prosecuted by county attorneys. Area prosecutors of the office of the attorney general shall provide such assistance in prosecution as may be required. It is the intent of the general assembly that the first priority for investigation and prosecution for which funds are provided shall be for fraudulent claims or practices by health care vendors and providers.

[C79, 81, §249.13]

93 Acts, ch 97, §36

Referred to in §331.756(43)

249.14 Old-age assistance revolving fund.

The old-age assistance revolving fund shall remain in the state treasury until all property managed by the department and maintained by the fund is disposed of, at which time all money in the fund shall be transferred to the general fund of the state and the fund shall be

closed. If the balance of the fund exceeds fifteen thousand dollars at the end of any calendar quarter, the excess over that amount shall be transferred to the general fund of the state.

83 Acts, ch 191, §2, 27

CHAPTER 249A MEDICAL ASSISTANCE

Referred to in §8A.512, 35D.7, 35D.10, 35D.18, 48A.19, 85.38, 135.22B, 135.61, 135C.1, 135C.4, 135C.6, 135C.20B, 135C.31, 135C.40, 135H.6, 144.13A, 147.136, 155A.32, 217.36, 222.86, 222.92, 225C.6B, 225C.35, 225D.1, 226.9B, 226.45, 231C.5A, 249.3, 249B.1, 249F.1, 249K.2, 249N.2, 249N.3, 249N.6, 252B.20, 252B.20A, 252C.2, 252E.1, 252E.2A, 252E.11, 256B.15, 283A.2, 331.390, 331.394, 331.395, 331.397, 331.397A, 422.9, 483A.24, 505.25, 509.1, 513C.3, 514.1, 514A.3B, 514B.31, 514C.8, 514E.7, 514H.5, 514I.8, 598.22A, 602.8102(82), 633.246A, 633.336, 633.641, 633.653A, 633C.3, 633E.15, 910.1

See Iowa Acts for special provisions relating to transfers
and appropriations of unencumbered or unobligated moneys to the
medical assistance program in a given year
See Iowa Acts for special provisions relating to medical
assistance reimbursements in a given year
Brain injury services program, §135.22B
Health insurance data match program, §505.25

SUBCHAPTER I		249A.15A
MEDICAL ASSISTANCE ELIGIBILITY AND MISCELLANEOUS PROVISIONS		Licensed marital and family therapists, licensed master social workers, licensed mental health counselors, certified alcohol and drug counselors, licensed behavior analysts, and licensed assistant behavior analysts — temporary licensees.
249A.1	Title.	
249A.2	Definitions.	
249A.3	Eligibility.	
249A.3A	Medical assistance — all income-eligible children.	
249A.4	Duties of director.	249A.15B
249A.4A	Garnishment. Transferred to §249A.52; 2013 Acts, ch 24, §14.	Speech pathologists eligible for payment.
249A.4B	Medical assistance advisory council.	249A.16
249A.5	Recovery of payment. Transferred to §249A.53; 2013 Acts, ch 24, §14.	New rates for services — effective date.
249A.6	Assignment — lien. Transferred to §249A.54; 2013 Acts, ch 24, §14.	249A.17
249A.6A	Restitution. Transferred to §249A.55; 2013 Acts, ch 24, §14.	Transitional medical assistance. Repealed by 97 Acts, ch 41, §29.
249A.7	Fraudulent practices — investigations and audits — Medicaid fraud fund. Transferred to §249A.50; 2013 Acts, ch 24, §14.	249A.18
249A.8	Fraudulent practice. Transferred to §249A.51; 2013 Acts, ch 24, §14.	Cost-based reimbursement — rural health clinics and federally qualified health centers.
249A.9	and 249A.10 Reserved.	249A.18A
249A.11	Payment for patient care segregated.	Resident assessment.
249A.12	Assistance to persons with an intellectual disability.	249A.19
249A.13	Reserved.	Health care facilities — penalty. Transferred to §249A.57; 2013 Acts, ch 24, §14.
249A.14	County attorney to enforce. Transferred to §249A.56; 2013 Acts, ch 24, §14.	249A.20
249A.15	Licensed psychologists eligible for payment — provisional licensees.	Noninstitutional health providers — reimbursement.
		249A.20A
		Preferred drug list program.
		249A.20B
		Nursing facility quality assurance assessment. Repealed by 2005 Acts, ch 167, §40, 41, 66.
		249A.21
		Intermediate care facilities for persons with an intellectual disability — assessment.
		249A.22
		and 249A.23 Reserved.
		249A.24
		Iowa medical assistance drug utilization review commission — created.
		249A.25
		Enhanced mental health, mental retardation, and developmental disabilities services plan oversight committee. Repealed by 94 Acts, ch 1150, §4.

both, for any group of such individuals, the assistance also includes for all covered groups of such individuals at least the care and services enumerated in Tit. XIX of the federal Social Security Act, section 1905(a), paragraphs (1) through (5), and (17), as codified in 42 U.S.C. §1396d(a), paragraphs (1) through (5), and (17), or any seven of the care and services enumerated in Tit. XIX of the federal Social Security Act, section 1905(a), paragraphs (1) through (24), as codified in 42 U.S.C. §1396d(a), paragraphs (1) through (24).

4. “*Family investment program*” means the family investment program eligibility requirements under chapter 239B, except to the extent federal law requires application of the eligibility requirements under chapter 239, Code 1997, as in effect on July 16, 1996.

5. “*Group health plan cost sharing*” means payment under the medical assistance program of a premium, a coinsurance amount, a deductible amount, or any other cost sharing obligation for a group health plan as required by Tit. XIX of the federal Social Security Act, section 1906, as codified in 42 U.S.C. §1396e.

6. “*Mandatory medical assistance*” means payment of all or part of the costs of the care and services required to be provided by Tit. XIX of the federal Social Security Act, section 1905(a), paragraphs (1) through (5), (17), (21), and (28), as codified in 42 U.S.C. §1396d(a), paragraphs (1) through (5), (17), (21), and (28).

7. “*Medical assistance*” or “*Medicaid*” means payment of all or part of the costs of the care and services made in accordance with Tit. XIX of the federal Social Security Act and authorized pursuant to this chapter.

8. “*Medical assistance program*” or “*Medicaid program*” means the program established under this chapter to provide medical assistance.

9. “*Medicare cost sharing*” means payment under the medical assistance program of a premium, a coinsurance amount, or a deductible amount for federal Medicare as provided by Tit. XIX of the federal Social Security Act, section 1905(p)(3), as codified in 42 U.S.C. §1396d(p)(3).

10. “*Optional medical assistance*” means payment of all or part of the costs of any or all of the care and services authorized to be provided by Tit. XIX of the federal Social Security Act, section 1905(a), paragraphs (6) through (16), (18) through (20), (22) through (27), and (29), as codified in 42 U.S.C. §1396d(a), paragraphs (6) through (16), and (18) through (20), (22) through (27), and (29).

11. “*Overpayment*” means any funds that a provider receives or retains under the medical assistance program to which the person, after applicable reconciliation, is not entitled. To the extent the provider and the department disagree as to whether the provider is entitled to funds received or retained under the medical assistance program, “*overpayment*” includes such funds for which the provider’s administrative and judicial review remedies under 441 IAC ch. 7 and chapter 17A have been exhausted. For purposes of repayment, an overpayment may include interest in accordance with section 249A.41.

12. “*Provider*” means an individual, firm, corporation, association, or institution which is providing or has been approved to provide medical assistance to recipients under this chapter.

13. “*Recipient*” means a person who receives medical assistance under this chapter.

14. “*Retained life estate*” means any of the following:

a. A life estate created by the recipient or recipient’s spouse, in which either the recipient or the recipient’s spouse held any interest in the property at the time of the creation of the life estate.

b. A life estate created for the benefit of the recipient or the recipient’s spouse in property in which either the recipient or the recipient’s spouse held any interest in the property within five years prior to the creation of the life estate.

[C62, 66, 71, 73, 75, 77, 79, 81, §249A.2]

83 Acts, ch 96, §157, 159; 84 Acts, ch 1297, §2; 89 Acts, ch 104, §1; 90 Acts, ch 1039, §15; 91 Acts, ch 107, §11; 91 Acts, ch 158, §1, 2; 93 Acts, ch 54, §5; 96 Acts, ch 1129, §113; 97 Acts, ch 41, §25; 2002 Acts, ch 1086, §1, 21; 2010 Acts, ch 1061, §180; 2012 Acts, ch 1019, §96; 2013 Acts, ch 24, §2; 2013 Acts, ch 138, §62 – 64

Referred to in §249B.1, 249F.1, 633C.1

249A.3 Eligibility.

The extent of and the limitations upon eligibility for assistance under this chapter is prescribed by this section, subject to federal requirements, and by laws appropriating funds for assistance provided pursuant to this chapter.

1. Mandatory medical assistance shall be provided to, or on behalf of, any individual or family residing in the state of Iowa, including those residents who are temporarily absent from the state, who:

a. Is a recipient of federal supplemental security income or who would be eligible for federal supplemental security income if living in their own home.

b. Is an individual who is eligible for the family investment program or is an individual who would be eligible for unborn child payments under the family investment program, as authorized by Tit. IV-A of the federal Social Security Act, if the family investment program provided for unborn child payments during the entire pregnancy.

c. Was a recipient of one of the previous categorical assistance programs as of December 31, 1973, and would continue to meet the eligibility requirements for one of the previous categorical assistance programs as the requirements existed on that date.

d. Is a child up to one year of age who was born on or after October 1, 1984, to a woman receiving medical assistance on the date of the child's birth, who continues to be a member of the mother's household, and whose mother continues to receive medical assistance.

e. Is a pregnant woman whose pregnancy has been medically verified and who qualifies under either of the following:

(1) The woman would be eligible for cash assistance under the family investment program, if the child were born and living with the woman in the month of payment.

(2) The woman meets the income and resource requirements of the family investment program, provided the unborn child is considered a member of the household, and the woman's family is treated as though deprivation exists.

f. Is a child who is less than seven years of age and who meets the income and resource requirements of the family investment program.

g. (1) Is a child who is one through five years of age as prescribed by the federal Omnibus Budget Reconciliation Act of 1989, Pub. L. No. 101-239, §6401, whose income is not more than one hundred thirty-three percent of the federal poverty level as defined by the most recently revised poverty income guidelines published by the United States department of health and human services.

(2) Is a child who has attained six years of age but has not attained nineteen years of age, whose income is not more than one hundred thirty-three percent of the federal poverty level, as defined by the most recently revised poverty income guidelines published by the United States department of health and human services.

h. Is a woman who, while pregnant, meets eligibility requirements for assistance under the federal Social Security Act, section 1902(l), and continues to meet the requirements except for income. The woman is eligible to receive assistance until sixty days after the date pregnancy ends.

i. Is a pregnant woman who is determined to be presumptively eligible by a health care provider qualified under the federal Omnibus Budget Reconciliation Act of 1986, Pub. L. No. 99-509, §9407. The woman is eligible for ambulatory prenatal care assistance until the last day of the month following the month of the presumptive eligibility determination. If the department receives the woman's medical assistance application by the last day of the month following the month of the presumptive eligibility determination, the woman is eligible for ambulatory prenatal care assistance until the department actually determines the woman's eligibility or ineligibility for medical assistance. The costs of services provided during the presumptive eligibility period shall be paid by the medical assistance program for those persons who are determined to be ineligible through the regular eligibility determination process.

j. Is a pregnant woman or infant less than one year of age whose income does not exceed the federally prescribed percentage of the poverty level in accordance with the federal Medicare Catastrophic Coverage Act of 1988, Pub. L. No. 100-360, §302.

k. Is a pregnant woman or infant whose income is more than the limit prescribed under

the federal Medicare Catastrophic Coverage Act of 1988, Pub. L. No. 100-360, §302, but not more than two hundred percent of the federal poverty level as defined by the most recently revised poverty income guidelines published by the United States department of health and human services.

l. (1) Is an infant whose income is not more than two hundred percent of the federal poverty level, as defined by the most recently revised income guidelines published by the United States department of health and human services.

(2) Is a pregnant woman or infant whose family income is at or below three hundred percent of the federal poverty level, as defined by the most recently revised poverty income guidelines published by the United States department of health and human services, if otherwise eligible.

m. Is a child for whom adoption assistance or foster care maintenance payments are paid under Tit. IV-E of the federal Social Security Act.

n. Is an individual or family who is ineligible for the family investment program because of requirements that do not apply under Tit. XIX of the federal Social Security Act.

o. Was a federal supplemental security income or a state supplementary assistance recipient, as defined by section 249.1, and a recipient of federal social security benefits at one time since August 1, 1977, and would be eligible for federal supplemental security income or state supplementary assistance but for the increases due to the cost of living in federal social security benefits since the last date of concurrent eligibility.

p. Is an individual whose spouse is deceased and who is ineligible for federal supplemental security income or state supplementary assistance, as defined by section 249.1, due to the elimination of the actuarial reduction formula for federal social security benefits under the federal Social Security Act and subsequent cost of living increases.

q. Is an individual who is at least sixty years of age and is ineligible for federal supplemental security income or state supplementary assistance, as defined by section 249.1, because of receipt of social security widow or widower benefits and is not eligible for federal Medicare, part A coverage.

r. Is an individual with a disability, and is at least eighteen years of age, who receives parental social security benefits under the federal Social Security Act and is not eligible for federal supplemental security income or state supplementary assistance, as defined by section 249.1, because of the receipt of the social security benefits.

s. Is an individual who is no longer eligible for the family investment program due to earned income. The department shall provide transitional medical assistance to the individual for the maximum period allowed for federal financial participation under federal law.

t. Is an individual who is no longer eligible for the family investment program due to the receipt of child or spousal support. The department shall provide transitional medical assistance to the individual for the maximum period allowed for federal financial participation under federal law.

u. As allowed under the federal Deficit Reduction Act of 2005, Pub. L. No. 109-171, §6062, is an individual who is less than nineteen years of age who meets the federal supplemental security income program rules for disability but whose income or resources exceed such program rules, who is a member of a family whose income is at or below three hundred percent of the most recently revised official poverty guidelines published by the United States department of health and human services for the family, and whose parent complies with the requirements relating to family coverage offered by the parent's employer. Such assistance shall be provided on a phased-in basis, based upon the age of the individual.

v. (1) Beginning January 1, 2014, in accordance with section 1902(a)(10)(A)(i)(VIII) of the federal Social Security Act, as codified in 42 U.S.C. §1396a(a)(10)(A)(i)(VIII), is an individual who is nineteen years of age or older and under sixty-five years of age; is not pregnant; is not entitled to or enrolled for Medicare benefits under part A, or enrolled for Medicare benefits under part B, of Tit. XVIII of the federal Social Security Act; is not otherwise described in section 1902(a)(10)(A)(i) of the federal Social Security Act; is not exempt pursuant to section 1902(k)(3), as codified in 42 U.S.C. §1396a(k)(3), and whose income as determined under 1902(e)(14) of the federal Social Security Act, as codified in 42 U.S.C. §1396a(e)(14), does not exceed one hundred thirty-three percent of the poverty line as defined in section 2110(c)(5) of

the federal Social Security Act, as codified in 42 U.S.C. §1397jj(c)(5) for the applicable family size.

(2) Notwithstanding any provision to the contrary, individuals eligible for medical assistance under this paragraph “v” shall receive coverage for benefits pursuant to 42 U.S.C. §1396u-7(b)(1)(B); adjusted as necessary to provide the essential health benefits as required pursuant to section 1302 of the federal Patient Protection and Affordable Care Act, Pub. L. No. 111-148; adjusted to provide prescription drugs and dental services consistent with the medical assistance state plan benefits package for individuals otherwise eligible under this subsection; and adjusted to provide habilitation services consistent with the state medical assistance program section 1915(i) waiver.

(3) (a) For individuals whose income as determined under this paragraph “v” is at or below one hundred percent of the federal poverty level, covered benefits under subparagraph (2) shall be administered consistent with program administration under this subsection.

(b) For individuals whose income as determined under this paragraph “v” is above one hundred percent but not in excess of one hundred thirty-three percent of the federal poverty level, covered benefits shall be administered through provision of premium assistance for the purchase of covered benefits through the American health benefits exchange created pursuant to the Affordable Care Act, as defined in section 249N.2.

w. Beginning January 1, 2014, is an individual who meets all of the following requirements:

(1) Is under twenty-six years of age.

(2) Was in foster care under the responsibility of the state on the date of attaining eighteen years of age or such higher age to which foster care is provided.

(3) Was enrolled in the medical assistance program under this chapter while in such foster care.

2. a. Mandatory medical assistance may also, within the limits of available funds and in accordance with section 249A.4, subsection 1, be provided to, or on behalf of, other individuals and families who are not excluded under subsection 5 of this section and whose incomes and resources are insufficient to meet the cost of necessary medical care and services in accordance with the following order of priorities:

(1) (a) As allowed under 42 U.S.C. §1396a(a)(10)(A)(ii)(XIII), individuals with disabilities, who are less than sixty-five years of age, who are members of families whose income is less than two hundred fifty percent of the most recently revised official poverty guidelines published by the United States department of health and human services for the family, who have earned income and who are eligible for mandatory medical assistance or optional medical assistance under this section if earnings are disregarded. As allowed by 42 U.S.C. §1396a(r)(2), unearned income shall also be disregarded in determining whether an individual is eligible for assistance under this subparagraph. For the purposes of determining the amount of an individual’s resources under this subparagraph and as allowed by 42 U.S.C. §1396a(r)(2), a maximum of ten thousand dollars of available resources shall be disregarded, and any additional resources held in a retirement account, in a medical savings account, or in any other account approved under rules adopted by the department shall also be disregarded.

(b) Individuals eligible for assistance under this subparagraph, whose individual income exceeds one hundred fifty percent of the official poverty guidelines published by the United States department of health and human services for an individual, shall pay a premium. The amount of the premium shall be based on a sliding fee schedule adopted by rule of the department and shall be based on a percentage of the individual’s income. The maximum premium payable by an individual whose income exceeds one hundred fifty percent of the official poverty guidelines shall be commensurate with the cost of state employees’ group health insurance in this state. The payment to and acceptance by an automated case management system or the department of the premium required under this subparagraph shall not automatically confer initial or continuing program eligibility on an individual. A premium paid to and accepted by the department’s premium payment process that is subsequently determined to be untimely or to have been paid on behalf of an individual

ineligible for the program shall be refunded to the remitter in accordance with rules adopted by the department. Any unpaid premium shall be a debt owed the department.

(2) (a) As provided under the federal Breast and Cervical Cancer Prevention and Treatment Act of 2000, Pub. L. No. 106-354, individuals who meet all of the following criteria:

(i) Are not described in 42 U.S.C. §1396a(a)(10)(A)(i).

(ii) Have not attained age sixty-five.

(iii) Have been screened for breast and cervical cancer under the United States centers for disease control and prevention breast and cervical cancer early detection program established under 42 U.S.C. §300k et seq., in accordance with the requirements of 42 U.S.C. §300n, and need treatment for breast or cervical cancer. An individual is considered screened for breast and cervical cancer under this subparagraph subdivision if the individual is screened by any provider or entity, and the state grantee of the United States centers for disease control and prevention funds under Tit. XV of the federal Public Health Services Act has elected to include screening activities by that provider or entity as screening activities pursuant to Tit. XV of the federal Public Health Services Act. This screening includes breast or cervical cancer screenings or related diagnostic services provided or funded by family planning centers, community health centers, or nonprofit organizations, and the screenings or services are provided to individuals who meet the eligibility requirements established by the state grantee of the United States centers for disease control and prevention funds under Tit. XV of the federal Public Health Services Act.

(iv) Are not otherwise covered under creditable coverage as defined in 42 U.S.C. §300gg(c).

(b) An individual who meets the criteria of this subparagraph (2) shall be presumptively eligible for medical assistance.

(3) Individuals who are receiving care in a hospital or in a basic nursing home, intermediate nursing home, skilled nursing home or extended care facility, as defined by section 135C.1, and who meet all eligibility requirements for federal supplemental security income except that their income exceeds the allowable maximum for such eligibility, but whose income is not in excess of the maximum established for eligibility for discretionary medical assistance and is insufficient to meet the full cost of their care in the hospital or health care facility on the basis of standards established by the department.

(4) Individuals under twenty-one years of age living in a licensed foster home, or in a private home pursuant to a subsidized adoption arrangement, for whom the department accepts financial responsibility in whole or in part and who are not eligible under subsection 1.

(5) Individuals who are receiving care in an institution for mental diseases, and who are under twenty-one years of age and whose income and resources are such that they are eligible for the family investment program, or who are sixty-five years of age or older and who meet the conditions for eligibility in paragraph "a", subparagraph (1).

(6) Individuals and families whose incomes and resources are such that they are eligible for federal supplemental security income or the family investment program, but who are not actually receiving such public assistance.

(7) Individuals who are receiving state supplementary assistance as defined by section 249.1.

(8) Individuals under twenty-one years of age who qualify on a financial basis for, but who are otherwise ineligible to receive assistance under the family investment program.

(9) Individuals eligible for family planning services under a federally approved demonstration waiver.

(10) Individuals and families who would be eligible under subsection 1 or this subsection except for excess income or resources, or a reasonable category of those individuals and families.

(11) Individuals who have attained the age of twenty-one but have not yet attained the age of sixty-five who qualify on a financial basis for, but who are otherwise ineligible to receive, federal supplemental security income or assistance under the family investment program.

b. Notwithstanding the provisions of this subsection establishing priorities for individuals and families to receive mandatory medical assistance, the department may determine

within the priorities listed in this subsection which persons shall receive mandatory medical assistance based on income levels established by the department, subject to the limitations provided in subsection 4.

3. Optional medical assistance may, within the limits of available funds and in accordance with section 249A.4, subsection 1, be provided to, or on behalf of, either of the following groups of individuals and families:

- a. Only those individuals and families described in subsection 1.
- b. Those individuals and families described in both subsections 1 and 2.

4. Discretionary medical assistance, within the limits of available funds and in accordance with section 249A.4, subsection 1, may be provided to or on behalf of those individuals and families described in subsection 2, paragraph “a”, subparagraph (11), of this section.

5. Assistance shall not be granted under this chapter to:

- a. An individual or family whose income, considered to be available to the individual or family, exceeds federally prescribed limitations.
- b. An individual or family whose resources, considered to be available to the individual or family, exceed federally prescribed limitations.

5A. In determining eligibility for children under subsection 1, paragraphs “b”, “f”, “g”, “j”, “k”, “n”, and “s”; subsection 2, paragraph “a”, subparagraphs (3), (5), (6), (8), and (11); and subsection 5, paragraph “b”, all resources of the family, other than monthly income, shall be disregarded.

5B. In determining eligibility for adults under subsection 1, paragraphs “b”, “e”, “h”, “j”, “k”, “n”, “s”, and “t”; subsection 2, paragraph “a”, subparagraphs (4), (5), (8), (11), and (12); and subsection 5, paragraph “b”, one motor vehicle per household shall be disregarded.

6. In determining the eligibility of an individual for medical assistance under this chapter, for resources transferred to the individual’s spouse before October 1, 1989, or to a person other than the individual’s spouse before July 1, 1989, the department shall include, as resources still available to the individual, those nonexempt resources or interests in resources, owned by the individual within the preceding twenty-four months, which the individual gave away or sold at less than fair market value for the purpose of establishing eligibility for medical assistance under this chapter.

a. A transaction described in this subsection is presumed to have been for the purpose of establishing eligibility for medical assistance under this chapter unless the individual furnishes convincing evidence to establish that the transaction was exclusively for some other purpose.

b. The value of a resource or an interest in a resource in determining eligibility under this subsection is the fair market value of the resource or interest at the time of the transaction less the amount of any compensation received.

c. If a transaction described in this subsection results in uncompensated value exceeding twelve thousand dollars, the department shall provide by rule for a period of ineligibility which exceeds twenty-four months and has a reasonable relationship to the uncompensated value above twelve thousand dollars.

7. In determining the eligibility of an individual for medical assistance under this chapter, the department shall consider resources transferred to the individual’s spouse on or after October 1, 1989, or to a person other than the individual’s spouse on or after July 1, 1989, and prior to August 11, 1993, as provided by the federal Medicare Catastrophic Coverage Act of 1988, Pub. L. No. 100-360, §303(b), as amended by the federal Family Support Act of 1988, Pub. L. No. 100-485, §608(d)(16)(B), (D), and the federal Omnibus Budget Reconciliation Act of 1989, Pub. L. No. 101-239, §6411(e)(1).

8. Medicare cost sharing shall be provided in accordance with the provisions of Tit. XIX of the federal Social Security Act, section 1902(a)(10)(E), as codified in 42 U.S.C. §1396a(a)(10)(E), to or on behalf of an individual who is a resident of the state or a resident who is temporarily absent from the state, and who is a member of any of the following eligibility categories:

a. A qualified Medicare beneficiary as defined under Tit. XIX of the federal Social Security Act, section 1905(p)(1), as codified in 42 U.S.C. §1396d(p)(1).

b. A qualified disabled and working person as defined under Tit. XIX of the federal Social Security Act, section 1905(s), as codified in 42 U.S.C. §1396d(s).

c. A specified low-income Medicare beneficiary as defined under Tit. XIX of the federal Social Security Act, section 1902(a)(10)(E)(iii), as codified in 42 U.S.C. §1396a(a)(10)(E)(iii).

d. An additional specified low-income Medicare beneficiary as described under Tit. XIX of the federal Social Security Act, section 1902(a)(10)(E)(iv)(I), as codified in 42 U.S.C. §1396a(a)(10)(E)(iv)(I).

e. An additional specified low-income Medicare beneficiary described under Tit. XIX of the federal Social Security Act, section 1902(a)(10)(E)(iv)(II), as codified in 42 U.S.C. §1396a(a)(10)(E)(iv)(II).

9. In determining the eligibility of an institutionalized individual for assistance under this chapter, the department shall establish a minimum community spouse resource allowance in an amount which is the greater of twenty-four thousand dollars or the minimum required as a condition of receipt of federal funding pursuant to section 1924(f)(2)(A)(i) of the federal Social Security Act, as codified in 42 U.S.C. §1396r-5(f)(2)(A)(i) 174, and as adjusted pursuant to section 1924(g) of the federal Social Security Act as codified in 42 U.S.C. §1396r-5(g).

10. Group health plan cost sharing shall be provided as required by Tit. XIX of the federal Social Security Act, section 1906, as codified in 42 U.S.C. §1396e.

11. a. In determining the eligibility of an individual for medical assistance, the department shall consider transfers of assets made on or after August 11, 1993, as provided by the federal Social Security Act, section 1917(c), as codified in 42 U.S.C. §1396p(c).

b. The department shall exercise the option provided in 42 U.S.C. §1396p(c) to provide a period of ineligibility for medical assistance due to a transfer of assets by a noninstitutionalized individual or the spouse of a noninstitutionalized individual. For noninstitutionalized individuals, the number of months of ineligibility shall be equal to the total, cumulative uncompensated value of all assets transferred by the individual or the individual's spouse on or after the look-back date specified in 42 U.S.C. §1396p(c)(1)(B)(i), divided by the average monthly cost to a private patient for nursing facility services in Iowa at the time of application. The services for which noninstitutionalized individuals shall be made ineligible shall include any long-term care services for which medical assistance is otherwise available. Notwithstanding section 17A.4, the department may adopt rules providing a period of ineligibility for medical assistance due to a transfer of assets by a noninstitutionalized individual or the spouse of a noninstitutionalized individual without notice of opportunity for public comment, to be effective immediately upon filing under section 17A.5, subsection 2, paragraph "b", subparagraph (1), subparagraph division (a).

c. A disclaimer of any property, interest, or right pursuant to section 633E.5 constitutes a transfer of assets for the purpose of determining eligibility for medical assistance in an amount equal to the value of the property, interest, or right disclaimed.

d. Unless a surviving spouse is precluded from making an election under the terms of a premarital agreement, the failure of a surviving spouse to take an elective share pursuant to chapter 633, subchapter V, constitutes a transfer of assets for the purpose of determining eligibility for medical assistance to the extent that the value received by taking an elective share would have exceeded the value of the inheritance received under the will.

12. In determining the eligibility of an individual for medical assistance, the department shall consider income or assets relating to trusts or similar legal instruments or devices established on or before August 10, 1993, as available to the individual, in accordance with the federal Comprehensive Omnibus Budget Reconciliation Act of 1985, Pub. L. No. 99-272, §9506(a), as amended by the federal Omnibus Budget Reconciliation Act of 1986, Pub. L. No. 99-509, §9435(c).

13. In determining the eligibility of an individual for medical assistance, the department shall consider income or assets relating to trusts or similar legal instruments or devices established after August 10, 1993, as available to the individual, in accordance with 42 U.S.C. §1396p(d) and sections 633C.2 and 633C.3.

14. Once initial ongoing eligibility for medical assistance is determined for a child under the age of nineteen, the department shall provide continuous eligibility for a period of up to twelve months regardless of changes in family circumstances, until the child's next annual

review of eligibility under the medical assistance program, with the exception of the following children:

- a. A newborn child of a medical assistance-eligible woman.
- b. A child whose eligibility was determined under the medically needy program.
- c. A child who is eligible under a state-only funded program.
- d. A child who is no longer an Iowa resident.
- e. A child who is incarcerated in a jail or other correctional institution.

[C62, 66, §249A.3, 249A.4; C71, 73, 75, 77, 79, 81, §249A.3; 81 Acts, ch 7, §15, ch 82, §1] 84 Acts, ch 1297, §3 – 5; 85 Acts, ch 146, §2; 89 Acts, ch 104, §2 – 4; 89 Acts, ch 304, §202; 90 Acts, ch 1258, §6; 90 Acts, ch 1270, §48; 91 Acts, ch 158, §3, 4; 92 Acts, ch 1043, §4; 92 Acts, 2nd Ex, ch 1001, §420; 93 Acts, ch 97, §37; 94 Acts, ch 1120, §1, 8, 9, 16; 95 Acts, ch 68, §1; 96 Acts, ch 1129, §64; 97 Acts, ch 41, §26 – 28; 98 Acts, ch 1218, §77; 99 Acts, ch 94, §1; 99 Acts, ch 203, §50; 99 Acts, ch 208, §50; 2000 Acts, ch 1060, §1 – 3; 2000 Acts, ch 1221, §6; 2000 Acts, ch 1228, §41; 2001 Acts, ch 184, §9; 2003 Acts, ch 62, §2; 2004 Acts, ch 1015, §1; 2005 Acts, ch 38, §1, 55; 2006 Acts, ch 1104, §1; 2006 Acts, ch 1159, §4, 8; 2007 Acts, ch 218, §41 – 43, 124, 126; 2008 Acts, ch 1014, §1; 2008 Acts, ch 1188, §2, 3, 55; 2009 Acts, ch 41, §242; 2009 Acts, ch 118, §16; 2009 Acts, ch 182, §132, 134; 2011 Acts, ch 98, §16; 2011 Acts, ch 120, §3; 2013 Acts, ch 138, §65 – 71, 77, 92, 93, 106, 177, 178, 187; 2014 Acts, ch 1092, §174; 2015 Acts, ch 30, §224; 2018 Acts, ch 1041, §127; 2019 Acts, ch 116, §1

Referred to in §8A.504, 217.34, 249N.2, 249N.5, 249N.6

Spousal support debt for medical assistance to institutionalized spouse; community spouse resource allowance; chapter 249B
Elimination of monthly budget maximum or cap for individuals eligible for medical assistance program home and community-based services elderly waiver; department of human services required to track average expended per waiver recipient and report annually to general assembly by October 1; 2020 Acts, ch 1053, §1

Department of human services required to submit a medical assistance state plan amendment to provide for applicability of the federal Breast and Cervical Cancer Prevention and Treatment Act of 2009, as referenced in subsection 2, paragraph a, subparagraph (2), to both men and women and implement upon receipt of approval; 2013 Acts, ch 138, §78; Code editor notified that approval of state plan amendment occurred on October 22, 2013, with an effective date of January 1, 2014

249A.3A Medical assistance — all income-eligible children.

The department shall provide medical assistance to individuals under nineteen years of age who meet the income eligibility requirements for the state medical assistance program and for whom federal financial participation is or becomes available for the cost of such assistance.

2009 Acts, ch 118, §13

249A.4 Duties of director.

The director shall be responsible for the effective and impartial administration of this chapter and shall, in accordance with the standards and priorities established by this chapter, by applicable federal law, by the regulations and directives issued pursuant to federal law, by applicable court orders, and by the state plan approved in accordance with federal law, make rules, establish policies, and prescribe procedures to implement this chapter. Without limiting the generality of the foregoing delegation of authority, the director is hereby specifically empowered and directed to:

1. Determine the greatest amount, duration, and scope of assistance which may be provided, and the broadest range of eligible individuals to whom assistance may effectively be provided, under this chapter within the limitations of available funds. In so doing, the director shall at least every six months evaluate the scope of the program currently being provided under this chapter, project the probable cost of continuing a like program, and compare the probable cost with the remaining balance of the state appropriation made for payment of assistance under this chapter during the current appropriation period. After each evaluation of the scope of the program, the director shall report to the general assembly through the legislative council or in another manner as the general assembly may by resolution direct.

2. Reserved.

3. Have authority to provide for payment under this chapter of assistance rendered to any applicant prior to the date the application is filed.

4. Have authority to contract with any corporation authorized to engage in this state in insuring groups or individuals for all or part of the cost of medical, hospital, or other health care or with any corporation maintaining and operating a medical, hospital, or health

service prepayment plan under the provisions of chapter 514 or with any health maintenance organization authorized to operate in this state, for any or all of the benefits to which any recipients are entitled under this chapter to be provided by such corporation or health maintenance organization on a prepaid individual or group basis.

5. May, to the extent possible, contract with a private organization or organizations whereby such organization will handle the processing of and the payment of claims for services rendered under the provisions of this chapter and under such rules and regulations as shall be promulgated by such department. The state department may give due consideration to the advantages of contracting with any organization which may be serving in Iowa as “intermediary” or “carrier” under Tit. XVIII of the federal Social Security Act, as amended.

6. Shall cooperate with any agency of the state or federal government in any manner as may be necessary to qualify for federal aid and assistance for medical assistance in conformity with the provisions of chapter 249, this chapter, and Tit. XVI and XIX of the federal Social Security Act, as amended.

7. Shall provide for the professional freedom of those licensed practitioners who determine the need for or provide medical care and services, and shall provide freedom of choice to recipients to select the provider of care and services, except when the recipient is eligible for participation in a health maintenance organization or prepaid health plan which limits provider selection and which is approved by the department.

a. However, this shall not limit the freedom of choice to recipients to select providers in instances where such provider services are eligible for reimbursement under the medical assistance program but are not provided under the health maintenance organization or under the prepaid health plan, or where the recipient has an already established program of specialized medical care with a particular provider. The department may also restrict the recipient’s selection of providers to control the individual recipient’s overuse of care and services, provided the department can document this overuse. The department shall promulgate rules for determining the overuse of services, including rights of appeal by the recipient.

b. Advanced registered nurse practitioners licensed pursuant to chapter 152 and physician assistants licensed pursuant to chapter 148C shall be regarded as approved providers of health care services, including primary care, for purposes of managed care or prepaid services contracts under the medical assistance program. This paragraph shall not be construed to expand the scope of practice of an advanced registered nurse practitioner pursuant to chapter 152 or physician assistants pursuant to chapter 148C.

8. Implement the premium assistance program options described under the federal Children’s Health Insurance Program Reauthorization Act of 2009, Pub. L. No. 111-3, for the medical assistance program. The department may adopt rules as necessary to administer these options.

9. Adopt rules pursuant to chapter 17A in determining the method and level of reimbursement for all medical and health services to be provided under the medical assistance program, after considering all of the following:

- a. The promotion of efficient and cost-effective delivery of medical and health services.
- b. Compliance with federal law and regulations.
- c. The level of state and federal appropriations for medical assistance.
- d. Reimbursement at a level as near as possible to actual costs and charges after priority is given to the considerations in paragraphs “a”, “b”, and “c”.

10. a. Allow supplementation of the combination of client participation and payment made through the medical assistance program for those items and services identified in 42 C.F.R. §483.10(c)(8)(ii), by the resident of a nursing facility or the resident’s family. Supplementation under this subsection may include supplementation for provision of a private room not otherwise covered under the medical assistance program unless either of the following applies:

- (1) The private room is therapeutically required pursuant to 42 C.F.R. §483.10(c)(8)(ii).
- (2) No room other than the private room is available.

b. The rules adopted to administer this subsection shall require all of the following if a nursing facility provides for supplementation for provision of a private room:

(1) The nursing facility shall inform all current and prospective residents and residents' legal representatives of the following:

(a) If the resident desires a private room, the resident or resident's family may provide supplementation by directly paying the facility the amount of supplementation. Supplementation by a resident's family shall not be treated as income of the resident for purposes of medical assistance program eligibility or client participation.

(b) The nursing facility's policy if a resident residing in a private room converts from private pay to payment under the medical assistance program, but the resident or resident's family is not willing or able to pay supplementation for the private room.

(c) A description and identification of the private rooms for which supplementation is available.

(d) The process for an individual to take legal responsibility for providing supplementation, including identification of the individual and the extent of the legal responsibility.

(2) For a resident for whom the nursing facility receives supplementation, the nursing facility shall indicate in the resident's record all of the following:

(a) A description and identification of the private room for which the nursing facility is receiving supplementation.

(b) The identity of the individual making the supplemental payments.

(c) The private pay charge for the private room for which the nursing facility is receiving supplementation.

(d) The total charge to the resident for the private room for which the nursing facility is receiving supplementation, the portion of the total charge reimbursed under the medical assistance program, and the portion of the total charge reimbursed through supplementation.

(3) If the nursing facility only provides one type of room or all private rooms, the nursing facility shall not be eligible to request supplementation.

(4) A nursing facility may base the supplementation amount on the difference between the amount paid for a room covered under the medical assistance program and the private pay rate for the private room identified for supplementation. However, the total payment for the private room from all sources shall not be greater than the aggregate average private room rate for the type of rooms covered under the medical assistance program for which the resident would be eligible.

(5) Supplementation pursuant to this subsection shall not be required as a precondition of admission, expedited admission, or continued stay in a facility.

(6) Supplementation shall not be applicable if the facility's occupancy rate is less than fifty percent.

(7) The nursing facility shall ensure that all appropriate care is provided to all residents notwithstanding the applicability or availability of supplementation.

(8) A private room for which supplementation is required shall be retained for the resident consistent with existing bed-hold policies.

c. (1) A nursing facility that utilizes the supplementation option and receives supplementation under this subsection during any calendar year shall report to the department of human services annually, by January 15, the following information for the preceding calendar year:

(a) The total number of nursing facility beds available at the nursing facility, the number of such beds available in private rooms, and the number of such beds available in other types of rooms.

(b) The average occupancy rate of the facility on a monthly basis.

(c) The total number of residents for which supplementation was utilized.

(d) The average private pay charge for a private room in the nursing facility.

(e) For each resident for whom supplementation was utilized, the total charge to the resident for the private room, the portion of the total charge reimbursed under the Medicaid program, and the total charge reimbursed through supplementation.

(2) The department shall compile the information received and shall submit the compilation to the general assembly, annually by May 1.

11. Shall provide an opportunity for a fair hearing before the department of inspections and appeals to an individual whose claim for medical assistance under this chapter is denied or is not acted upon with reasonable promptness. Upon completion of a hearing, the department of inspections and appeals shall issue a decision which is subject to review by the department of human services. Judicial review of the decisions of the department of human services may be sought in accordance with chapter 17A. If a petition for judicial review is filed, the department of human services shall furnish the petitioner with a copy of the application and all supporting papers, a transcript of the testimony taken at the hearing, if any, and a copy of its decision.

12. In determining the medical assistance eligibility of a pregnant woman, infant, or child under the federal Social Security Act, §1902(l), resources which are used as tools of the trade shall not be considered.

13. In implementing subsection 9, relating to reimbursement for medical and health services under this chapter, when a selected out-of-state acute care hospital facility is involved, a contractual arrangement may be developed with the out-of-state facility that is in accordance with the requirements of Tit. XVIII and XIX of the federal Social Security Act. The contractual arrangement is not subject to other reimbursement standards, policies, and rate setting procedures required under this chapter.

14. A medical assistance copayment shall only be applied to those services and products specified in administrative rules of the department in effect on February 1, 1991, which under federal medical assistance requirements, are provided at the option of the state.

15. Establish appropriate reimbursement rates for community mental health centers that are accredited by the mental health and disability services commission.

[C62, 66, §249A.5, 249A.10; C71, 73, 75, 77, 79, 81, §249A.4; 82 Acts, ch 1260, §121, 122]

83 Acts, ch 96, §157, 159; 83 Acts, ch 153, §12, 13; 83 Acts, ch 201, §13; 86 Acts, ch 1245, §2031; 89 Acts, ch 37, §1; 89 Acts, ch 104, §5; 89 Acts, ch 304, §203; 90 Acts, ch 1204, §61, 62; 90 Acts, ch 1223, §21; 90 Acts, ch 1256, §41; 90 Acts, ch 1264, §34; 91 Acts, ch 97, §32; 91 Acts, ch 158, §5; 92 Acts, ch 1229, §29, 30; 94 Acts, ch 1150, §1, 2; 97 Acts, ch 165, §1; 98 Acts, ch 1181, §4; 99 Acts, ch 96, §27; 2000 Acts, ch 1029, §1, 2; 2001 Acts, ch 24, §65, 74; 2001 Acts, ch 74, §17; 2003 Acts, ch 21, §1; 2004 Acts, ch 1090, §14; 2005 Acts, ch 120, §2; 2005 Acts, ch 167, §46, 66; 2009 Acts, ch 41, §243; 2009 Acts, ch 118, §18; 2010 Acts, ch 1031, §389; 2012 Acts, ch 1034, §1; 2013 Acts, ch 138, §72; 2014 Acts, ch 1140, §87, 88; 2020 Acts, ch 1020, §8, 12; 2020 Acts, ch 1063, §94

Referred to in §249A.3

Subsection 7, paragraph b amended

Subsections 11 and 15 amended

249A.4A Garnishment. Transferred to §249A.52; 2013 Acts, ch 24, §14.

249A.4B Medical assistance advisory council.

1. A medical assistance advisory council is created to comply with 42 C.F.R. §431.12 based on section 1902(a)(4) of the federal Social Security Act and to advise the director about health and medical care services under the medical assistance program. The council shall meet no more than quarterly. The director of public health and a public member of the council selected by the public members of the council shall serve as co-chairpersons of the council.

2. a. The council shall consist of the following voting members:

(1) Five professional or business entity members selected by the entities specified pursuant to subsection 3, paragraph "a".

(2) Five public members appointed pursuant to subsection 3, paragraph "b". Of the five public members, at least one member shall be a recipient of medical assistance.

b. The council shall include all of the following nonvoting members:

(1) The director of public health, or the director's designee.

(2) The director of the department on aging, or the director's designee.

(3) The long-term care ombudsman, or the long-term care ombudsman's designee.

(4) The dean of Des Moines university — osteopathic medical center, or the dean's designee.

(5) The dean of the university of Iowa college of medicine, or the dean's designee.

(6) A member of the hawk-i board created in section 514I.5, selected by the members of the hawk-i board.

(7) The following members of the general assembly, each for a term of two years as provided in section 69.16B:

(a) Two members of the house of representatives, one appointed by the speaker of the house of representatives and one appointed by the minority leader of the house of representatives from their respective parties.

(b) Two members of the senate, one appointed by the president of the senate after consultation with the majority leader of the senate and one appointed by the minority leader of the senate.

3. The voting membership of the council shall be selected or appointed as follows:

a. The five professional or business entity members shall be selected by the entities specified under this paragraph "a". The five professional or business entity members selected shall be the president, or the president's representative, of the professional or business entity, or a member of the professional or business entity, designated by the entity.

(1) The Iowa medical society.

(2) The Iowa osteopathic medical association.

(3) The Iowa academy of family physicians.

(4) The Iowa chapter of the American academy of pediatrics.

(5) The Iowa physical therapy association.

(6) The Iowa dental association.

(7) The Iowa nurses association.

(8) The Iowa pharmacy association.

(9) The Iowa podiatric medical society.

(10) The Iowa optometric association.

(11) The Iowa association of community providers.

(12) The Iowa psychological association.

(13) The Iowa psychiatric society.

(14) The Iowa chapter of the national association of social workers.

(15) The coalition for family and children's services in Iowa.

(16) The Iowa hospital association.

(17) The Iowa association of rural health clinics.

(18) The Iowa primary care association.

(19) Free clinics of Iowa.

(20) The opticians' association of Iowa, inc.

(21) The Iowa association of hearing health professionals.

(22) The Iowa speech and hearing association.

(23) The Iowa health care association.

(24) The Iowa association of area agencies on aging.

(25) AARP.

(26) The Iowa caregivers association.

(27) Leading age Iowa.

(28) The Iowa association for home care.

(29) The Iowa council of health care centers.

(30) The Iowa physician assistant society.

(31) The Iowa association of nurse practitioners.

(32) The Iowa nurse practitioner society.

(33) The Iowa occupational therapy association.

(34) The ARC of Iowa, formerly known as the association for retarded citizens of Iowa.

(35) The national alliance on mental illness.

(36) The Iowa state association of counties.

(37) The Iowa developmental disabilities council.

(38) The Iowa chiropractic society.

(39) The Iowa academy of nutrition and dietetics.

(40) The Iowa behavioral health association.

(41) The midwest association for medical equipment services or an affiliated Iowa organization.

b. The five public members shall be public representatives which may include members of consumer groups, including recipients of medical assistance or their families, consumer organizations, and others, appointed by the governor for staggered terms of two years each, none of whom shall be members of, or practitioners of, or have a pecuniary interest in any of the professional or business entities specifically represented under paragraph “a”.

4. Based upon the deliberations of the council, the council shall make recommendations to the director regarding the budget, policy, and administration of the medical assistance program.

5. For each council meeting, other than those held during the time the general assembly is in session, each legislative member of the council shall be reimbursed for actual travel and other necessary expenses and shall receive a per diem as specified in section 7E.6 for each day in attendance, as shall the members of the council who are recipients or the family members of recipients of medical assistance, regardless of whether the general assembly is in session.

6. The department shall provide staff support and independent technical assistance to the council.

7. The director shall consider the recommendations offered by the council in the director’s preparation of medical assistance budget recommendations to the council on human services pursuant to section 217.3 and in implementation of medical assistance program policies.

2005 Acts, ch 120, §3; 2008 Acts, ch 1156, §36, 58; 2009 Acts, ch 23, §55; 2011 Acts, ch 129, §93, 156; 2012 Acts, ch 1023, §32; 2012 Acts, ch 1068, §1; 2013 Acts, ch 30, §48; 2016 Acts, ch 1139, §99; 2018 Acts, ch 1165, §130; 2019 Acts, ch 85, §91

Referred to in §217.3

249A.5 Recovery of payment. Transferred to §249A.53; 2013 Acts, ch 24, §14.

249A.6 Assignment — lien. Transferred to §249A.54; 2013 Acts, ch 24, §14.

249A.6A Restitution. Transferred to §249A.55; 2013 Acts, ch 24, §14.

249A.7 Fraudulent practices — investigations and audits — Medicaid fraud fund. Transferred to §249A.50; 2013 Acts, ch 24, §14.

249A.8 Fraudulent practice. Transferred to §249A.51; 2013 Acts, ch 24, §14.

249A.9 and 249A.10 Reserved.

249A.11 Payment for patient care segregated.

A state resource center or mental health institute, upon receipt of any payment made under this chapter for the care of any patient, shall segregate an amount equal to that portion of the payment which is required by law to be made from nonfederal funds. The money segregated shall be deposited in the medical assistance fund of the department of human services.

[C77, 79, 81, §249A.11]

83 Acts, ch 96, §157, 159; 85 Acts, ch 146, §3; 2000 Acts, ch 1112, §51; 2005 Acts, ch 167, §33, 66; 2010 Acts, ch 1141, §27

Referred to in §218.78, 222.92

249A.12 Assistance to persons with an intellectual disability.

1. Assistance may be furnished under this chapter to an otherwise eligible recipient who is a resident of a health care facility licensed under chapter 135C and certified as an intermediate care facility for persons with an intellectual disability.

2. If a county reimbursed the department for medical assistance provided under this section, Code 2011, and the amount of medical assistance is subsequently repaid through a medical assistance income trust or a medical assistance special needs trust as defined in

section 633C.1, the department shall reimburse the county on a proportionate basis. The department shall adopt rules to implement this subsection.

3. *a.* Effective July 1, 1995, the state shall be responsible for all of the nonfederal share of the costs of intermediate care facility for persons with an intellectual disability services provided under medical assistance to minors. Notwithstanding contrary provisions of section 222.73, Code 2011, effective July 1, 1995, a county is not required to reimburse the department and shall not be billed for the nonfederal share of the costs of such services provided to minors.

b. The state shall be responsible for all of the nonfederal share of medical assistance home and community-based services waivers for persons with an intellectual disability services provided to minors, and a county is not required to reimburse the department and shall not be billed for the nonfederal share of the costs of the services.

c. The state shall be responsible for all of the nonfederal share of the costs of intermediate care facility for persons with an intellectual disability services provided under medical assistance attributable to the assessment for intermediate care facilities for individuals with an intellectual disability imposed pursuant to section 249A.21. A county is not required to reimburse the department and shall not be billed for the nonfederal share of the costs of such services attributable to the assessment.

4. *a.* The mental health and disability services commission shall recommend to the department the actions necessary to assist in the transition of individuals being served in an intermediate care facility for persons with an intellectual disability, who are appropriate for the transition, to services funded under a medical assistance home and community-based services waiver for persons with an intellectual disability in a manner which maximizes the use of existing public and private facilities. The actions may include but are not limited to submitting any of the following or a combination of any of the following as a request for a revision of the medical assistance home and community-based services waiver for persons with an intellectual disability:

(1) Allow for the transition of intermediate care facilities for persons with an intellectual disability licensed under chapter 135C, to services funded under the medical assistance home and community-based services waiver for persons with an intellectual disability. The request shall be for inclusion of additional persons under the waiver associated with the transition.

(2) Allow for reimbursement under the waiver for day program or other service costs.

(3) Allow for exception provisions in which an intermediate care facility for persons with an intellectual disability which does not meet size and other facility-related requirements under the waiver in effect on June 30, 1996, may convert to a waiver service for a set period of time such as five years. Following the set period of time, the facility would be subject to the waiver requirements applicable to services which were not operating under the exception provisions.

b. In implementing the provisions of this subsection, the mental health and disability services commission shall consult with other states. The waiver revision request or other action necessary to assist in the transition of service provision from intermediate care facilities for persons with an intellectual disability to alternative programs shall be implemented by the department in a manner that can appropriately meet the needs of individuals at an overall lower cost to counties, the federal government, and the state. In addition, the department shall take into consideration significant federal changes to the medical assistance program in formulating the department's actions under this subsection. The department shall consult with the mental health and disability services commission in adopting rules for oversight of facilities converted pursuant to this subsection. A transition approach described in paragraph "a" may be modified as necessary to obtain federal waiver approval.

5. *a.* The provisions of the home and community-based services waiver for persons with an intellectual disability shall include adult day care, prevocational, and transportation services. Transportation shall be included as a separately payable service.

b. The department of human services shall seek federal approval to amend the home and community-based services waiver for persons with an intellectual disability to include day

habilitation services. Inclusion of day habilitation services in the waiver shall take effect upon receipt of federal approval.

6. When paying the necessary and legal expenses for intermediate care facility for persons with an intellectual disability services, the cost requirements of section 222.60 shall be considered fulfilled when payment is made in accordance with the medical assistance payment rates established by the department for intermediate care facilities for persons with an intellectual disability, and the state shall not be obligated for any amount in excess of the rates.

7. If services associated with the intellectual disability can be covered under a medical assistance home and community-based services waiver or other medical assistance program provision, the nonfederal share of the medical assistance program costs for such coverage shall be paid from the appropriation made for the medical assistance program.

[C77, 79, 81, §249A.12]

83 Acts, ch 123, §96, 209; 84 Acts, ch 1297, §6; 94 Acts, ch 1120, §2; 94 Acts, ch 1163, §1; 95 Acts, ch 68, §3; 96 Acts, ch 1129, §113; 96 Acts, ch 1183, §30, 31; 2002 Acts, ch 1146, §5, 6; 2003 Acts, ch 62, §4, 8; 2003 Acts, ch 118, §1; 2004 Acts, ch 1086, §45 – 47; 2004 Acts, ch 1090, §15, 16; 2005 Acts, ch 38, §55; 2005 Acts, ch 175, §109 – 111; 2006 Acts, ch 1066, §1; 2006 Acts, ch 1115, §15; 2007 Acts, ch 22, §56; 2010 Acts, ch 1031, §384 – 387, 389; 2012 Acts, ch 1019, §99 – 103; 2012 Acts, ch 1133, §58; 2012 Acts, ch 1138, §57; 2013 Acts, ch 30, §49, 50; 2016 Acts, ch 1139, §51

Referred to in §28M.1, 331.402

249A.13 Reserved.

249A.14 County attorney to enforce. Transferred to §249A.56; 2013 Acts, ch 24, §14.

249A.15 Licensed psychologists eligible for payment — provisional licensees.

1. The department shall adopt rules pursuant to chapter 17A entitling psychologists who are licensed pursuant to chapter 154B and psychologists who are licensed in the state where the services are provided and have a doctorate degree in psychology, have had at least two years of clinical experience in a recognized health setting, or have met the standards of a national register of health service providers in psychology, to payment for services provided to recipients of medical assistance, subject to limitations and exclusions the department finds necessary on the basis of federal laws and regulations and of funds available for the medical assistance program. The rules shall also provide that an individual, who holds a provisional license to practice psychology pursuant to section 154B.6, is entitled to payment under this section for services provided to recipients of medical assistance, when such services are provided under the supervision of a supervisor who meets the qualifications determined by the board of psychology by rule, and claims for payment for such services are submitted by the supervisor.

2. Entitlement to payment under this section is applicable to services provided to recipients of medical assistance under both the fee-for-service and managed care payment and delivery systems. Neither the fee-for-service nor the managed care payment and delivery system shall impose a practice or supervision restriction which is inconsistent with or more restrictive than the authority already granted by law, including the authority to provide supervision in person or remotely through electronic means as specified by rule of the board of psychology.

[81 Acts, ch 7, §16]

2015 Acts, ch 137, §107, 162, 163; 2018 Acts, ch 1165, §135, 139

249A.15A Licensed marital and family therapists, licensed master social workers, licensed mental health counselors, certified alcohol and drug counselors, licensed behavior analysts, and licensed assistant behavior analysts — temporary licensees.

1. The department shall adopt rules pursuant to chapter 17A entitling marital and family therapists who are licensed pursuant to chapter 154D to payment for behavioral health services provided to recipients of medical assistance, subject to limitations and exclusions

the department finds necessary on the basis of federal laws and regulations. The rules shall also provide that a marital and family therapist, who holds a temporary license to practice marital and family therapy pursuant to section 154D.7, is entitled to payment under this section for behavioral health services provided to recipients of medical assistance, when such services are provided under the supervision of a qualified supervisor as determined by the board of behavioral science by rule, and claims for payment for such services are submitted by the qualified supervisor.

2. The department shall adopt rules pursuant to chapter 17A entitling master social workers who hold a master's degree approved by the board of social work, are licensed as a master social worker pursuant to section 154C.3, subsection 1, paragraph "b", and provide treatment services under the supervision of an independent social worker licensed pursuant to section 154C.3, subsection 1, paragraph "c", to payment for behavioral health services provided to recipients of medical assistance, subject to limitations and exclusions the department finds necessary on the basis of federal laws and regulations.

3. The department shall adopt rules pursuant to chapter 17A entitling mental health counselors who are licensed pursuant to chapter 154D to payment for behavioral health services provided to recipients of medical assistance, subject to limitations and exclusions the department finds necessary on the basis of federal laws and regulations. The rules shall also provide that a mental health counselor, who holds a temporary license to practice mental health counseling pursuant to section 154D.7, is entitled to payment under this section for behavioral health services provided to recipients of medical assistance, when such services are provided under the supervision of a qualified supervisor as determined by the board of behavioral science by rule, and claims for payment for such services are submitted by the qualified supervisor.

4. The department shall adopt rules pursuant to chapter 17A entitling alcohol and drug counselors who are certified by the nongovernmental Iowa board of substance abuse certification to payment for behavioral health services provided to recipients of medical assistance, subject to limitations and exclusions the department finds necessary on the basis of federal laws and regulations.

5. The department shall adopt rules pursuant to chapter 17A entitling behavior analysts and assistant behavior analysts who are licensed pursuant to chapter 154D to payment for behavioral health services provided to recipients of medical assistance, subject to limitations and exclusions the department finds necessary on the basis of federal laws and regulations.

6. Entitlement to payment under this section is applicable to services provided to recipients of medical assistance under both the fee-for-service and managed care payment and delivery systems. Neither the fee-for-service nor the managed care payment and delivery system shall impose a practice or supervision restriction which is inconsistent with or more restrictive than the authority already granted by law, including the authority to provide supervision in person or remotely through electronic means as specified by rule of the applicable licensing board.

2008 Acts, ch 1187, §123; 2011 Acts, ch 29, §1; 2018 Acts, ch 1106, §12, 14; 2018 Acts, ch 1165, §136, 139

249A.15B Speech pathologists eligible for payment.

The department shall adopt rules pursuant to chapter 17A entitling speech pathologists who are licensed pursuant to chapter 154F, including those certified in independent practice, to payment for speech pathology services provided to recipients of medical assistance, subject to limitations and exclusions the department finds necessary on the basis of federal laws and regulations.

2012 Acts, ch 1092, §1

249A.16 New rates for services — effective date.

Health care facilities licensed under chapter 135C receiving assistance payments for persons provided services by the health care facility shall submit the financial report to the department as provided by rule. Payment at a new rate is effective for services rendered as

of the first day of the month in which the report is postmarked, or if the report is personally delivered, in which the report is received by the department.

[81 Acts, ch 83, §1]

249A.17 Transitional medical assistance. Repealed by 97 Acts, ch 41, §29.

249A.18 Cost-based reimbursement — rural health clinics and federally qualified health centers.

Rural health clinics and federally qualified health centers shall receive cost-based reimbursement for one hundred percent of the reasonable costs for the provision of services to recipients of medical assistance.

98 Acts, ch 1069, §1; 99 Acts, ch 203, §51

249A.18A Resident assessment.

A nursing facility as defined in section 135C.1 shall complete a resident assessment prior to initial admission of a resident and periodically during the resident's stay in the facility. The assessment shall be completed for each prospective resident and current resident regardless of payor source. The nursing facility may utilize the same resident assessment tool required for certification of the facility under the medical assistance and federal Medicare programs to comply with this section.

2000 Acts, ch 1004, §12, 22

249A.19 Health care facilities — penalty. Transferred to §249A.57; 2013 Acts, ch 24, §14.

249A.20 Noninstitutional health providers — reimbursement.

1. Beginning November 1, 2000, the department shall use the federal Medicare resource-based relative value scale methodology to reimburse all applicable noninstitutional health providers, excluding anesthesia and dental services, that on June 30, 2000, are reimbursed on a fee-for-service basis for provision of services under the medical assistance program. The department shall apply the federal Medicare resource-based relative value scale methodology to such health providers in the same manner as the methodology is applied under the federal Medicare program and shall not utilize the resource-based relative value scale methodology in a manner that discriminates between such health providers. The reimbursement schedule shall be adjusted annually on July 1, and shall provide for reimbursement that is not less than the reimbursement provided under the fee schedule established for Iowa under the federal Medicare program in effect on January 1 of that calendar year.

2. A provider reimbursed under section 249A.31 is not a noninstitutional health provider.

2000 Acts, ch 1221, §7; 2002 Acts, ch 1120, §2, 9; 2018 Acts, ch 1041, §127

249A.20A Preferred drug list program.

1. The department shall establish and implement a preferred drug list program under the medical assistance program. The department shall submit a medical assistance state plan amendment to the centers for Medicare and Medicaid services of the United States department of health and human services, no later than May 1, 2003, to implement the program.

2. a. A medical assistance pharmaceutical and therapeutics committee shall be established within the department by July 1, 2003, for the purpose of developing and providing ongoing review of the preferred drug list.

b. (1) The members of the committee shall be appointed by the governor and shall include health care professionals who possess recognized knowledge and expertise in one or more of the following:

- (a) The clinically appropriate prescribing of covered outpatient drugs.
- (b) The clinically appropriate dispensing and monitoring of covered outpatient drugs.
- (c) Drug use review, evaluation, and intervention.
- (d) Medical quality assurance.

(2) The membership of the committee shall be comprised of at least one third but not more than fifty-one percent licensed and actively practicing physicians and at least one third licensed and actively practicing pharmacists.

c. The members shall be appointed to terms of two years. Members may be appointed to more than one term. The department shall provide staff support to the committee. Committee members shall select a chairperson and vice chairperson annually from the committee membership.

3. a. The pharmaceutical and therapeutics committee shall recommend a preferred drug list to the department.

b. The committee shall develop the preferred drug list by considering each drug's clinically meaningful therapeutic advantages in terms of safety, effectiveness, and clinical outcome.

c. The committee shall use evidence-based research methods in selecting the drugs to be included on the preferred drug list.

d. When making recommendations or determinations regarding beneficiary access to drugs and biological products for rare diseases, as defined in the federal Orphan Drug Act of 1983, Pub. L. No. 97-414, and drugs and biological products that are genetically targeted, the committee shall request and consider information from individuals who possess scientific or medical training with respect to the drug, biological product, or rare disease.

e. The committee shall periodically review all drug classes included on the preferred drug list and may amend the list to ensure that the list provides for medically appropriate drug therapies for medical assistance recipients and achieves cost savings to the medical assistance program.

f. The department may procure a sole source contract with an outside entity or contractor to provide professional administrative support to the pharmaceutical and therapeutics committee in researching and recommending drugs to be placed on the preferred drug list.

4. With the exception of drugs prescribed for the treatment of human immunodeficiency virus or acquired immune deficiency syndrome, transplantation, or cancer with the exception of drugs and drug compounds that do not have a significant variation in a therapeutic profile or side effect profile within a therapeutic class, prescribing and dispensing of prescription drugs not included on the preferred drug list shall be subject to prior authorization.

5. The department may negotiate supplemental rebates from manufacturers that are in addition to those required by Tit. XIX of the federal Social Security Act. The committee shall consider a product for inclusion on the preferred drug list if the manufacturer provides a supplemental rebate. The department may procure a sole source contract with an outside entity or contractor to conduct negotiations for supplemental rebates.

6. The department shall adopt rules to provide a procedure under which the department and the pharmaceutical and therapeutics committee may disclose information relating to the prices manufacturers or wholesalers charge for pharmaceuticals. The procedures established shall comply with 42 U.S.C. §1396r-8 and with chapter 550.

7. The department shall publish and disseminate the preferred drug list to all medical assistance providers in this state.

8. Until such time as the pharmaceutical and therapeutics committee is operational, the department shall adopt and utilize a preferred drug list developed by a midwestern state that has received approval for its medical assistance state plan amendment from the centers for Medicare and Medicaid services of the United States department of health and human services.

9. The department may procure a sole source contract with an outside entity or contractor to participate in a pharmaceutical pooling program with midwestern or other states to provide for an enlarged pool of individuals for the purchase of pharmaceutical products and services for medical assistance recipients.

10. The department may adopt administrative rules under section 17A.4, subsection 3, and section 17A.5, subsection 2, paragraph "b", to implement this section.

11. Any savings realized under this section may be used to the extent necessary to pay the costs associated with implementation of this section prior to reversion to the medical

assistance program. The department shall report the amount of any savings realized and the amount of any costs paid to the legislative fiscal committee on a quarterly basis.

2003 Acts, ch 112, §3, 14; 2003 Acts, ch 179, §161; 2005 Acts, ch 3, §53; 2008 Acts, ch 1031, §108; 2010 Acts, ch 1031, §347; 2010 Acts, ch 1061, §180; 2017 Acts, ch 174, §81

249A.20B Nursing facility quality assurance assessment. Repealed by 2005 Acts, ch 167, §40, 41, 66.

249A.21 Intermediate care facilities for persons with an intellectual disability — assessment.

1. An intermediate care facility for persons with an intellectual disability, as defined in section 135C.1, shall be assessed an amount for the preceding calendar quarter, not to exceed six percent of the actual paid claims for the previous quarter.

2. The assessment shall be paid by each intermediate care facility for persons with an intellectual disability to the department on a quarterly basis. An intermediate care facility for persons with an intellectual disability shall submit the assessment amount no later than thirty days following the end of each calendar quarter.

3. The department shall collect the assessment imposed and shall credit all revenues collected to the state medical assistance appropriation. This revenue may be used only for services for which federal financial participation under the medical assistance program is available to match state funds.

4. If the department determines that an intermediate care facility for persons with an intellectual disability has underpaid or overpaid the assessment, the department shall notify the intermediate care facility for persons with an intellectual disability of the amount of the unpaid assessment or refund due. Such payment or refund shall be due or refunded within thirty days of the issuance of the notice.

5. An intermediate care facility for persons with an intellectual disability that fails to pay the assessment within the time frame specified in this section shall pay, in addition to the outstanding assessment, a penalty in the amount of one and five-tenths percent of the assessment amount owed for each month or portion of each month the payment is overdue. However, if the department determines that good cause is shown for failure to comply with payment of the assessment, the department shall waive the penalty or a portion of the penalty.

6. If an assessment has not been received by the department by the last day of the third month after the payment is due, the department shall suspend payment due the intermediate care facility for persons with an intellectual disability under the medical assistance program including payments made on behalf of the medical assistance program by a Medicaid managed care contractor.

7. The assessment imposed under this section constitutes a debt due and owing the state and may be collected by civil action, including but not limited to the filing of tax liens, and any other method provided for by law.

8. If federal financial participation to match the assessments made under subsection 1 becomes unavailable under federal law, the department shall terminate the imposing of the assessments beginning on the date that the federal statutory, regulatory, or interpretive change takes effect.

9. The department of human services may procure a sole source contract to implement the provisions of this section.

10. The department may adopt administrative rules under section 17A.4, subsection 3, and section 17A.5, subsection 2, paragraph “b”, to implement this section.

2002 Acts, 2nd Ex, ch 1001, §36, 46; 2004 Acts, ch 1085, §6, 7, 10, 11; 2012 Acts, ch 1019, §104; 2016 Acts, ch 1139, §52

Referred to in §222.60A, 249A.12

249A.22 and 249A.23 Reserved.

249A.24 Iowa medical assistance drug utilization review commission — created.

1. An Iowa medical assistance drug utilization review commission is created within the department. The commission membership, duties, and related provisions shall comply with 42 C.F.R. pt. 456, subpt. K.

2. In addition to any other duties prescribed, the commission shall make recommendations to the council on human services regarding strategies to reduce state expenditures for prescription drugs under the medical assistance program excluding provider reimbursement rates. The commission shall make initial recommendations to the council by October 1, 2002. Following approval of any recommendation by the council on human services, the department shall include the approved recommendation in a notice of intended action under chapter 17A and shall comply with chapter 17A in adopting any rules to implement the recommendation. The department shall seek any federal waiver necessary to implement any approved recommendation. The strategies to be considered for recommendation by the commission shall include at a minimum all of the following:

a. Development of a preferred drug formulary pursuant to 42 U.S.C. §1396r-8.

b. Negotiation of supplemental rebates from manufacturers that are in addition to those required by Tit. XIX of the federal Social Security Act. For the purposes of this paragraph, “*supplemental rebates*” may include, at the department’s discretion, cash rebates and other program benefits that offset a medical assistance expenditure. Pharmaceutical manufacturers agreeing to provide a supplemental rebate as provided in this paragraph shall have an opportunity to present evidence supporting inclusion of a product on any preferred drug formulary developed.

c. Disease management programs.

d. Drug product donation programs.

e. Drug utilization control programs.

f. Prescriber and beneficiary counseling and education.

g. Fraud and abuse initiatives.

h. Pharmaceutical case management.

i. Services or administrative investments with guaranteed savings to the medical assistance program.

j. Expansion of prior authorization for prescription drugs and pharmaceutical case management under the medical assistance program.

k. Any other strategy that has been approved by the United States department of health and human services regarding prescription drugs under the medical assistance program.

3. When making recommendations or determinations regarding beneficiary access to drugs and biological products for rare diseases, as defined in the federal Orphan Drug Act of 1983, Pub. L. No. 97-414, and drugs and biological products that are genetically targeted, the commission shall request and consider information from individuals who possess scientific or medical training with respect to the drug, biological product, or rare disease.

4. The commission shall submit an annual review, including facts and findings, of the drugs on the department’s prior authorization list to the department and to the members of the general assembly’s joint appropriations subcommittee on health and human services.

2002 Acts, 2nd Ex, ch 1003, §263, 266; 2005 Acts, ch 175, §112; 2010 Acts, ch 1061, §180; 2017 Acts, ch 174, §82

249A.25 Enhanced mental health, mental retardation, and developmental disabilities services plan oversight committee. Repealed by 94 Acts, ch 1150, §4.

249A.26 State and county participation in funding for services to persons with disabilities — case management.

1. The state shall pay for one hundred percent of the nonfederal share of the services paid for under any prepaid mental health services plan for medical assistance implemented by the department as authorized by law.

2. a. Except as provided for disallowed costs in section 249A.27, the state shall pay one hundred percent of the nonfederal share of the cost of case management provided to adults, day treatment, and partial hospitalization provided under the medical assistance

program for persons with an intellectual disability, a developmental disability, or chronic mental illness. For purposes of this section, persons with mental disorders resulting from Alzheimer's disease or a substance-related disorder shall not be considered to be persons with chronic mental illness.

b. The state shall pay for one hundred percent of the nonfederal share of the costs of case management provided for adults, day treatment, partial hospitalization, and the home and community-based services waiver services.

c. The case management services specified in this subsection shall be paid for by a county only if the services are provided outside of a managed care contract.

3. The state shall pay one hundred percent of the nonfederal share of the cost of services provided to adult persons with chronic mental illness who qualify for habilitation services in accordance with the rules adopted for the services.

4. The state shall pay for the entire nonfederal share of the costs for case management services provided to persons seventeen years of age or younger who are served in a home and community-based services waiver program under the medical assistance program for persons with an intellectual disability.

5. Funding under the medical assistance program shall be provided for case management services for eligible persons seventeen years of age or younger residing in counties with child welfare decategorization projects implemented in accordance with section 232.188, provided these projects have included these persons in the service plan and the decategorization project county is willing to provide the nonfederal share of the costs.

6. The state shall pay the nonfederal share of the costs of an eligible person's services under the home and community-based services waiver for persons with brain injury.

7. Notwithstanding section 8.39, the department may transfer funds appropriated for the medical assistance program to a separate account established in the department's case management unit in an amount necessary to pay for expenditures required to provide case management for mental health and disabilities services under the medical assistance program which are jointly funded by the state and county, pending final settlement of the expenditures. Funds received by the case management unit in settlement of the expenditures shall be used to replace the transferred funds and are available for the purposes for which the funds were originally appropriated.

91 Acts, ch 158, §7; 92 Acts, ch 1241, §74; 93 Acts, ch 172, §43; 94 Acts, ch 1150, §3; 96 Acts, ch 1183, §32; 2002 Acts, ch 1120, §3, 9; 2004 Acts, ch 1090, §33, 52; 2005 Acts, ch 175, §113; 2007 Acts, ch 218, §119; 2010 Acts, ch 1031, §390; 2012 Acts, ch 1019, §105, 106; 2012 Acts, ch 1133, §59, 60; 2013 Acts, ch 30, §51; 2014 Acts, ch 1026, §53; 2018 Acts, ch 1165, §74, 75

Prohibition against requiring county funding for medical assistance program waiver for services to persons with brain injury; 94 Acts, ch 1170, §57

Elimination of monthly budget maximum or cap for individuals eligible for medical assistance program waiver for services to persons with a brain injury; department of human services required to track average expended per waiver recipient and report annually to general assembly by October 1; 2019 Acts, ch 82, §1

249A.26A State and county participation in funding for rehabilitation services for persons with chronic mental illness. Repealed by 2007 Acts, ch 218, §122. See §249A.26.

249A.27 Indemnity for case management and disallowed costs.

1. If the department contracts with a county or consortium of counties to provide case management services funded under medical assistance, the state shall appear and defend the department's employees and agents acting in an official capacity on the department's behalf and the state shall indemnify the employees and agents for acts within the scope of their employment. The state's duties to defend and indemnify shall not apply if the conduct upon which any claim is based constitutes a willful and wanton act or omission or malfeasance in office.

2. If the department is the case management contractor, the state shall be responsible for any costs included within the unit rate for case management services which are disallowed for medical assistance reimbursement by the federal centers for Medicare and Medicaid services. The contracting county shall be credited for the county's share of any amounts overpaid due to the disallowed costs. However, if certain costs are disallowed due to requirements or

preferences of a particular county in the provision of case management services, the county shall not receive credit for the amount of the costs.

91 Acts, ch 158, §8; 2002 Acts, ch 1050, §25

Referred to in §249A.26

249A.28 Reserved.

249A.29 Home and community-based services waiver providers — records checks.

1. For purposes of this section and section 249A.30 unless the context otherwise requires:

a. “*Consumer*” means an individual approved by the department to receive services under a waiver.

b. “*Provider*” means an agency certified by the department to provide services under a waiver.

c. “*Waiver*” means a home and community-based services waiver approved by the federal government and implemented under the medical assistance program.

2. If a person is being considered by a provider for employment involving direct responsibility for a consumer or with access to a consumer when the consumer is alone, and if the person has been convicted of a crime or has a record of founded child or dependent adult abuse, the department shall perform an evaluation to determine whether the crime or founded abuse warrants prohibition of employment by the provider. The department shall conduct criminal and child and dependent adult abuse records checks of the person in this state and may conduct these checks in other states. The records checks and evaluations required by this section shall be performed in accordance with procedures adopted for this purpose by the department.

3. If the department determines that a person employed by a provider has committed a crime or has a record of founded abuse, the department shall perform an evaluation to determine whether prohibition of the person’s employment is warranted.

4. In an evaluation, the department shall consider the nature and seriousness of the crime or founded abuse in relation to the position sought or held, the time elapsed since the commission of the crime or founded abuse, the circumstances under which the crime or founded abuse was committed, the degree of rehabilitation, the likelihood that the person will commit the crime or founded abuse again, and the number of crimes or founded abuses committed by the person involved. The department may permit a person who is evaluated to be employed or to continue to be employed by the provider if the person complies with the department’s conditions relating to the employment, which may include completion of additional training.

5. If the department determines that the person has committed a crime or has a record of founded abuse which warrants prohibition of employment, the person shall not be employed by a provider.

95 Acts, ch 93, §5; 2002 Acts, ch 1120, §4

Referred to in §249A.32, 335.34, 414.32

249A.30 Home and community-based services waiver — service provider reimbursement rate adjustments.

1. The base reimbursement rate for a provider of services under a medical assistance program home and community-based services waiver for persons with an intellectual disability shall be recalculated at least every three years to adjust for the changes in costs during the immediately preceding three-year period.

2. The annual inflation factor used to adjust such a provider’s reimbursement rate for a fiscal year shall not exceed the percentage increase in the employment cost index for private industry compensation issued by the federal department of labor, bureau of labor statistics, for the most recently completed calendar year.

2002 Acts, ch 1120, §5; 2004 Acts, ch 1086, §48; 2010 Acts, ch 1031, §390; 2013 Acts, ch 30, §52

Referred to in §249A.29

249A.30A Medical assistance — personal needs allowance.

The personal needs allowance under the medical assistance program, which may be retained by a person who is a resident of a nursing facility, an intermediate care facility for persons with an intellectual disability, or an intermediate care facility for persons with mental illness, as defined in section 135C.1, or a person who is a resident of a psychiatric medical institution for children as defined in section 135H.1, shall be fifty dollars per month. A resident who has income of less than fifty dollars per month shall receive a supplement from the state in the amount necessary to receive a personal needs allowance of fifty dollars per month, if funding is specifically appropriated for this purpose.

2006 Acts, ch 1113, §1; 2007 Acts, ch 218, §44; 2008 Acts, ch 1032, §41; 2012 Acts, ch 1019, §107

249A.31 Reimbursement — targeted case management services — inpatient psychiatric services.

1. Effective July 1, 2018, targeted case management services shall be reimbursed based on a statewide fee schedule amount developed by rule of the department pursuant to chapter 17A.

2. Effective July 1, 2014, providers of inpatient psychiatric services for individuals under twenty-one years of age shall be reimbursed as follows:

a. For non-state-owned providers, services shall be reimbursed according to a fee schedule without reconciliation.

b. For state-owned providers, services shall be reimbursed at one hundred percent of the actual and allowable cost of providing the service.

2002 Acts, ch 1120, §6, 9; 2004 Acts, ch 1090, §17; 2007 Acts, ch 218, §120; 2009 Acts, ch 121, §2, 3; 2010 Acts, ch 1031, §389; 2012 Acts, ch 1019, §108; 2018 Acts, ch 1165, §132

Referred to in §249A.20

249A.32 Medical assistance home and community-based services waivers — consumer-directed attendant care — termination of contract.

1. A case manager for a medical assistance home and community-based services waiver may terminate the contract of a person providing consumer-directed attendant care services to whom payment is being made for provision of such services under the waiver if the case manager determines that the person has breached the contract by not providing the services agreed to under the contract.

2. For the purposes of this section, “consumer” and “waiver” mean consumer and waiver as defined in section 249A.29.

2003 Acts, ch 118, §2

249A.32A Home and community-based services waivers — limitations.

In administering a home and community-based services waiver, the total number of openings at any one time shall be limited to the number approved for the waiver by the secretary of the United States department of health and human services. The openings shall be available on a first-come, first-served basis.

2005 Acts, ch 175, §115

249A.32B Early and periodic screening, diagnosis, and treatment funding.

The department of human services, in consultation with the Iowa department of public health and the department of education, shall continue the program to utilize the early and periodic screening, diagnosis, and treatment program funding under the medical assistance program, to the extent possible, to implement the screening component of the early and periodic screening, diagnosis, and treatment program through the schools. The department may enter into contracts to utilize maternal and child health centers, the public health nursing program, or school nurses in implementing this section.

2005 Acts, ch 175, §116

249A.33 Pharmaceutical settlement account — medical assistance program.

1. A pharmaceutical settlement account is created in the state treasury under the authority of the department of human services. Moneys received from settlements relating to provision of pharmaceuticals under the medical assistance program shall be deposited in the account.

2. Moneys in the account shall be used only as provided in appropriations from the account to the department for the purpose of technology upgrades under the medical assistance program.

3. The account shall be separate from the general fund of the state and shall not be considered part of the general fund of the state. The moneys in the account shall not be considered revenue of the state, but rather shall be funds of the account. The moneys in the account are not subject to reversion to the general fund of the state under section 8.33 and shall not be transferred, used, obligated, appropriated, or otherwise encumbered, except to provide for the purposes of this section. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the account shall be credited to the account.

4. The treasurer of state shall provide a quarterly report of account activities and balances to the director.

2003 Acts, ch 178, §55

249A.34 Medical assistance crisis intervention team. Repealed by 2005 Acts, ch 167, §40, 66.

249A.35 Purchase of qualified long-term care insurance policy — computation under medical assistance program.

A computation for the purposes of determining eligibility under this chapter concerning an individual who is the beneficiary of a qualified long-term care insurance policy under chapter 514H shall include consideration of the asset disregard provided in section 514H.5.

2005 Acts, ch 166, §1, 13; 2009 Acts, ch 145, §1

Referred to in §514H.5

249A.36 Medical assistance quality improvement council. Repealed by 2012 Acts, ch 1138, §111.

249A.37 Health care information sharing.

1. As a condition of doing business in the state, health insurers including self-insured plans, group health plans as defined in the federal Employee Retirement Income Security Act of 1974, Pub. L. No. 93-406, service benefit plans, managed care organizations, pharmacy benefits managers, and other parties that are, by statute, contract, or agreement, legally responsible for payment of a claim for a health care item or service, shall do all of the following:

a. Provide, with respect to individuals who are eligible for or are provided medical assistance under the state's medical assistance state plan, upon the request of the state, information to determine during what period the individual or the individual's spouse or dependents may be or may have been covered by a health insurer and the nature of the coverage that is or was provided by the health insurer, including the name, address, and identifying number of the plan, in accordance with section 505.25, in a manner prescribed by the department of human services or as agreed upon by the department and the entity specified in this section.

b. Accept the state's right of recovery and the assignment to the state of any right of an individual or other entity to payment from the party for an item or service for which payment has been made under the medical assistance state plan.

c. Respond to any inquiry by the state regarding a claim for payment for any health care item or service that is submitted no later than three years after the date of the provision of such health care item or service.

d. Agree not to deny any claim submitted by the state solely on the basis of the date of submission of the claim, the type or format of the claim form, or a failure to present

proper documentation at the point-of-sale that is the basis of the claim, if all of the following conditions are met:

(1) The claim is submitted to the entity by the state within the three-year period beginning on the date on which the item or service was furnished.

(2) Any action by the state to enforce its rights with respect to such claim is commenced within six years of the date that the claim was submitted by the state.

2. The department of human services may adopt rules pursuant to chapter 17A as necessary to implement this section. Rules governing the exchange of information under this section shall be consistent with all laws, regulations, and rules relating to the confidentiality or privacy of personal information or medical records, including but not limited to the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, and regulations promulgated in accordance with that Act and published in 45 C.F.R. pts. 160 – 164.

2008 Acts, ch 1187, §124

249A.38 Inmates of public institutions — suspension of medical assistance.

1. Following the first thirty days of commitment, the department shall suspend, but not terminate, the eligibility of an individual who is an inmate of a public institution as defined in 42 C.F.R. §435.1010, who is enrolled in the medical assistance program at the time of commitment to the public institution, and who remains eligible for medical assistance as an individual except for the individual's institutional status, during the entire period of the individual's commitment to the public institution.

2. *a.* A public institution shall provide the department and the social security administration with a monthly report of the individuals who are committed to the public institution and of the individuals who are discharged from the public institution. The monthly report to the department shall include the date of commitment or the date of discharge, as applicable, of each individual committed to or discharged from the public institution during the reporting period. The monthly report shall be made through the reporting system created by the department for public, nonmedical institutions to report inmate populations. Any medical assistance expenditures, including but not limited to monthly managed care capitation payments, provided on behalf of an individual who is an inmate of a public institution but is not reported to the department in accordance with this subsection, shall be the financial responsibility of the respective public institution.

b. The department shall provide a public institution with the forms necessary to be used by the individual in expediting restoration of the individual's medical assistance benefits upon discharge from the public institution.

3. The department may adopt rules pursuant to chapter 17A to implement this section.

2011 Acts, ch 98, §13, 15; 2012 Acts, ch 1038, §1; 2018 Acts, ch 1165, §127; 2019 Acts, ch 81, §1

SUBCHAPTER II

MEDICAL ASSISTANCE PROGRAM INTEGRITY

249A.39 Reporting of overpayment.

1. A provider who has received an overpayment shall notify in writing, and return the overpayment to, the department, the department's agent, or the department's contractor, as appropriate. The notification shall include the reason for the return of the overpayment.

2. Notification and return of an overpayment under this section shall be provided by no later than the later of either of the following, as applicable:

a. The date which is sixty days after the date on which the overpayment was identified by the provider.

b. The date any corresponding cost report is due.

3. A violation of this section is a violation of chapter 685.

2013 Acts, ch 24, §3

Referred to in §249A.47, 249A.49

249A.40 Involuntarily dissolved providers — overpayments or incorrect payments.

Medical assistance paid to a provider following involuntary administrative dissolution of the provider pursuant to chapter 490, subchapter XIV, part B, shall be considered incorrectly paid for the purposes of section 249A.53 and the provider shall be considered to have received an overpayment for the purposes of this subchapter. For the purposes of this section, the overpayment shall not accrue until after a grace period of ninety days following receipt of notice by the provider of the dissolution from the department. Notwithstanding section 490.1422, or any other similar retroactive provision for reinstatement, the director shall recoup any medical assistance paid to a provider while the provider was dissolved if the provider is not retroactively reinstated within the ninety-day grace period. The principals of the provider shall be personally liable for the incorrect payment or overpayment.

2013 Acts, ch 24, §4; 2019 Acts, ch 24, §104

249A.41 Overpayment — interest.

1. Interest may be collected upon any overpayment determined to have been made and shall accrue at the rate and in the manner specified in this section.

2. Prior to the provision of a notice of overpayment to the provider, interest shall accrue at the statutory rate for prejudgment interest applicable in civil actions.

3. After the provision of a notice of overpayment to the provider and after all of the provider's administrative and judicial review remedies under 441 IAC ch. 7 and chapter 17A have been exhausted, interest shall accrue at the statutory rate for prejudgment interest applicable in civil actions plus five percent per annum, or the maximum legal rate, whichever is lower.

4. At the discretion of the director, interest on an overpayment may be waived in whole or in part when the department determines the imposition of interest would produce an unjust result, would unduly burden the provider, or would substantially delay the prompt and efficient resolution of an outstanding audit or investigation.

2013 Acts, ch 24, §5

Referred to in §249A.2

Interest on judgments, see §535.3 and 668.13

249A.42 Overpayment — limitations periods.

1. An administrative action to recover an overpayment to a provider shall be commenced within five years of the date the overpayment was incurred. For the purposes of this subsection, "incurred" means the date the medical assistance claim was paid, or the date any applicable reconciliation was completed, whichever is later.

2. An administrative action to impose a sanction related to an overpayment to a provider shall be commenced within five years of the date the conduct underlying the sanction concluded, or the director discovered such conduct, whichever is later.

2013 Acts, ch 24, §6

249A.43 Provider overpayment — notice — judgment.

1. Any overpayment to a provider under this chapter shall become a judgment against the provider, by operation of law, ninety days after a notice of overpayment is personally served upon the enrolled provider as required in the Iowa rules of civil procedure or by certified mail, return receipt requested, by the director or the attorney general or, if applicable, upon exhaustion of the provider's administrative and judicial review remedies under 441 IAC ch. 7 or chapter 17A, whichever is later. The judgment is entitled to full faith and credit in all states.

2. The notice of overpayment shall include the amount and cause of the overpayment, the provider's appeal rights, and a disclaimer that a judgment may be established if an appeal is not timely filed or if an appeal is filed and at the conclusion of the administrative process under chapter 17A a determination is made that there is an overpayment.

3. An affidavit of service of a notice of entry of judgment shall be made by first class mail at the address where the debtor was served with the notice of overpayment. Service is completed upon mailing as specified in this subsection.

4. On or after the date an unpaid overpayment becomes a judgment by operation of law, the director or the attorney general may file all of the following with the district court:

- a. A statement identifying, or a copy of, the notice of overpayment.
- b. Proof of service of the notice of overpayment.
- c. An affidavit of default, stating the full name, occupation, place of residence, and last known post office address of the debtor; the name and post office address of the department; the date or dates the overpayment was incurred; the program under which the debtor was overpaid; and the total amount of the judgment.

5. Nothing in this section shall be construed to impede or restrict alternative methods of recovery of the overpayments specified in this section or of overpayments which do not meet the requirements of this section.

2013 Acts, ch 24, §7; 2013 Acts, ch 140, §59

249A.44 Overpayment — emergency relief.

1. Concurrently with a withholding of payment, the imposition of a sanction, or the institution of a criminal, civil, or administrative proceeding against a provider or other person for overpayment, the director or the attorney general may bring an action for a temporary restraining order or injunctive relief to prevent a provider or other person from whom recovery may be sought, from transferring property or otherwise taking action to protect the provider's or other person's business inconsistent with the recovery sought.

2. To obtain such relief, the director or the attorney general shall demonstrate all necessary requirements for the relief to be granted.

3. If an injunction is granted, the court may appoint a receiver to protect the property and business of the provider or other person from whom recovery may be sought. The court shall assess the costs of the receiver to the provider or other person.

4. The director or the attorney general may file a *lis pendens* on the property of the provider or other person during the pendency of a criminal, civil, or administrative proceeding.

5. When requested by the court, the director, or the attorney general, a provider or other person from whom recovery may be sought shall have an affirmative duty to fully disclose all property and liabilities to the requester.

6. An action brought under this section may be brought in the district court for Polk county or any other county in which a provider or other person from whom recovery may be sought has its principal place of business or is domiciled.

2013 Acts, ch 24, §8

249A.45 Provider's third-party submissions.

1. The department may refuse to accept a financial and statistical report, cost report, or any other submission from any third party acting under a provider's authority or direction to prepare or submit such documents or information, for good cause shown. For the purposes of this section, "*good cause*" includes but is not limited to a pattern or practice of submitting unallowable costs on cost reports; making a false statement or certification to the director or any representative of the department; professional negligence or other demonstrated lack of knowledge of the cost reporting process; conviction under a federal or state law relating to the operation of a publicly funded program; or submission of a false claim under chapter 685.

2. If the department refuses to accept a cost report from a third party for good cause under this section, the third party shall be strictly liable to the provider for all fees incurred in preparation of the cost report, as well as reasonable attorney fees and costs. The department shall not take any adverse action against a provider that results from the unintentional delay in the submission of a new cost report or other submission necessitated by the department's refusal to accept a cost report or other submission under this section. The department shall notify an affected provider within seven business days of any refusal to accept a cost report.

2013 Acts, ch 24, §9

249A.46 Liability of other persons — repayment of claims.

1. The department may require repayment of medical assistance paid from the person

submitting an incorrect or improper claim, the person causing the claim to be submitted, or the person receiving payment for the claim.

2. Nothing in this section shall be construed to impede or restrict alternative recovery methods for claims specified in this section or claims which do not meet the requirements of this section.

2013 Acts, ch 24, §10

249A.47 Improperly filed claims — other violations — imposition of monetary recovery and sanctions.

1. In addition to any other remedies or penalties prescribed by law, including but not limited to those specified pursuant to section 249A.51 or chapter 685, all of the following shall be applicable to violations under the medical assistance program:

a. A person who intentionally and purposefully presents or causes to be presented to the department a claim that the department determines meets any of the following criteria is subject to a civil penalty of not more than ten thousand dollars for each item or service:

(1) A claim for medical or other items or services that the provider knows was not provided as claimed, including a claim by any provider who engages in a pattern or practice of presenting or causing to be presented a claim for an item or service that is based on a billing code that the provider knows will result in a greater payment to the provider than the billing code the provider knows is applicable to the item or service actually provided.

(2) A claim for medical or other items or services the provider knows to be false or fraudulent.

(3) A claim for a physician service or an item or service incident to a physician service by a person who knows that the individual who furnished or supervised the furnishing of the service meets any of the following:

(a) Was not licensed as a physician.

(b) Was licensed as a physician, but such license had been obtained through a misrepresentation of material fact.

(c) Represented to the patient at the time the service was furnished that the physician was certified in a medical specialty by a medical specialty board when the individual was not so certified.

(4) A claim for medical or other items or services furnished during a period in which the provider was excluded from providing such items or services.

(5) A claim for a pattern of medical or other items or services that a provider knows were not medically necessary.

b. A provider who intentionally and purposefully presents or causes to be presented to any person a request for payment which is in violation of the terms of either of the following is subject to a civil penalty of not more than ten thousand dollars for each item or service:

(1) An agreement with the department or a requirement of a state plan under Tit. XIX or XXI of the federal Social Security Act not to charge a person for an item or service in excess of the amount permitted to be charged.

(2) An agreement to be a participating provider.

c. A provider who is not an organization, agency, or other entity, and knowing that the provider is excluded from participating in a program under Tit. XVIII, XIX, or XXI of the federal Social Security Act at the time of the exclusion, who does any of the following, is subject to a civil penalty of ten thousand dollars for each day that the prohibited relationship occurs:

(1) Retains a direct or indirect ownership or control interest in an entity that is participating in such programs, and knows of the action constituting the basis for the exclusion.

(2) Is an officer or managing employee of such an entity.

d. A provider who intentionally and purposefully offers to or transfers remuneration to any individual eligible for benefits under Tit. XIX or XXI of the federal Social Security Act and who knows such offer or remuneration is likely to influence such individual to order or receive from a particular provider any item or service for which payment may be made, in

whole or in part, under Tit. XIX or XXI of the federal Social Security Act, is subject to a civil penalty of not more than ten thousand dollars for each item or service.

e. A provider who intentionally and purposefully arranges or contracts, by employment or otherwise, with an individual or entity that the provider knows is excluded from participation under Tit. XVIII, XIX, or XXI of the federal Social Security Act, for the provision of items or services for which payment may be made under such titles, is subject to a civil penalty of not more than ten thousand dollars for each item or service.

f. A provider who intentionally and purposefully offers, pays, solicits, or receives payment, directly or indirectly, to reduce or limit services provided to any individual eligible for benefits under Tit. XVIII, XIX, or XXI of the federal Social Security Act, is subject to a civil penalty of not more than fifty thousand dollars for each act.

g. A provider who intentionally and purposefully makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim for payment for items and services furnished under Tit. XIX or XXI of the federal Social Security Act, is subject to a civil penalty of not more than fifty thousand dollars for each false record or statement.

h. A provider who intentionally and purposefully and without good cause fails to grant timely access, upon reasonable request, to the department for the purpose of audits, investigations, evaluations, or other functions of the department, is subject to a civil penalty of fifteen thousand dollars for each day of the failure.

i. A provider who intentionally and purposefully makes or causes to be made any false statement, omission, or misrepresentation of a material fact in any application, bid, or contract to participate or enroll as a provider of services or a supplier under Tit. XVIII, XIX, or XXI of the federal Social Security Act, including a managed care organization or entity that applies to participate as a provider of services or supplier in such a managed care organization or plan, is subject to a civil penalty of fifty thousand dollars for each false statement, omission, or misrepresentation of a material fact.

j. A provider who intentionally and purposefully fails to report and return an overpayment in accordance with section 249A.39 is subject to a civil penalty of ten thousand dollars for each failure to report and return an overpayment.

2. In addition to the civil penalties prescribed under subsection 1, for any violation specified in subsection 1, a provider shall be subject to the following, as applicable:

a. For violations specified in subsection 1, paragraph “a”, “b”, “c”, “d”, “e”, “g”, “h”, or “j”, an assessment of not more than three times the amount claimed for each such item or service in lieu of damages sustained by the department because of such claim.

b. For a violation specified in subsection 1, paragraph “f”, damages of not more than three times the total amount of remuneration offered, paid, solicited, or received, without regard to whether a portion of such remuneration was offered, paid, solicited, or received for a lawful purpose.

c. For a violation specified in subsection 1, paragraph “i”, an assessment of not more than three times the total amount claimed for each item or service for which payment was made based upon the application containing the false statement, omission, or misrepresentation of a material fact.

3. In determining the amount or scope of any penalty or assessment imposed pursuant to a violation specified in subsection 1, the director shall consider all of the following:

a. The nature of the claims and the circumstances under which they were presented.

b. The degree of culpability, history of prior offenses, and financial condition of the person against whom the penalties or assessments are levied.

c. Such other matters as justice may require.

4. Of any amount recovered arising out of a claim under Tit. XIX or XXI of the federal Social Security Act, the department shall receive the amount bearing the same proportion paid by the department for such claims, including any federal share that must be returned to the centers for Medicare and Medicaid services of the United States department of health and human services. The remainder of any amount recovered shall be deposited in the general fund of the state.

5. Civil penalties levied under this section are appealable under 441 IAC ch. 7, but,

notwithstanding any provision to the contrary in that chapter, the appellant shall bear the burden to prove by clear and convincing evidence that the claim was not filed improperly.

6. For the purposes of this section, “claim” includes but is not limited to the submission of a cost report.

2013 Acts, ch 24, §11; 2014 Acts, ch 1092, §53; 2018 Acts, ch 1041, §64

249A.48 Temporary moratoria.

1. The Iowa Medicaid enterprise shall impose a temporary moratorium on the enrollment of new providers or provider types identified by the centers for Medicare and Medicaid services of the United States department of health and human services as posing an increased risk to the medical assistance program.

a. This section shall not be interpreted to require the Iowa Medicaid enterprise to impose a moratorium if the Iowa Medicaid enterprise determines that imposition of a temporary moratorium would adversely affect access of recipients to medical assistance services.

b. If the Iowa Medicaid enterprise makes a determination as specified in paragraph “a”, the Iowa Medicaid enterprise shall notify the centers for Medicare and Medicaid services of the United States department of health and human services in writing.

2. The Iowa Medicaid enterprise may impose a temporary moratorium on the enrollment of new providers, or impose numerical caps or other limits that the Iowa Medicaid enterprise and the centers for Medicare and Medicaid services identify as having a significant potential for fraud, waste, or abuse.

a. Before implementing the moratorium, caps, or other limits, the Iowa Medicaid enterprise shall determine that its action would not adversely impact access by recipients to medical assistance services.

b. The Iowa Medicaid enterprise shall notify, in writing, the centers for Medicare and Medicaid services, if the Iowa Medicaid enterprise seeks to impose a moratorium under this subsection, including all of the details of the moratorium. The Iowa Medicaid enterprise shall receive approval from the centers for Medicare and Medicaid services prior to imposing a moratorium under this subsection.

3. a. The Iowa Medicaid enterprise shall impose any moratorium for an initial period of six months.

b. If the Iowa Medicaid enterprise determines that it is necessary, the Iowa Medicaid enterprise may extend the moratorium in six-month increments. Each time a moratorium is extended, the Iowa Medicaid enterprise shall document, in writing, the necessity for extending the moratorium.

2013 Acts, ch 24, §12

249A.49 Internet site — providers found in violation of medical assistance program.

1. The director shall maintain on the department’s internet site, in a manner readily accessible by the public, all of the following:

a. A list of all providers that the department has terminated, suspended, or placed on probation.

b. A list of all providers that have failed to return an identified overpayment of medical assistance within the time frame specified in section 249A.39.

c. A list of all providers found liable for a false claims law violation related to the medical assistance program under chapter 685.

2. The director shall take all appropriate measures to safeguard the protected health information, social security numbers, and other information of the individuals involved, which may be redacted or omitted as provided in rule of civil procedure 1.422. A provider shall not be included on the internet site until all administrative and judicial remedies relating to the violation have been exhausted.

2013 Acts, ch 24, §13; 2014 Acts, ch 1092, §153, 197, 199

249A.50 Fraudulent practices — investigations and audits — Medicaid fraud fund.

1. A person who obtains assistance or payments for medical assistance under this chapter by knowingly making or causing to be made, a false statement or a misrepresentation of

a material fact or by knowingly failing to disclose a material fact required of an applicant for aid under the provisions of this chapter and a person who knowingly makes or causes to be made, a false statement or a misrepresentation of a material fact or knowingly fails to disclose a material fact concerning the applicant's eligibility for aid under this chapter commits a fraudulent practice.

2. The department of inspections and appeals shall conduct investigations and audits as deemed necessary to ensure compliance with the medical assistance program administered under this chapter. The department of inspections and appeals shall cooperate with the department of human services on the development of procedures relating to such investigations and audits to ensure compliance with federal and state single state agency requirements.

3. *a.* A Medicaid fraud fund is created in the state treasury under the authority of the department of inspections and appeals. Moneys from penalties, investigative costs recouped by the Medicaid fraud control unit, and other amounts received as a result of prosecutions involving the department of inspections and appeals investigations and audits to ensure compliance with the medical assistance program that are not credited to the program shall be credited to the fund.

b. Notwithstanding section 8.33, moneys credited to the fund from any other account or fund shall not revert to the other account or fund. Moneys in the fund shall only be used as provided in appropriations from the fund and shall be used in accordance with applicable laws, regulations, and the policies of the office of inspector general of the United States department of health and human services.

c. For the purposes of this subsection, "*investigative costs*" means the reasonable value of a Medicaid fraud control unit investigator's, auditor's or employee's time, any moneys expended by the Medicaid fraud control unit, and the reasonable fair market value of resources used or expended by the Medicaid fraud control unit in a case resulting in a criminal conviction of a provider under this chapter or chapter 714 or 715A.

[C62, 66, §249A.15; C71, 73, 75, 77, 79, 81, §249A.7]

90 Acts, ch 1204, §63; 97 Acts, ch 56, §3; 2009 Acts, ch 136, §10; 2011 Acts, ch 52, §1; 2011 Acts, ch 127, §49, 89; 2013 Acts, ch 24, §14

C2014, §249A.50

Referred to in §910.1

Fraudulent practices, see §714.8 – 714.14

249A.51 Fraudulent practice.

A person who knowingly makes or causes to be made false statements or misrepresentations of material facts or knowingly fails to disclose material facts in application for payment of services or merchandise rendered or purportedly rendered by a provider participating in the medical assistance program under this chapter commits a fraudulent practice.

91 Acts, ch 107, §12

CS91, §249A.8

97 Acts, ch 56, §4; 2013 Acts, ch 24, §14

C2014, §249A.51

Referred to in §249A.47

Fraudulent practices, see §714.8 – 714.14

249A.52 Garnishment.

When payment is made by the department for medical care or expenses through the medical assistance program on behalf of a recipient, the department may garnish the wages, salary, or other compensation of the person obligated to pay child support or may withhold amounts pursuant to chapter 252D from the income of the person obligated to pay support, and shall withhold amounts from state income tax refunds of a person obligated to pay support, to the extent necessary to reimburse the department for expenditures for medical care or expenses on behalf of a recipient if all of the following conditions apply:

1. The person is required by court or administrative order to provide medical support to a recipient.

2. The person has received payment from a third party for the costs of medical assistance to the recipient and has not used the payments to reimburse the costs of medical care or expenses.

94 Acts, ch 1171, §9
C95, §249A.4A
2013 Acts, ch 24, §14
C2014, §249A.52

249A.53 Recovery of payment.

1. Medical assistance paid to, or on behalf of, a recipient or paid to a provider of services is not recoverable, except as provided in subsection 2, unless the assistance was incorrectly paid. Assistance incorrectly paid is recoverable from the provider, or from the recipient, while living, as a debt due the state and, upon the recipient's death, as a claim classified with taxes having preference under the laws of this state.

2. The provision of medical assistance to an individual who is fifty-five years of age or older, or who is a resident of a nursing facility, intermediate care facility for persons with an intellectual disability, or mental health institute, who cannot reasonably be expected to be discharged and return to the individual's home, creates a debt due the department from the individual's estate for all medical assistance provided on the individual's behalf, upon the individual's death.

a. The department shall waive the collection of the debt created under this subsection from the estate of a recipient of medical assistance to the extent that collection of the debt would result in either of the following:

(1) Reduction in the amount received from the recipient's estate by a surviving spouse, or by a surviving child who was under age twenty-one, blind, or permanently and totally disabled at the time of the individual's death.

(2) Otherwise work an undue hardship as determined on the basis of criteria established pursuant to 42 U.S.C. §1396p(b)(3).

b. If the collection of all or part of a debt is waived pursuant to subsection 2, paragraph "a", to the extent the medical assistance recipient's estate was received by the following persons, the amount waived shall be a debt due from one of the following, as applicable:

(1) The estate of the medical assistance recipient's surviving spouse or child who is blind or has a disability, upon the death of such spouse or child.

(2) A surviving child who was under twenty-one years of age at the time of the medical assistance recipient's death, upon the child reaching the age of twenty-one or from the estate of the child if the child dies prior to reaching the age of twenty-one.

(3) The estate of the recipient of the undue hardship waiver, at the time of death of the hardship waiver recipient, or from the hardship waiver recipient when the hardship no longer exists.

c. For purposes of this section, the estate of a medical assistance recipient, surviving spouse, or surviving child includes any real property, personal property, or other asset in which the recipient, spouse, or child had any legal title or interest at the time of the recipient's, spouse's, or child's death, to the extent of such interests, including but not limited to interests in jointly held property, retained life estates, and interests in trusts.

d. For purposes of collection of a debt created by this subsection, all assets included in the estate of a medical assistance recipient, surviving spouse, or surviving child pursuant to paragraph "c" are subject to probate.

e. Interest shall accrue on a debt due under this subsection, at the rate provided pursuant to section 535.3, beginning six months after the death of a medical assistance recipient, surviving spouse, or surviving child.

f. (1) If a debt is due under this subsection from the estate of a recipient, the administrator of the nursing facility, intermediate care facility for persons with an intellectual disability, or mental health institute in which the recipient resided at the time of the recipient's death, and the personal representative of the recipient, if applicable, shall report the death to the department within ten days of the death of the recipient.

(2) If a personal representative or executor of an estate makes a distribution either in

whole or in part of the property of an estate to the heirs, next of kin, distributees, legatees, or devisees without having executed the obligations pursuant to section 633.425, the personal representative or executor may be held personally liable for the amount of medical assistance paid on behalf of the recipient, to the full value of any property belonging to the estate which may have been in the custody or control of the personal representative or executor.

(3) For the purposes of this paragraph, “*executor*” means executor as defined in section 633.3, and “*personal representative*” means a person who filed a medical assistance application on behalf of the recipient or who manages the financial affairs of the recipient.

[C62, 66, §249A.13; C71, 73, 75, 77, 79, 81, §249A.5]

83 Acts, ch 153, §14; 94 Acts, ch 1120, §10; 95 Acts, ch 68, §2; 96 Acts, ch 1107, §1; 96 Acts, ch 1129, §65, 113; 2002 Acts, ch 1086, §2, 21; 2003 Acts, ch 62, §3; 2012 Acts, ch 1019, §97, 98; 2013 Acts, ch 24, §14

C2014, §249A.53

Referred to in §97B.39, 249A.40, 523A.303, 561.19, 633.231, 633.304A, 633.356, 633.410, 633.425

249A.54 Assignment — lien.

1. *a.* As a condition of eligibility for medical assistance, a recipient who has the legal capacity to execute an assignment shall do all of the following:

(1) Assign to the department any rights to payments of medical care from any third party.

(2) Cooperate with the department in obtaining payments described in subparagraph (1).

(3) Cooperate with the department in identifying and providing information to assist the department in pursuing any third party who may be liable to pay for medical care and services available under the medical assistance program.

b. Any amount collected by the department through an assignment shall be retained by the department as reimbursement for medical assistance payments.

c. An assignment under this subsection is in addition to an assignment of medical support payments under any other law, including section 252E.11.

2. When payment is made by the department for medical care or expenses through the medical assistance program on behalf of a recipient, the department shall have a lien, to the extent of those payments, upon all monetary claims which the recipient may have against third parties. A lien under this section is not effective unless the department files a notice of lien with the clerk of the district court in the county where the recipient resides and with the recipient’s attorney when the recipient’s eligibility for medical assistance is established. The notice of lien shall be filed before the third party has concluded a final settlement with the recipient, the recipient’s attorney, or other representative. The third party shall obtain a written determination from the department concerning the amount of the lien before a settlement is deemed final for purposes of this section. A compromise, including but not limited to a settlement, waiver or release, of a claim under this section does not defeat the department’s lien except pursuant to the written agreement of the director or the director’s designee. A settlement, award, or judgment structured in any manner not to include medical expenses or an action brought by a recipient or on behalf of a recipient which fails to state a claim for recovery of medical expenses does not defeat the department’s lien if there is any recovery on the recipient’s claim.

3. The department shall be given notice of monetary claims against third parties as follows:

a. Applicants for medical assistance shall notify the department of any possible claims against third parties upon submitting the application. Recipients of medical assistance shall notify the department of any possible claims when those claims arise.

b. A person who provides health care services to a person receiving assistance through the medical assistance program shall notify the department whenever the person has reason to believe that third parties may be liable for payment of the costs of those health care services.

c. An attorney representing an applicant for or recipient of assistance on a claim upon which the department has a lien under this section shall notify the department of the claim of which the attorney has actual knowledge, prior to filing a claim, commencing an action or negotiating a settlement offer.

(1) Actual knowledge under this section shall include the notice to the attorney pursuant to subsection 2.

(2) The mailing and deposit in a United States post office or public mailing box of the notice, addressed to the department at its state or district office location, is adequate legal notice of the claim.

4. The department's lien is valid and binding on an attorney, insurer, or other third party only upon notice by the department or unless the attorney, insurer, or third party has actual notice that the recipient is receiving medical assistance from the department and only to the extent to which the attorney, insurer, or third party has not made payment to the recipient or an assignee of the recipient prior to the notice. Payment of benefits by an insurer or third party pursuant to the rights of the lienholder in this section discharges the attorney, insurer, or third party from liability to the recipient or the recipient's assignee to the extent of the payment to the department.

5. If a recipient of assistance through the medical assistance program incurs the obligation to pay attorney fees and court costs for the purpose of enforcing a monetary claim upon which the department has a lien under this section, upon the receipt of the judgment or settlement of the total claim, of which the lien for medical assistance payments is a part, the court costs and reasonable attorney fees shall first be deducted from this total judgment or settlement. One-third of the remaining balance shall then be deducted and paid to the recipient. From the remaining balance, the lien of the department shall be paid. Any amount remaining shall be paid to the recipient. An attorney acting on behalf of a recipient of medical assistance for the purpose of enforcing a claim upon which the department has a lien shall not collect from the recipient any amount as attorney fees which is in excess of the amount which the attorney customarily would collect on claims not subject to this section.

6. For purposes of this section the term "third party" includes an attorney, individual, institution, corporation, or public or private agency which is or may be liable to pay part or all of the medical costs incurred as a result of injury, disease, or disability by or on behalf of an applicant for or recipient of assistance under the medical assistance program.

7. The department may enforce its lien by a civil action against any liable third party.

[C79, 81, §249A.6]

83 Acts, ch 120, §1; 83 Acts, ch 153, §15; 89 Acts, ch 111, §1; 93 Acts, ch 180, §50; 94 Acts, ch 1023, §89; 2008 Acts, ch 1014, §2; 2009 Acts, ch 41, §244; 2009 Acts, ch 133, §96; 2013 Acts, ch 24, §14

C2014, §249A.54

249A.55 Restitution.

If restitution is ordered by the court pursuant to section 910.2, and the victim is a recipient of medical assistance for whom expenditures were made as a result of the offender's criminal activities, restitution may be made to the medical assistance program in accordance with section 910.2.

2010 Acts, ch 1093, §1

C2011, §249A.6A

2013 Acts, ch 24, §14

C2014, §249A.55

249A.56 County attorney to enforce.

It is the intent of the general assembly that violations of law relating to the family investment program, medical assistance, and supplemental assistance shall be prosecuted by county attorneys. Area prosecutors of the office of the attorney general shall provide assistance in prosecution as required.

[C79, 81, §249A.14]

85 Acts, ch 195, §27; 93 Acts, ch 97, §38; 2013 Acts, ch 24, §14

C2014, §249A.56

Referred to in §331.756(43)

249A.57 Health care facilities — penalty.

The department shall adopt rules pursuant to chapter 17A to assess and collect, with interest, a civil penalty for each day a health care facility which receives medical assistance reimbursements does not comply with the requirements of the federal Social Security Act, section 1919, as codified in 42 U.S.C. §1396r. A civil penalty shall not exceed the amount authorized under 42 C.F.R. §488.438 for health care facility violations. Any moneys collected by the department pursuant to this section shall be applied to the protection of the health or property of the residents of the health care facilities which are determined by the state or by the federal centers for Medicare and Medicaid services to be out of compliance. The purposes for which the collected moneys shall be applied may include payment for the costs of relocation of residents to other facilities, maintenance or operation of a health care facility pending correction of deficiencies or closure of the facility, and reimbursing residents for personal funds lost. If a health care facility is assessed a civil penalty under this section, the health care facility shall not be assessed a penalty under section 135C.36 for the same violation.

90 Acts, ch 1031, §1

C91, §249A.19

96 Acts, ch 1107, §2; 2002 Acts, ch 1050, §24; 2013 Acts, ch 24, §14

C2014, §249A.57

CHAPTER 249B

MEDICAL ASSISTANCE TO INSTITUTIONALIZED SPOUSES

249B.1	Definitions.	249B.5	Filing and docketing of financial responsibility order — order effective as court decree.
249B.2	Creation of spousal support debt.		
249B.3	Notice of spousal support debt — failure to respond — hearing — order.	249B.6	Interest on spousal support debts.
249B.4	Certification to court — hearing — default.	249B.7	Security for payment of spousal support — forfeiture.

249B.1 Definitions.

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

1. “*Community spouse*” means an individual who has not resided or is not likely to reside in a hospital or a health care facility for more than twenty-nine consecutive days and is married to an institutionalized spouse.

2. “*Community spouse resource allowance*” means a resource amount established for a community spouse pursuant to state policy adopted in accordance with the federal Social Security Act, section 1924(f)(2), as codified in 42 U.S.C. §1396r-5(f)(2).

3. “*Court order*” means a judgment or order of a court of this state or another state requiring the payment of a set or determinable amount of monetary support.

4. “*Department*” means the department of human services.

5. “*Institutionalized spouse*” means a married individual who has resided or is likely to reside in a hospital or a health care facility for more than twenty-nine consecutive days.

6. “*Medical assistance*” means “*mandatory medical assistance*”, “*optional medical assistance*”, “*discretionary medical assistance*” or “*Medicare cost sharing*” as defined in section 249A.2 which is provided to an individual pursuant to chapter 249A and Tit. XIX of the federal Social Security Act.

7. “*Minimum monthly maintenance needs allowance*” or “*minimum allowance*” means the minimum monthly maintenance needs allowance established for the community spouse in accordance with Tit. XIX of the federal Social Security Act, section 1924(d)(3), as codified in 42 U.S.C. §1396r-5(d)(3).

90 Acts, ch 1098, §1; 91 Acts, ch 158, §9; 2010 Acts, ch 1061, §180; 2013 Acts, ch 138, §73

249B.2 Creation of spousal support debt.

1. Medical assistance provided to an institutionalized spouse due to the institutionalized spouse's assignment of support rights, an inability to execute an assignment of support rights, or hardship, creates a spousal support debt due and owing to the department from the community spouse in an amount equal to the medical assistance provided on behalf of the institutionalized spouse.

2. The department may recover the spousal support debt from any income or resources of the community spouse that are not exempt for medical assistance eligibility purposes and that are in excess of the minimum monthly maintenance needs allowance and the community spouse resource allowance.

3. When an institutionalized spouse is determined to be eligible for medical assistance pursuant to subsection 1, prior to issuing a formal notice of a spousal support debt pursuant to section 249B.3, the department shall offer to meet with the community spouse concerning creation of the spousal support debt.

90 Acts, ch 1098, §2

249B.3 Notice of spousal support debt — failure to respond — hearing — order.

1. The department shall issue a notice establishing and demanding payment of an accrued or accruing spousal support debt due and owing to the department. The notice shall be served upon the community spouse in accordance with the rules of civil procedure. The notice shall include all of the following:

a. The amount of medical assistance provided to the institutionalized spouse which creates the spousal support debt.

b. A computation of spousal support debt, the minimum monthly maintenance needs allowance, and the community spouse resource allowance.

c. A demand for immediate payment of the spousal support debt.

d. (1) A statement that if the community spouse desires to discuss the amount of support that the community spouse should be required to pay, the community spouse, within ten days after being served, may contact the unit of the department which issued the notice and request a conference.

(2) A statement that if a conference is requested, the community spouse has ten days from the date set for the conference or twenty days from the date of service of the original notice, whichever is later, to send a request for a hearing to the unit of the department which issued the notice.

(3) A statement that after the holding of the conference, the department may issue a new notice and finding of financial responsibility to be sent to the community spouse by regular mail addressed to the community spouse's last known address, or if applicable, to the last known address of the community spouse's attorney.

(4) A statement that if the department issues a new notice and finding of financial responsibility, the community spouse has ten days from the date of issuance of the new notice or twenty days from the date of service of the original notice, whichever is later, to send a request for a hearing to the unit of the department which issued the notice.

e. A statement that if the community spouse objects to all or any part of the notice or finding of financial responsibility and no negotiation conference is requested, the community spouse, within twenty days of the date of service, shall send to the unit of the department which issued the notice, a written response setting forth any objections and requesting a hearing.

f. A statement that if a timely written request for a hearing is received by the unit of the department which issued the notice, the spouse has the right to a hearing to be held in district court; and that if no timely written response is received, the department will enter an order in accordance with the notice and finding of financial responsibility.

g. A statement that, as soon as the order is entered, the property of the community spouse is subject to collection action, including but not limited to wage withholding, garnishment, attachment of a lien, and execution.

h. A statement that the community spouse must notify the department of any change of address or employment.

i. A statement that if the community spouse has any questions, the community spouse should telephone or visit the department or consult an attorney.

j. Other information as the department finds appropriate.

2. If a timely written response setting forth objections and requesting a hearing is received by the unit of the department which issued the notice, a hearing shall be held in district court.

3. If timely written response and request for hearing is not received by the department, the department may enter an order in accordance with the notice, and the order shall specify all of the following:

a. The amount to be paid with directions as to the manner of payment.

b. The amount of the spousal support debt accrued and accruing in favor of the department.

c. Notice that the property of the community spouse is subject to collection action, including but not limited to wage withholding, garnishment, attachment of a lien, and execution.

4. The community spouse shall be sent a copy of the order by regular mail addressed to the community spouse's last known address, or if applicable, to the last known address of the community spouse's attorney. The order is final, and action by the department to enforce and collect upon the order may be taken from the date of the issuance of the order.

90 Acts, ch 1098, §3; 2003 Acts, ch 112, §6

Referred to in §249B.2

249B.4 Certification to court — hearing — default.

1. If a timely written request for a hearing is received, the department shall certify the matter to the district court in the county where the institutionalized spouse resides.

2. The certification shall include true copies of the notice and finding of financial responsibility or notice of the spousal support debt accrued and accruing, the return of service, the written objections and request for hearing, and true copies of any administrative orders previously entered.

3. The district court shall set the matter for hearing and notify the parties of the time and place of hearing.

4. If a party fails to appear at the hearing, upon a showing of proper notice to the party, the district court may find the party in default and enter an appropriate order.

90 Acts, ch 1098, §4

249B.5 Filing and docketing of financial responsibility order — order effective as court decree.

A true copy of an order entered by the department pursuant to this chapter, along with a true copy of the return of service if applicable, may be filed in the office of the clerk of the district court in the county in which the institutionalized spouse resides. Upon filing, the clerk shall enter the order in the judgment docket, and the department's order shall be presented to the district court for ex parte review and approval, and unless defects appear on the face of the order or on the attachments, the district court shall approve the order and the order has the force, effect, and attributes of a docketed order or decree of the district court.

90 Acts, ch 1098, §5

249B.6 Interest on spousal support debts.

Interest accrues on a spousal support debt at the rate provided in section 535.3 for court judgments. The department may collect the accrued interest, but is not required to maintain interest balance accounts. The department may waive payment of the interest if the waiver will facilitate the collection of the spousal support debt.

90 Acts, ch 1098, §6

249B.7 Security for payment of spousal support — forfeiture.

Upon entry of a court order or upon the failure of a community spouse to make payments pursuant to a court order, the court may require the community spouse to provide security, a bond, or other guarantee which the court determines is satisfactory to secure the payment

of the spousal support obligation under the court order. If the community spouse fails to make payments pursuant to the court order, the court may declare the security, bond, or other guarantee forfeited.

90 Acts, ch 1098, §7

CHAPTERS 249C to 249E

RESERVED

CHAPTER 249F

TRANSFER OF ASSETS — MEDICAL ASSISTANCE DEBT

249F.1	Definitions.	249F.5	Filing and docketing of order — order effective as court decree.
249F.2	Creation of debt.	249F.6	Security for payment of debt — forfeiture.
249F.3	Notice of debt — failure to respond — hearing — order.	249F.6A	Exemption from chapter 17A.
249F.4	Certification to court — hearing — default.	249F.7	Administration.
		249F.8	Inconsistency with federal laws.

249F.1 Definitions.

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

1. “*Medical assistance*” means “*mandatory medical assistance*”, “*optional medical assistance*”, “*discretionary medical assistance*”, or “*Medicare cost sharing*” as each is defined in section 249A.2 which is provided to an individual pursuant to chapter 249A and Tit. XIX of the federal Social Security Act.

2. *a.* “*Transfer of assets*” means any transfer or assignment of a legal or equitable interest in property, as defined in section 702.14, from a transferor to a transferee for less than fair consideration, made while the transferor is receiving medical assistance or within five years prior to application for medical assistance by the transferor. Any such transfer or assignment is presumed to be made with the intent, on the part of the transferee; transferor; or another person acting on behalf of a transferor who is an actual or implied agent, guardian, attorney-in-fact, or person acting as a fiduciary, of enabling the transferor to obtain or maintain eligibility for medical assistance or of impacting the recovery or payment of a medical assistance debt. This presumption is rebuttable only by clear and convincing evidence that the transferor’s eligibility or potential eligibility for medical assistance or the impact on the recovery or payment of a medical assistance debt was no part of the reason of the transferee; transferor; or other person acting on behalf of a transferor who is an actual or implied agent, guardian, attorney-in-fact, or person acting as a fiduciary for making or accepting the transfer or assignment. A transfer of assets includes a transfer of an interest in the transferor’s home, domicile, or land appertaining to such home or domicile while the transferor is receiving medical assistance, unless otherwise exempt under paragraph “*b*”.

b. However, transfer of assets does not include the following:

(1) Transfers to or for the sole benefit of the transferor’s spouse, including a transfer to a spouse by an institutionalized spouse pursuant to section 1924(f)(1) of the federal Social Security Act.

(2) Transfers to or for the sole benefit of the transferor’s child who is blind or has a disability as defined in section 1614 of the federal Social Security Act.

(3) Transfer of a dwelling, which serves as the transferor’s home as defined in 20 C.F.R. §416.1212, to a child of the transferor under twenty-one years of age.

(4) Transfer of a dwelling, which serves as the transferor’s home as defined in 20 C.F.R. §416.1212, after the transferor is institutionalized, to either of the following:

(a) A sibling of the transferor who has an equity interest in the dwelling and who was residing in the dwelling for a period of at least one year immediately prior to the date the transferor became institutionalized.

(b) A child of the transferor who was residing in the dwelling for a period of at least two years immediately prior to the date the transferor became institutionalized and who provided care to the transferor which permitted the transferor to reside at the dwelling rather than in an institution or facility.

(5) Transfers of less than two thousand dollars. However, all transfers by the same transferor during the five-year period prior to application for medical assistance by the transferor shall be aggregated. If a transferor transfers property to more than one transferee during the five-year period prior to application for medical assistance by the transferor, the two thousand dollar exemption shall be divided equally between the transferees.

(6) Transfers of assets that would, at the time of the transferor's application for medical assistance, have been exempt from consideration as a resource if retained by the transferor, pursuant to 42 U.S.C. §1382b(a), as implemented by regulations adopted by the secretary of the United States department of health and human services, excluding the home and land appertaining to the home.

(7) Transfers to a trust established solely for the benefit of the transferor's child who is blind or permanently and totally disabled as defined in the federal Social Security Act, section 1614, as codified in 42 U.S.C. §1382c.

(8) Transfers to a trust established solely for the benefit of an individual under sixty-five years of age who is disabled, as defined in the federal Social Security Act, section 1614, as codified in 42 U.S.C. §1382c.

3. "Transferee" means the person who receives a transfer of assets.

4. "Transferor" means the person who makes a transfer of assets.

93 Acts, ch 106, §1; 96 Acts, ch 1107, §3; 96 Acts, ch 1129, §66; 97 Acts, ch 23, §23; 2000 Acts, ch 1060, §4, 5; 2010 Acts, ch 1031, §352, 353; 2010 Acts, ch 1061, §180; 2013 Acts, ch 138, §74; 2014 Acts, ch 1092, §175

249F.2 Creation of debt.

A transfer of assets creates a debt due and owing to the department of human services from the transferee in an amount equal to medical assistance provided to or on behalf of the transferor, on or after the date of the transfer of assets, but not exceeding the fair market value of the assets at the time of the transfer.

93 Acts, ch 106, §2; 96 Acts, ch 1107, §4

Referred to in §249F.3

249F.3 Notice of debt — failure to respond — hearing — order.

1. The department of human services may issue a notice establishing and demanding payment of an accrued or accruing debt due and owing to the department of human services as provided in section 249F.2. The notice shall be sent by restricted certified mail as defined in section 618.15, to the transferee at the transferee's last known address. If service of the notice is unable to be completed by restricted certified mail, the notice shall be served upon the transferee in accordance with the rules of civil procedure. The notice shall include all of the following:

a. The amount of medical assistance provided to the transferor to date which creates the debt.

b. A computation of the debt due and owing.

c. A demand for immediate payment of the debt.

d. (1) A statement that if the transferee desires to discuss the notice, the transferee, within ten days after being served, may contact the department of human services and request an informal conference.

(2) A statement that if a conference is requested, the transferee has until ten days after the date set for the conference or until twenty days after the date of service of the original notice, whichever is later, to send a request for a hearing to the department of human services.

(3) A statement that after the holding of the conference, the department of human

services may issue a new notice to be sent to the transferee by first-class mail addressed to the transferee at the transferee's last known address, or if applicable, to the transferee's attorney at the last known address of the transferee's attorney.

(4) A statement that if the department of human services issues a new notice, the transferee has until ten days after the date of mailing of the new notice or until twenty days after the date of service of the original notice, whichever is later, to send a request for a hearing to the department of human services.

e. A statement that if the transferee objects to all or any part of the original notice and no conference is requested, the transferee has until twenty days after the date of service of the original notice to send a written response setting forth any objections and requesting a hearing to the department of human services.

f. A statement that if a timely written request for a hearing is received by the department of human services, the transferee has the right to a hearing to be held in district court as provided in section 249F.4; and that if no timely written request for hearing is received, the department of human services will enter an order in accordance with the latest notice.

g. A statement that as soon as the order is entered, the property of the transferee is subject to collection action, including but not limited to wage withholding, garnishment, attachment of a lien, or execution.

h. A statement that the transferee must notify the department of human services of any change of address or employment.

i. A statement that if the transferee has any questions concerning the transfer of assets, the transferee should contact the department of human services or consult an attorney.

j. Other information as the department of human services finds appropriate.

2. If a timely written request for hearing is received by the department of human services, a hearing shall be held in district court.

3. If a timely written request for hearing is not received by the department of human services, the department may enter an order in accordance with the latest notice, and the order shall specify all of the following:

a. The amount to be paid with directions as to the manner of payment.

b. The amount of the debt accrued and accruing in favor of the department of human services.

c. Notice that the property of the transferee is subject to collection action, including but not limited to wage withholding, garnishment, attachment of a lien, and execution.

4. The transferee shall be sent a copy of the order by first-class mail addressed to the transferee at the transferee's last known address, or if applicable, to the transferee's attorney at the last known address of the transferee's attorney. The order is final, and action by the department of human services to enforce and collect upon the order may be taken from the date of the issuance of the order.

93 Acts, ch 106, §3; 99 Acts, ch 52, §1

249F.4 Certification to court — hearing — default.

1. If a timely written request for a hearing is received, the department of human services shall certify the matter to the district court in the county where the transferee resides.

2. The certification shall include true copies of the original notice, the return of service, if applicable, any request for an informal conference, any subsequent notices, the written request for hearing, and true copies of any administrative orders previously entered.

3. The department of human services may also request a hearing on its own motion regarding the determination of a debt, at any time prior to entry of an administrative order.

4. The district court shall set the matter for hearing and notify the parties of the time and place of hearing.

5. If a party fails to appear at the hearing, upon a showing of proper notice to the party, the district court may find the party in default and enter an appropriate order.

93 Acts, ch 106, §4; 99 Acts, ch 52, §2

Referred to in §249F.3

249F.5 Filing and docketing of order — order effective as court decree.

1. A true copy of an order entered by the department of human services pursuant to this chapter, along with a true copy of the return of service, if applicable, may be filed in the office of the clerk of the district court in the county in which the transferee resides or, if the transferee resides in another state, in the office of the district court in the county in which the transferor resides.

2. The department of human services order shall be presented, ex parte, to the district court for review and approval. Unless defects appear on the face of the order or on the attachments, the district court shall approve the order. The approved order shall have all force, effect, and attributes of a docketed order or decree of the district court.

3. Upon filing, the clerk shall enter the order in the judgment docket.

93 Acts, ch 106, §5

249F.6 Security for payment of debt — forfeiture.

Upon entry of a court order or upon the failure of a transferee to make payments pursuant to a court order, the court may require the transferee to provide security, a bond, or other guarantee which the court determines is satisfactory to secure the payment of the debt under the court order. If the transferee fails to make payments pursuant to the court order, the court may declare the security, bond, or other guarantee forfeited.

93 Acts, ch 106, §6

249F.6A Exemption from chapter 17A.

Actions initiated under this chapter are not subject to chapter 17A. Review by the district court shall be an original hearing before the district court.

2000 Acts, ch 1060, §6

249F.7 Administration.

As provided in this chapter, the establishment of a debt for medical assistance due to transfer of assets shall be administered by the department of human services. All administrative discretion in the administration of this chapter shall be exercised by the department of human services, and any state administrative rules implementing or interpreting this chapter shall be adopted by the department of human services.

93 Acts, ch 106, §7

249F.8 Inconsistency with federal laws.

If it is determined by the attorney general that any provision of this chapter would cause denial of funds from the United States government under Tit. XIX of the federal Social Security Act, or would otherwise be inconsistent or conflict with the requirements of federal law for state participation in the Tit. XIX program, such provision shall be suspended, but only to the extent necessary to prevent denial of such funds or to eliminate the inconsistency or conflict with the requirements of federal law. If the attorney general makes such a suspension determination, the attorney general shall report it to the general assembly at its next session. This report shall include any recommendations in regard to corrective legislation needed to conform this chapter with federal law.

93 Acts, ch 106, §8; 2010 Acts, ch 1061, §180

CHAPTER 249G

LONG-TERM CARE ASSET PRESERVATION PROGRAM

Repealed by 2005 Acts, ch 166, §11, 13; see chapter 514H
Individuals covered by a long-term care insurance policy under the
long-term care asset preservation program established in
ch 249G, Code 2005, on or before November 17, 2005,
are eligible to continue to receive the asset adjustment as defined
under that chapter; see §514H.7

CHAPTER 249H SENIOR LIVING PROGRAM

Repealed by 2013 Acts, ch 18, §35

CHAPTER 249I HOSPITAL TRUST FUND

Repealed by 2005 Acts, ch 167, §39, 66

CHAPTER 249J IOWACARE

Repealed by its own terms; 2013 Acts,
ch 138, §94, 179, 187

CHAPTER 249K NURSING FACILITY CONSTRUCTION OR EXPANSION

249K.1	Purpose — intent.	249K.4	Preliminary evaluation.
249K.2	Definitions.	249K.5	Participation criteria.
249K.3	General provisions — instant relief — nondirect care limit exception.		

249K.1 Purpose — intent.

The purpose of this chapter is to provide a mechanism to support the appropriate number of nursing facility beds for the state's citizens and to financially assist nursing facilities in remaining compliant with applicable regulations. It is the intent of this chapter that the administrative burden on both the state and nursing facilities be minimal.

2007 Acts, ch 219, §35, 41, 43

249K.2 Definitions.

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

1. *“Complete replacement”* means completed construction on a new nursing facility to replace an existing licensed and certified facility. The replacement facility shall be located in the same geographical service area as the facility that is replaced and shall have the same number or fewer licensed beds than the original facility.
2. *“Department”* means the department of human services.
3. *“Iowa Medicaid enterprise”* means Iowa Medicaid enterprise as defined in section 135D.2.
4. *“Major renovations”* means construction or facility improvements to a nursing facility in which the total amount expended exceeds one million five hundred thousand dollars.
5. *“Medical assistance”* or *“medical assistance program”* means the medical assistance program created pursuant to chapter 249A.
6. *“New construction”* means the construction of a new nursing facility which does not replace an existing licensed and certified facility and requires the provider to obtain a certificate of need pursuant to chapter 135, subchapter VI.
7. *“Nondirect care component”* means the portion of the reimbursement rate under the

medical assistance program attributable to administrative, environmental, property, and support care costs reported on the provider's financial and statistical report.

8. "Nursing facility" means a nursing facility as defined in section 135C.1.

9. "Provider" means a current or future owner or operator of a nursing facility that provides medical assistance program services.

10. "Rate determination letter" means the letter that is distributed quarterly by the Iowa Medicaid enterprise to each nursing facility, which is based on previously submitted financial and statistical reports from each nursing facility.

2007 Acts, ch 219, §36, 41, 43; 2013 Acts, ch 138, §123, 127; 2016 Acts, ch 1073, §85, 189; 2019 Acts, ch 24, §104

249K.3 General provisions — instant relief — nondirect care limit exception.

1. A provider that constructs a complete replacement, makes major renovations to, or newly constructs a nursing facility may be entitled to the rate relief and exceptions provided under this chapter. The total period during which a provider may participate in any relief shall not exceed two years. The total period during which a provider may participate in any nondirect care limit exception shall not exceed ten years. A provider seeking assistance under this chapter may request both instant relief and the nondirect care limit exception.

2. If the provider requests instant relief, the following provisions shall apply:

a. The provider shall submit a written request for instant relief to the Iowa Medicaid enterprise explaining the nature, timing, and goals of the project and the time period during which the relief is requested. The written request shall clearly state if the provider is also requesting the nondirect care limit exception. The written request for instant relief shall be submitted no earlier than thirty days prior to the placement of the provider's assets in service. The written request for relief shall provide adequate details to calculate the estimated value of relief including but not limited to the total cost of the project, the estimated annual depreciation expenses using generally accepted accounting principles, the estimated useful life based upon existing medical assistance and Medicare provisions, and a copy of the most current depreciation schedule. If interest expenses are included, a copy of the general terms of the debt service and the estimated annual amount of the interest expenses shall be submitted with the written request for relief.

b. The following shall apply to the value of relief amount:

(1) If interest expenses are disclosed, the amount of these expenses shall be added to the value of relief.

(2) The calculation of the estimated value of relief shall take into consideration the removal of existing assets and debt service.

(3) The calculation of the estimated value of relief shall be demonstrated as an amount per patient day to be added to the nondirect care component for the relevant period. The estimated annual patient days for this calculation shall be determined based upon budgeted amounts or the most recent annual total as demonstrated on the provider's Medicaid financial and statistical report. For the purposes of calculating the per diem relief, total patient days shall be the greater of the estimated annual patient days or eighty-five percent of the facility's estimated licensed capacity.

(4) The combination of the nondirect care component and the estimated value of relief shall not exceed one hundred and ten percent of the nondirect care median for the relevant period. If a nondirect care limit exception has been requested and granted, the combination of the nondirect care component and the estimated value of relief shall not exceed one hundred twenty percent of the nondirect care median for the relevant period.

c. Instant relief granted under this subsection shall begin the first day of the calendar quarter following placement of the provider's assets in service. If the required information to calculate the instant relief, as specified in paragraph "a", is not submitted prior to the first day of the calendar quarter following placement of the provider's assets in service, instant relief shall instead begin on the first day of the calendar quarter following receipt of the required information.

d. Instant relief granted under this subsection shall be terminated at the time of the provider's subsequent biannual rebasing when the submission of the annual cost report for

the provider includes the new replacement costs and the annual property costs reflect the new assets.

e. During the period in which instant relief is granted, the Iowa Medicaid enterprise shall recalculate the value of the instant relief based on allowable costs and patient days reported on the annual financial and statistical report. For purposes of calculating the per diem relief, total patient days shall be the greater of actual annual patient days or eighty-five percent of the facility's licensed capacity. The actual value of relief shall be added to the nondirect care component for the relevant period, not to exceed one hundred ten percent of the nondirect care median for the relevant period or not to exceed one hundred twenty percent of the nondirect care median for the relevant period if the nondirect care limit exception is requested and granted. The provider's quarterly rates for the relevant period shall be retroactively adjusted to reflect the revised nondirect care rate. All claims with dates of service from the date that instant relief is granted to the date that the instant relief is terminated shall be repriced to reflect the actual value of the instant relief per diem utilizing a mass adjustment.

3. If the provider requests the nondirect care limit exception, all of the following shall apply:

a. The nondirect care limit for the rate setting period shall be increased to one hundred and twenty percent of the median for the relevant period.

b. The exception period shall not exceed a period of two years. If the provider is requesting only the nondirect care limit exception, the request shall be submitted within sixty days of the release of the July 1 rate determination letters following each biannual rebasing cycle, and shall be effective the first day of the month following receipt of the request. If applicable, the provider shall identify any time period in which instant relief was granted and shall indicate how many times the instant relief or nondirect care limit exception was granted previously.

2007 Acts, ch 219, §37, 41, 43

Referred to in §249K.4

249K.4 Preliminary evaluation.

1. A provider preparing cost or other feasibility projections for a request for relief or an exception pursuant to section 249K.3 may submit a request for preliminary evaluation.

2. The request shall contain all of the information required for the type of assistance sought pursuant to section 249K.3.

3. The provider shall estimate the timing of the initiation and completion of the project to allow the department to respond with estimates of both instant relief and the nondirect care limit exception.

4. The department shall respond to a request for preliminary evaluation under this section within thirty days of receipt of the request. A preliminary evaluation does not guarantee approval of instant relief or the nondirect care limit exception upon submission of a formal request. A preliminary evaluation provides only an estimate of value of the instant relief or nondirect care limit exception based only on the projections.

2007 Acts, ch 219, §38, 41, 43

249K.5 Participation criteria.

1. The Iowa Medicaid enterprise shall administer this chapter. The department of human services shall adopt rules, pursuant to chapter 17A, to administer this chapter.

2. A provider requesting instant relief or a nondirect care limit exception under this chapter shall meet one of the following criteria:

a. The nursing facility for which relief or an exception is requested is in violation of life safety code requirements and changes are necessary to meet regulatory compliance.

b. The nursing facility for which relief or an exception is requested is proposing development of a home and community-based services waiver program service that meets the following requirements:

(1) The service is provided on the direct site and is a nonnursing service.

(2) The service is provided in an underserved area, which may include a rural area, and the nursing facility provides documentation of this.

(3) The service meets all federal and state requirements.

(4) The service is adult day care, consumer directed attendant care, assisted living, day habilitation, home delivered meals, personal emergency response, or respite.

3. In addition to any other factors to be considered in determining if a provider is eligible to participate under this chapter, the Iowa Medicaid enterprise shall consider all of the following:

a. The history of the provider's regulatory compliance.

b. The historical access to nursing facility services for medical assistance program beneficiaries.

c. The provider's dedication to and participation in quality of care, considering all quality programs in which the provider has participated.

d. The provider's plans to facilitate person-directed care.

e. The provider's plans to facilitate dementia units and specialty post-acute services.

4. a. Any relief or exception granted under this chapter is temporary and shall be immediately terminated if all of the participation requirements under this chapter are not met.

b. If a provider's medical assistance program or Medicare certification is revoked, any existing exception or relief shall be terminated and the provider shall not be eligible to request subsequent relief or an exception under this chapter.

5. Following a change in ownership, relief or an exception previously granted shall continue and future rate calculations shall be determined under the provisions of 441 IAC 81.6(12) relating to termination or change of ownership of a nursing facility.

2007 Acts, ch 219, §39, 41, 43

CHAPTER 249L

NURSING FACILITY QUALITY ASSURANCE ASSESSMENT PROGRAM

249L.1	Title.	249L.4	Quality assurance trust fund
249L.2	Definitions.		— limitations of use —
249L.3	Quality assurance assessment — imposed — collection — deposit — documentation — civil actions.		reimbursement adjustments to nursing facilities.

249L.1 Title.

This chapter shall be known and may be cited as the "Quality Assurance Assessment Program".

2009 Acts, ch 160, §1, 5

249L.2 Definitions.

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

1. "Department" means the department of human services.

2. "Direct care worker" means an employee of a nursing facility who holds a nursing assistant certification, is employed for the purpose of nursing assistance, and provides direct care to residents, regardless of the employee's job title.

3. "Gross revenue" means all revenue reported by the nursing facility for patient care, room, board and services, but does not include contractual adjustments, bad debt, Medicare revenue, or revenue derived from sources other than nursing facility operations including but not limited to nonoperating revenue and other operating revenue.

4. "Medically indigent individual" means an individual eligible for coverage under the medical assistance program who is a resident of a Medicaid-certified nursing facility.

5. "Nonoperating revenue" means income from activities not relating directly to the

day-to-day operations of a nursing facility such as gains on the disposal of a facility's assets, dividends, and interest from security investments, gifts, grants, and endowments.

6. "Non-state governmental entity" means a hospital authority, hospital district, health care district, city, or county.

7. "Non-state government-owned nursing facility" means a nursing facility that is owned or operated by a non-state governmental entity and for which a non-state governmental entity holds the nursing facility's license and is party to the nursing facility's Medicaid contract.

8. "Nursing facility" means a licensed nursing facility as defined in section 135C.1 that is a freestanding facility or a nursing facility operated by a hospital licensed pursuant to chapter 135B, but does not include a distinct-part skilled nursing unit or a swing-bed unit operated by a hospital, or a nursing facility owned by the state or federal government or other governmental unit. "Nursing facility" includes a non-state government-owned nursing facility if the nursing facility participates in the non-state government-owned nursing facility quality of care rate add-on program.

9. "Other operating revenue" means income from nonpatient care services to patients and from sales to and activities for persons other than patients which may include but are not limited to such activities as providing personal laundry service for patients, providing meals to persons other than patients, gift shop sales, or vending machine commissions.

10. "Patient day" means a calendar day of care provided to an individual resident of a nursing facility that is not reimbursed under Medicare, including the date of admission but not including the date of discharge, unless the dates of admission and discharge occur on the same day, in which case the resulting number of patient days is one patient day.

11. "Uniform tax requirement waiver" means a waiver of the uniform tax requirement for permissible health care-related taxes as provided in 42 C.F.R. §433.68(e)(2)(i) and (ii).

2009 Acts, ch 160, §2, 5; 2016 Acts, ch 1139, §80, 81, 83, 84; 2017 Acts, ch 174, §112, 115, 116; 2019 Acts, ch 85, §103, 105, 107; 2020 Acts, ch 1063, §95, 96

New subsections 6 and 7 and amendments to subsection 8 are applicable no earlier than the first day of the calendar quarter following receipt of approval of the Medicare state plan amendment by the centers for Medicare and Medicaid services of the U.S. department of health and human services; 2020 Acts, ch 1063, §390

NEW subsections 6 and 7 and former subsection 6 amended and renumbered as 8
Former subsections 7 – 9 renumbered as 9 – 11

249L.3 Quality assurance assessment — imposed — collection — deposit — documentation — civil actions.

1. a. A nursing facility in this state shall be assessed a quality assurance assessment for each patient day for the preceding quarter.

b. The quality assurance assessment shall be implemented as a broad-based health care-related tax as defined in 42 U.S.C. §1396b(w)(3)(B).

c. The quality assurance assessment shall be imposed uniformly upon all nursing facilities, unless otherwise provided in this chapter.

d. The aggregate quality assurance assessments imposed under this chapter shall not exceed the maximum amount that may be assessed pursuant to the indirect guarantee threshold as established pursuant to 42 C.F.R. §433.68(f)(3)(i), and shall be stated on a per-patient-day basis.

2. The quality assurance assessment shall be paid by each nursing facility to the department on a quarterly basis after the nursing facility's medical assistance payment rates are adjusted to include funds appropriated from the quality assurance trust fund for that purpose. The department shall prepare and distribute a form upon which nursing facilities shall calculate and report the quality assurance assessment. A nursing facility shall submit the completed form with the assessment amount no later than thirty days following the end of each calendar quarter.

3. A nursing facility shall retain and preserve for a period of three years such books and records as may be necessary to determine the amount of the quality assurance assessment for which the nursing facility is liable under this chapter. The department may inspect and copy the books and records of a nursing facility for the purpose of auditing the calculation of the quality assurance assessment. All information obtained by the department under this subsection is confidential and does not constitute a public record.

4. The department shall collect the quality assurance assessment imposed and shall deposit all revenues collected in the quality assurance trust fund created in section 249L.4.

5. If the department determines that a nursing facility has underpaid or overpaid the quality assurance assessment, the department shall notify the nursing facility of the amount of the unpaid quality assurance assessment or refund due. Such payment or refund shall be due or refunded within thirty days of the issuance of the notice.

6. *a.* A nursing facility that fails to pay the quality assurance assessment within the time frame specified in this section shall pay, in addition to the outstanding quality assurance assessment, a penalty of one and five-tenths percent of the quality assurance assessment amount owed for each month or portion of each month that the payment is overdue. However, if the department determines that good cause is shown for failure to comply with payment of the quality assurance assessment, the department shall waive the penalty or a portion of the penalty.

b. If a quality assurance assessment has not been received by the department by the last day of the month in which the payment is due, the department shall withhold an amount equal to the quality assurance assessment and penalty owed from any payment due such nursing facility under the medical assistance program.

c. The quality assurance assessment imposed under this chapter constitutes a debt due the state and may be collected by civil action, including but not limited to the filing of tax liens, and any other method provided for by law.

d. Any penalty collected pursuant to this subsection shall be credited to the quality assurance trust fund.

7. If federal financial participation to match the quality assurance assessments made under this section becomes unavailable under federal law, the department shall terminate the imposition of the assessments beginning on the date the federal statutory, regulatory, or interpretive change takes effect.

2009 Acts, ch 160, §3, 5; 2018 Acts, ch 1165, §93

249L.4 Quality assurance trust fund — limitations of use — reimbursement adjustments to nursing facilities.

1. A quality assurance trust fund is created in the state treasury under the authority of the department. Moneys received through the collection of the nursing facility quality assurance assessment imposed under this chapter and any other moneys specified for deposit in the trust fund shall be deposited in the trust fund.

2. Moneys in the trust fund shall be used, subject to their appropriation by the general assembly, by the department only for reimbursement of nursing facility services for which federal financial participation under the medical assistance program is available to match state funds. Moneys appropriated from the trust fund for reimbursement of nursing facilities, in addition to the quality assurance assessment pass-through and the quality assurance assessment rate add-on which shall be used as specified in subsection 5, paragraph “*b*”, shall be used in a manner such that no less than thirty-five percent of the amount received by a nursing facility is used for increases in compensation and costs of employment for direct care workers, and no less than sixty percent of the total is used to increase compensation and costs of employment for all nursing facility staff. For the purposes of use of such funds, “*direct care worker*”, “*nursing facility staff*”, “*increases in compensation*”, and “*costs of employment*” mean as defined or specified in this chapter.

3. The trust fund shall be separate from the general fund of the state and shall not be considered part of the general fund of the state. The moneys in the trust fund shall not be considered revenue of the state, but rather shall be funds of the quality assurance assessment program. The moneys deposited in the trust fund are not subject to section 8.33 and shall not be transferred, used, obligated, appropriated, or otherwise encumbered, except to provide for the purposes of this chapter. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the trust fund shall be credited to the trust fund.

4. The department shall adopt rules pursuant to chapter 17A to administer the trust fund and reimbursements made from the trust fund.

5. *a.* The determination of medical assistance reimbursements to nursing facilities

shall continue to be calculated in accordance with the modified price-based case-mix reimbursement system as specified in 2001 Iowa Acts, ch. 192, §4, subsection 2, paragraph “c”. In addition, moneys that are appropriated from the trust fund for reimbursements to nursing facilities that serve the medically indigent shall be used to provide the following nursing facility reimbursement rate adjustment increases within the parameters specified:

(1) A quality assurance assessment pass-through. This rate add-on shall account for the cost incurred by the nursing facility in paying the quality assurance assessment, but only with respect to the pro rata portion of the assessment that correlates with the patient days in the nursing facility that are attributable to medically indigent residents.

(2) A quality assurance assessment rate add-on. This rate add-on shall be calculated on a per-patient-day basis for medically indigent residents. The amount paid to a nursing facility as a quality assurance assessment rate add-on shall be ten dollars per patient day.

(3) Nursing facility payments for rebasing pursuant to 2001 Iowa Acts, ch. 192, §4, subsection 3, paragraph “a”, subparagraph (2).

b. (1) It is the intent of the general assembly that priority in expenditure of rate adjustment increases provided to nursing facilities through the quality assurance assessment be related to the compensation and costs of employment for nursing facility staff.

(2) If the sum of the quality assurance assessment pass-through and the quality assurance assessment rate add-on is greater than the total cost incurred by a nursing facility in payment of the quality assurance assessment, no less than thirty-five percent of the difference shall be used to increase compensation and costs of employment for direct care workers and no less than sixty percent of the difference shall be used to increase compensation and costs of employment for all nursing facility staff.

(3) For the purposes of determining what constitutes increases in compensation and costs of employment the following shall apply:

(a) Increases in compensation shall include but are not limited to starting hourly wages, average hourly wages paid, and total wages including both productive and nonproductive wages, and as specified by rule of the department.

(b) Increases in total costs of employment shall include but are not limited to costs of benefit programs with specific reporting for group health plans, group retirement plans, leave benefit plans, employee assistance programs, payroll taxes, workers’ compensation, training, education, career development programs, tuition reimbursement, transportation, and child care, and as specified by rule of the department.

(c) Direct care workers and nursing facility staff do not include nursing facility administrators, administrative staff, or home office staff.

(4) Each nursing facility shall submit to the department, information in a form as specified by the department and developed in cooperation with representatives of the Iowa caregivers association, the Iowa health care association, leading age Iowa, and the AARP Iowa chapter, that demonstrates compliance by the nursing facility with the requirements for use of the rate adjustment increases and other reimbursements provided to nursing facilities through the quality assurance assessment.

6. The department shall report annually to the general assembly regarding the use of moneys deposited in the trust fund and appropriated to the department.

2009 Acts, ch 160, §4, 5; 2013 Acts, ch 30, §53; 2014 Acts, ch 1026, §143; 2018 Acts, ch 1165, §94

Referred to in §249L.3

CHAPTER 249M
HOSPITAL HEALTH CARE ACCESS
ASSESSMENT PROGRAM

Legislative intent; pilot program; 2010 Acts, ch 1135, §1

249M.1	Title.	249M.4	Hospital health care access trust
249M.2	Definitions.		fund.
249M.3	Hospital health care access assessment program — termination of program.	249M.5	Future repeal.

249M.1 Title.

This chapter shall be known as the “*Hospital Health Care Access Assessment Program*”.
 2010 Acts, ch 1135, §2, 9

249M.2 Definitions.

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

1. “*Assessment*” means the hospital health care access assessment imposed pursuant to this chapter.
2. “*Department*” means the department of human services.
3. “*Net patient revenue*” means all revenue reported by a hospital on the hospital’s 2008 Medicare cost report for acute patient care and services, but does not include contractual adjustments, charity care, bad debt, Medicare revenue, or other revenue derived from sources other than hospital operations including but not limited to nonoperating revenue, other operating revenue, skilled nursing facility revenue, physician revenue, and long-term care revenue.
4. “*Nonoperating revenue*” means income from activities not relating directly to the day-to-day operations of a hospital such as gains from disposal of a hospital’s assets, dividends and interests from security investments, gifts, grants, and endowments.
5. “*Other operating revenue*” means income from nonpatient care services including but not limited to tax levy receipts, laundry services, gift shop operations, meal services to individuals other than patients, and vending machine commissions.
6. “*Participating hospital*” means a nonstate-owned hospital licensed under chapter 135B that is paid on a prospective payment system basis by Medicare and the medical assistance program for inpatient and outpatient services.
7. “*Program*” means the hospital health care access assessment program created in this chapter.
8. “*Trust fund*” means the hospital health care access trust fund created in section 249M.4.
9. “*Upper payment limit*” means the maximum ceiling imposed by federal regulation on a participating hospital’s medical assistance program reimbursement for inpatient services under 42 C.F.R. §447.272 and outpatient services under 42 C.F.R. §447.321, calculated separately for hospital inpatient and outpatient services, and excluding from the calculation medical assistance program disproportionate share hospital payments.

2010 Acts, ch 1135, §3, 9

249M.3 Hospital health care access assessment program — termination of program.

1. A hospital health care access assessment is imposed on each participating hospital in this state to be used to promote access to health care services for Iowans, including those served by the medical assistance program.

2. The assessment rate for a participating hospital shall be calculated as one and twenty-six one hundredths percent of net patient revenue as specified in the hospital’s fiscal year 2008 Medicare cost report.

3. If a participating hospital’s fiscal year 2008 Medicare cost report is not contained in the file of the centers for Medicare and Medicaid services health care cost report information system dated June 30, 2009, the hospital shall submit a copy of the hospital’s 2008 Medicare

cost report to the department to allow the department to determine the hospital's net patient revenue for fiscal year 2008.

4. A participating hospital paid under the prospective payment system by Medicare and the medical assistance program that was not in existence prior to fiscal year 2008, shall submit a prospective Medicare cost report to the department to determine anticipated net patient revenue.

5. Net patient revenue as reported on each participating hospital's fiscal year 2008 Medicare cost report, or as reported under subsection 4 if applicable, shall be the sole basis for the health care access assessment for the duration of the program.

6. A participating hospital shall pay the assessment to the department in equal amounts on a quarterly basis. A participating hospital shall submit the assessment amount no later than thirty days following the end of each calendar quarter.

7. A participating hospital shall retain and preserve the Medicare cost report and financial statements used to prepare the cost report for a period of three years. All information obtained by the department under this subsection is confidential and does not constitute a public record.

8. The department shall collect the assessment imposed and shall deposit all revenues collected in the hospital health care access trust fund created in section 249M.4.

9. If the department determines that a participating hospital has underpaid or overpaid the assessment, the department shall notify the participating hospital of the amount of the unpaid assessment or refund due. Such payment or refund shall be due or refunded within thirty days of the issuance of the notice.

10. a. A participating hospital that fails to pay the assessment within the time frame specified in this section shall pay, in addition to the outstanding assessment, a penalty of one and five-tenths percent of the assessment amount owed for each month or portion of each month that the payment is overdue. However, if the department determines that good cause is shown for failure to comply with payment of the assessment, the department shall waive the penalty or a portion of the penalty.

b. If an assessment is not received by the department by the last day of the month in which the payment is due, the department shall withhold an amount equal to the assessment and penalty owed from any payment due such participating hospital under the medical assistance program.

c. The assessment imposed under this chapter constitutes a debt due the state and may be collected by civil action under any method provided for by law.

d. Any penalty collected pursuant to this subsection shall be credited to the hospital health care access trust fund created in section 249M.4.

11. If the federal government fully funds Iowa's medical assistance program, if federal law changes to negatively impact the assessment program as determined by the department, or if a federal audit determines the assessment program is invalid, the department shall terminate the imposition of the assessment and the program beginning on the date the federal statutory, regulatory, or interpretive change takes effect.

2010 Acts, ch 1135, §4, 9; 2011 Acts, ch 34, §63

249M.4 Hospital health care access trust fund.

1. A hospital health care access trust fund is created in the state treasury under the authority of the department. Moneys received through the collection of the hospital health care access assessment imposed under this chapter and any other moneys specified for deposit in the trust fund shall be deposited in the trust fund.

2. Moneys in the trust fund shall be used, subject to their appropriation by the general assembly, by the department to reimburse participating hospitals the medical assistance program upper payment limit for inpatient and outpatient hospital services as calculated in this section. Following payment of such upper payment limit to participating hospitals, any remaining funds in the trust fund on an annual basis may be used for any of the following purposes:

a. To support medical assistance program utilization shortfalls.

b. To maintain the state's capacity to provide access to and delivery of services for vulnerable Iowans.

c. To fund the health care workforce support initiative created pursuant to section 135.175.

d. To support access to health care services for uninsured Iowans.

e. To support Iowa hospital programs and services which expand access to health care services for Iowans.

3. The trust fund shall be separate from the general fund of the state and shall not be considered part of the general fund. The moneys in the trust fund shall not be considered revenue of the state, but rather shall be funds of the hospital health care access assessment program. The moneys deposited in the trust fund are not subject to section 8.33 and shall not be transferred, used, obligated, appropriated, or otherwise encumbered, except to provide for the purposes of this chapter. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the trust fund shall be credited to the trust fund.

4. The department shall adopt rules pursuant to chapter 17A to administer the trust fund and reimbursements and expenditures as specified in this chapter made from the trust fund.

5. a. Beginning July 1, 2010, or the implementation date of the hospital health care access assessment program as determined by receipt of approval from the centers for Medicare and Medicaid services of the United States department of health and human services, whichever is later, the department shall increase the diagnostic related groups and ambulatory patient classifications base rates to provide payments to participating hospitals at the Medicare upper payment limit for the fiscal year beginning July 1, 2010, calculated as of July 31, 2010. Each participating hospital shall receive the same percentage increase, but the percentage may differ depending on whether the basis for the base rate increase is the diagnostic related groups or ambulatory patient classifications.

b. The percentage increase shall be calculated by dividing the amount calculated under subparagraph (1) by the amount calculated under subparagraph (2) as follows:

(1) The amount under the Medicare upper payment limit for the fiscal year beginning July 1, 2010, for participating hospitals.

(2) The projected expenditures for participating hospitals for the fiscal year beginning July 1, 2010, as determined by the fiscal management division of the department, plus the amount calculated under subparagraph (1).

6. For the fiscal year beginning July 1, 2011, and for each fiscal year beginning July 1, thereafter, the payments to participating hospitals shall continue to be calculated based on the upper payment limit as calculated for the fiscal year beginning July 1, 2010.

7. Reimbursement of participating hospitals shall incorporate the rebasing process for inpatient and outpatient services for state fiscal year 2012. However, the total amount of increased funding available for reimbursement attributable to rebasing shall not exceed four million five hundred thousand dollars for state fiscal year 2012 and six million dollars for state fiscal year 2013.

8. Any payments to participating hospitals under this section shall result in budget neutrality to the general fund of the state.

2010 Acts, ch 1135, §5, 9; 2013 Acts, ch 138, §124, 127; 2019 Acts, ch 85, §69

Referred to in §249M.2, 249M.3

249M.5 Future repeal.

This chapter is repealed July 1, 2021.

2010 Acts, ch 1135, §6, 9; 2013 Acts, ch 138, §57, 58; 2016 Acts, ch 1139, §53, 55, 56; 2017 Acts, ch 174, §106, 107; 2019 Acts, ch 85, §55, 56

Legislative intent; pilot program; 2010 Acts, ch 1135, §1

CHAPTER 249N

IOWA HEALTH AND WELLNESS PLAN

Referred to in §331.397

249N.1	Title.	249N.5	Iowa health and wellness plan — covered benefits — administration.
249N.2	Definitions.	249N.6	Iowa health and wellness plan provider network.
249N.3	Purpose — establishment of Iowa health and wellness plan — limitation.	249N.7	Member financial participation.
249N.4	Iowa health and wellness plan — eligibility.	249N.8	Mental health services reports.

249N.1 Title.

This chapter shall be known and may be cited as the “*Iowa Health and Wellness Plan*”.
2013 Acts, ch 138, §166, 187

249N.2 Definitions.

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

1. “*Accountable care organization*” means a risk-bearing, integrated health care organization characterized by a payment and care delivery model that ties provider reimbursement to quality metrics and reductions in the total cost of care for an attributed population of patients.

2. “*Affordable Care Act*” means the federal Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the federal Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152.

3. “*Covered benefits*” means covered benefits as specified in section 249N.5.

4. “*Department*” means the department of human services.

5. “*Director*” means the director of human services.

6. “*Eligible individual*” means an individual eligible for medical assistance pursuant to section 249A.3, subsection 1, paragraph “v”.

7. “*Essential health benefits*” means essential health benefits as defined in section 1302 of the Affordable Care Act, that include at least the general categories and the items and services covered within the categories of ambulatory patient services; emergency services; hospitalization; maternity and newborn care; mental health and substance use disorder services, including behavioral health treatment; prescription drugs; rehabilitative and habilitative services and devices; laboratory services; preventive and wellness services and chronic disease management; and pediatric services, including oral and vision care.

8. “*Federal approval*” means approval by the centers for Medicare and Medicaid services of the United States department of health and human services.

9. “*Federal poverty level*” means the most recently revised poverty income guidelines published by the United States department of health and human services.

10. “*Household income*” means household income as determined using the modified adjusted gross income methodology pursuant to section 2002 of the Affordable Care Act.

11. “*Iowa health and wellness plan*” or “*plan*” means the Iowa health and wellness plan established under this chapter.

12. “*Iowa health and wellness plan provider*” means any provider enrolled in the medical assistance program or any participating accountable care organization.

13. “*Iowa health and wellness plan provider network*” means the health care delivery network approved by the department for Iowa health and wellness plan members.

14. “*Medical assistance program*” or “*Medicaid*” means the program paying all or part of the costs of care and services provided to an individual pursuant to chapter 249A and Tit. XIX of the federal Social Security Act.

15. “*Medical home*” means a team approach to providing health care that originates in a primary care setting; fosters a partnership among the patient, the personal provider, and other health care professionals, and where appropriate, the patient’s family; utilizes the partnership to access and integrate all medical and nonmedical health-related services

across all elements of the health care system and the patient's community as needed by the patient and the patient's family to achieve maximum health potential; maintains a centralized, comprehensive record of all health-related services to promote continuity of care; and has all of the following characteristics:

- a. A personal provider.
- b. A provider-directed team-based medical practice.
- c. Whole-person orientation.
- d. Coordination and integration of care.
- e. Quality and safety.
- f. Enhanced access to health care.
- g. A payment system that appropriately recognizes the added value provided to patients who have a patient-centered medical home.

16. "Member" means an eligible individual who is enrolled in the Iowa health and wellness plan.

17. "Participating accountable care organization" means an accountable care organization approved by the department to participate in the Iowa health and wellness plan provider network.

18. "Personal provider" means the patient's first point of contact in the health care system with a primary care provider who identifies the patient's health-related needs and, working with a team of health care professionals and providers of medical and nonmedical health-related services, provides for and coordinates appropriate care to address the health-related needs identified.

19. "Preventive care services" means care that is provided to an individual to promote health, prevent disease, or diagnose disease.

20. "Primary care provider" includes but is not limited to any of the following licensed or certified health care professionals who provide primary care:

- a. A physician who is a family or general practitioner, a pediatrician, an internist, an obstetrician, or a gynecologist.
- b. An advanced registered nurse practitioner.
- c. A physician assistant.
- d. A chiropractor.

21. "Primary medical provider" means the personal provider trained to provide first contact and continuous and comprehensive care to a member, chosen by a member or to whom a member is assigned under the Iowa health and wellness plan.

22. "Value-based reimbursement" means a payment methodology that links provider reimbursement to improved performance by health care providers by holding health care providers accountable for both the cost and quality of care provided.

2013 Acts, ch 138, §167, 187; 2017 Acts, ch 148, §6, 7

Referred to in §249A.3

249N.3 Purpose — establishment of Iowa health and wellness plan — limitation.

1. The purpose of this chapter is to establish and provide for the administration of an Iowa health and wellness plan to promote all of the following:

- a. Increased access to health care through a patient-centered, integrated health care system.
- b. Improved quality health care outcomes.
- c. Incentives to encourage personal responsibility, cost-conscious utilization of health care, and adoption of preventive practices and healthy behaviors.
- d. Health care cost containment and minimization of administrative costs.

2. The Iowa health and wellness plan is established within the medical assistance program and shall be administered by the department. Except as otherwise specified in this chapter, provisions applicable to the medical assistance program pursuant to chapter 249A shall be applicable to the Iowa health and wellness plan.

3. The department may contract with a third-party administrator to provide eligibility determination support, and to administer enrollment, member outreach, and other components of the Iowa health and wellness plan.

4. The provisions of this chapter shall not be construed and are not intended to affect the provision of services to medical assistance program recipients existing on January 1, 2014.

5. *a.* If the methodology for calculating the federal medical assistance percentage for eligible individuals, as provided in 42 U.S.C. §1396d(y), is modified through federal law or regulation, in a manner that reduces the percentage of federal assistance to the state in a manner inconsistent with 42 U.S.C. §1396d(y), or if federal law or regulation affecting eligibility or benefits for the Iowa health and wellness plan is modified, the department may implement an alternative plan as specified in the medical assistance state plan or waiver for coverage of the affected population, subject to prior, statutory approval of implementation of the alternative plan.

b. If the methodology for calculating the federal medical assistance percentage for eligible individuals, as provided in 42 U.S.C. §1396d(y), is modified through federal law or regulation resulting in a reduction of the percentage of federal assistance to the state below ninety percent but not below eighty-five percent, the medical assistance program reimbursement rates for inpatient and outpatient hospital services shall be reduced by a like percentage in the succeeding fiscal year, subject to prior, statutory approval of implementation of the reduction.

2013 Acts, ch 138, §168, 187

249N.4 Iowa health and wellness plan — eligibility.

1. Except as otherwise provided in this chapter, an individual may participate in the Iowa health and wellness plan if the individual meets all of the following criteria:

a. Is an eligible individual.

b. Meets the citizenship or alienage requirements of the medical assistance program, is a resident of Iowa, and provides a social security number upon application for the plan.

c. Fulfills all other conditions of participation in the Iowa health and wellness plan, including member financial participation pursuant to section 249N.7.

2. An individual who has access to affordable employer-sponsored health care coverage, as defined by rule of the department to align with regulations adopted by the federal internal revenue service under the Affordable Care Act, shall not be eligible for participation in the Iowa health and wellness plan.

3. Each applicant for the Iowa health and wellness plan shall provide to the department all insurance information required by the health insurance premium payment program in accordance with rules adopted by the department.

a. The department may elect to pay the cost of premiums for applicants with access to employer-sponsored health care coverage if the department determines such payment to be cost-effective.

b. Eligibility for the Iowa health and wellness plan is a qualifying event under the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.

c. If premium payment is provided under this subsection for employer-sponsored health care coverage, the Iowa health and wellness plan shall supplement such coverage as necessary to provide the covered benefits specified under section 249N.5.

4. The department shall implement the Iowa health and wellness plan in a manner that ensures that the Iowa health and wellness plan is the payor of last resort.

5. A member is eligible for coverage effective the first day of the month following the month of application for enrollment.

6. Following initial enrollment, a member is eligible for covered benefits for twelve months, subject to program termination and other limitations otherwise specified in this chapter. The department shall review the member's eligibility on at least an annual basis.

2013 Acts, ch 138, §169, 187

249N.5 Iowa health and wellness plan — covered benefits — administration.

1. Iowa health and wellness plan members shall receive coverage for benefits as specified in section 249A.3, subsection 1, paragraph "v".

2. *a.* For members whose household income is at or below one hundred percent of the federal poverty level, the plan shall be administered by the Iowa Medicaid enterprise

consistent with program administration applicable to individuals under section 249A.3, subsection 1.

b. For members whose household income is above one hundred percent but not in excess of one hundred thirty-three percent of the federal poverty level, the plan shall be administered through provision of premium assistance for the purchase of the covered benefits through the American health benefits exchange created pursuant to the Affordable Care Act. The department may pay premiums and supplemental cost-sharing subsidies directly to qualified health plans participating in the American health benefits exchange created pursuant to the Affordable Care Act on behalf of the member.

2013 Acts, ch 138, §170, 187

Referred to in §249N.2, 249N.4

249N.6 Iowa health and wellness plan provider network.

1. The Iowa health and wellness plan provider network shall include all providers enrolled in the medical assistance program and all participating accountable care organizations. Reimbursement under this chapter shall only be made to such Iowa health and wellness plan providers for covered benefits.

2. a. Upon enrollment, a member shall choose a primary medical provider and, to the extent feasible, shall also choose a medical home within the Iowa health and wellness plan provider network.

b. If the member does not choose a primary medical provider or a medical home, the department shall assign the member to a primary medical provider or a medical home in accordance with the Medicaid managed health care, mandatory enrollment provisions specified in rules adopted by the department pursuant to chapter 249A and in accordance with quality data available to the department.

c. The department shall develop a mechanism for primary medical providers, medical homes, and participating accountable care organizations to jointly facilitate member care coordination. The Iowa health and wellness plan shall provide for reimbursement of care coordination services provided under the plan.

3. a. The department shall provide procedures for accountable care organizations that emerge through local markets to participate in the Iowa health and wellness plan provider network. Such accountable care organizations shall incorporate the medical home as a foundation and shall emphasize whole-person orientation and coordination and integration of both clinical services and nonclinical community and social supports that address social determinants of health. A participating accountable care organization shall enter into a contract with the department to ensure the coordination and management of the health of attributed members, to produce quality health care outcomes, and to control overall cost.

b. The department shall establish by rule in accordance with chapter 17A the qualifications, contracting processes, and contract terms for a participating accountable care organization. The rules shall also establish a methodology for attribution of a member to a participating accountable care organization.

c. A participating accountable care organization contract shall establish accountability based on quality performance and total cost-of-care metrics for the attributed population. In developing quality performance standards, the department shall consider those utilized by state accountable care organization models including but not limited to the quality index score and the Medicare shared savings program quality reporting metrics. The payment models shall include but are not limited to risk sharing, including both shared savings and shared costs, between the state and the participating accountable care organization, and bonus payments for improved quality. The contract terms shall require that a participating accountable care organization is subject to shared savings beginning with the initial year of the contract, must have quality metrics in place within three years of the initial year of the contract, and must participate in risk sharing within five years of the initial year of the contract.

4. To the greatest extent possible, members shall have a choice of providers within the Iowa health and wellness plan provider network to facilitate access to locally-based health care providers and services. However, member choice may be limited by the results

of attribution under this section and by the participating accountable care organization, with prior approval of the department, if the member's health condition would benefit from limiting the member's choice of an Iowa health and wellness plan provider to ensure coordination of services, or due to overutilization of covered benefits. The participating accountable care organization shall provide thirty days' notice to the member prior to limitation of such choice.

5. *a.* An Iowa health and wellness plan provider shall be reimbursed for covered benefits under the Iowa health and wellness plan utilizing the same reimbursement methodology as that applicable to individuals eligible for medical assistance under section 249A.3, subsection 1.

b. Notwithstanding paragraph "a", a participating accountable care organization under contract with the department shall be reimbursed utilizing a value-based reimbursement methodology.

6. *a.* Iowa health and wellness plan providers shall exchange member health information as provided by rule to facilitate coordination and management of members' health, quality health care outcomes, and containment of and reduction in costs.

b. The department shall provide the health care claims data of attributed members to a member's participating accountable care organization on a timeframe established by rule of the department.

2013 Acts, ch 138, §171, 187; 2017 Acts, ch 148, §8, 9

249N.7 Member financial participation.

1. Membership in the Iowa health and wellness plan shall require payment of monthly contributions for members whose household income is at or above fifty percent of the federal poverty level. Members shall be subject to copayment amounts applicable only to nonemergency use of a hospital emergency department. Total member cost-sharing, annually, shall align with the cost-sharing limitations requirements for the American health benefits exchanges under the Affordable Care Act. Contributions and copayment amounts shall be established by rule of the department.

2. Contributions shall be waived for a member during the initial year of membership. If a member completes all required preventive care services and wellness activities as specified by rule of the department during the initial year of membership, contributions shall be waived during the subsequent year of membership and each year thereafter until such time as the member fails to complete required preventive care services and wellness activities specified during the prior annual membership period.

2013 Acts, ch 138, §172, 187

Referred to in §249N.4

249N.8 Mental health services reports.

The department shall submit all of the following to the governor and the general assembly:

1. Biennially, a report of the results of a review, by county and region, of mental health services previously funded through taxes levied by counties pursuant to section 331.424A, that are funded during the reporting period under the Iowa health and wellness plan.

2. Annually, a report of the results of a review of the outcomes and effectiveness of mental health services provided under the Iowa health and wellness plan.

2013 Acts, ch 138, §173, 187

CHAPTER 250

RESERVED

CHAPTER 251

EMERGENCY RELIEF ADMINISTRATION

Referred to in §235.7

Child and family services, see chapter 234

251.1	Definitions.	251.5	Duties of the service area advisory board.
251.2	Administration of emergency relief.	251.6	County supervisors to determine relief and work projects.
251.3	Powers and duties.	251.7	County appointees to act as executive officers.
251.4	Grants from state funds to counties.		

251.1 Definitions.

As used in this chapter:

1. “*Administrator*” means the administrator of the division of adult, children, and family services of the department of human services.

2. “*Division*” or “*state division*” means the division of adult, children, and family services of the department of human services.

[C71, 73, 75, 77, 79, 81, §251.1]

83 Acts, ch 96, §157, 159; 2018 Acts, ch 1041, §65

251.2 Administration of emergency relief.

The state division, in addition to all other powers and duties given it by law, shall be charged with the supervision and administration of all funds coming into the hands of the state now or hereafter provided for emergency relief.

[C39, §3828.067; C46, 50, 54, 58, 62, 66, §251.1; C71, 73, 75, 77, 79, 81, §251.2]

251.3 Powers and duties.

The administrator shall have the power to:

1. Appoint such personnel as may be necessary for the efficient discharge of the duties imposed upon the administrator in the administration of emergency relief, and to make such rules and regulations as the administrator deems necessary or advisable covering the administrator’s activities and those of the service area advisory boards created under section 217.43, concerning emergency relief.

2. Join and cooperate with the government of the United States, or any of its appropriate agencies or instrumentalities, in any proper relief activity.

3. Make such reports of budget estimates to the governor and to the general assembly as are required by law, or are necessary and proper to obtain appropriations of funds necessary for relief purposes and for all the purposes of this chapter.

4. Determine the need for funds in the various counties of the state basing such determination upon the amount of money needed in the various counties to provide adequate relief, and upon the counties’ financial inability to provide such relief from county funds. The administrator may administer said funds belonging to the state within the various counties of the state to supplement local funds as needed.

5. Make such reports, obtain and furnish such information from time to time as may be required by the governor, by the general assembly, or by any other proper office or agency, state or federal, and make an annual report of its activities.

[C39, §3828.068; C46, 50, 54, 58, 62, 66, §251.2; C71, 73, 75, 77, 79, 81, §251.3]

93 Acts, ch 54, §6; 2001 Acts, 2nd Ex, ch 4, §4, 9

251.4 Grants from state funds to counties.

The state division may require as a condition of making available state assistance to counties for emergency relief purposes, that the county boards of supervisors shall establish budgets as needed in respect to the relief situation in the counties.

[C39, §3828.069; C46, 50, 54, 58, 62, 66, §251.3; C71, 73, 75, 77, 79, 81, S81, §251.4; 81 Acts, ch 117, §1035]

83 Acts, ch 123, §101, 209

251.5 Duties of the service area advisory board.

A service area advisory board created in section 217.43 shall perform the following activities for any county in the board's service area concerning emergency relief:

1. Cooperate with a county's board of supervisors in all matters pertaining to administration of relief.

2. At the request of a county's board of supervisors, prepare requests for grants of state funds.

3. At the request of a county's board of supervisors, administer county relief funds.

4. In a county receiving grants of state funds upon approval of the director of the department of administrative services and the county's board of supervisors, administer both state and county relief funds.

5. Perform other duties as may be prescribed by the administrator and a county's board of supervisors.

[C39, §3828.070; C46, 50, 54, 58, 62, 66, §251.4; C71, 73, 75, 77, 79, 81, S81, §251.5; 81 Acts, ch 117, §1036]

93 Acts, ch 54, §7; 2001 Acts, 2nd Ex, ch 4, §5, 9; 2003 Acts, ch 145, §286

Referred to in §331.381

251.6 County supervisors to determine relief and work projects.

The county board of supervisors shall supervise administration of emergency relief, and shall determine the minimum amount of relief required for each person or family, which persons are employable, and whether and under what conditions persons receiving emergency relief may be employed by the county.

[C39, §3828.071; C46, 50, 54, 58, 62, 66, §251.5; C71, 73, 75, 77, 79, 81, S81, §251.6; 81 Acts, ch 117, §1037]

Referred to in §331.381

251.7 County appointees to act as executive officers.

The county board of supervisors may appoint an individual to serve as the executive officer of the service area advisory board in all matters pertaining to relief for that county.

[C39, §3828.072; C46, 50, 54, 58, 62, 66, §251.6; C71, 73, 75, 77, 79, 81, S81, §251.7; 81 Acts, ch 117, §1038]

93 Acts, ch 54, §8; 2001 Acts, 2nd Ex, ch 4, §6, 9

CHAPTER 252

SUPPORT OF THE POOR

Referred to in §217.30, 232.159, 235.7, 331.381, 331.427

<p>252.1 “Poor person” defined. 252.2 through 252.9 Repealed by 2015 Acts, ch 14, §3. 252.10 through 252.12 Reserved. 252.13 Recovery by county. 252.14 Homestead — when liable. 252.15 Recovery by relative. Repealed by 2015 Acts, ch 14, §3. 252.16 Settlement — how acquired. Repealed by 2018 Acts, ch 1137, §30. 252.17 Settlement continues. Repealed by 2018 Acts, ch 1137, §30. 252.18 Foreign paupers. Repealed by 2018 Acts, ch 1137, §30. 252.19 through 252.21 Reserved. 252.22 Contest between counties — chapter applicable to county public hospitals. Repealed by 2018 Acts, ch 1137, §30.</p>	<p>252.23 Legal settlement disputes. Repealed by 2018 Acts, ch 1137, §30. 252.24 County of residence liable — exception. 252.25 County general assistance. 252.26 General assistance director. 252.27 Form of assistance — condition. 252.28 through 252.32 Reserved. 252.33 Application for assistance. Reserved. 252.34 Payment of claims. 252.35 Reserved. 252.36 Appeal to supervisors. 252.37 through 252.41 Reserved. 252.38 Cooperation on work-assistance projects. 252.42 State support for Indians. Repealed by 93 Acts, ch 172, §49.</p>
---	---

252.1 “Poor person” defined.

The words “*poor*” and “*poor person*” as used in this chapter shall be construed to mean those who have no property, exempt or otherwise, and are unable, because of physical or mental disabilities, to earn a living by labor; but this section shall not be construed to forbid aid to needy persons who have some means, when the board shall be of opinion that the same will be conducive to their welfare and the best interests of the public.

[C97, §2252; C24, 27, 31, 35, §5297; C39, §3828.073; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §252.1]

252.2 through 252.9 Repealed by 2015 Acts, ch 14, §3.

252.10 through 252.12 Reserved.

252.13 Recovery by county.

Any county having expended money for the assistance or support of a poor person under this chapter, may recover the money as follows:

1. If the poor person is living, from the person if the person becomes able, by action brought within two years after the person becomes able.

2. a. If the poor person is deceased, from the person’s estate, by filing the claim as provided by law.

b. There shall be allowed against the person’s estate a claim of the sixth class for that portion of the liability to the county which exceeds the total amount of all claims of the first through the fifth classes, inclusive, as defined in section 633.425, which are allowed against that estate.

[C51, §806; R60, §1374; C73, §1350; C97, §2222; C24, 27, 31, 35, §5309; C39, §3828.085; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §252.13]

92 Acts, ch 1212, §11; 2014 Acts, ch 1026, §54; 2015 Acts, ch 14, §1

Referred to in §252.14

Claims against estate, §633.410 et seq.

252.14 Homestead — when liable.

When expenditures have been made for and on behalf of a poor person and the person’s family, as contemplated by section 252.13, the homestead of such poor person is liable for

such expenditures when such poor person dies without leaving a surviving spouse, or child, as defined in section 234.1.

[C31, 35, §5309-c1; C39, §3828.086; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §252.14]
See also §561.21

252.15 Recovery by relative. Repealed by 2015 Acts, ch 14, §3.

252.16 Settlement — how acquired. Repealed by 2018 Acts, ch 1137, §30.

252.17 Settlement continues. Repealed by 2018 Acts, ch 1137, §30.

252.18 Foreign paupers. Repealed by 2018 Acts, ch 1137, §30.

252.19 through 252.21 Reserved.

252.22 Contest between counties — chapter applicable to county public hospitals. Repealed by 2018 Acts, ch 1137, §30.

252.23 Legal settlement disputes. Repealed by 2018 Acts, ch 1137, §30.

252.24 County of residence liable — exception.

1. The county of residence, as defined in section 331.394, shall be liable to the county granting assistance for all reasonable charges and expenses incurred in the assistance and care of a poor person.

2. When assistance is furnished by any governmental agency of the county, township, or city, the assistance shall be deemed to have been furnished by the county in which the agency is located and the agency furnishing the assistance shall certify the correctness of the costs of the assistance to the board of supervisors of that county and that county shall collect from the person's county of residence. The amounts collected by the county where the agency is located shall be paid to the agency furnishing the assistance. This statute applies to services and supplies furnished as provided in section 139A.18.

3. This section shall apply to assistance or maintenance provided by a county through the county's mental health and disability services system implemented under chapter 331.

[C51, §815; R60, §1383; C73, §1358; C97, §2229; C24, 27, 31, 35, §5319; C39, §3828.096; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §252.24]

92 Acts, ch 1212, §14; 2000 Acts, ch 1066, §44; 2012 Acts, ch 1120, §125, 130; 2018 Acts, ch 1137, §26

252.25 County general assistance.

1. The board of supervisors of each county shall provide for the assistance of poor persons lawfully in the county who are ineligible for, or are in immediate need and are awaiting approval and receipt of, assistance under programs provided by state or federal law, or whose actual needs cannot be fully met by the assistance furnished under those programs. The county board of supervisors shall establish general rules as the board's members deem necessary to properly discharge their responsibility under this section.

2. All applications, investigation reports, and case records of persons applying for county general assistance under this chapter are privileged communications and confidential, subject to use and inspection only by persons authorized by law in connection with their official duties relating to financial audits and administration of this chapter or as authorized by order of a district court. Examination of an individual's applications, reports, and records may also be authorized by a signed release from the individual.

[C73, §1361; C97, §2230; S13, §2230; C24, 27, 31, 35, §5320; C39, §3828.097; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §252.25]

90 Acts, ch 1017, §2; 92 Acts, ch 1212, §15; 96 Acts, ch 1140, §1

Referred to in §22.7(26)

252.26 General assistance director.

The board of supervisors in each county shall appoint or designate a general assistance director for the county, who shall have the powers and duties conferred by this chapter. In counties of one hundred thousand or less population, the county board may designate as general assistance director an employee of the state department of human services who is assigned to work in that county and is directed by the director of human services, pursuant to an agreement with the county board, to exercise the functions and duties of general assistance director in that county. The director shall receive as compensation an amount to be determined by the county board.

[C51, §819; R60, §1387; C73, §1361, 1364; C97, S13, §2230, 2233; C24, 27, 31, 35, §5321, 5327; C39, §3828.098, 3828.104; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, §252.26, 252.32; C81, §252.26]

83 Acts, ch 96, §157, 159; 83 Acts, ch 123, §102, 209; 92 Acts, ch 1212, §16
Referred to in §217.30, 331.321

252.27 Form of assistance — condition.

1. The board of supervisors shall determine the form of the assistance. However, legal aid shall be only in civil matters and provided only through a legal aid program approved by the board of supervisors. The amount of assistance issued shall be determined by standards of assistance established by the board of supervisors. They may require any able-bodied person to work on public programs or projects at the prevailing local rate per hour in payment for and as a condition of granting assistance. The labor shall be performed under the direction of the officers having charge of the public programs or projects. Subject to section 142.1, assistance may consist of the burial of nonresident indigent transients and the payment of the reasonable cost of burial, not to exceed two hundred fifty dollars.

2. The board shall record its proceedings relating to the provision of assistance to specific persons under this chapter. A person who is aggrieved by a decision of the board may appeal the decision as if it were a contested case before an agency and as if the person had exhausted administrative remedies in accordance with the procedures and standards in section 17A.19, subsections 2 through 12, except section 17A.19, subsection 10, paragraphs “b” and “g”, and section 17A.20.

[C73, §1361; C97, §2230; S13, §2230; C24, 27, 31, 35, §5322; C39, §3828.099; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, S81, §252.27; 81 Acts, ch 117, §1039]

92 Acts, ch 1212, §17; 98 Acts, ch 1202, §38, 46; 2013 Acts, ch 30, §54; 2014 Acts, ch 1092, §54

252.28 through 252.32 Reserved.

252.33 Application for assistance.

A person may make application for assistance to a member of the board of supervisors, or to the general assistance director of the county where the person is. If application is made to the general assistance director and that officer is satisfied that the applicant is in a state of want which requires assistance at the public expense, the director may afford temporary assistance, subject to the approval of the board of supervisors, as the necessities of the person require and shall immediately report the case to the board of supervisors, who may continue or deny assistance, as they find cause.

[C51, §820; R60, §1388; C73, §1365; C97, §2234; S13, §2234; C24, 27, 31, 35, §5328; C39, §3828.105; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §252.33]

92 Acts, ch 1212, §18

252.34 Reserved.

252.35 Payment of claims.

All claims and bills for the care and support of the poor shall be certified to be correct by the general assistance director and presented to the board of supervisors, and, if the board is satisfied that the claims and bills are reasonable and proper, they shall be paid.

[C51, §821; R60, §1389; C73, §1366; C97, §2235; C24, 27, 31, 35, §5330; C39, §3828.107; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §252.35]

83 Acts, ch 123, §103, 209; 92 Acts, ch 1212, §19

252.36 Reserved.

252.37 Appeal to supervisors.

If a poor person, on application to the general assistance director, is refused the required assistance, the applicant may appeal to the board of supervisors, who, upon examination into the matter, may order the director to provide assistance, or who may direct specific assistance.

[C51, §823; R60, §1391; C73, §1368; C97, §2237; C24, 27, 31, 35, §5333; C39, §3828.109; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §252.37]

92 Acts, ch 1212, §20; 2014 Acts, ch 1092, §55

252.38 through 252.41 Reserved.

252.42 Cooperation on work-assistance projects.

The county board of supervisors may join and cooperate with the United States government, or a city within the city's boundaries, or both the United States government and a city within the city's boundaries, in sponsoring work projects, provided that the money used does not exceed the cost per month of supplying assistance to the certified persons working on projects who would be receiving direct assistance if they were not employed on the projects.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §252.42]

83 Acts, ch 123, §104, 209; 92 Acts, ch 1212, §21

252.43 State support for Indians. Repealed by 93 Acts, ch 172, §49.

CHAPTER 252A

SUPPORT OF DEPENDENTS

Referred to in §232.159, 252B.3, 252B.4, 252B.5, 252B.7, 252B.9, 252B.14, 252B.20, 252B.20A, 252B.26, 252C.1, 252D.1, 252D.16, 252D.16A, 252E.1, 252E.1A, 252E.16, 252H.2, 252H.4, 252H.21, 252I.2, 252J.1, 598.21C, 598.21G, 598.22, 598.22B, 598.23A, 600.11, 602.6111, 602.8102(47)

See also chapter 252K, the Uniform Interstate
Family Support Act

<p>252A.1 Title and purpose. 252A.2 Definitions. 252A.3 Liability for support. 252A.3A Establishing paternity by affidavit. 252A.4 and 252A.4A Repealed by 97 Acts, ch 175, §21, 22. 252A.5 When proceeding may be maintained. 252A.5A Limitations of actions. 252A.6 How commenced — trial. 252A.6A Additional provisions regarding paternity establishment. 252A.7 Petitioner’s representatives to appear. Repealed by 97 Acts, ch 175, §21, 22. 252A.8 Additional remedies. 252A.9 Construction. Repealed by 97 Acts, ch 175, §21, 22. 252A.10 Costs advanced. 252A.11 and 252A.12 Repealed by 97 Acts, ch 175, §21, 22.</p>	<p>252A.13 Recipients of public assistance — assignment of support payments. 252A.14 and 252A.15 Reserved. 252A.16 Additional remedies for foreign support orders. Repealed by 97 Acts, ch 175, §21, 22. 252A.17 Registry of foreign support orders. Repealed by 2015 Acts, ch 110, §118. 252A.18 Registration of support order — notice. 252A.19 Enforcement procedure for registered foreign support orders. Repealed by 97 Acts, ch 175, §21, 22. 252A.20 Limitation on actions. 252A.21 through 252A.23 Reserved. 252A.24 and 252A.25 Repealed by 97 Acts, ch 175, §21, 22.</p>
---	---

252A.1 Title and purpose.

1. This chapter may be cited and referred to as the “*Support of Dependents Law*”.
2. The purpose of this chapter is to secure support in civil proceedings for dependent spouses, children and poor relatives from persons legally responsible for their support.
[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §252A.1]
97 Acts, ch 175, §8

252A.2 Definitions.

As used in this chapter, unless the context shall require otherwise, the following terms shall have the meanings ascribed to them by this section:

1. “*Birthing hospital*” means a private or public hospital licensed pursuant to chapter 135B that has a licensed obstetric unit or is licensed to provide obstetric services, or a licensed birthing center associated with a hospital.
2. “*Child*” includes but shall not be limited to a stepchild, foster child, or legally adopted child and means a child actually or apparently under eighteen years of age, and a dependent person eighteen years of age or over who is unable to maintain the person’s self and is likely to become a public charge.
3. “*Court*” shall mean and include any court upon which jurisdiction has been conferred to determine the liability of persons for the support of dependents.
4. “*Dependent*” shall mean and include a spouse, child, mother, father, grandparent, or grandchild who is in need of and entitled to support from a person who is declared to be legally liable for such support.
5. “*Institution*” means a birthing hospital.
6. “*Party*” means a petitioner, a respondent, or a person who intervenes in a proceeding instituted under this chapter.
7. “*Petitioner*” includes each dependent person for whom support is sought in a proceeding instituted pursuant to this chapter or a mother or putative father of a dependent. However, in an action brought by the child support recovery unit, the state is the petitioner.

8. “*Petitioner’s representative*” includes counsel of a dependent person for whom support is sought and counsel for a mother or putative father of a dependent. In an action brought by the child support recovery unit, “*petitioner’s representative*” includes a county attorney, state’s attorney and any other public officer, by whatever title the officer’s public office may be known, charged by law with the duty of instituting, maintaining, or prosecuting a proceeding under this chapter or under the laws of the state.

9. “*Putative father*” means a man who is alleged to be or who claims to be the biological father of a child born to a woman to whom the man is not married at the time of the birth of the child.

10. “*Respondent*” includes each person against whom a proceeding is instituted pursuant to this chapter. “*Respondent*” may include the mother or the putative father of a dependent.

11. “*State registrar*” means state registrar as defined in section 144.1.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §252A.2; 82 Acts, ch 1004, §6, 7]

93 Acts, ch 79, §11; 94 Acts, ch 1171, §10, 11; 97 Acts, ch 175, §9; 2002 Acts, ch 1162, §78; 2015 Acts, ch 110, §77

252A.3 Liability for support.

For the purpose of this chapter:

1. A spouse is liable for the support of the other spouse and any child or children under eighteen years of age and any other dependent. The court shall establish the respondent’s monthly support payment and the amount of the support debt accrued and accruing pursuant to section 598.21A or 598.21B, as applicable.

2. A parent is liable for the support of the parent’s child or children under eighteen years of age, whenever the other parent of such child or children is dead, or cannot be found, or is incapable of supporting the child or children, and, if the liable parent is possessed of sufficient means or able to earn the means. The court having jurisdiction of the respondent in a proceeding instituted under this chapter shall establish the respondent’s monthly support payment and the amount of the support debt accrued and accruing pursuant to section 598.21B. The support obligation shall include support of a parent’s child between the ages of eighteen and nineteen years if the child is engaged full-time in completing high school graduation or equivalency requirements in a manner which is reasonably expected to result in completion of the requirements prior to the person reaching nineteen years of age.

3. The parents are severally liable for the support of a dependent child eighteen years of age or older, whenever such child is unable to maintain the child’s self and is likely to become a public charge.

4. A child or children born of parents who, at any time prior or subsequent to the birth of such child, have entered into a civil or religious marriage ceremony, shall be deemed the legitimate child or children of both parents, regardless of the validity of such marriage.

5. *a.* A child born of parents who at any time prior to the birth of the child entered into a civil or religious marriage ceremony is deemed the legitimate child of both parents, regardless of the validity of such marriage, if all of the following conditions are met:

(1) The marriage was not thereafter dissolved prior to the death of either parent.

(2) The child was conceived and born after the death of a parent or was born as the result of the implantation of an embryo after the death of a parent.

(3) A genetic parent-child relationship between the child and the deceased parent is established.

(4) The deceased parent, in a signed writing, authorized the other parent to use the deceased parent’s genetic material to initiate the posthumous procedure that resulted in the child’s birth, or the deceased parent, by a specific reference to the genetic material, bequeathed the genetic material to the other parent in a valid will.

(5) The child is born within two years of the death of the deceased parent.

b. For the purposes of this subsection, “*genetic material*” means sperm, eggs, or embryos.

6. A child or children born of parents who held or hold themselves out as husband and wife by virtue of a common law marriage are deemed the legitimate child or children of both parents.

7. *a.* A child born of parents who at any time prior to the birth of the child held themselves

out as spouses by virtue of a common law marriage is deemed the legitimate child of both parents, if all of the following conditions are met:

- (1) The marriage was not thereafter dissolved prior to the death of either parent.
- (2) The child was conceived and born after the death of a parent or was born as the result of the implantation of an embryo after the death of a parent.
- (3) A genetic parent-child relationship between the child and the deceased parent is established.
- (4) The deceased parent, in a signed writing, authorized the other parent to use the deceased parent's genetic material to initiate the posthumous procedure that resulted in the child's birth, or the deceased parent, by a specific reference to the genetic material, bequeathed the genetic material to the other parent in a valid will.
- (5) The child is born within two years of the death of the deceased parent.
 - b. For purposes of this subsection, "*genetic material*" means sperm, eggs, or embryos.
8. A man or woman who was or is held out as the person's spouse by a person by virtue of a common law marriage is deemed the legitimate spouse of such person.
9. Notwithstanding the fact that the respondent has obtained in any state or foreign country a final decree of divorce or separation from the respondent's spouse or a decree dissolving the marriage, the respondent shall be deemed legally liable for the support of any dependent child of such marriage.
10. The parents of a child born out of wedlock shall be severally liable for the support of the child, but the liability of the father shall not be enforceable unless paternity has been legally established. Paternity may be established as follows:
 - a. By order of a court of competent jurisdiction or by administrative order when authorized by state law.
 - b. By the statement of the person admitting paternity in court and upon concurrence of the mother. If the mother was married, at the time of conception, birth, or at any time during the period between conception and birth of the child, to an individual other than the person admitting paternity, the individual to whom the mother was married at the time of conception, birth, or at any time during the period between conception and birth must deny paternity in order to establish the paternity of the person admitting paternity upon the sole basis of the admission.
 - c. Subject to the right of any signatory to rescind as provided in section 252A.3A, subsection 12, by the filing and registration by the state registrar of an affidavit of paternity executed on or after July 1, 1993, as provided in section 252A.3A, provided that the mother of the child was unmarried at the time of conception, birth, and at any time during the period between conception and birth of the child or if the mother was married at the time of conception, birth, or at any time during the period between conception and birth of the child, a court of competent jurisdiction has determined that the individual to whom the mother was married at that time is not the father of the child.
 - d. By establishment of paternity in another state or foreign country in any manner provided for by the laws of that jurisdiction.
11. If paternity of a child born out of wedlock is established as provided in subsection 10, the court shall establish the respondent's monthly support payment and the amount of the support debt accrued and accruing pursuant to section 598.21B. The support obligation shall include support of the child between the ages of eighteen and nineteen years if the child is engaged full-time in completing high school graduation or equivalency requirements in a manner which is reasonably expected to result in completion of the requirements prior to the person reaching nineteen years of age.
12. The court may order a party to pay sums sufficient to provide necessary food, shelter, clothing, care, medical or hospital expenses, including medical support as defined in chapter 252E, expenses of confinement, expenses of education of a child, funeral expenses, and such

other reasonable and proper expenses of the dependent as justice requires, giving due regard to the circumstances of the respective parties.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §252A.3]

89 Acts, ch 166, §2; 93 Acts, ch 79, §12; 94 Acts, ch 1171, §12; 96 Acts, ch 1141, §16; 97 Acts, ch 175, §1, 10, 11; 2005 Acts, ch 69, §2, 3; 2011 Acts, ch 18, §1; 2015 Acts, ch 110, §78, 79

Referred to in §144.12A, 144.13, 252A.3A, 600B.41A

Spousal support debt for medical assistance to institutionalized spouse; chapter 249B

252A.3A Establishing paternity by affidavit.

1. The paternity of a child born out of wedlock may be legally established by the completion, filing, and registration by the state registrar of an affidavit of paternity only as provided by this section.

2. When paternity has not been legally established, paternity may be established by affidavit under this section for the following children:

a. The child of a woman who was unmarried at the time of conception, birth, and at any time during the period between conception and birth of the child.

b. The child of a woman who is married at the time of conception, birth, or at any time during the period between conception and birth of the child if a court of competent jurisdiction has determined that the individual to whom the mother was married at that time is not the father of the child.

3. a. Prior to or at the time of completion of an affidavit of paternity, written and oral information about paternity establishment, developed by the child support recovery unit created in section 252B.2, shall be provided to the mother and putative father. Video or audio equipment may be used to provide oral information.

b. The information provided shall include a description of parental rights and responsibilities, including the duty to provide financial support for the child, the benefits of establishing paternity, and the alternatives to and legal consequences of signing an affidavit of paternity, including the rights available if a parent is a minor.

c. Copies of the written information shall be made available by the child support recovery unit or the Iowa department of public health to those entities where an affidavit of paternity may be obtained as provided under subsection 4.

4. a. The affidavit of paternity form developed and used by the Iowa department of public health is the only affidavit of paternity form recognized for the purpose of establishing paternity under this section. It shall include the minimum requirements specified by the secretary of the United States department of health and human services pursuant to 42 U.S.C. §652(a)(7). A properly completed affidavit of paternity form developed by the Iowa department of public health and existing on or after July 1, 1993, but which is superseded by a later affidavit of paternity form developed by the Iowa department of public health, shall have the same legal effect as a paternity affidavit form used by the Iowa department of public health on or after July 1, 1997, regardless of the date of the filing and registration of the affidavit of paternity, unless otherwise required under federal law.

b. The form shall be available from the state registrar, each county registrar, the child support recovery unit, and any institution in the state.

c. The Iowa department of public health shall make copies of the form available to the entities identified in paragraph "b" for distribution.

5. A completed affidavit of paternity shall contain or have attached all of the following:

a. A statement by the mother consenting to the assertion of paternity and the identity of the father and acknowledging either of the following:

(1) That the mother was unmarried at the time of conception, birth, and at any time during the period between conception and birth of the child.

(2) That the mother was married at the time of conception, birth, or at any time during the period between conception and birth of the child, and that a court order has been entered ruling that the individual to whom the mother was married at that time is not the father of the child.

b. If paragraph "a", subparagraph (2), is applicable, a certified copy of the filed order ruling that the husband is not the father of the child.

- c. A statement from the putative father that the putative father is the father of the child.
- d. The name of the child at birth and the child's birth date.
- e. The signatures of the mother and putative father.
- f. The social security numbers of the mother and putative father.
- g. The addresses of the mother and putative father, as available.
- h. The signature of a notary public under chapter 9B attesting to the identities of the parties signing the affidavit of paternity.
- i. Instructions for filing the affidavit.

6. A completed affidavit of paternity shall be filed with the state registrar. However, if the affidavit of paternity is obtained directly from the county registrar, the completed affidavit may be filed with the county registrar who shall forward the original affidavit to the state registrar. For the purposes of legal establishment of paternity under this section, paternity is legally established only upon filing of the affidavit with and registration of the affidavit by the state registrar subject to the right of any signatory to rescission pursuant to subsection 12.

7. The state registrar shall make copies of affidavits of paternity and identifying information from the affidavits filed and registered pursuant to this section available to the child support recovery unit created under section 252B.2 in accordance with section 144.13, subsection 4, and any subsequent rescission form which rescinds the affidavit.

8. An affidavit of paternity completed and filed with and registered by the state registrar pursuant to this section has all of the following effects:

- a. Is admissible as evidence of paternity.
- b. Has the same legal force and effect as a judicial determination of paternity subject to the right of any signatory to rescission pursuant to subsection 12.
- c. Serves as a basis for seeking child or medical support without further determination of paternity subject to the right of any signatory to rescission pursuant to subsection 12.

9. All institutions in the state shall provide the following services with respect to any newborn child born out of wedlock:

a. Prior to discharge of the newborn from the institution, the institution where the birth occurs shall provide the mother and, if present, the putative father, with all of the following:

- (1) Written and oral information about establishment of paternity pursuant to subsection 3. Video or audio equipment may be used to provide oral information.
- (2) An affidavit of paternity form.
- (3) An opportunity for consultation with the staff of the institution regarding the written information provided under subparagraph (1).
- (4) An opportunity to complete an affidavit of paternity at the institution, as provided in this section.

b. The institution shall file any affidavit of paternity completed at the institution with the state registrar, pursuant to subsection 6, accompanied by a copy of the child's birth certificate, within ten days of the birth of the child.

10. a. An institution may be reimbursed by the child support recovery unit created in section 252B.2 for providing the services described under subsection 9, or may provide the services at no cost.

b. An institution electing reimbursement shall enter into a written agreement with the child support recovery unit for this purpose.

c. An institution entering into an agreement for reimbursement shall assist the parents of a child born out of wedlock in completing and filing an affidavit of paternity.

d. Reimbursement shall be based only on the number of affidavits completed in compliance with this section and submitted to the state registrar during the duration of the written agreement with the child support recovery unit.

e. The reimbursement rate is twenty dollars for each completed affidavit filed with the state registrar.

11. The state registrar, upon request of the mother or the putative father, shall provide the following services with respect to a child born out of wedlock:

- a. Written and oral information about the establishment of paternity pursuant to subsection 3. Video or audio equipment may be used to provide oral information.
- b. An affidavit of paternity form.

c. An opportunity for consultation with staff regarding the information provided under paragraph “a”.

12. a. A completed affidavit of paternity may be rescinded by registration by the state registrar of a completed and notarized rescission form signed by either the mother or putative father who signed the affidavit of paternity that the putative father is not the father of the child. The completed and notarized rescission form shall be filed with the state registrar for the purpose of registration prior to the earlier of the following:

(1) Sixty days after the latest notarized signature of the mother or putative father on the affidavit of paternity.

(2) Entry of a court order pursuant to a proceeding in this state to which the signatory is a party relating to the child, including a proceeding to establish a support order under this chapter, chapter 252C, 252F, 598, or 600B or other law of this state.

b. Unless the state registrar has received and registered an order as provided in section 252A.3, subsection 10, paragraph “a”, which legally establishes paternity, upon registration of a timely rescission form the state registrar shall remove the father’s information from the certificate of birth, and shall send a written notice of the rescission to the last known address of the signatory of the affidavit of paternity who did not sign the rescission form.

c. The Iowa department of public health shall develop a rescission form and an administrative process for rescission. The form shall be the only rescission form recognized for the purpose of rescinding a completed affidavit of paternity. A completed rescission form shall include the signature of a notary public attesting to the identity of the party signing the rescission form. The Iowa department of public health shall adopt rules which establish a fee, based upon the average administrative cost, to be collected for the registration of a rescission.

d. If an affidavit of paternity has been rescinded under this subsection, the state registrar shall not register any subsequent affidavit of paternity signed by the same mother and putative father relating to the same child.

13. The child support recovery unit may enter into a written agreement with an entity designated by the secretary of the United States department of health and human services to offer voluntary paternity establishment services.

a. The agreement shall comply with federal requirements pursuant to 42 U.S.C. §666(a)(5)(C) including those regarding notice, materials, training, and evaluations.

b. The agreement may provide for reimbursement of the entity by the state if reimbursement is permitted by federal law.

93 Acts, ch 79, §13; 94 Acts, ch 1171, §13; 95 Acts, ch 52, §2; 97 Acts, ch 175, §2; 98 Acts, ch 1170, §28 – 31; 2012 Acts, ch 1050, §40, 60; 2017 Acts, ch 54, §76

Referred to in §144.13, 144.40, 252A.3, 252A.6A, 252C.4, 252K.201, 252K.401, 598.21E, 600B.41A

252A.4 and 252A.4A Repealed by 97 Acts, ch 175, §21, 22.

252A.5 When proceeding may be maintained.

Unless prohibited pursuant to 28 U.S.C. §1738B, a proceeding to compel support of a dependent may be maintained under this chapter in any of the following cases:

1. Where the petitioner and the respondent are residents of or domiciled or found in this state or where this state may exercise personal jurisdiction over a nonresident respondent under section 252K.201.

2. Whenever the state or a political subdivision thereof furnishes support to a dependent, it has the same right through proceedings instituted by the petitioner’s representative to invoke the provisions hereof as the dependent to whom the support was furnished, for the purpose of securing reimbursement of expenditures so made and of obtaining continuing support; the petition in such case may be verified by any official having knowledge of such expenditures without further verification of any person and consent of the dependent shall not be required in order to institute proceedings under this chapter. The child support recovery unit may bring the action based upon a statement of a witness, regardless of age, with knowledge of the circumstances, including, but not limited to, statements by the mother of the dependent or a relative of the mother or the putative father.

3. If the child support recovery unit is providing services, the unit has the same right to invoke the provisions of this section as the dependent for which support is owed for the purpose of securing support. The petition in such case may be verified by any official having knowledge of the request for services by the unit, without further verification by any other person, and consent of the dependent shall not be required in order to institute proceedings under this chapter. The child support recovery unit may bring the action based upon the statement of a witness, regardless of age, with knowledge of the circumstances, including, but not limited to, statements by the mother of the dependent or a relative of the mother or the putative father.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §252A.5]

96 Acts, ch 1141, §18; 97 Acts, ch 175, §12; 2003 Acts, ch 62, §6

252A.5A Limitations of actions.

1. An action to establish paternity and support under this chapter may be brought within the time limitations set forth in section 614.8.

2. Notwithstanding subsection 1, an action to establish paternity and support under this chapter may be brought concerning a person who was under age eighteen on August 16, 1984, regardless of whether any prior action was dismissed because a statute of limitations of less than eighteen years was then in effect. Such an action may be brought within the time limitations set forth in section 614.8, or until July 2, 1992, whichever is later.

90 Acts, ch 1224, §3

252A.6 How commenced — trial.

1. A proceeding under this chapter shall be commenced by filing a verified petition in the court in equity in the county where the dependent resides or is domiciled, or if the dependent does not reside in or is not domiciled in this state, where the petitioner or respondent resides, or where public assistance has been provided for the dependent. The petition shall show the name, age, residence, and circumstances of the dependent, alleging that the dependent is in need of and is entitled to support from the respondent, giving the respondent's name, age, residence, and circumstances, and praying that the respondent be compelled to furnish such support. The petitioner may include in or attach to the petition any information which may help in locating or identifying the respondent including, but without limitation by enumeration, a photograph of the respondent, a description of any distinguishing marks of the respondent's person, other names and aliases by which the respondent has been or is known, the name of the respondent's employer, the respondent's fingerprints, or social security number.

2. It shall not be necessary for the dependent or the dependent's witnesses to appear personally at a hearing on the petition, but it shall be the duty of the petitioner's representative to appear on behalf of and represent the petitioner at all stages of the proceeding.

3. If at a hearing on the petition the respondent controverts the petition and enters a verified denial of any of the material allegations, the judge presiding at the hearing shall stay the proceedings. The petitioner shall be given the opportunity to present further evidence to address issues which the respondent has controverted.

4. If the respondent appears at the hearing and fails to answer the petition or admits the allegations of the petition, or if, after a hearing, the court has found and determined that the prayer of the petitioner, or any part of the prayer, is supported by the evidence adduced in the proceeding, and that the dependent is in need of and entitled to support from a party, the court shall make and enter an order directing a party to furnish support for the dependent and to pay a sum as the court determines pursuant to section 598.21A or 598.21B, as applicable. Upon entry of an order for support or upon failure of a person to make payments pursuant to an order for support, the court may require a party to provide security, a bond, or other guarantee which the court determines is satisfactory to secure the payment of the support. Upon the party's failure to pay the support under the order, the court may declare the security, bond, or other guarantee forfeited.

5. The court making such order may require the party to make payment at specified

intervals to the clerk of the district court or to the collection services center, and to report personally to the sheriff or any other official, at such times as may be deemed necessary.

6. A party who willfully fails to comply with or who violates the terms or conditions of the support order or of the party's probation shall be punished by the court in the same manner and to the same extent as is provided by law for a contempt of such court or a violation of probation ordered by such court in any other suit or proceeding cognizable by such court.

7. Except as provided in 28 U.S.C. §1738B, any order of support issued by a court shall not supersede any previous order of support issued in a divorce or separate maintenance action, but the amounts for a particular period paid pursuant to either order shall be credited against amounts accruing or accrued for the same period under both. This subsection also applies to orders entered following an administrative process including, but not limited to, the administrative processes provided pursuant to chapters 252C and 252F.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §252A.6]

85 Acts, ch 100, §1; 89 Acts, ch 166, §3; 93 Acts, ch 79, §35; 96 Acts, ch 1141, §19, 20; 97 Acts, ch 175, §13; 2003 Acts, ch 62, §7; 2005 Acts, ch 69, §4

Referred to in §252A.6A, 252A.13, 602.8102(47)

252A.6A Additional provisions regarding paternity establishment.

1. When an action is initiated under this chapter to establish paternity, all of the following shall apply:

a. Except with the consent of all parties, the trial shall not be held until after the birth of the child and shall be held no earlier than twenty days from the date the respondent is served with notice of the action or, if blood or genetic tests are conducted, no earlier than thirty days from the date the test results are filed with the clerk of the district court as provided under section 600B.41.

b. If the respondent, after being served with notice as required under section 252A.6, fails to timely respond to the notice, or to appear for blood or genetic tests pursuant to a court or administrative order, or to appear at a scheduled hearing after being provided notice of the hearing, the court shall find the respondent in default, and shall enter an order establishing paternity and establishing the monthly child support payment and the amount of the support debt accrued and accruing pursuant to section 598.21B, or medical support pursuant to chapter 252E, or both.

c. Appropriate genetic testing procedures shall be used which include any genetic test generally acknowledged as reliable by accreditation bodies designated by the secretary of the United States department of health and human services and which are performed by a laboratory approved by such an accreditation body.

d. A copy of a bill for blood or genetic testing, or for the cost of prenatal care or the birth of the child, shall be admitted as evidence without requiring third-party foundation testimony and shall constitute prima facie evidence of amounts incurred for testing.

2. When an action is initiated to establish child or medical support based on a prior determination of paternity and the respondent files an answer to the notice denying paternity, all of the following shall apply:

a. (1) If the prior determination of paternity is based on an affidavit of paternity filed pursuant to section 252A.3A, or an administrative order entered pursuant to chapter 252F, or an order by the courts of this state, or by operation of law when the mother and established father are or were married to each other, the provisions of section 600B.41A are applicable.

(2) If the court determines that the prior determination of paternity should not be overcome, pursuant to section 600B.41A, and that the party has a duty to provide support, the court shall enter an order establishing the monthly child support payment and the amount of the support debt accrued and accruing pursuant to section 598.21B, or medical support pursuant to chapter 252E, or both.

b. If the prior determination of paternity is based on an administrative or court order or by any other means, pursuant to the laws of another state or foreign country, an action to overcome the prior determination of paternity shall be filed in that jurisdiction. Unless the party requests and is granted a stay of an action to establish child or medical support, the action shall proceed as otherwise provided.

3. If the expert analyzing the blood or genetic test concludes that the test results demonstrate that the putative father is not excluded and that the probability of the putative father's paternity is ninety-nine percent or higher and if the test results have not been challenged, the court, upon motion by a party, shall enter a temporary order for child support to be paid pursuant to section 598.21B. The court shall require temporary support to be paid to the clerk of court or to the collection services center. If the court subsequently determines the putative father is not the father, the court shall terminate the temporary support order. All support obligations which came due prior to the order terminating temporary support are unaffected by this action and remain a judgment subject to enforcement.

94 Acts, ch 1171, §14; 95 Acts, ch 67, §18; 97 Acts, ch 175, §3 – 5, 14 – 17; 2005 Acts, ch 69, §5 – 7; 2015 Acts, ch 110, §80

252A.7 Petitioner's representatives to appear. Repealed by 97 Acts, ch 175, §21, 22.

252A.8 Additional remedies.

Unless otherwise provided pursuant to 28 U.S.C. §1738B, this chapter shall be construed to furnish an additional or alternative civil remedy and shall in no way affect or impair any other remedy, civil or criminal, provided in any other statute and available to the petitioner in relation to the same subject matter.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §252A.8]
96 Acts, ch 1141, §21

252A.9 Construction. Repealed by 97 Acts, ch 175, §21, 22.

252A.10 Costs advanced.

Actual costs incurred in this state incidental to any action brought under the provisions of this chapter shall be advanced by the initiating party or agency, as appropriate, unless otherwise ordered by the court. Where the action is brought by an agency of the state or county there shall be no filing fee or court costs of any type either advanced by or charged to the state or county.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §252A.10]
97 Acts, ch 175, §6

252A.11 and 252A.12 Repealed by 97 Acts, ch 175, §21, 22.

252A.13 Recipients of public assistance — assignment of support payments.

1. If public assistance is provided by the department of human services to or on behalf of a dependent child or a dependent child's caretaker, there is an assignment by operation of law to the department of any and all rights in, title to, and interest in any support obligation, payment, and arrearages owed to or on behalf of the child or caretaker not to exceed the amount of public assistance paid for or on behalf of the child or caretaker as follows:

- a. For family investment program assistance, section 239B.6 shall apply.
- b. For foster care services, section 234.39 shall apply.
- c. For medical assistance, section 252E.11 shall apply.

2. The department shall immediately notify the clerk of court by mail when such child or caretaker has been determined to be eligible for public assistance. Upon notification by the department, the clerk of court shall make a notation of the automatic assignment in the judgment docket and lien index. The notation constitutes constructive notice of the assignment. If the applicant for public assistance, for whom public assistance is approved and provided on or after July 1, 1997, is a person other than a parent of the child, the department shall send notice of the assignment by regular mail to the last known addresses of the obligee and obligor. The clerk of court shall forward support payments received pursuant to section 252A.6, to which the department is entitled, to the department, unless the court has ordered the payments made directly to the department under that section. The department may secure support payments in default through other proceedings.

3. The clerk shall furnish the department with copies of all orders or decrees awarding

and temporary domestic abuse orders addressing support when the parties are receiving public assistance or services are otherwise provided by the child support recovery unit. Unless otherwise specified in the order, an equal and proportionate share of any child support awarded is presumed to be payable on behalf of each child, subject to the order or judgment, for purposes of an assignment under this section.

[C77, 79, 81, §252A.13; 82 Acts, ch 1237, §2]

83 Acts, ch 96, §157, 159; 97 Acts, ch 175, §7; 2008 Acts, ch 1019, §3, 7

Referred to in §602.8102(47)

252A.14 and 252A.15 Reserved.

252A.16 Additional remedies for foreign support orders. Repealed by 97 Acts, ch 175, §21, 22.

252A.17 Registry of foreign support orders. Repealed by 2015 Acts, ch 110, §118.

252A.18 Registration of support order — notice.

Registration of a support order of another state or foreign country shall be in accordance with chapter 252K except that, with regard to service, promptly upon registration, the clerk of the court shall, by restricted certified mail, or the child support recovery unit shall, as provided in section 252B.26, send to the respondent notice of the registration with a copy of the registered support order or the respondent may be personally served with the notice and the copy of the order in the same manner as original notices are personally served. The clerk shall also docket the case and notify the prosecuting attorney of the action. The clerk shall maintain a registry of all support orders registered pursuant to this section. The filing is in equity.

[82 Acts, ch 1004, §4]

93 Acts, ch 78, §2; 97 Acts, ch 175, §19; 2015 Acts, ch 110, §81

Referred to in §600B.41A

252A.19 Enforcement procedure for registered foreign support orders. Repealed by 97 Acts, ch 175, §21, 22.

252A.20 Limitation on actions.

Issues related to visitation, custody, or other provisions not related to the support provisions of a support order shall not be grounds for a hearing, modification, adjustment, or other action under this chapter.

93 Acts, ch 78, §5; 96 Acts, ch 1141, §23; 97 Acts, ch 175, §20

252A.21 through 252A.23 Reserved.

252A.24 and 252A.25 Repealed by 97 Acts, ch 175, §21, 22.

CHAPTER 252B

CHILD SUPPORT RECOVERY

Referred to in §8A.504, 252C.2, 252D.8, 252D.18, 252E.2A, 252E.3, 252E.6, 252E.9, 252E.10, 252E.12, 252E.15, 252F.2, 252F.3, 252G.5, 252H.4, 252H.5, 252H.12, 252H.13, 252H.18, 252H.21, 252H.22, 252I.5, 252J.2, 421.17, 505.25, 598.21B, 598.21C, 598.21G, 598.23A, 598.34, 600B.41A, 642.2

252B.1	Definitions.	252B.5	Services of unit.
252B.2	Unit established — intervention.	252B.6	Additional services in assistance cases.
252B.3	Duty of department to enforce child support — cooperation — rules.	252B.6A	External services.
		252B.7	Legal services.
252B.4	Nonassistance cases.	252B.7A	Determining parent's income.

252B.7B	Informational materials provided by the unit.	252B.17	Admissibility and identification of support payment records.
252B.8	Central information center.	252B.17A	Imaging or photographic copies — originals destroyed.
252B.9	Information and assistance from others — availability of records.	252B.18	Child support advisory committee — established — duties. Repealed by 2010 Acts, ch 1031, §393.
252B.9A	Disclosure of confidential information — authorized person — court.	252B.19	Reserved.
252B.10	Criminal penalties.	252B.20	Suspension of support — request by mutual consent.
252B.11	Recovery of costs of collection services.	252B.20A	Suspension of support — request by one party.
252B.12	Jurisdiction over nonresidents.	252B.21	Administrative seek employment orders.
252B.13	Reserved.	252B.22	Liens — motor vehicle registration — task force.
252B.13A	Collection services center.	252B.23	Surcharge.
252B.14	Support payments — collection services center or comparable government entity in another state — clerk of the district court.	252B.24	State case registry.
252B.15	Processing and disbursement of support payments.	252B.25	Contempt — combining actions.
252B.16	Transfer of support order processing responsibilities — ongoing procedures.	252B.26	Service of process.
		252B.27	Use of funding for additional positions.

252B.1 Definitions.

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

1. “*Absent parent*” means the parent who either cannot be located or who is located and is not residing with the child at the time the support collection or paternity determination services provided in sections 252B.5 and 252B.6 are requested or commenced.
2. “*Child*” includes but shall not be limited to a stepchild, foster child or legally adopted child and means a child actually or apparently under eighteen years of age, and a dependent person eighteen years of age or over who is unable to maintain the person’s self and is likely to become a public charge. “*Child*” includes “*child*” as defined in section 239B.1.
3. “*Child support agency*” means child support agency as defined in section 252H.2.
4. “*Department*” means the department of human services.
5. “*Director*” means the director of human services.
6. “*Obligor*” means the person legally responsible for the support of a child as defined in section 252D.16 or 598.1 under a support order issued in this state or pursuant to the laws of another state or foreign country.
7. “*Resident parent*” means the parent with whom the child is residing at the time the support collection or paternity determination services provided in sections 252B.5 and 252B.6 are requested or commenced.
8. “*Unit*” means the child support recovery unit created in section 252B.2.

[C77, 79, 81, §252B.1]

83 Acts, ch 96, §157, 159; 91 Acts, ch 97, §33; 92 Acts, ch 1195, §502; 93 Acts, ch 79, §25; 97 Acts, ch 41, §32; 97 Acts, ch 175, §23, 24; 98 Acts, ch 1100, §31; 2015 Acts, ch 110, §82

Referred to in §252E.1, 252H.2

252B.2 Unit established — intervention.

There is created within the department of human services a child support recovery unit for the purpose of providing the services required in sections 252B.3 through 252B.6. The unit is not required to intervene in actions to provide such services.

[C77, 79, 81, §252B.2]

83 Acts, ch 96, §157, 159; 97 Acts, ch 175, §25; 2020 Acts, ch 1063, §97

Referred to in §96.3, 252A.3A, 252B.1, 252D.1, 252F.1, 252G.1, 252H.2, 252I.1, 252J.1, 600B.41A

Section amended

252B.3 Duty of department to enforce child support — cooperation — rules.

1. Upon receipt by the department of an application for public assistance on behalf of a

child and determination by the department that the child is eligible for public assistance and that provision of child support services is appropriate, the department shall take appropriate action under the provisions of this chapter or under other appropriate statutes of this state including but not limited to chapters 239B, 252A, 252C, 252D, 252E, 252F, 252G, 252H, 252I, 252J, 598, and 600B, to ensure that the parent or other person responsible for the support of the child fulfills the support obligation. The department shall also take appropriate action as required by federal law upon receiving a request from a child support agency for a child receiving public assistance in another state.

2. The department of human services may negotiate a partial payment of a support obligation with a parent or other person responsible for the support of the child, provided that the negotiation and partial payment are consistent with applicable federal law and regulation.

3. The department shall adopt rules pursuant to chapter 17A regarding cases in which, under federal law, it is a condition of eligibility for an individual who is an applicant for or recipient of public assistance to cooperate in good faith with the department in establishing the paternity of, or in establishing, modifying, or enforcing a support order by identifying and locating the parent of the child or enforcing rights to support payments. The rules shall include all of the following provisions:

a. As required by the unit, the individual shall provide the name of the noncustodial parent and additional necessary information, and shall appear at interviews, hearings, and legal proceedings.

b. If paternity is an issue, the individual and child shall submit to blood or genetic tests pursuant to a judicial or administrative order.

c. The individual may be requested to sign a voluntary affidavit of paternity, after notice of the rights and consequences of such an acknowledgment, but shall not be required to sign an affidavit or otherwise relinquish the right to blood or genetic tests.

d. The unit shall promptly notify the individual and the appropriate division of the department administering the public assistance program of each determination by the unit of noncooperation of the individual and the reason for such determination.

e. A procedure under which the individual may claim that, and the department shall determine whether, the individual has sufficient good cause or other exception for not cooperating, taking into consideration the best interest of the child.

4. Without need for a court order and notwithstanding the requirements of section 598.22A, the support payment ordered pursuant to any chapter shall be satisfied as to the department, the child, and either parent for the period during which the parents are reconciled and are cohabiting, the child for whom support is ordered is living in the same residence as the parents, and the obligor receives public assistance on the obligor's own behalf for the benefit of the child. The department shall implement this subsection as follows:

a. The unit shall file a notice of satisfaction with the clerk of court.

b. This subsection shall not apply unless all the children for whom support is ordered reside with both parents, except that a child may be absent from the home due to a foster care placement pursuant to chapter 234 or a comparable law of another state or foreign country.

c. The unit shall send notice by regular mail to the obligor when the provisions of this subsection no longer apply. A copy of the notice shall be filed with the clerk of court.

d. This section shall not limit the rights of the parents or the department to proceed by other means to suspend, terminate, modify, reinstate, or establish support.

5. On or after July 1, 1999, the department shall implement a program for the satisfaction of accrued support debts, based upon timely payment by the obligor of both current support due and any payments due for accrued support debt under a periodic payment plan. The unit shall adopt rules pursuant to chapter 17A to establish the criteria and procedures for obtaining satisfaction under the program. The rules adopted under this subsection shall

specify the cases and amounts to which the program is applicable, and may provide for the establishment of the program as a pilot program.

[C77, 79, 81, §252B.3; 82 Acts, ch 1237, §3]

83 Acts, ch 96, §157, 159; 93 Acts, ch 79, §36; 97 Acts, ch 41, §32; 97 Acts, ch 175, §26; 98 Acts, ch 1170, §41; 2015 Acts, ch 110, §83

Referred to in §252B.2, 252B.6A, 252B.9, 598.22A

252B.4 Nonassistance cases.

1. The child support and paternity determination services established by the department pursuant to this chapter and other appropriate services provided by law including but not limited to the provisions of chapters 239B, 252A, 252C, 252D, 252E, 252F, 598, and 600B shall be made available by the unit to an individual not otherwise eligible as a public assistance recipient upon application by the individual for the services or upon referral as described in subsection 4. The application shall be filed with the department.

2. The director may collect a fee to cover the costs incurred by the department for service of process, genetic testing and court costs if the entity providing the service charges a fee for the services.

3. Fees collected pursuant to this section shall be considered repayment receipts, as defined in section 8.2, and shall be used for the purposes of the unit. The director or a designee shall keep an accurate record of the fees collected and expended.

4. The unit shall also provide child support and paternity determination services and shall respond as provided in federal law for an individual not otherwise eligible as a public assistance recipient if the unit receives a request from any of the following:

a. A child support agency.

b. A foreign country as defined in chapter 252K.

[C77, 79, 81, §252B.4]

83 Acts, ch 153, §16; 92 Acts, ch 1195, §101, 102; 93 Acts, ch 78, §6, 7; 93 Acts, ch 79, §37; 96 Acts, ch 1213, §39; 97 Acts, ch 41, §32; 97 Acts, ch 175, §27 – 29; 2002 Acts, 2nd Ex, ch 1003, §143, 151; 2005 Acts, ch 175, §118; 2014 Acts, ch 1026, §55; 2015 Acts, ch 110, §84; 2019 Acts, ch 112, §1

Referred to in §252B.2, 252H.5

252B.5 Services of unit.

The child support recovery unit shall provide the following services:

1. Assistance in the location of an absent parent or any other person who has an obligation to support the child of the resident parent.

2. Aid in establishing paternity and securing a court or administrative order for support pursuant to chapter 252A, 252C, 252F, or 600B, or any other chapter providing for the establishment of paternity or support. In an action to establish support, the resident parent may be a proper party defendant for purposes of determining medical support as provided in section 252E.1A upon service of notice as provided in this chapter and without a court order as provided in the rules of civil procedure. The unit's independent cause of action shall not bar a party from seeking support in a subsequent proceeding.

3. Aid in enforcing through court or administrative proceedings an existing court order for support issued pursuant to chapter 252A, 252C, 252F, 598, or 600B, or any other chapter under which child or medical support is granted. The director may enter into a contract with a private collection agency to collect support payments for cases which have been identified by the department as difficult collection cases if the department determines that this form of collection is more cost-effective than departmental collection methods. The department shall utilize, to the maximum extent possible, every available automated process to collect support payments prior to referral of a case to a private collection agency. A private collection agency with whom the department enters a contract under this subsection shall comply with state and federal confidentiality requirements and debt collection laws. The director may use a portion of the state share of funds collected through this means to pay the costs of any contract authorized under this subsection.

4. Assistance to set off against a debtor's income tax refund or rebate any support debt,

which is assigned to the department of human services or which the child support recovery unit is attempting to collect on behalf of any individual not eligible as a public assistance recipient, which has accrued through written contract, subrogation, or court judgment, and which is in the form of a liquidated sum due and owing for the care, support, or maintenance of a child. Unless the periodic payment plan provisions for a retroactive modification pursuant to section 598.21C apply, the entire amount of a judgment for accrued support, notwithstanding compliance with a periodic payment plan or regardless of the date of entry of the judgment, is due and owing as of the date of entry of the judgment and is delinquent for the purposes of setoff, including for setoff against a debtor's federal income tax refund or other federal nontax payment. The department of human services shall adopt rules pursuant to chapter 17A necessary to assist the department of administrative services in the implementation of the child support setoff as established under section 8A.504.

5. *a.* In order to maximize the amount of any tax refund to which an obligor may be entitled and which may be applied to child support and medical support obligations, cooperate with any volunteer or free income tax assistance programs in the state in informing obligors of the availability of the programs.

b. The child support recovery unit shall publicize the services of the volunteer or free income tax assistance programs by distributing printed materials regarding the programs.

6. Determine periodically whether an individual receiving unemployment compensation benefits under chapter 96 owes a support obligation which is being enforced by the unit, and enforce the support obligation through court or administrative proceedings to have specified amounts withheld from the individual's unemployment compensation benefits.

7. Assistance in obtaining medical support as defined in chapter 252E.

8. *a.* At the request of either parent who is subject to the order of support or upon its own initiation, review the amount of the support award in accordance with the guidelines established pursuant to section 598.21B, and Tit. IV-D of the federal Social Security Act, as amended, and take action to initiate modification proceedings if the criteria established pursuant to this section are met. However, a review of a support award is not required if the child support recovery unit determines that such a review would not be in the best interest of the child and neither parent has requested such review.

b. The department shall adopt rules setting forth the process for review of requests for modification of support obligations and the criteria and process for taking action to initiate modification proceedings.

9. *a.* Assistance, in consultation with the department of administrative services, in identifying and taking action against self-employed individuals as identified by the following conditions:

(1) The individual owes support pursuant to a court or administrative order being enforced by the unit and is delinquent in an amount equal to or greater than the support obligation amount assessed for one month.

(2) The individual has filed a state income tax return in the preceding twelve months.

(3) The individual has no reported tax withholding amount on the most recent state income tax return.

(4) The individual has failed to enter into or comply with a formalized repayment plan with the unit.

(5) The individual has failed to make either all current support payments in accordance with the court or administrative order or to make payments against any delinquency in each of the preceding twelve months.

b. The unit may forward information to the department of administrative services as necessary to implement this subsection, including but not limited to both of the following:

(1) The name and social security number of the individual.

(2) Support obligation information in the specific case, including the amount of the delinquency.

10. The review and adjustment, modification, or alteration of a support order pursuant to chapter 252H upon adoption of rules pursuant to chapter 17A and periodic notification, at a minimum of once every three years, to parents subject to a support order of their rights to these services.

11. The unit shall not establish orders for spousal support. The unit shall enforce orders for spousal support only if the spouse is the custodial parent of a child for whom the unit is also enforcing a child support or medical support order.

12. *a.* In compliance with federal procedures, periodically certify to the secretary of the United States department of health and human services, a list of the names of obligors determined by the unit to owe delinquent support, under a support order as defined in section 252J.1, in excess of two thousand five hundred dollars. The certification of the delinquent amount owed may be based upon one or more support orders being enforced by the unit if the delinquent support owed exceeds two thousand five hundred dollars. The certification shall include any amounts which are delinquent pursuant to the periodic payment plan when a modified order has been retroactively applied. The certification shall be in a format and shall include any supporting documentation required by the secretary.

b. All of the following shall apply to an action initiated by the unit under this subsection:

(1) The obligor shall be sent a notice by regular mail in accordance with federal law and regulations and the notice shall remain in effect until support delinquencies have been paid in full.

(2) The notice shall include all of the following:

(a) A statement regarding the amount of delinquent support owed by the obligor.

(b) A statement providing information that if the delinquency is in excess of two thousand five hundred dollars, the United States secretary of state may apply a passport sanction by revoking, restricting, limiting, or refusing to issue a passport as provided in 42 U.S.C. §652(k).

(c) Information regarding the procedures for challenging the certification by the unit.

(3) (a) If the obligor chooses to challenge the certification, the obligor shall notify the unit within the time period specified in the notice to the obligor. The obligor shall include any relevant information with the challenge.

(b) A challenge shall be based upon mistake of fact. For the purposes of this subsection, “*mistake of fact*” means a mistake in the identity of the obligor or a mistake in the amount of the delinquent child support owed if the amount did not exceed two thousand five hundred dollars on the date of the unit’s decision on the challenge.

(4) Upon timely receipt of the challenge, the unit shall review the certification for a mistake of fact, or refer the challenge for review to the child support agency in the state chosen by the obligor as provided by federal law.

(5) Following the unit’s review of the certification, the unit shall send a written decision to the obligor within ten days of timely receipt of the challenge.

(a) If the unit determines that a mistake of fact exists, the unit shall send notification in accordance with federal procedures withdrawing the certification for passport sanction.

(b) If the unit determines that a mistake of fact does not exist, the obligor may contest the determination within ten days following the issuance of the decision by submitting a written request for a contested case proceeding pursuant to chapter 17A.

(6) Following issuance of a final decision under chapter 17A that no mistake of fact exists, the obligor may request a hearing before the district court pursuant to chapter 17A. The department shall transmit a copy of its record to the district court pursuant to chapter 17A. The scope of the review by the district court shall be limited to demonstration of a mistake of fact. Issues related to visitation, custody, or other provisions not related to the support provisions of a support order are not grounds for a hearing under this subsection.

c. Following certification to the secretary, if the unit determines that an obligor no longer owes delinquent support in excess of two thousand five hundred dollars, the unit shall provide information and notice as the secretary requires to withdraw the certification for passport sanction.

13. *a.* Impose an annual fee, which shall be retained from support collected on behalf of the obligee, in accordance with 42 U.S.C. §654(6)(B)(ii). The unit shall send information regarding the requirements of this subsection by regular mail to the last known address of an affected obligee, or may include the information for an obligee in an application for services signed by the obligee. In addition, the unit shall take steps necessary regarding the fee to qualify for federal funds in conformity with the provisions of Tit. IV-D of the federal Social

Security Act, including receiving and accounting for fee payments, as appropriate, through the collection services center created in section 252B.13A.

b. Fees collected pursuant to this subsection shall be considered repayment receipts as defined in section 8.2, and shall be used for the purposes of the unit. The director shall maintain an accurate record of the fees collected and expended under this subsection.

c. Until such time as a methodology to secure payment of the collections fee from the obligor is provided by law, an obligee may act pursuant to this paragraph to recover the collections fee from the obligor. If the unit retains all or a portion of the collections fee imposed pursuant to paragraph “a” in a federal fiscal year, there is an automatic nonsupport judgment, in an amount equal to the amount retained, against the obligor payable to the obligee. This paragraph shall serve as constructive notice that the fee amount, once retained, is an automatic nonsupport judgment against the obligor. The obligee may use any legal means, including the lien created by the nonsupport judgment, to collect the nonsupport judgment.

[C77, 79, 81, §252B.5; 82 Acts, ch 1260, §123]

83 Acts, ch 96, §157, 159; 90 Acts, ch 1224, §4, 5; 92 Acts, ch 1195, §503; 93 Acts, ch 78, §8; 93 Acts, ch 79, §33, 38; 94 Acts, ch 1171, §15; 97 Acts, ch 41, §32; 97 Acts, ch 175, §30 – 33; 98 Acts, ch 1170, §34; 2001 Acts, ch 79, §2, 4; 2003 Acts, ch 145, §219, 220; 2005 Acts, ch 69, §8, 9; 2007 Acts, ch 218, §45, 137 – 141, 157, 187; 2008 Acts, ch 1157, §2; 2009 Acts, ch 15, §16, 17; 2009 Acts, ch 133, §97, 223; 2010 Acts, ch 1142, §1; 2012 Acts, ch 1033, §1; 2019 Acts, ch 112, §2

Referred to in §252B.1, 252B.2, 252B.6, 252B.9, 252B.23, 421.17

For future amendment to subsection 4 effective upon the later of January 1, 2021, or the effective date of rules adopted by the department of revenue to implement 2020 Acts, ch 1064, see 2020 Acts, ch 1064, §11, 28; 2020 Acts, ch 1118, §73, 74

252B.6 Additional services in assistance cases.

In addition to the services enumerated in section 252B.5, the unit may provide the following services in the case of a dependent child for whom public assistance is being provided:

1. Represent the state in obtaining a support order necessary to meet the child’s needs or in enforcing a similar order previously entered.

2. Represent the state’s interest in obtaining support for a child in dissolution of marriage and separate maintenance proceedings, or proceedings supplemental to these proceedings or any other support proceedings, when either or both of the parties to the proceedings are receiving public assistance, for the purpose of advising the court of the financial interest of the state in the proceeding.

3. Appear on behalf of the state for the purpose of facilitating the modification of support awards consistent with guidelines established pursuant to section 598.21B, and Tit. IV-D of the federal Social Security Act. The unit shall not otherwise participate in the proceeding.

4. Apply to the district court or initiate an administrative action, as necessary, to obtain, enforce, or modify support.

5. Initiate necessary civil proceedings to recover from the parent of a child, money expended by the state in providing public assistance or services to the child, including support collection services.

[C77, 79, 81, §252B.6]

83 Acts, ch 153, §17; 90 Acts, ch 1224, §6, 7; 97 Acts, ch 175, §34, 46; 2005 Acts, ch 69, §10; 2010 Acts, ch 1061, §180

Referred to in §252B.1, 252B.2

252B.6A External services.

1. Provided that the action is consistent with applicable federal law and regulation, an attorney licensed in this state shall receive compensation as provided in this section for support collected as the direct result of a judicial proceeding maintained by the attorney, if all of the following apply to the case:

a. The unit is providing services under this chapter.

b. The current support obligation is terminated and only arrearages are due under an administrative or court order and there has been no payment under the order for at least the

twelve-month period prior to the provision of notice to the unit by the attorney under this section.

c. Support is assigned to the state based upon cash assistance paid under chapter 239B, or its successor.

d. The attorney has provided written notice to the central office of the unit and to the obligee at the last known address of the obligee of the intent to initiate a specified judicial proceeding, at least thirty days prior to initiating the proceeding.

e. The attorney has provided documentation to the unit that the attorney is insured against loss caused by the attorney's legal malpractice or acts or omissions of the attorney which result in loss to the state or other person.

f. The collection is received by the collection services center within ninety days of provision of the notice to the unit. An attorney may provide subsequent notices to the unit to extend the time for receipt of the collection by subsequent ninety-day periods.

2. a. If, prior to February 15, 1998, notice is provided pursuant to subsection 1 to initiate a specific judicial proceeding, this section shall not apply to the proceeding unless the unit consents to the proceeding.

b. (1) If, on or after February 15, 1998, notice is provided pursuant to subsection 1 to initiate a specific judicial proceeding, this section shall apply to the proceeding only if the case is exempt from application of rules adopted by the department pursuant to subparagraph (2) which limit application of this section.

(2) The department shall adopt rules which include, but are not limited to, exemption from application of this section to proceedings based upon, but not limited to, any of the following:

(a) A finding of good cause pursuant to section 252B.3.

(b) The existence of a support obligation due another state based upon public assistance provided by that state.

(c) The maintaining of another proceeding by an attorney under this section for which the unit has not received notice that the proceeding has concluded or the ninety-day period during which a collection may be received pertaining to the same case has not yet expired.

(d) The initiation of a seek employment action under section 252B.21, and the notice from the attorney indicates that the attorney intends to pursue a contempt action.

(e) Any other basis for exemption of a specified proceeding designated by rule which relates to collection and enforcement actions provided by the unit.

3. The unit shall issue a response to the attorney providing notice within ten days of receipt of the notice. The response shall advise the attorney whether the case to which the specified judicial proceeding applies meets the requirements of this section.

4. For the purposes of this section, a "judicial proceeding" means an action to enforce support filed with a court of competent jurisdiction in which the court issues an order which identifies the amount of the support collection which is a direct result of the court proceeding. "Judicial proceedings" include but are not limited to those pursuant to chapters 598, 626, 633, 642, 654, or 684 and also include contempt proceedings if the collection payment is identified in the court order as the result of such a proceeding. "Judicial proceedings" do not include enforcement actions which the unit is required to implement under federal law including, but not limited to, income withholding.

5. All of the following are applicable to a collection which is the result of a judicial proceeding which meets the requirements of this section:

a. All payments made as the result of a judicial proceeding under this section shall be made to the clerk of the district court or to the collection services center and shall not be made to the attorney. Payments received by the clerk of the district court shall be forwarded to the collection services center as provided in section 252B.15.

b. The attorney shall be entitled to receive an amount which is equal to twenty-five percent of the support collected as the result of the specified judicial proceeding not to exceed the amount of the nonfederal share of assigned support collected as the result of that proceeding. The amount paid under this paragraph is the full amount of compensation due the attorney for a proceeding under this section and is in lieu of any attorney fees. The court shall not

order the obligor to pay additional attorney fees. The amount of compensation calculated by the unit is subject, upon application of the attorney, to judicial review.

c. Any support collected shall be disbursed in accordance with federal requirements and any support due the obligee shall be disbursed to the obligee prior to disbursement to the attorney as compensation.

d. The collection services center shall disburse compensation due the attorney only from the nonfederal share of assigned collections. The collection services center shall not disburse any compensation for court costs.

e. The unit may delay disbursement to the attorney pending the resolution of any timely appeal by the obligor or obligee.

f. Negotiation of a partial payment or settlement for support shall not be made without the approval of the unit and the obligee, as applicable.

6. The attorney initiating a judicial proceeding under this section shall notify the unit when the judicial proceeding is completed.

7. a. An attorney who initiates a judicial proceeding under this section represents the state for the sole and limited purpose of collecting support to the extent provided in this section.

b. The attorney is not an employee of the state and has no right to any benefit or compensation other than as specified in this section.

c. The state is not liable or subject to suit for any acts or omissions resulting in any damages as a consequence of the attorney's acts or omissions under this section.

d. The attorney shall hold the state harmless from any act or omissions of the attorney which may result in any penalties or sanctions, including those imposed under federal bankruptcy laws, and the state may recover any penalty or sanction imposed by offsetting any compensation due the attorney under this section for collections received as a result of any judicial proceeding initiated under this section.

e. The attorney initiating a proceeding under this section does not represent the obligor.

8. The unit shall comply with all state and federal laws regarding confidentiality. The unit may release to an attorney who has provided notice under this section, information regarding child support balances due, to the extent provided under such laws.

9. This section shall not be interpreted to prohibit the unit from providing services or taking other actions to enforce support as provided under this chapter.

97 Acts, ch 41, §32; 97 Acts, ch 175, §35

252B.7 Legal services.

1. The attorney general may perform the legal services for the child support recovery program and may enforce all laws for the recovery of child support from responsible relatives. The attorney general may file and prosecute:

a. Contempt of court proceedings to enforce any order of court pertaining to child support.

b. Cases under chapter 252A, the support of dependents law.

c. An information charging a violation of section 726.3, 726.5 or 726.6.

d. Any other lawful action which will secure collection of support for minor children.

2. For the purposes of subsection 1, the attorney general has the same power to commence, file and prosecute any action or information in the proper jurisdiction, which the county attorney could file or prosecute in that jurisdiction. This section does not relieve a county attorney from the county attorney's duties, or the attorney general from the supervisory power of the attorney general, in the recovery of child support.

3. The unit may contract with a county attorney, the attorney general, a clerk of the district court, or another person or agency to collect support obligations and to administer the child support program established pursuant to this chapter. Notwithstanding section 13.7, the unit may contract with private attorneys for the prosecution of civil collection and recovery cases and may pay reasonable compensation and expenses to private attorneys for the prosecution services provided.

4. An attorney employed by or under contract with the child support recovery unit represents and acts exclusively on behalf of the state when providing child support enforcement services. An attorney-client relationship does not exist between the attorney

and an individual party, witness, or person other than the state, regardless of the name in which the action is brought.

[C77, 79, 81, §252B.7]

83 Acts, ch 153, §18; 90 Acts, ch 1224, §8; 97 Acts, ch 175, §36, 47

Referred to in §252B.20A, 252H.4, 600B.41A

252B.7A Determining parent's income.

1. The unit shall use any of the following in determining the amount of the net monthly income of a parent for purposes of establishing or modifying a support obligation:

a. Income as identified in a signed statement of the parent pursuant to section 252B.9, subsection 1, paragraph "b". If evidence suggests that the statement is incomplete or inaccurate, the unit may present the evidence to the court in a judicial proceeding or to the administrator in a proceeding under chapter 252C or a comparable chapter, and the court or administrator shall weigh the evidence in setting the support obligation. Evidence includes but is not limited to income as established under paragraph "c".

b. If a sworn statement is not provided by the parent, the unit may determine income as established under paragraph "c" or "d".

c. Income established by any of the following:

(1) Income verified by an employer or payor of income.

(2) Income reported to the department of workforce development.

(3) For a public assistance recipient, income as reported to the department case worker assigned to the public assistance case.

(4) Other written documentation which identifies income.

d. By July 1, 1999, the department shall adopt rules for imputing income, whenever possible, based on the earning capacity of a parent who does not provide income information or for whom income information is not available. Until such time as the department adopts rules establishing a different standard for determining the income of a parent who does not provide income information or for whom income information is not available, the estimated state median income for a one-person family as published annually in the federal register for use by the federal office of community services, office of energy assistance, for the subsequent federal fiscal year.

(1) This provision is effective beginning July 1, 1992, based upon the information published in the federal register dated March 8, 1991.

(2) The unit may revise the estimated income each October 1. If the estimate is not available or has not been published, the unit may revise the estimate when it becomes available.

e. When the income information obtained pursuant to this subsection does not include the information necessary to determine the net monthly income of the parent, the unit may deduct twenty percent from the parent's gross monthly income to arrive at the net monthly income figure.

2. The amount of the income determined may be challenged any time prior to the entry of a new or modified order for support.

3. If the child support recovery unit is providing services pursuant to this chapter, the court shall use the income figure determined pursuant to this section when applying the guidelines to determine the amount of support.

4. The department may develop rules as necessary to further implement disclosure of financial information of the parties.

92 Acts, ch 1195, §201; 96 Acts, ch 1186, §23; 97 Acts, ch 175, §37; 98 Acts, ch 1170, §43

Referred to in §252C.3, 252F.3, 252F.4, 252H.6, 252H.9, 252H.14A

252B.7B Informational materials provided by the unit.

1. The unit shall prepare and make available to the public, informational materials which explain the unit's procedures including, but not limited to, procedures with regard to all of the following:

a. Accepting applications for services.

b. Locating individuals.

- c. Establishing paternity.
- d. Establishing support.
- e. Enforcing support.
- f. Modifying, suspending, or reinstating support.
- g. Terminating services.

2. The informational materials shall include general information about and descriptions of the processes involved relating to the services provided by the unit including application for services, fees for services, the responsibilities of the recipient of services, resolution of disagreements with the unit, rights to challenge the actions of the unit, and obtaining additional information.

97 Acts, ch 175, §38

252B.8 Central information center.

The department shall establish within the unit an information and administration coordinating center which shall serve as a registry for the receipt of information and for answering interstate inquiries concerning absent parents and shall coordinate and supervise unit activities. The information and administration coordinating center shall promote cooperation between the unit and law enforcement agencies to facilitate the effective operation of the unit.

[C77, 79, 81, §252B.8]

252B.9 Information and assistance from others — availability of records.

1. *a.* The director may request from state, county, and local agencies information and assistance deemed necessary to carry out the provisions of this chapter. State, county, and local agencies, officers, and employees shall cooperate with the unit and shall on request supply the department with available information relative to the absent parent, the custodial parent, and any other necessary party, notwithstanding any provisions of law making this information confidential. The cooperation and information required by this subsection shall also be provided when it is requested by a child support agency. Information required by this subsection includes, but is not limited to, information relative to location, income, property holdings, records of licenses as defined in section 252J.1, and records concerning the ownership and control of corporations, partnerships, and other business entities. If the information is maintained in an automated database, the unit shall be provided automated access.

b. Parents of a child on whose behalf support enforcement services are provided shall provide information regarding income, resources, financial circumstances, and property holdings to the department for the purpose of establishment, modification, or enforcement of a support obligation. The department may provide the information to parents of a child as needed to implement the requirements of section 598.21B, notwithstanding any provisions of law making this information confidential.

c. Notwithstanding any provisions of law making this information confidential, all persons, including for-profit, nonprofit, and governmental employers, shall, on request, promptly supply the unit or a child support agency information on the employment, compensation, and benefits of any individual employed by such person as an employee or contractor with relation to whom the unit or a child support agency is providing services.

d. Notwithstanding any provisions of law making this information confidential, the unit may subpoena or a child support agency may use the administrative subpoena form promulgated by the secretary of the United States department of health and human services under 42 U.S.C. §652(a)(11)(C), to obtain any of the following:

(1) Books, papers, records, or information regarding any financial or other information relating to a paternity or support proceeding.

(2) Certain records held by public utilities, cable or other television companies, cellular telephone companies, and internet service providers with respect to individuals who owe or are owed support, or against or with respect to whom a support obligation is sought, consisting of the names and addresses of such individuals and the names and addresses of the employers of such individuals, as appearing in customer records, and including the

cellular telephone numbers of such individuals appearing in the customer records of cellular telephone companies. If the records are maintained in automated databases, the unit shall be provided with automated access.

e. The unit or a child support agency may subpoena information for one or more individuals.

f. If the unit or a child support agency issues a request under paragraph “c”, or a subpoena under paragraph “d”, all of the following shall apply:

(1) The unit or child support agency may issue a request or subpoena to a person by sending it by regular mail. Proof of service may be completed according to rule of civil procedure 1.442.

(2) A person who is not a parent or putative father in a paternity or support proceeding, who is issued a request or subpoena, shall be provided an opportunity to refuse to comply for good cause by filing a request for a conference with the unit or child support agency in the manner and within the time specified in rules adopted pursuant to subparagraph (7).

(3) Good cause shall be limited to mistake in the identity of the person, or prohibition under federal law to release such information.

(4) After the conference the unit shall issue a notice finding that the person has good cause for refusing to comply, or a notice finding that the person does not have good cause for failing to comply. If the person refuses to comply after issuance of notice finding lack of good cause, or refuses to comply and does not request a conference, the person is subject to a penalty of one hundred dollars per refusal.

(5) If the person fails to comply with the request or subpoena, fails to request a conference, and fails to pay a penalty imposed under subparagraph (4), the unit may petition the district court to compel the person to comply with this paragraph. If the person objects to imposition of the penalty, the person may seek judicial review by the district court.

(6) If a parent or putative father fails to comply with a subpoena or request for information, the provisions of chapter 252J shall apply.

(7) The unit may adopt rules pursuant to chapter 17A to implement this section.

g. Notwithstanding any provisions of law making this information confidential, the unit or a child support agency shall have access to records and information held by financial institutions with respect to individuals who owe or are owed support, or with respect to whom a support obligation is sought including information on assets and liabilities. If the records are maintained in automated databases, the unit shall be provided with automated access. For the purposes of this section, “*financial institution*” means financial institution as defined in section 252I.1.

h. Notwithstanding any law to the contrary, the unit and a child support agency shall have access to any data maintained by the state of Iowa which contains information that would aid the agency in locating individuals. Such information shall include, but is not limited to, driver’s license, motor vehicle, and criminal justice information. However, the information does not include criminal investigative reports or intelligence files maintained by law enforcement. The unit and child support agency shall use or disclose the information obtained pursuant to this paragraph only in accordance with subsection 3. Criminal history records maintained by the department of public safety shall be disclosed in accordance with chapter 692. The unit shall also have access to the protective order file maintained by the department of public safety.

i. Liability shall not arise under this subsection with respect to any disclosure by a person as required by this subsection, and no advance notice from the unit or a child support agency is required prior to requesting information or assistance or issuing a subpoena under this subsection.

j. Notwithstanding any provision of law making this information confidential, data provided to the department by an insurance carrier under section 505.25 shall also be provided to the unit. Provision of data to the unit under this paragraph shall not require an agreement or modification of an agreement between the department and an insurance carrier, but the provisions of this section applicable to information received by the unit shall apply to the data received pursuant to section 505.25 in lieu of any confidentiality,

privacy, disclosure, use, or other provisions of an agreement between the department and an insurance carrier.

2. Notwithstanding other statutory provisions to the contrary, including but not limited to chapters 22 and 217, as the chapters relate to confidentiality of records maintained by the department, the payment records of the collection services center maintained under section 252B.13A may be released, except when prohibited by federal law or regulation, only as follows:

a. Payment records of the collection services center may be released upon request for the administration of a plan or program approved for the supplemental nutrition assistance program or under Tit. IV, XIX, or XXI of the federal Social Security Act, as amended, and as otherwise permitted under Tit. IV-D of the federal Social Security Act, as amended. A payment record shall not include address or location information.

b. The department may release details related to payment records or provide alternative formats for release of the information for the administration of a plan or program under Tit. IV-D of the federal Social Security Act, as amended, including as follows:

(1) The unit or collection services center may provide detail or present the information in an alternative format to an individual or to the individual's legal representative if the individual owes or is owed a support obligation, to an agency assigned the obligation as the result of receipt by a party of public assistance, to an agency charged with enforcing child support pursuant to Tit. IV-D of the federal Social Security Act, as amended, or to the court.

(2) For support orders entered in Iowa which are being enforced by the unit, the unit may compile and make available for publication a listing of cases in which no payment has been credited to an accrued or accruing support obligation during a previous three-month period. Each case on the list shall be identified only by the name of the support obligor, the address, if known, of the support obligor, unless the information pertaining to the address of the support obligor is protected through confidentiality requirements established by law and has not otherwise been verified with the unit, the support obligor's court order docket or case number, the county in which the obligor's support order is filed, the collection services center case numbers, and the range within which the balance of the support obligor's delinquency is established. The department shall determine dates for the release of information, the specific format of the information released, and the three-month period used as a basis for identifying cases. The department may not release the information more than twice annually. In compiling the listing of cases, no prior public notice to the obligor is required, but the unit may send notice annually by mail to the current known address of any individual owing a support obligation which is being enforced by the unit. The notice shall inform the individual of the provisions of this subparagraph. Actions taken pursuant to this subparagraph are not subject to review under chapter 17A, and the lack of receipt of a notice does not prevent the unit from proceeding in implementing this subparagraph.

(3) The provisions of subparagraph (2) may be applied to support obligations entered in another state, at the request of a child support agency if the child support agency has demonstrated that the provisions of subparagraph (2) are not in conflict with the laws of the state where the support obligation is entered and the unit is enforcing the support obligation.

(4) Records relating to the administration, collection, and enforcement of surcharges pursuant to section 252B.23 which are recorded by the unit or a collection entity shall be confidential records except that information, as necessary for support collection and enforcement, may be provided to other governmental agencies, the obligor or the resident parent, or a collection entity under contract with the unit unless otherwise prohibited by the federal law. A collection entity under contract with the unit shall use information obtained for the sole purpose of fulfilling the duties required under the contract, and shall disclose any records obtained by the collection entity to the unit for use in support establishment and enforcement.

3. Notwithstanding other statutory provisions to the contrary, including but not limited to chapters 22 and 217, as the chapters relate to the confidentiality of records maintained by the department, information recorded by the department pursuant to this section or obtained by the unit is confidential and, except when prohibited by federal law or regulation, may be

used or disclosed as provided in subsection 1, paragraphs “b” and “h”, and subsection 2, and as follows:

a. The attorney general may utilize the information to secure, modify, or enforce a support obligation of an individual.

b. This subsection shall not permit or require the release of information, except to the extent provided in this section.

c. The unit may release or disclose information as necessary to provide services under section 252B.5, as provided by chapter 252G, as provided by Tit. IV-D of the federal Social Security Act, as amended, or as required by federal law.

d. The unit may release information under section 252B.9A to meet the requirements of Tit. IV-D of the federal Social Security Act for parent locator services.

e. Information may be released if directly connected with any of the following:

(1) The administration of a plan or program approved for the supplemental nutrition assistance program or under Tit. IV, XIX, or XXI of the federal Social Security Act, as amended.

(2) Any investigations, prosecutions, or criminal or civil proceeding conducted in connection with the administration of any such plan or program.

(3) Reporting to an appropriate agency or official of any such plan or program, information on known or suspected instances of physical or mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment of a child who is the subject of a child support enforcement action under circumstances which indicate that the child’s health or welfare is threatened.

f. Information may be released to courts having jurisdiction in support proceedings. If a court issues an order, which is not entered under section 252B.9A, directing the unit to disclose confidential information, the unit may file a motion to quash pursuant to this chapter, Tit. IV-D of the federal Social Security Act, or other applicable law.

g. The child support recovery unit may release information for the administration of a plan or program approved for the supplemental nutrition assistance program or under Tit. IV, XIX, or XXI of the federal Social Security Act, as amended, specified under subsection 2 or this subsection, to the extent the release of information does not interfere with the unit meeting its own obligations under Tit. IV-D of the federal Social Security Act, as amended, and subject to requirements prescribed by the federal office of child support enforcement of the United States department of health and human services.

h. For purposes of this subsection, “party” means an absent parent, obligor, resident parent, or other necessary party.

i. If the unit receives notification under this paragraph, the unit shall notify the federal parent locator service as required by federal law that there is reasonable evidence of domestic violence or child abuse against a party or a child and that the disclosure of information could be harmful to the party or the child. The notification to the federal parent locator service shall be known as notification of a disclosure risk indicator. For purposes of this paragraph, the unit shall notify the federal parent locator service of a disclosure risk indicator only if at least one of the following applies:

(1) The unit receives notification that the department, or comparable agency of another state, has made a finding of good cause or other exception as provided in section 252B.3, or comparable law of another state.

(2) The unit receives and, through automation, matches notification from the department of public safety or the unit receives notification from a court of this or another state, that a court has issued a protective order or no-contact order against a party with respect to another party or child.

(3) The unit receives notification that a court has dismissed a petition for specified confidential information pursuant to section 252B.9A.

(4) The unit receives a copy, regular on its face, of a notarized affidavit or a pleading, which was signed by and made under oath by a party, under chapter 252K, the uniform interstate family support Act, or the comparable law of another state, alleging the health, safety, or liberty of the party or child would be jeopardized by the disclosure of specific identifying information unless a tribunal under chapter 252K, the uniform interstate family

support Act, or the comparable law of another state, ordered the identifying information of a party or child be disclosed.

(5) The unit receives and, through automation, matches notification from the division of child and family services of the department, or the unit receives notification from a comparable agency of another state, of a founded allegation of child abuse, or a comparable finding under the law of the other state.

(6) The unit receives notification that an individual has an exemption from cooperation with child support enforcement under a family investment program safety plan which addresses family or domestic violence.

(7) The unit receives notification that an individual is a certified program participant as provided in chapter 9E.

(8) The unit receives notification, as the result of a request under section 252B.9A, of the existence of any finding, order, affidavit, pleading, safety plan, certification, or founded allegation referred to in subparagraphs (1) through (7) of this paragraph.

j. The unit may provide information regarding delinquent obligors as provided in 42 U.S.C. §666(a)(7) to a consumer reporting agency if all the following apply:

(1) The agency provides the unit with satisfactory evidence that it is a consumer reporting agency as defined in 15 U.S.C. §1681a(f) and meets all the following requirements:

(a) Compiles and maintains files on consumers on a nationwide basis as provided in 15 U.S.C. §1681a(p).

(b) Participates jointly with other nationwide consumer reporting agencies in providing annual free credit reports to consumers upon request through a centralized source as required by the federal trade commission in 16 C.F.R. §610.2.

(2) The agency has entered into an agreement with the unit regarding receipt and use of the information.

4. Nothing in this chapter, chapter 252A, 252C, 252D, 252E, 252F, 252G, 252H, 252I, 252J, or 252K, or any other comparable chapter or law shall preclude the unit from exchanging any information, notice, document, or certification with any government or private entity, if the exchange is not otherwise prohibited by law, through mutually agreed upon electronic data transfer rather than through other means.

[C77, 79, 81, §252B.9]

89 Acts, ch 283, §31; 90 Acts, ch 1034, §1; 91 Acts, ch 177, §1; 93 Acts, ch 79, §31, 32, 57; 94 Acts, ch 1171, §16; 97 Acts, ch 175, §39, 242; 98 Acts, ch 1170, §2, 20, 23 – 26; 2004 Acts, ch 1116, §20; 2005 Acts, ch 69, §11; 2005 Acts, ch 112, §1; 2006 Acts, ch 1119, §1; 2008 Acts, ch 1019, §8, 9; 2010 Acts, ch 1061, §180; 2012 Acts, ch 1021, §54; 2012 Acts, ch 1033, §2 – 7; 2015 Acts, ch 96, §11, 12, 17; 2015 Acts, ch 110, §85

Referred to in §252B.7A, 252B.9A, 252B.10, 252B.24, 252G.5, 252H.6, 422.20, 422.72, 598.22B, 598.26

252B.9A Disclosure of confidential information — authorized person — court.

1. A person, except a court or government agency, who is an authorized person to receive specified confidential information under 42 U.S.C. §653, may submit a written request to the unit for disclosure of specified confidential information regarding a nonrequesting party. The written request shall comply with federal law and regulations, including any attestation and any payment to the federal office of child support enforcement of the United States department of health and human services required by federal law or regulation, and shall include a sworn statement attesting to the reason why the requester is an authorized person under 42 U.S.C. §653, including that the requester would use the confidential information only for purposes permitted in that section.

2. Upon receipt of a request from an authorized person which meets all of the requirements under subsection 1, the unit shall search available records as permitted by law or shall request the information from the federal parent locator service as provided in 42 U.S.C. §653.

a. If the unit locates the specified confidential information, the unit shall disclose the information to the extent permitted under federal law, unless one of the following applies:

(1) There is a notice from the federal parent locator service that there is reasonable evidence of domestic violence or child abuse pursuant to 42 U.S.C. §653(b)(2).

(2) The unit has notified the federal parent locator service of a disclosure risk indicator as provided in section 252B.9, subsection 3, paragraph “i”, and has not removed that notification.

(3) The unit receives notice of a basis for a disclosure risk indicator listed in section 252B.9, subsection 3, paragraph “i”, within twenty days of sending a notice of the request to the subject of the request by regular mail.

b. If the unit locates the specified confidential information, but the unit is prohibited from disclosing confidential information under paragraph “a”, the unit shall deny the request and notify the requester of the denial in writing. Upon receipt of a written notice from the unit denying the request, the requester may file a petition in district court for an order directing the unit to release the requested information to the court as provided in subsection 3.

3. A person may file a petition in district court for disclosure of specified confidential information. The petition shall request that the court direct the unit to release specified confidential information to the court, that the court make a determination of harm if appropriate, and that the court release specified confidential information to the petitioner.

a. The petition shall include a sworn statement attesting to the intended use of the information by the petitioner as allowed by federal law. Such statement may specify any of the following intended uses:

(1) To establish parentage, or to establish, set the amount of, modify, or enforce a child support obligation.

(2) To make or enforce a child custody or visitation determination or order.

(3) To carry out the duty or authority of the petitioner to investigate, enforce, or bring a prosecution with respect to the unlawful taking or restraint of a child.

b. Upon the filing of a petition, the court shall enter an order directing the unit to release to the court within thirty days specified confidential information which the unit would be permitted to release under 42 U.S.C. §653 and 42 U.S.C. §663, unless one of the following applies:

(1) There is a notice from the federal parent locator service that there is reasonable evidence of domestic violence or child abuse pursuant to 42 U.S.C. §653(b)(2).

(2) The unit has notified the federal parent locator service of a disclosure risk indicator as provided in section 252B.9, subsection 3, paragraph “i”, and has not removed that notification.

(3) The unit receives notice of a basis for a disclosure risk indicator listed in section 252B.9, subsection 3, paragraph “i”, within twenty days of sending notice of the order to the subject of the request by regular mail. The unit shall include in the notice to the subject of the request a copy of the court order issued under this paragraph.

c. Upon receipt of the order, the unit shall comply as follows:

(1) If the unit has the specified confidential information, and none of the domestic violence, child abuse, or disclosure risk indicator provisions of paragraph “b” applies, the unit shall file the confidential information with the court along with a statement that the unit has not received any notice that the domestic violence, child abuse, or disclosure risk indicator provisions of paragraph “b” apply. The unit shall be granted at least thirty days to respond to the order. The court may extend the time for the unit to comply. Upon receipt by the court of the confidential information under this subparagraph, the court may order the release of the information to the petitioner.

(2) If the unit has the specified confidential information, and the domestic violence, child abuse, or disclosure risk indicator provision of paragraph “b” applies, the unit shall file with the court a statement that the domestic violence, child abuse, or disclosure risk indicator provision of paragraph “b” applies, along with any information the unit has received related to the domestic violence, child abuse, or disclosure risk indicator. The unit shall be granted at least thirty days to respond to the order. The court may extend the time for the unit to comply. Upon receipt by the court of information from the unit under this subparagraph, the court shall make a finding whether disclosure of confidential information to any other person could be harmful to the nonrequesting party or child. In making the finding, the court shall consider any relevant information provided by the parent or child, any information provided by the unit or by a child support agency, any information provided by the petitioner, and any other relevant evidence. The unit or unit’s attorney does not represent any individual person in this proceeding.

(a) If the court finds that disclosure of confidential information to any other person could be harmful to the nonrequesting party or child, the court shall dismiss the petition for disclosure and notify the unit to notify the federal parent locator service of a disclosure risk indicator.

(b) If the court does not find that disclosure of specified confidential information to any other person could be harmful to the nonrequesting party or child, the court shall notify the unit to file the specified confidential information with the court. Upon receipt by the court of the specified confidential information, the court may release the information to the petitioner and inform the unit to remove the disclosure risk indicator.

(3) If the unit does not have the specified confidential information and cannot obtain the information from the federal parent locator service, the unit shall comply with the order by notifying the court of the lack of information.

4. The confidential information which may be released by the unit to a party under subsection 2, or by the unit to the court under subsection 3, shall be limited by the federal Social Security Act and other applicable federal law, and the unit may use the sworn statement filed pursuant to subsection 1 or 3 in applying federal law. Any information filed with the court by the unit, when certified over the signature of a designated employee, shall be considered to be satisfactorily identified and shall be admitted as evidence, without requiring third-party foundation testimony. Additional proof of the official character of the person certifying the document or the authenticity of the person's signature shall not be required.

5. When making a request for confidential information under this section, a party or petitioner shall indicate the specific information requested.

6. For purposes of this section, "party" means party as defined in section 252B.9, subsection 3.

7. The unit may adopt rules pursuant to chapter 17A to prescribe provisions in addition to or in lieu of the provisions of this section to comply with federal requirements for parent locator services or the safeguarding of information.

98 Acts, ch 1170, §27; 2012 Acts, ch 1033, §8

Referred to in §252B.9

252B.10 Criminal penalties.

1. Any person who willfully requests, obtains, or seeks to obtain paternity determination and support collection data available under section 252B.9 under false pretenses, or who willfully communicates or seeks to communicate such data to any agency or person except in accordance with this chapter, shall be guilty of an aggravated misdemeanor. Any person who knowingly, but without criminal purposes, communicates or seeks to communicate paternity determination and support collection data except in accordance with this chapter shall be guilty of a simple misdemeanor.

2. Any reasonable grounds for belief that a public employee has violated any provision of this chapter shall be grounds for immediate removal from all access to paternity determination and support collection data available through or recorded under section 252B.9.

[C77, 79, 81, §252B.10]

97 Acts, ch 175, §40

252B.11 Recovery of costs of collection services.

The unit may initiate necessary civil proceedings to recover the unit's costs of support collection services provided to an individual, whether or not the individual is a public assistance recipient, from an individual who owes and is able to pay a support obligation but willfully fails to pay the obligation. The unit may seek a lump sum recovery of the unit's costs or may seek to recover the unit's costs through periodic payments which are in addition to periodic support payments. If the unit's costs are recovered from an individual owing a support obligation, the costs shall not be deducted from the amount of support money received from the individual. The costs collected pursuant to this section shall be

retained by the department for use by the unit. The director or a designee shall keep an accurate record of funds so retained.

83 Acts, ch 153, §19; 92 Acts, ch 1195, §103

252B.12 Jurisdiction over nonresidents.

In an action to establish paternity or to establish or enforce a child support obligation, or to modify a support order, a nonresident person is subject to the jurisdiction of the courts of this state as specified in section 252K.201.

84 Acts, ch 1242, §1; 97 Acts, ch 175, §48

252B.13 Reserved.

252B.13A Collection services center.

1. The department shall establish within the unit a collection services center for the receipt and disbursement of support payments as defined in section 252D.16 or 598.1 as required for orders by section 252B.14. For purposes of this section, support payments do not include attorney fees, court costs, or property settlements. The center may also receive and disburse surcharges as provided in section 252B.23.

2. a. The collection services center shall meet the requirements for a state disbursement unit pursuant to 42 U.S.C. §654b, section 252B.14, and this section by October 1, 1999.

b. Prior to October 1, 1999, the department and the judicial branch shall enter into a cooperative agreement for implementation of the state disbursement unit requirement. The agreement shall include, but is not limited to, provisions for all of the following:

(1) Coordination with the state case registry created in section 252B.24.

(2) The receipt and disbursement of income withholding payments for orders not receiving services from the unit pursuant to section 252B.14, subsection 4.

(3) The transmission of information, orders, and documents, and access to information.

(4) Furnishing, upon request, timely information on the current status of support payments as provided in 42 U.S.C. §654b(b)(4), in a manner consistent with state law.

(5) The notification of payors of income to direct income withholding payments to the collection services center as provided in section 252B.14, subsection 4.

90 Acts, ch 1224, §9; 91 Acts, ch 177, §2; 93 Acts, ch 79, §39, 40; 97 Acts, ch 175, §41, 243; 98 Acts, ch 1047, §68; 98 Acts, ch 1170, §3; 2014 Acts, ch 1026, §56, 57

Referred to in §252B.5, 252B.9, 252B.15, 252D.17, 252D.20, 602.8102(47C)

252B.14 Support payments — collection services center or comparable government entity in another state — clerk of the district court.

1. For the purposes of this section, “*support order*” includes any order entered pursuant to chapter 234, 252A, 252C, 598, 600B, or any other support chapter or proceeding which establishes support payments as defined in section 252D.16 or 598.1.

2. For support orders being enforced by the child support recovery unit, support payments made pursuant to the order shall be directed to and disbursed by the collection services center or, as appropriate, a comparable government entity in another state as provided in chapter 252K.

3. With the exception of support payments to which subsection 2 or 4 applies, support payments made pursuant to an order shall be directed to and disbursed by the clerk of the district court in the county in which the order for support is filed. The clerk of the district court may require the obligor to submit payments by bank draft or money order if the obligor submits an insufficient funds support payment to the clerk of the district court.

4. For a support order to which subsection 2 does not apply, regardless of the terms of the support order directing or redirecting the place of payment, support payments made through income withholding by a payor of income as provided in chapter 252D shall be directed to and disbursed by the collection services center or, as appropriate, a comparable government entity in another state as provided in chapter 252K. The judicial branch and the department shall develop and implement a plan to notify payors of income of this requirement and the effective date of the requirement applicable to the respective payor of income.

5. If the collection services center is receiving and disbursing payments pursuant to a support order, but the unit is not providing other services under Tit. IV-D of the federal Social Security Act, or if the order is not being enforced by the unit, the parties to that order are not considered to be receiving services under this chapter.

6. Payments to persons other than the clerk of the district court or the collection services center or, as appropriate, a comparable government entity in another state as provided in chapter 252K, do not satisfy the support obligations created by a support order or judgment, except as provided for in sections 598.22 and 598.22A.

86 Acts, ch 1246, §316; 87 Acts, ch 228, §31; 88 Acts, ch 1218, §2; 90 Acts, ch 1224, §10; 91 Acts, ch 177, §3; 93 Acts, ch 79, §41; 97 Acts, ch 175, §42, 43; 98 Acts, ch 1047, §68; 98 Acts, ch 1170, §4; 2010 Acts, ch 1061, §180; 2015 Acts, ch 110, §86

Referred to in §8B.32, 252B.13A, 252D.17, 421.17, 598.22, 598.22A, 598.22B, 642.23
Crediting of support payments ordered on or after July 1, 1985; §598.22A

252B.15 Processing and disbursement of support payments.

1. The collection services center shall notify the clerk of the district court of any order for which the child support recovery unit is providing enforcement services. The clerk of the district court shall forward any support payment made pursuant to the order, along with any support payment information, to the collection services center. Unless the agreement developed pursuant to section 252B.13A otherwise provides, the clerk of the district court shall forward any support payment made and any support payment information provided through income withholding pursuant to chapter 252D, to the collection services center. The collection services center shall process and disburse the payment in accordance with federal requirements.

2. Unless otherwise provided under federal law, if it is possible to identify the support order to which a payment is to be applied and if sufficient information is provided to identify the obligee, a payment received by the collection services center or the clerk of the district court shall be disbursed to the appropriate individual or office within two working days in accordance with section 598.22.

3. If the collection services center receives an incorrectly submitted payment, the collection services center shall promptly return the payment to the sender and, if known, provide information about where to send the payment.

4. Chapter 556 shall not apply to payments received by the collection services center.

90 Acts, ch 1224, §11; 91 Acts, ch 177, §4; 93 Acts, ch 79, §42; 98 Acts, ch 1170, §5; 2006 Acts, ch 1119, §2; 2015 Acts, ch 110, §87

Referred to in §252B.6A

252B.16 Transfer of support order processing responsibilities — ongoing procedures.

1. For a support order being processed by the clerk of the district court, upon notification that the unit is providing enforcement services related to the order, the clerk of the district court shall immediately transfer the responsibility for the disbursement of support payments received pursuant to the order to the collection services center.

2. The department shall adopt rules pursuant to chapter 17A to ensure that the affected parties are notified that the support payment disbursement responsibilities have been transferred to the collection services center from the clerk of the district court. The rules shall include a provision requiring that a notice shall be sent by regular mail to the last known addresses of the obligee and the obligor. The issuance of notice to the obligor is the equivalent of a court order requiring the obligor to direct payment to the collection services center for disbursement.

3. Once the responsibility for receiving and disbursing support payments has been transferred from a clerk of the district court to the collection services center, the responsibility shall remain with the collection services center even if the child support recovery unit is no longer providing enforcement services, unless redirected by court order. However, the responsibility for receiving and disbursing income withholding payments shall not be redirected to a clerk of the district court.

4. As provided in sections 252K.307 and 252K.319, the unit may issue and file with the clerk of the district court, a notice redirecting support payments to a comparable government

entity responsible for the processing and disbursement of support payments in another state. The unit shall send a copy of the notice by regular mail to the last known addresses of the obligor and obligee and, where applicable, shall notify the payor of income to make payments as specified in the notice. The issuance and filing of the notice is the equivalent of a court order redirecting support.

86 Acts, ch 1246, §316; 88 Acts, ch 1218, §3; 90 Acts, ch 1224, §12; 91 Acts, ch 177, §5; 93 Acts, ch 79, §43; 98 Acts, ch 1170, §6; 2015 Acts, ch 110, §88

Referred to in §598.22B

252B.17 Admissibility and identification of support payment records.

Copies of support payment records maintained by the collection services center, when certified over the signature of a designated employee of the center, shall be considered to be satisfactorily identified and shall be admitted in any proceeding as prima facie evidence of the transactions. Additional proof of the official character of the person certifying the record or the authenticity of the person's signature shall not be required. Whenever an employee of the collection services center is served with a summons, subpoena, subpoena duces tecum, or order directing that person to produce such records, the employee may comply by transmitting a copy of the payment records certified as described above to the clerk of the district court.

86 Acts, ch 1246, §316

252B.17A Imaging or photographic copies — originals destroyed.

1. If the unit, in the regular course of business or activity, has recorded or received any memorandum, writing, entry, print, document, representation, or combination thereof, of any act, transaction, occurrence, event, or communication from any source, and in the regular course of business has caused any or all of the same to be recorded, copied, or reproduced by any photographic, photostatic, microfilm, microcard, miniature photographic, electronic imaging, electronic data processing, or other process which accurately reproduces or forms a durable medium for accurately and legibly reproducing an unaltered image or reproduction of the original, the original may be destroyed. Such reproduction, when satisfactorily identified, is as admissible in evidence as the original itself in any judicial or administrative proceeding whether the original is in existence or not and an enlargement or facsimile of such reproduction is likewise admissible in evidence if the original recording, copy, or reproduction is in existence and available for inspection. The introduction of a reproduced record, enlargement, or facsimile, does not preclude admission of the original.

2. The electronically imaged, copied, or otherwise reproduced record or document maintained or received by the unit, when certified over the signature of a designated employee of the unit, shall be considered to be satisfactorily identified. Certified documents are deemed to have been imaged or copied or otherwise reproduced accurately and unaltered in the regular course of business, and such documents are admissible in any judicial or administrative proceeding as evidence. Additional proof of the official character of the person certifying the record or authenticity of the person's signature shall not be required. Whenever the unit or an employee of the unit is served with a summons, subpoena, subpoena duces tecum, or order directing production of such records, the unit or employee may comply by transmitting a copy of the record certified as described above to the district court.

97 Acts, ch 175, §44

252B.18 Child support advisory committee — established — duties. Repealed by 2010 Acts, ch 1031, §393.

252B.19 Reserved.

252B.20 Suspension of support — request by mutual consent.

1. If the unit is providing child support enforcement services pursuant to this chapter, the parents of a dependent child for whom support has been ordered pursuant to chapter 252A,

252C, 252F, 598, 600B, or any other chapter, may jointly request the assistance of the unit in suspending the obligation for support if all of the following conditions exist:

a. The parents have reconciled and are cohabiting, and the child for whom support is ordered is living in the same residence as the parents, or the child is currently residing with the parent who is ordered to pay support. If the basis for suspension under this paragraph applies to at least one but not all of the children for whom support is ordered, the condition of this paragraph is met only if the support order includes a step change.

b. The child for whom support is ordered is not receiving public assistance pursuant to chapter 239B, 249A, or a comparable law of another state or foreign country, unless the person against whom support is ordered is considered to be a member of the same household as the child for the purposes of public assistance eligibility.

c. The parents have signed a notarized affidavit attesting to the conditions under paragraphs "a" and "b", have consented to suspension of the support order or obligation, and have submitted the affidavit to the unit.

d. No prior request for suspension has been filed with the unit under this section and no prior request for suspension has been served by the unit under section 252B.20A during the two-year period preceding the request.

e. Any other criteria established by rule of the department.

2. Upon receipt of the application for suspension and properly executed and notarized affidavit, the unit shall review the application and affidavit to determine that the necessary criteria have been met. The unit shall then do one of the following:

a. Deny the request and notify the parents in writing that the application is being denied, providing reasons for the denial and notifying the parents of the right to proceed through private counsel. Denial of the application is not subject to contested case proceedings or further review pursuant to chapter 17A.

b. Approve the request and prepare an order which shall be submitted, along with the affidavit, to a judge of a district court for approval, suspending the accruing support obligation and, if requested by the obligee, and if not prohibited by chapter 252K, satisfying the obligation of support due the obligee. If the basis for suspension applies to at least one but not all of the children for whom support is ordered and the support order includes a step change, the unit shall prepare an order suspending the accruing support obligation for each child to whom the basis for suspension applies.

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

4. An order suspending an accruing support obligation entered by the court pursuant to this section shall be considered a temporary order for the period of six months from the date of filing of the suspension order. However, the six-month period shall not include any time during which an application for reinstatement is pending before the court.

5. During the six-month period the unit may request that the court reinstate the accruing support order or obligation if any of the following conditions exist:

a. Upon application to the unit by either parent or other person who has physical custody of the child.

b. Upon the receipt of public assistance benefits, pursuant to chapter 239B, 249A, or a comparable law of another state or foreign country, by the person entitled to receive support and the child on whose behalf support is paid, provided that the person owing the support is not considered to be a member of the same household as the child for the purposes of public assistance eligibility.

6. If a condition under subsection 5 exists, the unit may request that the court reinstate an accruing support obligation as follows:

a. If the basis for the suspension no longer applies to any of the children for whom an accruing support obligation was suspended, the unit shall request that the court reinstate the accruing support obligations for all of the children.

b. If the basis for the suspension continues to apply to at least one but not all of the children for whom an accruing support obligation was suspended and if the support order includes a

step change, the unit shall request that the court reinstate the accruing support obligation for each child for whom the basis for the suspension no longer applies.

7. Upon filing of an application for reinstatement, service of the application shall be made either in person or by first class mail upon both parents. Within ten days following the date of service, the parents may file a written objection with the clerk of the district court to the entry of an order for reinstatement.

a. If no objection is filed, the court may enter an order reinstating the accruing support obligation without additional notice.

b. If an objection is filed, the clerk of court shall set the matter for hearing and send notice of the hearing to both parents and the unit.

8. The reinstatement is effective as follows:

a. For reinstatements initiated under subsection 5, paragraph "a", the date the notices were served on both parents pursuant to subsection 7.

b. For reinstatements initiated under subsection 5, paragraph "b", the date the child began receiving public assistance benefits during the suspension of the obligation.

c. Support which became due during the period of suspension but prior to the reinstatement is waived and not due and owing unless the parties requested and agreed to the suspension under false pretenses.

9. If the order suspending a support obligation has been on file with the court for a period exceeding six months as computed pursuant to subsection 4, the order becomes final by operation of law and terminates the support obligation, and thereafter, a party seeking to establish a support obligation against either party shall bring a new action for support as provided by law.

10. This section shall not limit the rights of the parents or the unit to proceed by other means to suspend, terminate, modify, reinstate, or establish support.

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

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

13. For the purposes of chapter 252H, subchapter II, regarding the criteria for a review or for a cost-of-living alteration under chapter 252H, subchapter IV, if a support obligation is terminated or reinstated under this section, such termination or reinstatement shall not be considered a modification of the support order.

14. As used in this section, unless the context otherwise requires, "*step change*" means a change designated in a support order specifying the amount of the child support obligation as the number of children entitled to support under the order changes.

15. As specified in this section, if the child for whom support is ordered is not receiving public assistance pursuant to chapter 239B, 249A, or a comparable law of another state or foreign country, upon agreement of the parents, the unit may facilitate the suspension of the child support order or obligation if the child is residing with a caretaker, who is a natural person, and who has not requested the unit to provide services under this chapter. The parents and the caretaker shall sign a notarized affidavit attesting to the conditions under this section, consent to the suspension of the support order or obligation, and submit the affidavit to the unit. Upon the receipt of public assistance benefits pursuant to chapter 239B, 249A, or a comparable law of another state or foreign country, by the child on whose behalf support is ordered, or upon application to the unit by either parent or the caretaker, the unit may, within the time periods specified in this section, request the reinstatement of the accruing support order or obligation pursuant to this section.

16. The department may adopt all necessary and proper rules to administer and interpret this section.

93 Acts, ch 79, §24; 94 Acts, ch 1171, §18; 96 Acts, ch 1141, §4; 97 Acts, ch 41, §32; 98 Acts, ch 1170, §46, 47; 2005 Acts, ch 112, §2 – 5; 2011 Acts, ch 25, §20; 2015 Acts, ch 110, §119, 123
Referred to in §252B.20A

252B.20A Suspension of support — request by one party.

1. If the unit is providing child support enforcement services pursuant to this chapter, the obligor who is ordered to pay support for the dependent child pursuant to chapter 252A, 252C, or 252F, may request the assistance of the unit in suspending the obligation for support if all of the following conditions exist:

a. The child is currently residing with the obligor and has been for more than sixty consecutive days. If the basis for suspension under this paragraph applies to at least one but not all of the children for whom support is ordered, the condition of this paragraph is met only if the support order includes a step change.

b. There is no order in effect regarding legal custody, physical care, visitation, or other parenting time for the child.

c. It is reasonably expected that the basis for suspension under this section will continue for not less than six months.

d. The child for whom support is ordered is not receiving public assistance pursuant to chapter 239B, 249A, or a comparable law of another state or foreign country, unless the obligor is considered to be a member of the same household as the child for the purposes of public assistance eligibility.

e. The obligor has signed a notarized affidavit, provided by the unit, attesting to the existence of the conditions under paragraphs “a” through “d”, has requested suspension of the support order or obligation, and has submitted the affidavit to the unit.

f. No prior request for suspension has been served under this section, and no prior request for suspension has been filed with the unit pursuant to section 252B.20, during the two-year period preceding the request.

g. Any other criteria established by rule of the department.

2. Upon receipt of the application for suspension and properly executed and notarized affidavit, the unit shall review the application and affidavit to determine that the criteria have been met. The unit shall then do one of the following:

a. If the unit determines the criteria have not been met, deny the request and notify the obligor in writing that the application is being denied, providing reasons for the denial and notifying the obligor of the right to proceed through private counsel. Denial of the application is not subject to contested case proceedings or further review pursuant to chapter 17A.

b. If the unit determines the criteria have been met, serve a copy of the notice and supporting documents on the obligee by any means provided in section 252B.26. The notice to the obligee shall include all of the following:

(1) Information sufficient to identify the parties and the support order affected.

(2) An explanation of the procedure for suspension and reinstatement of support under this section.

(3) An explanation of the rights and responsibilities of the obligee, including the applicable procedural time frames.

(4) A statement that within twenty days of service, the obligee must submit a signed and notarized response to the unit objecting to at least one of the assertions in subsection 1, paragraphs “a” through “d”. The statement shall inform the obligee that if, within twenty days of service, the obligee fails to submit a response as specified in this subparagraph, notwithstanding rules of civil procedure 1.972(2) and 1.972(3), the unit will prepare and submit an order as provided in subsection 3, paragraph “b”.

3. No sooner than thirty days after service on the obligee under subsection 2, paragraph “b”, the unit shall do one of the following:

a. If the obligee submits a signed and notarized objection to any assertion in subsection 1, paragraphs “a” through “d”, deny the request and notify the parties in writing that the application is denied, providing reasons for the denial, and notifying the parties of the right

to proceed through private counsel. Denial of the application is not subject to contested case proceedings or further review pursuant to chapter 17A.

b. If the obligee does not timely submit a signed and notarized objection to the unit, prepare an order which shall be submitted, along with supporting documents, to a judge of a district court for approval, suspending the accruing support obligation. If the basis for suspension applies to at least one but not all of the children for whom support is ordered and the support order includes a step change, the unit shall prepare an order suspending the accruing support obligation for each child to whom the basis for suspension applies.

4. An order approved by the court for suspension of an accruing support obligation is effective upon the date of filing of the suspension order.

5. An order suspending an accruing support obligation entered by the court pursuant to this section shall be considered a temporary order for the period of six months from the date of filing of the suspension order. However, the six-month period shall not include any time during which an application for reinstatement is pending before the court.

6. During the six-month period, the unit may request that the court reinstate the accruing support order or obligation if any of the following conditions exist:

a. Upon application to the unit by either party or other person who has physical custody of the child.

b. Upon the receipt of public assistance benefits pursuant to chapter 239B, 249A, or a comparable law of another state or foreign country, by the person entitled to receive support and the child on whose behalf support is paid, provided that the person owing the support is not considered to be a member of the same household as the child for the purposes of public assistance eligibility.

7. If a condition under subsection 6 exists, the unit may request that the court reinstate an accruing support obligation as follows:

a. If the basis for the suspension no longer applies to any of the children for whom an accruing support obligation was suspended, the unit shall request that the court reinstate the accruing support obligations for all of the children.

b. If the basis for the suspension continues to apply to at least one but not all of the children for whom an accruing support obligation was suspended and if the support order includes a step change, the unit shall request that the court reinstate the accruing support obligation for each child for whom the basis for the suspension no longer applies.

8. Upon filing of an application for reinstatement, service of the application shall be made either in person or by first class mail upon the parties. Within ten days following the date of service, a party may file a written objection with the clerk of the district court to the entry of an order for reinstatement.

a. If no objection is filed, the court may enter an order reinstating the accruing support obligation without additional notice.

b. If an objection is filed, the clerk of court shall set the matter for hearing and send notice of the hearing to the parties and the unit.

9. a. The reinstatement is effective as follows:

(1) For reinstatements initiated under subsection 6, paragraph "a", the date the notices were served on the parties pursuant to subsection 8.

(2) For reinstatements initiated under subsection 6, paragraph "b", the date the child began receiving public assistance benefits during the suspension of the obligation.

b. Support which became due during the period of suspension but prior to the reinstatement is waived and not due and owing unless the suspension was made under false pretenses.

10. If the order suspending a support obligation has been on file with the court for a period exceeding six months as computed pursuant to subsection 5, the order becomes final by operation of law and terminates the support obligation, and thereafter, a party seeking to establish a support obligation against either party shall bring a new action for support as provided by law.

11. Legal representation of the unit shall be provided pursuant to section 252B.7, subsection 4.

12. This section shall not limit the rights of a party or the unit to proceed by other means to suspend, terminate, modify, reinstate, or establish support.

13. This section does not provide for the suspension or retroactive modification of support obligations which accrued prior to the entry of an order suspending enforcement and collection of support pursuant to this section.

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

15. For the purposes of chapter 252H regarding the criteria for a review under subchapter II of that chapter or for a cost-of-living alteration under subchapter IV of that chapter, if a support obligation is terminated or reinstated under this section, such termination or reinstatement shall not be considered a modification of the support order.

16. As used in this section, unless the context otherwise requires, “*step change*” means a change designated in a support order specifying the amount of the child support obligation as the number of children entitled to support under the order changes.

17. As specified in this section, if the child for whom support is ordered is not receiving public assistance pursuant to chapter 239B, 249A, or a comparable law of another state or foreign country, upon request by the obligor, the unit may facilitate the suspension of the child support order or obligation if the child is residing with a caretaker, who is a natural person, and who has not requested the unit to provide services under this chapter. The obligor and the caretaker shall sign a notarized affidavit attesting to the conditions under this section, consent to the suspension of the support order or obligation, and submit the affidavit to the unit. Upon the receipt of public assistance benefits pursuant to chapter 239B, 249A, or a comparable law of another state or foreign country, by the child on whose behalf support is ordered, or upon application to the unit by either party or the caretaker, the unit may, within the time periods specified in this section, request the reinstatement of the accruing support order or obligation pursuant to this section.

18. The department may adopt all necessary and proper rules to administer and interpret this section.

2015 Acts, ch 110, §120, 123

Referred to in §252B.20

252B.21 Administrative seek employment orders.

1. For any support order being enforced by the unit, the unit may enter an ex parte order requiring the obligor to seek employment if employment of the obligor cannot be verified and if the obligor has failed to make support payments. Advance notice is not required prior to entering the ex parte order. The order shall be served upon the obligor by regular mail, with proof of service completed as provided in rule of civil procedure 1.442. The unit shall file a copy of the order with the clerk of the district court.

2. The order to seek employment shall contain directives, including all of the following:

a. That the obligor seek employment within a determinate amount of time.

b. That the obligor file with the unit on a weekly basis a report of at least five new attempts to find employment or of having found employment. The report shall include the names, addresses, and the telephone numbers of any employers or businesses with whom the obligor attempted to seek employment and the name of the individual contact to whom the obligor made application for employment or to whom an inquiry was directed.

c. That failure to comply with the notice is evidence of a willful failure to pay support under section 598.23A.

d. That the obligor shall provide the child support recovery unit with verification of any reason for noncompliance with the order.

e. The duration of the order, not to exceed three months.

3. The department may establish additional criteria or requirements relating to seek employment orders by rule as necessary to implement this section.

93 Acts, ch 79, §26; 94 Acts, ch 1171, §19

Referred to in §252B.6A, 598.23A

252B.22 Liens — motor vehicle registration — task force.

1. The child support recovery unit created in this chapter shall establish a task force to assist in the development and implementation of all of the following:

a. The filing of notices of liens and actions to release liens.

b. The process for delaying the renewal of a motor vehicle registration due to a support delinquency and recommendations for additional statutory changes to the general assembly.

2. Members of the task force may include, but shall not be limited to, representatives, appointed by the respective entity, of the Iowa land title association, the Iowa realtors' association, the Iowa state bar association, the Iowa county recorders' association, the Iowa clerks of court association, the Iowa county treasurers' association, the Iowa automobile dealers' association, the Iowa bankers association, the Iowa recreational vehicle dealers' association, the independent automobile dealers' association of Iowa, the Iowa mortgage bankers' association, the Iowa motorcycle association, the Iowa credit union league, department of administrative services, state department of transportation, the office of the secretary of state, the office of the state court administrator, and other constituency groups and agencies which have an interest in a statewide support lien index to the record liens. Appointments are not subject to sections 69.16 and 69.16A. Vacancies shall be filled by the original appointment authority and in the manner of the original appointments.

97 Acts, ch 175, §201; 2000 Acts, ch 1125, §1, 4; 2003 Acts, ch 145, §286

252B.23 Surcharge.

1. A surcharge shall be due and payable by the obligor on a support arrearage identified as difficult to collect and referred by the unit on or after January 1, 1998, to a collection entity under contract with the unit or other state entity. The amount of the surcharge shall be a percent of the amount of the support arrearage referred to the collection entity and shall be specified in the contract with the collection entity. For the purpose of this chapter, a "collection entity" includes but is not limited to a state agency, including the central collection unit of the department of revenue, or a private collection agency. Use of a collection entity is in addition to any other legal means by which support payments may be collected. The unit shall continue to use other enforcement actions, as appropriate.

2. a. Notice that a surcharge may be assessed on a support arrearage referred to a collection entity pursuant to this section shall be provided to an obligor in accordance with one of the following as applicable:

(1) In the order establishing or modifying the support obligation. The unit or district court shall include notice in any new or modified support order issued on or after July 1, 1997.

(2) Through notice sent by the unit by regular mail to the last known address of the support obligor.

b. The notice shall also advise that any appropriate information may be provided to a collection entity for purposes of administering and enforcing the surcharge.

3. Arrearages submitted for referral and surcharge pursuant to this section shall meet all of the following criteria:

a. The arrearages owed shall be based on a court or administrative order which establishes the support obligation.

b. The arrearage is due for a case in which the unit is providing services pursuant to this chapter and one for which the arrearage has been identified as difficult to collect by the unit.

c. The obligor was provided notice pursuant to subsection 2 at least fifteen days prior to sending the notice of referral pursuant to subsection 4.

4. The unit shall send notice of referral to the obligor by regular mail to the obligor's last known address, with proof of service completed according to rule of civil procedure 1.442, at least thirty days prior to the date the arrearage is referred to the collection entity. The notice shall inform the obligor of all of the following:

a. The arrearage will be referred to a collection entity.

b. Upon referral, a surcharge is due and payable by the obligor.

c. The amount of the surcharge.

d. That the obligor may avoid referral by paying the amount of the arrearage to the collection services center within twenty days of the date of notice of referral.

e. That the obligor may contest the referral by submitting a written request for review of the unit. The request shall be received by the unit within twenty days of the date of the notice of referral.

f. The right to contest the referral is limited to a mistake of fact, which includes a mistake in the identity of the obligor, a mistake as to fulfillment of the requirements for referral under this subsection, or a mistake in the amount of the arrearages.

g. The unit shall issue a written decision following a requested review.

h. Following the issuance of a written decision by the unit denying that a mistake of fact exists, the obligor may request a hearing to challenge the surcharge by sending a written request for a hearing to the office of the unit which issued the decision. The request shall be received by the office of the unit which issued the decision within ten days of the unit's written decision. The only grounds for a hearing shall be mistake of fact. Following receipt of the written request, the unit which receives the request shall certify the matter for hearing in the district court in the county in which the underlying support order is filed.

i. The address of the collection services center for payment of the arrearages.

5. If the obligor pays the amount of arrearage within twenty days of the date of the notice of referral, referral of the arrearage to a collection entity shall not be made.

6. If the obligor requests a review or court hearing pursuant to this section, referral of the arrearages shall be stayed pending the decision of the unit or the court.

7. Actions of the unit under this section shall not be subject to contested case proceedings or further review pursuant to chapter 17A and any resulting court hearing shall be an original hearing before the district court. However, the department shall establish, by rule pursuant to chapter 17A, an internal process to provide an additional review by the administrator of the child support recovery unit or the administrator's designee.

8. If an obligor does not pay the amount of the arrearage, does not contest the referral, or if following the unit's review and any court hearing the unit or court does not find a mistake of fact, the arrearages shall be referred to a collection entity. Following the review or hearing, if the unit or court finds a mistake in the amount of the arrearage, the arrearages shall be referred to the collection entity in the appropriate arrearage amount. For arrearages referred to a collection entity, the obligor shall pay a surcharge equal to a percent of the amount of the support arrearage due as of the date of the referral. The surcharge is in addition to the arrearages and any other fees or charges owed, and shall be enforced by the collection entity as provided under section 252B.5. Upon referral to the collection entity, the surcharge is an automatic judgment against the obligor.

9. The director or the director's designee may file a notice of the surcharge with the clerk of the district court in the county in which the underlying support order is filed. Upon filing, the clerk shall enter the amount of the surcharge on the lien index and judgment docket.

10. Following referral of a support arrearage to a collection entity, the surcharge shall be due and owing and enforceable by a collection entity or the unit notwithstanding satisfaction of the support obligation or whether the collection entity is enforcing a support arrearage. However, the unit may waive payment of all or a portion of the surcharge if waiver will facilitate the collection of the support arrearage.

11. All surcharge payments shall be received and disbursed by the collection services center. The surcharge payments received by the collection services center shall be considered repayment receipts as defined in section 8.2 and shall be used to pay the costs of any contracts with a collection entity.

12. a. A payment received by the collection services center which meets all the following conditions shall be allocated as specified in paragraph "b":

- (1) The payment is for a case in which arrearages have been referred to a collection entity.
- (2) A surcharge is assessed on the arrearages.
- (3) The payment is collected under the provisions of the contract with the collection entity.

b. A payment meeting all of the conditions in paragraph "a" shall be allocated between support and costs and fees, and the surcharge according to the following formula:

(1) The payment shall be divided by the sum of one hundred percent plus the percent specified in the contract.

(2) The quotient shall be the amount allocated to the support arrearage and other fees and costs.

(3) The difference between the dividend and the quotient shall be the amount allocated to the surcharge.

13. Any computer or software programs developed and any records used in relation to a contract with a collection entity remain the property of the department.

97 Acts, ch 175, §244; 2003 Acts, ch 145, §286; 2005 Acts, ch 175, §119

Referred to in §252B.9, 252B.13A

252B.24 State case registry.

1. Beginning October 1, 1998, the unit shall operate a state case registry to the extent determined by applicable time frames and other provisions of 42 U.S.C. §654a(e) and this section. The unit and the judicial branch shall enter into a cooperative agreement for the establishment and operation of the registry by the unit. The state case registry shall include records with respect to all of the following:

a. Unless prohibited by federal law, each case for which services are provided under this chapter.

b. Each order for support, as defined in section 252D.16 or 598.1, which meets at least one of the following criteria:

(1) The support order is established or modified in this state on or after October 1, 1998.

(2) The income of the obligor is subject to income withholding under chapter 252D, including any support order for which the district court enters an ex parte order under chapter 252D on or after October 1, 1998.

2. The clerk of the district court shall provide the unit with any information, orders, or documents requested by the unit to establish or operate the state case registry, which are specified in the agreement described in subsection 1, within the time frames specified in that agreement. The agreement shall include but is not limited to provisions to provide for all of the following:

a. Provision to the unit of information, orders, and documents necessary for the unit to meet requirements described in 42 U.S.C. §654a(e) and this section.

b. Provision to the unit of information filed with the clerk of the district court by a party under section 598.22B, and the social security number of a child filed with the clerk of the district court under section 602.6111.

c. Use of automation, as appropriate, to meet the requirements described in 42 U.S.C. §654a(e) and this section.

3. The records of the state case registry are confidential records pursuant to chapter 22 and may only be disclosed or used as provided in section 252B.9.

98 Acts, ch 1047, §68; 98 Acts, ch 1170, §15; 2014 Acts, ch 1026, §58, 59

Referred to in §252B.13A, 598.22B, 602.8102(47B)

252B.25 Contempt — combining actions.

Notwithstanding any provision of law to the contrary, if an obligor has been ordered to provide support in more than one order, the unit may bring a single action for contempt to enforce the multiple orders. However, if the obligor objects to the consolidation of the actions regarding multiple orders into a single action for contempt, and the court determines that severance of the single action into multiple actions is in the interest of justice, the unit shall bring multiple actions for contempt to enforce the multiple orders. If the single action is brought and the obligor does not object, the unit shall file the action in the district court of a county where the obligor resides, or if the obligor does not reside in the state, in the district court of the county where at least one of the support orders was entered or registered. For the purposes of this section, the district court where the unit files the action shall have jurisdiction and authority over all other support orders for the obligor entered or registered by a court of this state and affected under this section. In such case, the unit shall also file a document with the clerk of court in each county affected specifying the county where the action under this section was filed and the disposition of the action.

2005 Acts, ch 112, §6

252B.26 Service of process.

Notwithstanding any provision of law to the contrary, the unit may serve a petition, notice, or rule to show cause under this chapter or chapter 252A, 252C, 252F, 252H, 252K, 598, or 665 as specified in each chapter, or as follows:

1. The unit may serve a petition, notice, or rule to show cause by certified mail. Return acknowledgment is required to prove service by certified mail, rules of civil procedure 1.303(5) and 1.308(5) shall not apply, and the return acknowledgment shall be filed with the clerk of court.

2. The unit may serve a notice of intent under chapter 252H, or a notice of decision under section 252H.14A, upon any party or parent who is receiving family investment program assistance for the parent or child by sending the notice by regular mail to the address maintained by the department. Rules of civil procedure 1.303(5) and 1.308(5) shall not apply and the unit shall file proof of service as provided in chapter 252H. If the notice is determined to be undeliverable, the unit shall serve the notice as otherwise provided in this section or by personal service.

2005 Acts, ch 112, §7; 2007 Acts, ch 218, §142, 156; 2015 Acts, ch 110, §121, 123

Referred to in §252A.18, 252B.20A, 252H.14A

252B.27 Use of funding for additional positions.

1. The director, within the limitations of the amount appropriated for the unit, or moneys transferred for this purpose from the family investment program account created in section 239B.11, may establish new positions and add employees to the unit if the director determines that both the current and additional employees together can reasonably be expected to maintain or increase net state revenue at or beyond the budgeted level for the fiscal year.

2. a. The director may establish new positions and add state employees to the unit or contract for delivery of services if the director determines the employees are necessary to replace county-funded positions eliminated due to termination, reduction, or nonrenewal of a chapter 28E contract. However, the director must also determine that the resulting increase in the state share of child support recovery incentives exceeds the cost of the positions or contract, the positions or contract are necessary to ensure continued federal funding of the unit, or the new positions or contract can reasonably be expected to recover at least twice the amount of money necessary to pay the salaries and support for the new positions or the contract will generate at least two hundred percent of the cost of the contract.

b. Employees in full-time positions that transition from county government to state government employment under this subsection are exempt from testing, selection, and appointment provisions of chapter 8A, subchapter IV, and from the provisions of collective bargaining agreements relating to the filling of vacant positions.

2005 Acts, ch 175, §120

Collective bargaining, see chapter 20

Section not amended; editorial change applied

CHAPTER 252C

CHILD SUPPORT DEBTS — ADMINISTRATIVE PROCEDURES

Referred to in §234.39, 252A.3A, 252A.6, 252B.3, 252B.4, 252B.5, 252B.7A, 252B.9, 252B.14, 252B.20, 252B.20A, 252B.26, 252D.1, 252D.16, 252D.16A, 252E.1, 252E.1A, 252E.16, 252H.2, 252H.4, 252H.21, 252I.2, 252J.1, 598.21C, 598.21G, 598.22, 598.22B, 598.23A, 600.11

252C.1	Definitions.	252C.7	Employers — assignments of earnings. Repealed by 97 Acts, ch 175, §55.
252C.2	Assignment — creation of support debt — subrogation.	252C.8	Temporary restraining order or bond.
252C.3	Notice of support debt — failure to respond — hearing — order.	252C.9	Prevailing orders. Repealed by 93 Acts, ch 79, §54.
252C.4	Certification to court — hearing — default.	252C.10	Reserved.
252C.5	Filing and docketing of financial responsibility order — order effective as district court decree.	252C.11	Security for payment of support — forfeiture.
252C.6	Interest on support debts.	252C.12	Waiver of time limitations by responsible person.

252C.1 Definitions.

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

1. “*Administrator*” means the administrator of the child support recovery unit of the department of human services, or the administrator’s designee.
 2. “*Caretaker*” means a parent, relative, guardian, or another person who is responsible for paying foster care costs pursuant to chapter 234 or whose needs are included in an assistance payment made pursuant to chapter 239B.
 3. “*Court order*” means a judgment or order requiring the payment of a set or determinable amount of monetary support. For orders entered on or after July 1, 1990, unless the court specifically orders otherwise, medical support, as defined in section 252E.1, is not included in the amount of monetary support.
 4. “*Department*” means the department of human services.
 5. “*Dependent child*” means a person who meets the eligibility criteria established in chapter 234 or 239B and whose support is required by chapter 234, 239B, 252A, 252F, 598, or 600B.
 6. “*Medical support*” means medical support as defined in section 252E.1.
 7. “*Public assistance*” means foster care costs paid by the department pursuant to chapter 234 or assistance provided pursuant to chapter 239B.
 8. “*Responsible person*” means a parent, relative, guardian, or another person legally liable for the support of a child or a child’s caretaker.
- 84 Acts, ch 1278, §1; 90 Acts, ch 1224, §14, 15; 93 Acts, ch 79, §44; 97 Acts, ch 41, §32; 2007 Acts, ch 218, §158, 187; 2008 Acts, ch 1019, §18, 20; 2015 Acts, ch 110, §89; 2018 Acts, ch 1111, §1, 10

Referred to in §252H.2, 598.21G

252C.2 Assignment — creation of support debt — subrogation.

1. If public assistance is provided by the department to or on behalf of a dependent child or a dependent child’s caretaker, there is an assignment by operation of law to the department of any and all right in, title to, and interest in any support obligation, payment, and arrearages owed to or for the child or caretaker up to the amount of public assistance paid for or on behalf of the child or caretaker. Unless otherwise specified in the order, an equal and proportionate share of any child support awarded is presumed to be payable on behalf of each child subject to the order or judgment for purposes of an assignment under this section. For family investment program assistance, section 239B.6 shall apply.

2. The payment of public assistance to or for the benefit of a dependent child or a dependent child’s caretaker creates a support debt due and owing to the department by the responsible person in an amount equal to the public assistance payment, except that the support debt is limited to the amount of a support obligation established by court order or by the administrator. The administrator may establish a support debt as to amounts accrued and accruing pursuant to section 598.21B. However, when establishing a support

obligation against a responsible person, no debt shall be created for the period during which the responsible person is a recipient on the person's own behalf of public assistance for the benefit of the dependent child or the dependent child's caretaker, if any of the following conditions exist:

a. The parents have reconciled and are cohabiting, and the child for whom support would otherwise be sought is living in the same residence as the parents.

b. The child is living with the parent from whom support would otherwise be sought.

3. The provision of child support collection or paternity determination services under chapter 252B to an individual, even though the individual is ineligible for public assistance, creates a support debt due and owing to the individual or the individual's child or ward by the responsible person in the amount of a support obligation established by court order or by the administrator. The administrator may establish a support debt in favor of the individual or the individual's child or ward and against the responsible person, both as to amounts accrued and accruing, pursuant to section 598.21B.

4. The payment of medical assistance pursuant to chapter 249A for the benefit of a dependent child or a dependent child's caretaker creates a support debt due and owing to the department. The administrator may establish an order for medical support.

5. The department is subrogated to the rights of a dependent child or a dependent child's caretaker to bring a court action or to execute an administrative remedy for the collection of support. The administrator may petition an appropriate court for modification of a court order on the same grounds as a party to the court order can petition the court for modification.

84 Acts, ch 1278, §2; 89 Acts, ch 166, §4; 92 Acts, ch 1195, §401, 402; 94 Acts, ch 1171, §20; 97 Acts, ch 175, §50; 2005 Acts, ch 69, §12, 13; 2008 Acts, ch 1019, §4, 7

Referred to in §252C.3, 598.21B

252C.3 Notice of support debt — failure to respond — hearing — order.

1. The administrator may issue a notice stating the intent to secure an order for either medical support as provided in chapter 252E or payment of an accrued or accruing support debt due and owed to the department or an individual under section 252C.2, or both. The notice shall be served upon the responsible person in accordance with the rules of civil procedure. The notice shall include all of the following:

a. A statement that the support obligation will be set pursuant to the child support guidelines established pursuant to section 598.21B, and the criteria established pursuant to section 252B.7A, and that the responsible person is required to provide medical support in accordance with chapter 252E.

b. The name of a public assistance recipient and the name of the dependent child or caretaker for whom the public assistance is paid.

c. (1) A statement that if the responsible person desires to discuss the amount of support that a responsible person should be required to pay, the responsible person may, within ten days after being served, contact the office of the child support recovery unit which sent the notice and request a negotiation conference.

(2) A statement that if a negotiation conference is requested, then the responsible person shall have ten days from the date set for the negotiation conference or thirty days from the date of service of the original notice, whichever is later, to send a request for a hearing to the office of the child support recovery unit which issued the notice.

(3) A statement that after the holding of the negotiation conference, the administrator may issue a new notice and finding of financial responsibility for child support or medical support, or both, to be sent to the responsible person by regular mail addressed to the responsible person's last known address, or if applicable, to the last known address of the responsible person's attorney.

(4) A statement that if the administrator issues a new notice and finding of financial responsibility for child support or medical support, or both, then the responsible person shall have thirty days from the date of issuance of the new notice to send a request for a hearing to the office of the child support recovery unit which issued the notice. If the administrator does not issue a new notice and finding of financial responsibility for child support or medical support, or both, the responsible party shall have ten days from the date

of issuance of the conference report to send a request for a hearing to the office of the child support recovery unit which issued the conference report.

d. A statement that if the responsible person objects to all or any part of the notice or finding of financial responsibility for child support or medical support, or both, and a negotiation conference is not requested, the responsible person shall, within thirty days of the date of service send to the office of the child support recovery unit which issued the notice a written response setting forth any objections and requesting a hearing.

e. A statement that if a timely written request for a hearing is received by the office of the child support recovery unit which issued the notice, the responsible person shall have the right to a hearing to be held in district court; and that if no timely written response is received, the administrator may enter an order in accordance with the notice and finding of financial responsibility for child support or medical support, or both.

f. A statement that, as soon as the order is entered, the property of the responsible person is subject to collection action, including but not limited to wage withholding, garnishment, attachment of a lien, and execution.

g. A statement that the responsible person shall notify the administrator of any change of address, employment, or medical coverage as required by chapter 252E.

h. A statement that if the responsible person has any questions, the responsible person should telephone or visit an office of the child support recovery unit or consult an attorney.

i. Such other information as the administrator finds appropriate.

2. The time limitations for requesting a hearing in subsection 1 may be extended by the administrator.

3. If a timely written response setting forth objections and requesting a hearing is received by the appropriate office of the child support recovery unit, a hearing shall be held in district court.

4. If timely written response and request for hearing is not received by the appropriate office of the child support recovery unit, the administrator may enter an order in accordance with the notice, and shall specify all of the following:

a. The amount of monthly support to be paid, with directions as to the manner of payment.

b. The amount of the support debt accrued and accruing in favor of the department.

c. The name of the custodial parent or agency having custody of the dependent child and the name and birth date of the dependent child for whom support is to be paid.

d. That the property of the responsible person is subject to collection action, including but not limited to wage withholding, garnishment, attachment of a lien, and execution.

e. The medical support required pursuant to chapter 598 and rules adopted pursuant to chapter 252E.

5. The responsible person shall be sent a copy of the order by regular mail addressed to the responsible person's last known address, or if applicable, to the last known address of the responsible person's attorney. The order is final, and action by the administrator to enforce and collect upon the order, including arrearages and medical support, or both, may be taken from the date of approval of the order by the court pursuant to section 252C.5.

84 Acts, ch 1278, §3; 90 Acts, ch 1224, §16 – 21; 92 Acts, ch 1195, §202, 203, 403; 95 Acts, ch 52, §3, 4; 97 Acts, ch 175, §51 – 53; 2005 Acts, ch 69, §14; 2007 Acts, ch 218, §159, 160, 187; 2008 Acts, ch 1019, §18, 20

Referred to in §234.39, 252C.12

252C.4 Certification to court — hearing — default.

1. A responsible person or the child support recovery unit may request a hearing regarding a determination of support. If a timely written request for a hearing is received, the administrator shall certify the matter to the district court as follows:

a. If the child or children reside in Iowa, and the unit is seeking an accruing obligation, in the county in which the dependent child or children reside.

b. If the child or children received public assistance in Iowa, and the unit is seeking only an accrued obligation, in the county in which the dependent child or children last received public assistance.

c. If the action is the result of a request from another state or foreign country to establish

support by a responsible person located in Iowa, in the county in which the responsible person resides.

2. The certification shall include true copies of the notice and finding of financial responsibility or notice of the support debt accrued and accruing, the return of service, the written objections and request for hearing, and true copies of any administrative orders previously entered.

3. The court shall set the matter for hearing and notify the parties of the time and place of hearing.

4. The court shall establish the monthly child support payment and the amount of the support debt accrued and accruing pursuant to section 598.21B, or medical support pursuant to chapter 252E, or both.

5. If a party fails to appear at the hearing, upon a showing of proper notice to that party, the court shall find that party in default and enter an appropriate order.

6. Actions initiated by the administrator under this chapter are not subject to chapter 17A and resulting court hearings following certification shall be an original hearing before the district court.

7. If a responsible person contests an action initiated under this chapter by denying paternity, the following shall apply, as necessary:

a. (1) If the prior determination of paternity is based on an affidavit of paternity filed pursuant to section 252A.3A, or an administrative order entered pursuant to chapter 252F, or an order by the courts of this state, or by operation of law when the mother and established father are or were married to each other, the provisions of section 600B.41A are applicable.

(2) If the court determines that the prior determination of paternity should not be overcome pursuant to section 600B.41A, and that the responsible person has a duty to provide support, the court shall enter an order establishing the monthly child support payment and the amount of the support debt accrued and accruing pursuant to section 598.21B, or medical support pursuant to chapter 252E, or both.

b. If the prior determination of paternity is based on an administrative or court order or other means, pursuant to the laws of another state or foreign country, an action to overcome the prior determination of paternity shall be filed in that jurisdiction. Unless the responsible person requests and is granted a stay of an action initiated under this chapter to establish child or medical support, the action shall proceed as otherwise provided by this chapter.

84 Acts, ch 1278, §4; 89 Acts, ch 166, §5; 89 Acts, ch 179, §1; 90 Acts, ch 1224, §22; 92 Acts, ch 1195, §204; 93 Acts, ch 78, §9; 94 Acts, ch 1171, §21, 22; 95 Acts, ch 67, §19; 2005 Acts, ch 69, §15, 16; 2015 Acts, ch 110, §90, 91

Referred to in §252C.5, 598.21B

252C.5 Filing and docketing of financial responsibility order — order effective as district court decree.

1. A true copy of any order entered by the administrator pursuant to this chapter, along with a true copy of the return of service, if applicable, may be filed in the office of the clerk of the district court in the manner established pursuant to section 252C.4, subsection 1.

2. The administrator's order shall be presented, *ex parte*, to the district court for review and approval. Unless defects appear on the face of the order or on the attachments, the district court shall approve the order. The approved order shall have all the force, effect, and attributes of a docketed order or decree of the district court.

3. Upon filing, the clerk shall enter the order in the judgment docket.

4. The responsible party appeals the order approved by the court under this section, and the court on appeal establishes an amount of support which is less than the amount of support established under the approved order, the court, in the order issued on appeal, shall reconcile the amounts due and shall provide that any amount which represents the unpaid difference between the amount under the approved order and the amount under the order of the court on appeal is satisfied.

84 Acts, ch 1278, §5; 89 Acts, ch 179, §2; 92 Acts, ch 1195, §504; 94 Acts, ch 1171, §23; 97 Acts, ch 175, §54

Referred to in §252C.3

252C.6 Interest on support debts.

Interest accrues on support debts at the rate provided in section 535.3 for court judgments. The administrator may collect the accrued interest but is not required to maintain interest balance accounts. The department may waive payment of the interest if the waiver will facilitate the collection of the support debt.

84 Acts, ch 1278, §6

252C.7 Employers — assignments of earnings. Repealed by 97 Acts, ch 175, §55.**252C.8 Temporary restraining order or bond.**

If the administrator reasonably believes that the responsible person is not a resident of this state, is about to move from this state, or is concealing the responsible person's whereabouts, or that the responsible person has removed or is about to remove, secrete, waste, or otherwise dispose of property which could be made subject to collection procedures to satisfy the support debt, the administrator may petition the district court for a temporary restraining order barring the removal, secretion, waste, or disposal. However, if the responsible person furnishes a bond satisfactory to the court, the temporary restraining order shall be vacated.

84 Acts, ch 1278, §8

252C.9 Prevailing orders. Repealed by 93 Acts, ch 79, §54.**252C.10** Reserved.**252C.11 Security for payment of support — forfeiture.**

Upon entry of a court order or upon the failure of a person to make payments pursuant to a court order, the court may require the person to provide security, a bond, or other guarantee which the court determines is satisfactory to secure the payment of the support obligation. Upon the person's failure to pay the support obligation under the court order, the court may declare the security, bond, or other guarantee forfeited.

85 Acts, ch 100, §2

252C.12 Waiver of time limitations by responsible person.

1. A responsible person may waive the time limitations established in section 252C.3.

2. Upon receipt of a signed statement from each responsible person waiving the time limitations established in section 252C.3, the administrator may proceed to enter an order for support and the court may approve the order, whether or not the time limitations have expired.

3. If a responsible person waives the time limitations established in section 252C.3 and an order for support is entered under this chapter, the signed statement of the responsible person waiving the time limitations shall be filed with the order for support.

92 Acts, ch 1195, §205; 2007 Acts, ch 218, §161, 187; 2008 Acts, ch 1019, §18, 20

CHAPTER 252D

SUPPORT PAYMENTS — INCOME WITHHOLDING

Referred to in §96.3, 249A.52, 252B.3, 252B.4, 252B.9, 252B.14, 252B.15, 252B.24, 252E.4, 252G.8, 252I.2, 252J.1, 535.3, 598.22, 598.23, 598.23A, 642.2, 642.21

SUBCHAPTER I DELINQUENT PAYMENTS	SUBCHAPTER II IMMEDIATE INCOME WITHHOLDING
252D.1 Delinquent support payments.	252D.8 Persons subject to immediate income withholding.
252D.2 Repealed by 97 Acts, ch 175, §69.	
252D.3 Notice of income withholding.	
252D.4 through 252D.7 Repealed by 90 Acts, ch 1123, §14.	252D.9 Sums subject to immediate withholding.

252D.10	Notice of immediate income withholding.	252D.18A	Multiple income withholding orders — amounts withheld by payor.
252D.11	Repealed by 97 Acts, ch 175, §69.	252D.18B	Irregular income.
252D.12	through 252D.14 Repealed by 93 Acts, ch 78, §47.	252D.18C	Withholding from lump sum payments.
252D.15	Reserved.	252D.19	Other remedies.
		252D.19A	Disparity between order and pay dates — not delinquent.
	SUBCHAPTER III	252D.20	Administration of income withholding procedures.
	GENERAL PROVISIONS	252D.21	Penalty for misrepresentation.
252D.16	Definitions.	252D.22	Rules.
252D.16A	Income withholding order — child support recovery unit.	252D.23	Filing of withholding order — order effective as district court order.
252D.17	Notice to payor of income — duties and liability — criminal penalty.	252D.24	Applicability to support orders of other jurisdictions.
252D.17A	Notice to obligor of implementation of income withholding order.	252D.25	Limitations on scope of proceedings.
252D.18	Modification or termination of withholding.	252D.26	through 252D.29 Reserved.
		252D.30	Ex parte order — provisions for medical support.
		252D.31	Motion to quash.

SUBCHAPTER I

DELINQUENT PAYMENTS

252D.1 Delinquent support payments.

If support payments ordered under this chapter or chapter 232, 234, 252A, 252C, 252E, 252F, 598, 600B, or any other applicable chapter, or under a comparable statute of another state or foreign country, as certified to the child support recovery unit established in section 252B.2, are not paid to the clerk of the district court or the collection services center pursuant to section 598.22 or, as appropriate, a comparable government entity in another state as provided in chapter 252K, and become delinquent in an amount equal to the payment for one month, the child support recovery unit may enter an ex parte order or, upon application of a person entitled to receive the support payments, the district court may enter an ex parte order, notifying the person whose income is to be withheld, of the delinquent amount, of the amount of income to be withheld, and of the procedure to file a motion to quash the order for income withholding, and ordering the withholding of specified sums to be deducted from the delinquent person's income as defined in section 252D.16 sufficient to pay the support obligation and, except as provided in section 598.22, requiring the payment of such sums to the clerk of the district court or the collection services center or, as appropriate, a comparable government entity in another state as provided in chapter 252K. All income withholding payments shall be paid to the collection services center or, as appropriate, a comparable government entity in another state as provided in chapter 252K. Notification of income withholding shall be provided to the obligor and to the payor of income pursuant to section 252D.17.

84 Acts, ch 1239, §1; 85 Acts, ch 100, §3; 85 Acts, ch 178, §2; 86 Acts, ch 1191, §1; 86 Acts, ch 1245, §1421; 86 Acts, ch 1246, §317, 323; 88 Acts, ch 1218, §4; 90 Acts, ch 1224, §24; 90 Acts, ch 1253, §120; 92 Acts, ch 1195, §104; 93 Acts, ch 78, §10; 93 Acts, ch 79, §45; 97 Acts, ch 175, §56; 98 Acts, ch 1170, §7; 2007 Acts, ch 22, §57; 2015 Acts, ch 110, §92

Referred to in §252D.3

252D.2 Repealed by 97 Acts, ch 175, §69. See §252D.31.

252D.3 Notice of income withholding.

All orders for support entered on or after July 1, 1984, shall notify the person ordered to pay support of the mandatory withholding of income required under section 252D.1. However, this subchapter is sufficient notice of implementation of mandatory withholding of income under section 252D.1 without any further notice.

84 Acts, ch 1239, §3; 85 Acts, ch 100, §4; 97 Acts, ch 175, §57; 2005 Acts, ch 112, §8

252D.4 through 252D.7 Repealed by 90 Acts, ch 1123, §14. See §252D.18 – 252D.21.

SUBCHAPTER II

IMMEDIATE INCOME WITHHOLDING

252D.8 Persons subject to immediate income withholding.

1. In a support order issued or modified on or after November 1, 1990, for which services are being provided by the child support recovery unit, and in any support orders issued or modified after January 1, 1994, for which services are not provided by the child support recovery unit, the income of a support obligor is subject to withholding, on the effective date of the order, regardless of whether support payments by the obligor are in arrears. If services are being provided pursuant to chapter 252B, the child support recovery unit may enter an ex parte order for an immediate withholding of income. The district court may enter an ex parte order for immediate income withholding for cases in which the child support recovery unit is not providing services. The income of the obligor is subject to immediate withholding unless one of the following occurs:

a. One of the parties demonstrates and the court or child support recovery unit finds there is good cause not to require immediate withholding. A finding of good cause shall be based on, at a minimum, written findings and conclusions by the court or administrative authority as to why implementing immediate withholding would not be in the best interests of the child. In cases involving modifications, the findings shall also include proof of timely payment of previously ordered support.

b. A written agreement is reached between both parties which provides for an alternative arrangement. If the support payments have been assigned to the department of human services pursuant to chapter 234 or 239B, or a comparable statute of another jurisdiction, the department shall be considered a party to the support order, and a written agreement pursuant to this section to waive immediate withholding is void unless approved by the child support recovery unit. Any agreement existing at the time an assignment of support is made pursuant to chapter 234 or 239B or pursuant to a comparable statute of another jurisdiction shall not prevent the child support recovery unit from implementing immediate withholding.

2. For an order not requiring immediate withholding, income of an obligor is subject to immediate withholding, without regard to whether there is an arrearage, on the earliest of the following:

a. The date the obligor requests that the withholding begin.

b. The date the custodial parent or party to the proceeding requests that the withholding begin, if the request is approved by the district court or, in cases in which services are being provided pursuant to chapter 252B, if the child support recovery unit approves the request.

90 Acts, ch 1123, §1; 93 Acts, ch 78, §11; 94 Acts, ch 1171, §24; 97 Acts, ch 41, §32

Referred to in §252D.31

252D.9 Sums subject to immediate withholding.

Specified sums shall be deducted from the obligor's income sufficient to pay the support obligation and any judgment established or delinquency accrued under the support order. The amount withheld pursuant to an income withholding order or notice of order for income withholding shall not exceed the amount specified in 15 U.S.C. §1673(b).

90 Acts, ch 1123, §2; 92 Acts, ch 1195, §206; 97 Acts, ch 175, §58

252D.10 Notice of immediate income withholding.

An order for support entered after November 1, 1990, shall contain the notice of immediate income withholding. However, this subchapter is sufficient notice for implementation of immediate income withholding without any further notice.

90 Acts, ch 1123, §3; 97 Acts, ch 175, §59; 2005 Acts, ch 112, §9

252D.11 Repealed by 97 Acts, ch 175, §69. See §252D.31.

252D.12 through 252D.14 Repealed by 93 Acts, ch 78, §47. See §252D.17 and 252D.18.

252D.15 Reserved.

SUBCHAPTER III GENERAL PROVISIONS

252D.16 Definitions.

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

1. “*Income*” means all of the following:

a. Any periodic form of payment due an individual, regardless of source, including but not limited to wages, salaries, commissions, bonuses, workers’ compensation, disability payments, payments pursuant to a pension or retirement program, and interest.

b. A sole payment or lump sum as provided in section 252D.18C, including but not limited to payment from an estate including inheritance, or payment for personal injury or property damage.

c. Irregular income as defined in section 252D.18B.

2. “*Payor of income*” or “*payor*” means and includes, but is not limited to, an obligor’s employer, trustee, the state of Iowa and all governmental subdivisions and agencies and any other person from whom an obligor receives income.

3. “*Support*” or “*support payments*” means any amount which the court or administrative agency may require a person to pay for the benefit of a child under a temporary order or a final judgment or decree entered under chapter 232, 234, 252A, 252C, 252F, 252H, 598, 600B, or any other comparable chapter, and may include child support, maintenance, medical support as defined in chapter 252E, spousal support, and any other term used to describe these obligations. These obligations may include support for a child of any age who is dependent on the parties to the dissolution proceedings because of physical or mental disability. The obligations may include support for a child eighteen or more years of age with respect to whom a child support order has been issued pursuant to the laws of another state or foreign country. These obligations shall not include amounts for a postsecondary education subsidy as defined in section 598.1.

97 Acts, ch 175, §60; 2005 Acts, ch 112, §10; 2015 Acts, ch 110, §93

Referred to in §8B.32, 84A.5, 252B.1, 252B.13A, 252B.14, 252B.24, 252D.1, 252D.16A, 252I.1, 252J.1, 627.11, 627.12

252D.16A Income withholding order — child support recovery unit.

If support payments are ordered under this chapter, chapter 232, 234, 252A, 252C, 252E, 252F, 252H, 598, 600B, or any other applicable chapter, or under a comparable statute of another state or foreign country, and if income withholding relative to such support payments is allowed under this chapter, the child support recovery unit may enter an ex parte order notifying the person whose income is to be withheld of the procedure to file a motion to quash the order for income withholding, and ordering the withholding of sums to be deducted from the delinquent person’s income as defined in section 252D.16 sufficient to pay the support obligation and requiring the payment of such sums to the collection services center or, as appropriate, a comparable government entity in another state as provided in chapter 252K. The child support recovery unit shall include the amount of any delinquency and the amount to be withheld in the notice provided to the obligor pursuant to section 252D.17A. Notice of

income withholding shall be provided to the obligor and to the payor of income pursuant to sections 252D.17 and 252D.17A.

2006 Acts, ch 1119, §3, 11; 2015 Acts, ch 110, §94

252D.17 Notice to payor of income — duties and liability — criminal penalty.

1. The district court shall provide notice by sending a copy of the order for income withholding or a notice of the order for income withholding to the obligor and the obligor's payor of income by regular mail, with proof of service completed according to rule of civil procedure 1.442. The child support recovery unit shall provide notice of the income withholding order by sending a notice of the order to the obligor's payor of income by regular mail or by electronic means. Proof of service may be completed according to rule of civil procedure 1.442. The child support recovery unit's notice of the order may be sent to the payor of income on the same date that the order is sent to the clerk of court for filing. In all other instances, the income withholding order shall be filed with the clerk of court prior to sending the notice of the order to the payor of income. In addition to the amount to be withheld for payment of support, the order or the notice of the order shall be in a standard format as prescribed by the unit and shall include all of the following information regarding the duties of the payor in implementing the withholding order:

a. The withholding order or notice of the order for income withholding for child support or child support and spousal support has priority over a garnishment or an assignment for any other purpose.

b. As reimbursement for the payor's processing costs, the payor may deduct a fee of no more than two dollars for each payment in addition to the amount withheld for support. The payor of income is not required to vary the payroll cycle to comply with the frequency of payment of a support order.

c. The amount withheld for support, including the processing fee, shall not exceed the amounts specified in 15 U.S.C. §1673(b).

d. The income withholding order is binding on an existing or future payor of income ten days after receipt of the copy of the order or the notice of the order, and is binding whether or not the copy of the order received is file-stamped.

e. The payor shall send the amounts withheld to the collection services center or the clerk of the district court pursuant to section 252B.14 or, as appropriate, a comparable government entity in another state as provided in chapter 252K, within seven business days of the date the obligor is paid. "Business day" means a day on which state offices are open for regular business.

f. The payor may combine amounts withheld from the obligors' income in a single payment to the clerk of the district court or to the collection services center or a comparable government entity in another state as provided in chapter 252K, as appropriate. Whether combined or separate, payments shall be identified by the name of the obligor, account number, amount, and the date withheld. If payments for multiple obligors are combined, the portion of the payment attributable to each obligor shall be specifically identified.

g. The withholding is binding on the payor until further notice by the court or the child support recovery unit.

h. If the payor, with actual knowledge and intent to avoid legal obligation, fails to withhold income or to pay the amounts withheld to the collection services center or the clerk of court or, as appropriate, a comparable government entity in another state as provided in chapter 252K in accordance with the provisions of the order, the notice of the order, or the notification of payors of income provisions established in section 252B.13A, the payor commits a simple misdemeanor for a first offense and is liable for the accumulated amount which should have been withheld, together with costs, interest, and reasonable attorney fees related to the collection of the amounts due from the payor. For each subsequent offense prescribed under this paragraph, the payor commits a serious misdemeanor and is liable for the accumulated amount which should have been withheld, together with costs, interest, and reasonable attorney fees related to the collection of the amounts due from the payor.

i. The payor shall promptly notify the court or the child support recovery unit when the

obligor's employment or other income terminates, and provide the obligor's last known address and the name and address of the obligor's new employer, if known.

j. Any payor who discharges an obligor, refuses to employ an obligor, or takes disciplinary action against an obligor based upon income withholding is guilty of a simple misdemeanor. A withholding order or the notice of the order for income withholding has the same force and effect as any other district court order, including but not limited to contempt of court proceedings for noncompliance.

k. (1) Beginning July 1, 1997, if a payor of income does business in another state through a registered agent and receives a notice of income withholding issued by another state, the payor shall, and beginning January 1, 1998, any payor of income shall, withhold funds as directed in a notice issued by another state, except that a payor of income shall follow the laws of the obligor's principal place of employment when determining all of the following:

- (a) The payor's fee for processing an income withholding payment.
- (b) The maximum amount permitted to be withheld from the obligor's income.
- (c) The time periods for implementing the income withholding order and forwarding the support payments.

(d) The priorities for withholding and allocating income withheld for multiple child support obligees.

(e) Any withholding terms or conditions not specified in the order.

(2) A payor of income who complies with an income withholding notice that is regular on its face shall not be subject to any civil liability to any individual or agency for conduct in compliance with the notice.

l. The payor of income shall comply with chapter 252K when receiving a notice of income withholding from another state.

2. The department shall establish criteria and a phased-in schedule to require, no later than June 30, 2015, payors of income to electronically transmit the amounts withheld under an income withholding order. The department shall assist payors of income in complying with the required electronic transmission, and shall adopt rules setting forth procedures for use in electronic transmission of funds, and exemption from use of electronic transmission taking into consideration any undue hardship electronic transmission creates for payors of income.

93 Acts, ch 78, §12; 95 Acts, ch 52, §5, 6; 96 Acts, ch 1141, §10, 11; 97 Acts, ch 175, §61, 70, 72; 98 Acts, ch 1170, §8; 2000 Acts, ch 1125, §2, 4; 2006 Acts, ch 1119, §4; 2010 Acts, ch 1031, §337; 2013 Acts, ch 30, §55; 2013 Acts, ch 140, §60; 2015 Acts, ch 110, §95

Referred to in §252D.1, 252D.16A, 252D.18, 252D.18A

252D.17A Notice to obligor of implementation of income withholding order.

The child support recovery unit or the district court shall send a notice of the income withholding order to the obligor at the time the notice is sent to the payor of income.

97 Acts, ch 175, §62

Referred to in §252D.16A, 252D.18

252D.18 Modification or termination of withholding.

1. The court or the child support recovery unit may, by ex parte order, modify a previously entered income withholding order if the court or the unit determines any of the following:

- a. There has been a change in the amount of the current support obligation.
- b. The amount required to be withheld under the income withholding order is in error.
- c. Any past due support debt has been paid in full. Should a delinquency later accrue, the withholding order may be modified to secure payment toward the delinquency.
- d. There has been a change in the rules adopted by the department pursuant to chapter 17A regarding the amount of income to be withheld to pay a delinquency.

2. The child support recovery unit may modify an amount specified in an income withholding order or notice of income withholding by providing notice to the payor of income and the obligor pursuant to sections 252D.17 and 252D.17A.

3. The court or the child support recovery unit may, by ex parte order, terminate an income withholding order when the current support obligation has terminated and when

the delinquent support obligation has been fully satisfied as applicable to all of the children covered by the income withholding order. The unit may, by ex parte order, terminate an income withholding order when the unit will no longer be providing services under chapter 252B, or when another state or foreign country will be providing services under Tit. IV-D of the federal Social Security Act or a comparable law in a foreign country.

4. In no case shall payment of overdue support be the sole basis for termination of withholding.

90 Acts, ch 1123, §8; 91 Acts, ch 177, §6; 92 Acts, ch 1195, §106; 93 Acts, ch 78, §13; 98 Acts, ch 1170, §44; 2006 Acts, ch 1119, §5, 11; 2011 Acts, ch 67, §1; 2015 Acts, ch 110, §96

252D.18A Multiple income withholding orders — amounts withheld by payor.

When the obligor is responsible for paying more than one support obligation and the payor of income has received more than one income withholding order or notice of an order for the obligor, the payor shall withhold amounts in accordance with all of the following:

1. The total of all amounts withheld shall not exceed the amounts specified in 15 U.S.C. §1673(b). For orders or notices issued by the child support recovery unit, the limit for the amount to be withheld shall be specified in the order or notice.

2. As reimbursement for the payor's processing costs, the payor may deduct a fee of no more than two dollars for each payment withheld in addition to the amount withheld for support.

3. Priority shall be given to the withholding of current support rather than delinquent support. The payor shall not allocate amounts withheld in a manner which results in the failure to withhold an amount for one or more of the current support obligations.

a. To arrive at the amount to be withheld for each obligee, the payor shall total the amounts due for current support under the income withholding orders and the notices of orders and determine the proportionate share for each obligee. The proportionate share shall be determined by dividing the amount due for current support for each order or notice of order by the total due for current support for all orders and notices of orders. The results are the percentages of the obligor's net income which shall be withheld for each obligee.

b. If, after completing the calculation in paragraph "a", the withholding limit specified under subsection 1 has not been attained, the payor shall total the amounts due for arrearages and determine the proportionate share for each obligee. The proportionate share amounts shall be established utilizing the procedures established in paragraph "a" for current support obligations.

4. The payor shall identify and report payments by the obligor's name, account number, amount, and date withheld pursuant to section 252D.17. If payments for multiple obligees are combined, the portion of the payment attributable to each obligee shall be specifically identified only if the payor is directed to do so by the child support recovery unit.

93 Acts, ch 78, §14; 96 Acts, ch 1141, §12, 13; 97 Acts, ch 175, §63, 64; 98 Acts, ch 1170, §9; 2002 Acts, ch 1018, §1, 2; 2009 Acts, ch 15, §1

252D.18B Irregular income.

When payment of income is irregular, and an order for immediate or mandatory income withholding has been entered by the child support recovery unit or the district court, the income payor shall withhold income equal to the total that would have been withheld had there been regular monthly income. The amounts withheld shall not exceed the amounts specified in 15 U.S.C. §1673(b). For the purposes of this section, an income source is irregular when there are periods in excess of one month during which the income payor makes no payment to the obligor and the periods are not the result of termination or suspension of employment.

93 Acts, ch 78, §15

Referred to in §252D.16

252D.18C Withholding from lump sum payments.

The child support recovery unit or the district court may enter an ex parte order for income withholding when the obligor is paid by a lump sum income source. When a sole payment is

made or payment occurs at two-month or greater intervals, the withholding order may include all current and delinquent support due through the current month, but shall not exceed the amounts specified in 15 U.S.C. §1673(b).

93 Acts, ch 78, §16

Referred to in §252D.16

252D.19 Other remedies.

The remedies provided in this chapter do not exclude the use of other civil or criminal remedies in enforcing support obligations.

90 Acts, ch 1123, §9

252D.19A Disparity between order and pay dates — not delinquent.

1. An obligor whose support payments are automatically withheld from the obligor's paycheck shall not be delinquent or in arrears if all of the following conditions are met:

a. Any delinquency or arrearage is caused solely by a disparity between the schedules of the obligor's regular pay dates and the scheduled date the support is due.

b. The amount calculated to be withheld is such that the total amount of current support to be withheld from the paychecks of the obligor and the amount ordered to be paid in the support order are the same on an annual basis.

c. The automatic deductions for support are continuous and occurring.

2. If the unit takes an enforcement action during a calendar year against an obligor and the obligor is not delinquent or in arrears solely due to the applicability of this section to the obligor, upon discovering the circumstances, the unit shall promptly discontinue the enforcement action.

97 Acts, ch 175, §65

252D.20 Administration of income withholding procedures.

The child support recovery unit is designated as the entity of the state to administer income withholding in accordance with the procedures specified for keeping adequate records to document, track, and monitor support payments on cases subject to Tit. IV-D of the federal Social Security Act. The collection services center is designated as the entity for administering income withholding for cases which are not subject to Tit. IV-D. The collection services center's responsibilities for administering income withholding in cases not subject to Tit. IV-D are limited to the receipt, recording, and disbursement of income withholding payments and to responding to requests for information on the current status of support payments pursuant to section 252B.13A. Notwithstanding section 622.53, in cases where the court or the child support recovery unit is enforcing an order of another state or foreign country through income withholding, a certified copy of the underlying judgment is sufficient proof of authenticity.

90 Acts, ch 1123, §10; 92 Acts, ch 1195, §404; 98 Acts, ch 1170, §10; 2010 Acts, ch 1061, §180; 2015 Acts, ch 110, §97

252D.21 Penalty for misrepresentation.

A person who knowingly makes a false statement or representation of a material fact or knowingly fails to disclose a material fact in order to secure an income withholding order or notice of income withholding against another person and to receive support payments or additional support payments pursuant to this chapter, is guilty, upon conviction, of a serious misdemeanor.

90 Acts, ch 1123, §11; 97 Acts, ch 175, §66

252D.22 Rules.

The department shall adopt the administrative rules necessary to implement the provisions of this chapter as they pertain to the operations of the child support recovery unit.

90 Acts, ch 1123, §12

252D.23 Filing of withholding order — order effective as district court order.

An income withholding order entered by the child support recovery unit pursuant to this chapter shall be filed with the clerk of the district court. In lieu of any signature on the order which may otherwise be required by law or rule, the order shall have affixed the name and address of the appropriate child support office. For the purposes of demonstrating compliance by the payor of income, the copy of the withholding order or the notice of the order received, whether or not the copy of the order is file-stamped, shall have all the force, effect, and attributes of a docketed order of the district court including, but not limited to, availability of contempt of court proceedings against a payor of income for noncompliance. However, any information contained in the income withholding order or the notice of the order related to the amount of the accruing or accrued support obligation which does not reflect the correct amount of support due does not modify the underlying support judgment.

92 Acts, ch 1195, §207; 94 Acts, ch 1171, §25; 95 Acts, ch 52, §7; 96 Acts, ch 1141, §14; 97 Acts, ch 175, §67; 99 Acts, ch 127, §2

252D.24 Applicability to support orders of other jurisdictions.

1. An income withholding order may be entered to enforce a support order of another state or foreign country. That support order may be entered and filed with the clerk of the district court at the time the income withholding order is entered. Entry of the support order of another state or foreign country under this subsection does not constitute registration of the order.

2. Income withholding for a support order issued by another state or foreign country is governed by chapter 252K and this chapter, as appropriate.

93 Acts, ch 78, §17; 97 Acts, ch 175, §71; 2005 Acts, ch 112, §11; 2015 Acts, ch 110, §98

252D.25 Limitations on scope of proceedings.

1. Issues related to visitation, custody, or other provisions not related to the support provisions of a support order are not grounds for a motion to quash, revoke, suspend, or stay a withholding order.

2. Support orders shall not be modified under a motion to quash a withholding order.

93 Acts, ch 78, §18

252D.26 through 252D.29 Reserved.**252D.30 Ex parte order — provisions for medical support.**

An ex parte order entered under this chapter may also include provisions for enforcement of medical support when medical support provisions are included in the support order. The ex parte order may require income withholding of a dollar amount for medical support or implementation of provision for dependent coverage under a health benefit plan pursuant to chapter 252E.

93 Acts, ch 78, §19

252D.31 Motion to quash.

An obligor under this chapter may move to quash an income withholding order or a notice of income withholding by filing a motion to quash with the clerk of court.

1. Grounds for contesting a withholding order under this chapter include all of the following:

a. A mistake of fact, which for purposes of this chapter means an error in the amount withheld or the amount of the withholding or the identity of the obligor.

b. For immediate withholding only, the conditions for exception to immediate income withholding as defined under section 252D.8 existed at the time of implementation of the withholding.

2. The clerk of the district court shall schedule a hearing on the motion to quash for a time not later than seven days after the filing of the motion to quash and the notice of the motion to quash. The clerk shall mail to the parties copies of the motion to quash, the notice of the motion to quash, and the order scheduling the hearing.

3. The payor shall withhold and transmit the amount specified in the order or notice of the order of income withholding to the clerk of the district court or the collection services center or a comparable government entity in another state as provided in chapter 252K, as appropriate, until the notice that a motion to quash has been granted is received.

97 Acts, ch 175, §68; 2015 Acts, ch 110, §99

Referred to in §252E.6A

CHAPTER 252E

MEDICAL SUPPORT

Referred to in §252A.3, 252A.6A, 252B.3, 252B.4, 252B.5, 252B.9, 252C.3, 252C.4, 252D.1, 252D.16, 252D.16A, 252D.30, 252F.3, 252F.4, 252F.5, 252H.2, 252H.8, 252H.9, 252H.14A, 252H.15, 252I.2, 252J.1, 514C.9, 598.21B, 598.21C, 598.21E

Either parent
may be ordered to provide medical support;
2008 Acts, ch 1019, §19

252E.1	Definitions.	252E.6	Duration of health benefit plan coverage.
252E.1A	Establishing and modifying orders for medical support.	252E.6A	Motion to quash.
252E.1B	Establishing and modifying orders for medical support — actions initiated by child support recovery unit.	252E.7	Insurer authorization.
		252E.8	Releases of information.
252E.2	Order for medical support.	252E.9	Responsibilities of the obligor.
252E.2A	Satisfaction of medical support order.	252E.10	Responsibility of the department.
		252E.11	Assignment.
252E.3	Health care coverage of obligee.	252E.12	Enforcement.
252E.4	Order to employer.	252E.13	Modification of support order.
252E.5	Effect of order on employer.	252E.14	Child support.
		252E.15	Rulemaking authority — compliance.
		252E.16	Scope and effect.

252E.1 Definitions.

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

1. “*Accessible*” means any of the following, unless otherwise provided in the support order:

a. The health benefit plan does not have service area limitations or provides an option not subject to service area limitations.

b. The health benefit plan has service area limitations and the dependent lives within thirty miles or thirty minutes of a network primary care provider.

2. “*Basic coverage*” means health care coverage that at a minimum provides coverage for emergency care, inpatient and outpatient hospital care, physician services whether provided within or outside a hospital setting, and laboratory and x-ray services.

3. “*Cash medical support*” means a monetary amount that a parent is ordered to pay to the obligee in lieu of that parent providing health care coverage, which amount is five percent of the gross income of the parent ordered to pay the monetary amount or, if the child support guidelines established pursuant to section 598.21B specifically provide an alternative income-based numeric standard for determining the amount, the amount determined by the standard specified by the child support guidelines. “*Cash medical support*” is an obligation separate from any monetary amount a parent is ordered to pay for uncovered medical expenses pursuant to the guidelines established pursuant to section 598.21B.

4. “*Child*” means a person for whom child or medical support may be ordered pursuant to chapter 234, 239B, 252A, 252C, 252F, 252H, 252K, 598, 600B, or any other chapter of the Code or pursuant to a comparable statute of another state or foreign country.

5. “*Department*” means the department of human services, which includes but is not limited to the child support recovery unit, or any comparable support enforcement agency of another state.

6. “*Dependent*” means a child, or an obligee for whom a court may order health care coverage pursuant to section 252E.3.

7. “*Enroll*” means to be eligible for and covered by a health benefit plan.

8. “*Health benefit plan*” means any policy or contract of insurance, indemnity, subscription, or membership issued by an insurer, health service corporation, health maintenance organization, or any similar corporation or organization, any public coverage, or any self-insured employee benefit plan, for the purpose of covering medical expenses. These expenses may include but are not limited to hospital, surgical, major medical insurance, dental, optical, prescription drugs, office visits, or any combination of these or any other comparable health care expenses.

9. “*Health care coverage*” or “*coverage*” means providing and paying for the medical needs of a dependent through a health benefit plan.

10. “*Insurer*” means any entity, including a health service corporation, health maintenance organization, or any similar corporation or organization, or an employer offering self-insurance, that provides a health benefit plan, but does not include an entity that provides public coverage.

11. “*Medical support*” means either the provision of health care coverage or the payment of cash medical support. “*Medical support*” is not alimony.

12. “*National medical support notice*” means a notice as prescribed under 42 U.S.C. §666(a)(19) or a substantially similar notice, that is issued and forwarded by the department in accordance with section 252E.4 to enforce the health care coverage provisions of a support order. The national medical support notice is not applicable to a provider of public coverage.

13. “*Obligee*” means a parent or another natural person legally entitled to receive a support payment on behalf of a child.

14. “*Obligor*” means a parent or another natural person legally responsible for the support of a dependent.

15. “*Order*” means a support order entered pursuant to chapter 234, 252A, 252C, 252F, 252H, 252K, 598, 600B, or any other support chapter, or pursuant to a comparable statute of another state or foreign country, or an ex parte order entered pursuant to section 252E.4. “*Order*” also includes a notice of such an order issued by the department.

16. “*Plan administrator*” means the employer or sponsor that offers the health benefit plan or the person to whom the duty of plan administrator is delegated by the employer or sponsor offering the health benefit plan, by written agreement of the parties. “*Plan administrator*” does not include a provider of public coverage.

17. “*Primary care provider*” means a physician who provides primary care who is a family or general practitioner, a pediatrician, an internist, an obstetrician, or a gynecologist; an advanced registered nurse practitioner; or a physician assistant.

18. “*Public coverage*” means health care benefits provided by any form of federal or state medical assistance, including but not limited to benefits provided under chapter 249A or 514I, or under comparable laws of another state, foreign country, or Indian nation or tribe.

19. “*Unit*” or “*child support recovery unit*” means unit as defined in section 252B.1.

90 Acts, ch 1224, §25; 92 Acts, ch 1195, §505; 93 Acts, ch 78, §20; 93 Acts, ch 79, §46; 97 Acts, ch 41, §32; 2000 Acts, ch 1096, §1; 2002 Acts, ch 1018, §3; 2007 Acts, ch 218, §163, 187; 2008 Acts, ch 1019, §18, 20; 2015 Acts, ch 110, §100; 2018 Acts, ch 1111, §2, 10; 2019 Acts, ch 24, §29

Referred to in §252C.1, 252E.6A, 514C.9, 600B.25

252E.1A Establishing and modifying orders for medical support.

1. This section shall apply to all initial or modified orders for support entered under chapter 234, 252A, 252C, 252F, 252H, 598, 600B, or any other applicable chapter. If an action to establish or modify an order for support is initiated by the child support recovery unit, section 252E.1B shall also apply.

2. An order or judgment that provides for temporary or permanent support for a child shall include a provision for medical support for the child as provided in this section.

3. The court shall order as medical support for the child health care coverage if a health benefit plan other than public coverage is available to either parent at the time the order is

entered or modified. A health benefit plan is available if the plan is accessible and the cost of the plan is reasonable.

a. The cost of a health benefit plan is considered reasonable, and such amount shall be stated in the order, if one of the following applies:

(1) The premium cost for a child to the parent ordered to provide coverage does not exceed five percent of that parent's gross income or the child support guidelines established pursuant to section 598.21B specifically provide an alternative income-based numeric standard for determining the reasonable cost of the premium, in which case the reasonable cost of the premium as determined by the standard specified by the child support guidelines shall apply.

(2) The premium cost for a child exceeds the amount specified in subparagraph (1) and that parent consents or does not object to entry of that order.

b. For purposes of this section, "*family coverage*" means coverage that covers multiple individuals and covers or could cover the child or children subject to the child support order.

c. For purposes of this section, "*gross income*" has the same meaning as gross income for calculation of support under the guidelines established under section 598.21B.

d. For purposes of this section, "*the premium cost for a child to the parent*" ordered to provide coverage means the amount of the premium cost for family coverage to the parent which is in excess of the premium cost for single coverage, regardless of the number of individuals covered under the plan.

4. If a health benefit plan other than public coverage is not available to either parent at the time of the entry of the order, and the custodial parent does not have public coverage for the child, the court shall order cash medical support in an amount which shall be stated in the order. This subsection shall not apply in any of the following circumstances:

a. If the parent's monthly support obligation established pursuant to the child support guidelines prescribed by the supreme court pursuant to section 598.21B is the minimum obligation amount. If this paragraph applies, the court shall order the parent to provide health care coverage when a plan becomes available for which there is no premium cost for a child to the parent.

b. If the noncustodial parent does not have income which may be subject to income withholding for collection of cash medical support at the time of the entry of the order. If this paragraph applies, the court shall order the noncustodial parent to provide health care coverage when a health benefit plan becomes available at a reasonable cost, and the order shall specify the amount of the reasonable cost as specified in subsection 3, paragraph "a", subparagraph (1).

c. If the noncustodial parent is receiving assistance or is residing with any child receiving assistance as provided in section 252E.2A, subsection 1, paragraph "c", subparagraph (3) or

(4). If this paragraph applies, the court shall order the noncustodial parent to provide health care coverage when a health benefit plan becomes available for which there is no premium cost for a child to the parent.

5. If a health benefit plan other than public coverage is not available to either parent at the time of the entry of the order, and the custodial parent has public coverage for the child, the court shall order the custodial parent to provide health care coverage, and the court shall order the noncustodial parent to pay cash medical support, which amount shall be stated in the order, unless an exception under subsection 4 applies.

6. Notwithstanding the requirements of this section, the court may order provisions in the alternative to those provided in this section to address the health care needs of the child if the court determines that extreme circumstances so require and documents the court's written findings in the order.

7. An order, decree, or judgment entered before October 1, 2018, that provides for the support of a child may be modified in accordance with this section.

2007 Acts, ch 218, §164, 187; 2008 Acts, ch 1019, §11 – 14, 18, 20; 2018 Acts, ch 1111, §3, 10
Referred to in §252B.5, 252E.1B, 598.21B, 598.21C

252E.1B Establishing and modifying orders for medical support — actions initiated by child support recovery unit.

1. If the child support recovery unit is initiating an action to establish or modify support, this section shall apply in addition to the provisions of section 252E.1A.

2. The unit shall apply the following order of priority when the unit enters or seeks an order for medical support:

a. If the custodial parent is currently providing coverage for the child under a health benefit plan other than public coverage, and the plan is available as described in section 252E.1A, subsection 3, the unit shall enter or seek an order for the custodial parent to provide coverage.

b. If the noncustodial parent is currently providing coverage for the child under a health benefit plan other than public coverage, and the plan is available as described in section 252E.1A, subsection 3, the unit shall enter or seek an order for the noncustodial parent to provide coverage.

c. If a health benefit plan other than public coverage is available as described in section 252E.1A, subsection 3, to the custodial parent, the unit shall enter or seek an order for the custodial parent to provide coverage.

d. If a health benefit plan other than public coverage is available as described in section 252E.1A, subsection 3, to the noncustodial parent, the unit shall enter or seek an order for the noncustodial parent to provide coverage.

e. If a health benefit plan other than public coverage is not available to either parent, and the custodial parent has public coverage for the child, the unit shall enter or seek an order for the custodial parent to provide health care coverage and shall enter or seek an order for the noncustodial parent to pay cash medical support. However, if any of the circumstances described in section 252E.1A, subsection 4, paragraph “a”, “b”, or “c” is met, the unit shall enter or seek an order as specified by the applicable paragraph.

3. Notwithstanding subsection 2, if there is an order for joint physical care for the child and the parties subject to the support order, the unit shall apply the following order of priority when the unit enters or seeks an order for medical support:

a. If only one parent is currently providing coverage for the child under a health benefit plan other than public coverage, and the plan is available as described in section 252E.1A, subsection 3, the unit shall enter or seek an order for that parent to provide coverage.

b. If both parents are currently providing coverage for the child under a health benefit plan other than public coverage, and both plans are available as described in section 252E.1A, subsection 3, the unit shall enter or seek an order for both parents to provide coverage.

c. If neither parent is currently providing coverage for the child under a health benefit plan other than public coverage, and a health benefit plan other than public coverage is available as described in section 252E.1A, subsection 3, to one parent, the unit shall enter or seek an order for that parent to provide coverage.

d. If neither parent is currently providing coverage for the child under a health benefit plan other than public coverage, and a health benefit plan other than public coverage is available as described in section 252E.1A, subsection 3, to both parents, the unit shall enter or seek an order for both parents to provide coverage.

e. If a health benefit plan other than public coverage is not available to either parent and one parent has public coverage for the child, the unit shall enter or seek an order for that parent to provide health care coverage.

4. The child support recovery unit or the court shall not order any modification to an existing medical support order in a proceeding conducted solely pursuant to chapter 252H, subchapter IV.

2018 Acts, ch 1111, §4, 10

Referred to in §252E.1A

252E.2 Order for medical support.

1. An order requiring the provision of coverage under a health benefit plan other than public coverage is authorization for enrollment of the dependent if the dependent is otherwise eligible to be enrolled. The dependent’s eligibility and enrollment for coverage under such a

plan shall be governed by all applicable terms and conditions, including, but not limited to, eligibility and insurability standards. The dependent, if eligible, shall be provided the same coverage as the obligor.

2. An insurer who is subject to the federal Employee Retirement Income Security Act, as codified in 29 U.S.C. §1169, shall provide benefits in accordance with that section which meet the requirements of a qualified medical child support order. For the purposes of this subsection “*qualified medical child support order*” means and includes a medical child support order as defined in 29 U.S.C. §1169, or a child support order which creates or recognizes the existence of a child’s right to, or assigns to a child the right to, receive benefits for which a participant or child is eligible under a group health plan or a notice of such an order issued by the department, and which specifies the following:

a. The name and the last known mailing address of the participant and the name and mailing address of each child covered by the order except that, to the extent provided in the order, the name and mailing address of an official of the department may be substituted for the mailing address of the child.

b. A reasonable description of the type of coverage to be provided to each child, or the manner in which the type of coverage is to be determined.

c. The period during which the coverage applies.

3. The obligor shall take all actions necessary to enroll and maintain coverage under a health benefit plan for a dependent at the obligor’s present and all future places of employment.

4. A medical support order of another state or foreign country may be entered or filed with the clerk of the district court. However, entry of such a medical support order under this subsection does not constitute registration of that medical support order.

90 Acts, ch 1224, §26; 92 Acts, ch 1195, §506; 93 Acts, ch 78, §21; 94 Acts, ch 1171, §26; 97 Acts, ch 175, §73; 98 Acts, ch 1170, §32; 2000 Acts, ch 1096, §2; 2002 Acts, ch 1018, §4; 2015 Acts, ch 110, §101; 2018 Acts, ch 1111, §5, 10

Referred to in §252E.4, 252E.8

252E.2A Satisfaction of medical support order.

This section shall apply if the child support recovery unit is providing services under chapter 252B.

1. Notwithstanding any law to the contrary and without a court order, a medical support order for a child shall be deemed satisfied with regard to the department, the child, the obligor, and the obligee for the period during which all of the following conditions are met:

a. The order is issued under any applicable chapter of the Code.

b. The unit is notified that the conditions of paragraph “c” are met and the parent ordered to provide medical support submits a written statement to the unit that the requirements of paragraph “c” are met.

c. The parent ordered to provide medical support meets at least one of the following conditions:

(1) The parent is an inmate of an institution under the control of the department of corrections or a comparable institution in another state.

(2) The parent’s monthly child support obligation under the guidelines established pursuant to section 598.21B is the minimum obligation amount.

(3) The parent is a recipient of assistance under chapter 239B or 249A, or under comparable laws of another state.

(4) The parent is residing with any child for whom the parent is legally responsible and that child is a recipient of assistance under chapter 239B, 249A, or 514I, or under comparable laws of another state. For purposes of this subparagraph, “*legally responsible*” means the parent has a legal obligation to the child as specified in Iowa court rule 9.7 of the child support guidelines.

d. The unit files a notice of satisfaction with the clerk of the district court. The effective date of the satisfaction shall be stated in the notice and the effective date shall be no later than forty-five days after the unit issues the notice of satisfaction.

2. If a medical support order is satisfied under subsection 1, the satisfaction shall continue until all of the following apply:

a. The unit is notified that none of the conditions specified in subsection 1, paragraph “c”, still applies.

b. The unit files a satisfaction termination notice that the requirements for a satisfaction under this section no longer apply. The effective date shall be stated in the satisfaction termination notice and the effective date shall be no later than forty-five days after the unit issues the satisfaction termination notice.

3. The unit shall mail a copy of the notice of satisfaction and the satisfaction termination notice to the last known address of the obligor and obligee.

4. The department of human services may match data for enrollees of the hawk-i program created pursuant to chapter 514I with data of the unit to assist the unit in implementing this section.

5. An order, decree, or judgment entered or pending on or before July 1, 2009, that provides for the support of a child may be satisfied as provided in this section.

2007 Acts, ch 218, §165, 187; 2008 Acts, ch 1019, §15 – 18, 20

Referred to in §252E.1A

252E.3 Health care coverage of obligee.

For cases for which services are being provided pursuant to chapter 252B, the order may require an obligor providing health care coverage for a child to also provide health care coverage for the benefit of an obligee if the obligee is eligible for enrollment under the plan in which the child or the obligor is enrolled, and if coverage for the obligee is available at no additional cost.

90 Acts, ch 1224, §27; 2018 Acts, ch 1111, §6, 10

Referred to in §252E.1, 252E.6

252E.4 Order to employer.

1. When a support order requires an obligor to provide coverage under a health benefit plan other than public coverage, the district court or the department may enter an ex parte order directing an employer to take all actions necessary to enroll an obligor’s dependent for coverage under a health benefit plan or may include the provisions in an ex parte income withholding order or notice of income withholding pursuant to chapter 252D. The child support recovery unit, where appropriate, shall issue a national medical support notice to an employer within two business days after the date information regarding a newly hired employee is entered into the centralized employee registry and matched with a noncustodial parent in the case being enforced by the unit, or upon receipt of other employment information for such parent. The department may amend the information in the ex parte order or may amend or terminate the national medical support notice regarding health insurance provisions if necessary to comply with health insurance requirements including but not limited to the provisions of section 252E.2, subsection 2, or to correct a mistake of fact.

2. The obligee, district court, or department may forward either the support order containing the provision for coverage under a health benefit plan or the ex parte order provided for in subsection 1 to the obligor’s employer.

3. This chapter shall be constructive notice to the obligor of enforcement and further notice prior to enforcement is not required.

4. The order requiring coverage is binding on all future employers or insurers if the dependent is eligible to be enrolled in the health benefit plan under the applicable plan terms and conditions.

90 Acts, ch 1224, §28; 93 Acts, ch 78, §22; 96 Acts, ch 1141, §24; 97 Acts, ch 175, §74; 2002 Acts, ch 1018, §5; 2007 Acts, ch 218, §166, 187; 2008 Acts, ch 1019, §18, 20; 2018 Acts, ch 1111, §7, 10

Referred to in §252E.1, 252E.5, 252E.6A

252E.5 Effect of order on employer.

1. When the order has been forwarded to the obligor’s employer pursuant to section

252E.4, the order is binding on the employer and the employer's insurer to the extent that the dependent is eligible to be enrolled in the plan under the applicable terms and conditions of the health benefit plan and the standard enrollment guidelines of the insurer. The employer shall allow enrollment of the dependent at any time, notwithstanding any enrollment season restrictions. If a provision of this section conflicts with a provision in the national medical support notice, or in subsection 8, the provision in the notice and subsection 8 shall apply.

2. The employer shall forward a copy of the order to the insurer and request enrollment of the dependent in the health benefit plan. If the obligor fails to apply to obtain coverage for the dependent, the employer shall accept an application to enroll a dependent which has been signed by the obligee or other legal custodian of a child or by the department. Within sixty days of receipt of the order or within sixty days of receipt of application, whichever is earlier, the insurer shall determine whether the dependent is eligible for enrollment under the plan and shall notify the employer of the dependent's eligibility status. If more than one plan is offered by the employer, the dependent shall be enrolled in the health benefit plan in which the obligor is enrolled. However, if more than one plan is offered to the obligor, the plan selected shall provide coverage which is accessible to the dependent.

3. The employer shall withhold from the employee's compensation, the employee's share, if any, of premiums for the health benefit plan in an amount that does not exceed the amount specified in the national medical support notice or order or the amount specified in 15 U.S.C. §1673(b) and which is consistent with federal law. The employer shall forward the amount withheld to the insurer.

4. Within thirty days of receipt of an order that requires an obligor to enroll a dependent in a health benefit plan, the obligor's employer shall provide the following information, as applicable, regarding the enrollment status of the dependent to the obligor, the obligee, or other legal custodian of the child, and the department:

a. That the dependent has been enrolled in a health benefit plan.

b. That the dependent is not eligible for enrollment and the reasons that the dependent is not eligible to be enrolled.

c. That the order has been forwarded to the insurer and a determination of eligibility for enrollment has not been made.

5. If the dependent has been enrolled in a health benefit plan, all of the following information shall be provided:

a. The name of the insurer providing the health benefit plan.

b. The dependent's effective date of coverage.

c. The health benefit plan or account number.

d. The type of health benefit plan under which the dependent has been enrolled, including whether dental, optical, office visits, and prescription drugs are covered services. Additionally, the response shall include a brief description of the applicable deductibles, coinsurance, waiting periods for preexisting medical conditions, and other significant terms or conditions which materially affect the coverage.

6. a. An employer shall not revoke enrollment or eliminate coverage for a dependent unless the employer is provided with satisfactory written evidence that one of the following conditions exists:

(1) A court or administrative order requiring coverage in a health benefit plan is no longer in effect.

(2) The dependent is eligible for or will be enrolled in a comparable health benefit plan which will take effect no later than the effective date of revocation of enrollment in the other plan.

(3) The employer has eliminated dependent health coverage for all employees.

b. Nothing in this section requires an employer to maintain coverage for the dependent if the premiums are no longer being paid by the obligor because the employer no longer owes compensation to the obligor or because the obligor's employment has been terminated and the obligor has not elected to continue coverage.

c. If an order requiring that the obligor provide coverage under a health benefit plan for the dependent has been forwarded to the obligor's employer pursuant to section 252E.4, and

the obligor's employment is terminated, the employer shall provide notice to the obligee and the department within ten days of termination of the obligor's employment.

7. If an order requiring that the obligor provide coverage under a health benefit plan for the dependent has been forwarded to the obligor's employer pursuant to section 252E.4, and the employer's health benefit plan is terminated either in its entirety or with respect to the obligor's insurance classification, or the employer has changed its insurer or become self-insured, the employer shall provide notice to the obligee or other legal custodian of the child and the department ten days prior to the termination or change in insurer.

8. If the department issues a national medical support notice to an employer or plan administrator, all of the following shall apply:

a. The employer and plan administrator shall comply with the provisions in the notice.

b. The employer and the plan administrator shall treat the notice as an application by the department for health benefit plan coverage for the dependent to the extent such application is required by the health benefit plan.

c. If the obligor named in the notice is not an employee of the employer, or if a health benefit plan is not offered or available to the employee, the employer shall notify the department, as provided in the notice, within twenty business days after the date of the notice.

d. If a health benefit plan is offered or available to the employee, the employer shall send the plan administrator's portion of the notice to each appropriate plan administrator within twenty business days after the date of the notice.

e. Upon notification from the plan administrator that the dependent is enrolled, the employer shall either withhold and forward the premiums as provided in subsection 3, or shall notify the department that the enrollment cannot be completed due to limits established for withholding as provided in subsection 3.

f. If the plan administrator notifies the employer that the obligor is subject to a waiting period that expires more than ninety days from the date of receipt of the notice by the plan administrator or that the obligor is subject to a waiting period that is measured in a manner other than the passage of time, the employer shall notify the plan administrator when the obligor becomes eligible to enroll in the plan and that the notice requires enrollment in the plan of the dependent named in the notice.

g. The plan administrator shall enroll the dependent, and if necessary to enrollment of the dependent shall also enroll the obligor, in the plan selected in accordance with this paragraph. All of the following shall apply to the selection of the plan:

(1) If the obligor is enrolled in a health benefit plan that offers dependent coverage, that plan shall be selected.

(2) If the obligor is not enrolled in a plan or is not enrolled in a plan that offers dependent coverage, and if only one plan with dependent coverage is offered by the employer, that plan shall be selected.

(3) If the obligor is not enrolled in a health benefit plan or is not enrolled in a health benefit plan that offers dependent coverage, if more than one plan with dependent coverage is offered by the employer, and if the notice is issued by the child support recovery unit, all of the following shall apply:

(a) If only one of the plans is accessible to the dependent, that plan shall be selected. If none of the plans with dependent coverage is accessible to the dependent, the unit shall amend or terminate the notice.

(b) If more than one of the plans is accessible to the dependent, the plan selected shall be the plan that provides basic coverage for which the employee's share of the premium is lowest.

(c) If more than one of the plans is accessible to the dependent but none of the accessible plans provides basic coverage, the plan selected shall be a plan that is accessible and for which the employee's share of the premium is lowest.

(d) If the employee's share of the premiums is the same under all plans described in subparagraph (b) or (c), the unit shall attempt to consult with the obligee when selecting the plan. If the obligee does not respond within ten days of the unit's attempt, the unit shall select

a plan which shall be the plan's default option, if any, or the plan with the lowest deductibles and copayment requirements.

(4) If the obligor is not enrolled in a health benefit plan or is not enrolled in a health benefit plan that offers dependent coverage, if more than one plan with dependent coverage is offered by the employer, and if the notice is issued by the child support enforcement agency of another state, that agency shall select the plan as provided in paragraph "h", subparagraph (3).

h. Within forty business days after the date of the notice, the plan administrator shall do all of the following as directed by the notice:

(1) Complete the appropriate portion of the notice and return the portion to the department.

(2) If the dependent is or is to be enrolled, notify the obligor, the obligee, and the child and furnish the obligee with necessary information. Provide the child support recovery unit with the type of health benefit plan under which the dependent has been enrolled, including whether dental, optical, office visits, and prescription drugs are covered services.

(3) If more than one health benefit plan is available to the obligor and the obligor is not enrolled, forward plan descriptions and documents to the department and enroll the dependent, and if necessary the obligor, in the plan selected by the department or in any default option if the plan administrator has not received a selection from the department within twenty business days of the date the plan administrator returned the national medical support notice response to the department.

(4) If the obligor is subject to a waiting period that expires more than ninety days from the date of receipt of the notice by the plan administrator or if the obligor has not completed a waiting period that is measured in a manner other than the passage of time, notify the employer, the department, the obligor, and the obligee. Upon satisfaction of the period or requirement, complete the enrollment.

(5) Upon completion of the enrollment, notify the employer for a determination of whether the necessary employee share of the premium is available.

(6) If the plan administrator is subject to the federal Employee Retirement Income Security Act, as codified in 29 U.S.C. §1169, or is subject to the federal Child Support Performance and Incentive Act of 1998, Pub. L. No. 105-200, §401, subsection (e) or (f), and the plan administrator determines the notice does not constitute a qualified medical child support order, complete and send the response to the department and notify the obligor, the obligee, and the child of the specific reason for the determination.

9. This chapter does not preclude the exchange of required information between the department and employers or insurers through electronic data transfer.

90 Acts, ch 1224, §29; 94 Acts, ch 1171, §27; 2002 Acts, ch 1018, §6, 7; 2009 Acts, ch 15, §2; 2009 Acts, ch 41, §263

Referred to in §252E.8

252E.6 Duration of health benefit plan coverage.

1. A child is eligible for medical support for the duration of the obligor's child support obligation. However, the child's eligibility for coverage under a health benefit plan shall be governed by all applicable plan provisions including, but not limited to, eligibility and insurability standards.

2. For cases for which services are being provided pursuant to chapter 252B, the department shall notify the employer when there is no longer a current order for medical support in effect for which the department is responsible. However, termination of medical support ordered pursuant to section 252E.3 shall be governed by the insurer's health benefit plan provisions for termination and by applicable federal law.

90 Acts, ch 1224, §30; 2002 Acts, ch 1018, §8

252E.6A Motion to quash.

1. An obligor may move to quash the order to the employer under section 252E.4 by following the same procedures and alleging a mistake of a fact as provided in section 252D.31 or as provided in subsection 2. If the unit is enforcing an income withholding order

and a medical support order simultaneously, any challenge to the income withholding order and medical support enforcement shall be filed and heard simultaneously.

2. The obligor may allege as a mistake of fact an error in the availability of dependent coverage under the health benefit plan because the coverage is not accessible to the dependent. Even if the plan is not accessible as defined in section 252E.1, the court may determine that the plan is substantially accessible if the obligee demonstrates that the dependent may receive a benefit under the plan. Section 252K.316 relating to evidence and procedure shall apply to the court proceeding.

3. The employer shall comply with the requirements of this chapter until the employer receives notice that a motion to quash has been granted, or that the unit has amended or terminated the national medical support notice.

97 Acts, ch 175, §75; 2002 Acts, ch 1018, §9

252E.7 Insurer authorization.

1. The entry of an order requiring a health benefit plan is authorization for enrollment of the dependent if the dependent is otherwise eligible to be enrolled. If the obligor fails to obtain coverage for a dependent, the insurer shall accept the signature of the obligee or other legal custodian of the child or of an employee of the department on the application for enrollment of the dependent under the health benefit plan. If the dependent is otherwise eligible to be enrolled in the plan pursuant to the applicable terms and conditions of the health benefit plan and the standard enrollment guidelines of the insurer, the insurer shall allow enrollment of the dependent at any time, notwithstanding any enrollment season restrictions.

2. An insurer shall not deny enrollment of a child under the health benefit plan of the obligor based on any of the following:

- a. The child was born out of wedlock.
- b. The child is not claimed as a dependent on the obligor's federal income tax form.
- c. The child does not reside with the obligor or in the insurer's service area.

3. For purposes of processing claims for payment, the insurer shall accept the signature of the obligee or other legal custodian of the child or of an employee of the department as valid authorization for purposes of processing any medical expense claims on behalf of the dependent for payment or reimbursement of medical services rendered to the dependent.

4. The insurer shall have immunity from any liability, civil or criminal, which might otherwise be incurred or imposed for actions taken in implementing this section including, but not limited to, the insurer's release of any information, or the payment of any claims for services by the insurer, or the insurer's acceptance of applications for enrollment of the dependent and medical expense claims for the dependent which are signed by the obligee or an employee of the department pursuant to this section.

5. If a dependent has coverage under the health benefit plan of and through the insurer of the obligor, the insurer shall make payment directly to the obligee, the provider, or the department for claims submitted by the obligee, by the provider with the obligee's approval, or by the department.

6. Payments remitted to the obligor by the insurer for services received by the dependent shall be recoverable by the obligee or the department from the obligor if not properly paid by the obligor to the provider or the obligee.

90 Acts, ch 1224, §31; 94 Acts, ch 1171, §28

252E.8 Releases of information.

1. If an order for coverage under a health benefit plan has been forwarded pursuant to section 252E.5, the obligor's employer or insurer shall release to the obligee or other legal custodian of the child or the department, upon receiving a written request, the information necessary to complete an application, to file a claim for medical expenses of the dependent or to create a qualified medical child support order pursuant to section 252E.2, subsection 2.

2. The employer or insurer shall make available to the obligee or the department any necessary claim forms or enrollment membership cards if required to obtain services.

3. The obligor's employer and insurer shall have immunity from any liability, civil or

criminal, which might otherwise be incurred or imposed for any information released by such employer or insurer pursuant to this chapter.

4. The department may release to the obligor's employer or insurer or to the obligee information necessary to obtain, enforce, and collect medical support.

90 Acts, ch 1224, §32; 94 Acts, ch 1171, §29

252E.9 Responsibilities of the obligor.

1. For cases for which services are being provided pursuant to chapter 252B, an obligor who fails to maintain medical support for the benefit of the dependent as ordered shall be liable to the obligee or the department for any medical expenses incurred from the date of the court order. Proof of failure to maintain medical support constitutes a showing of increased need and provides a basis for the establishment of a monetary amount for medical support.

2. For cases for which services are being provided pursuant to chapter 252B, the obligor shall notify the obligee and the department within ten days of a change in the terms or conditions of coverage under a health benefit plan. Such changes may include, but are not limited to, a change in deductibles, coinsurance, preadmission notification requirements, coverage for dental, optical, office visits, prescription drugs, inpatient and outpatient hospitalization, and any other changes which materially affect the coverage. Costs incurred by the obligee or the department as a result of the obligor's failure to provide notification as required are recoverable from the obligor.

90 Acts, ch 1224, §33

252E.10 Responsibility of the department.

For cases for which services are being provided pursuant to chapter 252B, the department shall take steps required by federal regulations to implement and enforce an order for medical support.

90 Acts, ch 1224, §34

252E.11 Assignment.

If medical assistance is provided by the department to a dependent pursuant to chapter 249A, rights to medical support payments are assigned to the department.

90 Acts, ch 1224, §35; 93 Acts, ch 78, §23

Referred to in §249A.54, 252A.13, 598.21C, 598.34, 600B.38

252E.12 Enforcement.

For the purposes of enforcement pursuant to chapter 252B, medical support may be reduced to a dollar amount and may be collected through the same remedies available for the collection and enforcement of child support.

90 Acts, ch 1224, §36

252E.13 Modification of support order.

1. Subject to 28 U.S.C. §1738B, when high potential for obtaining medical support exists, the obligee or the department may petition for a modification of the obligor's support order to include medical support or a monetary amount for medical support pursuant to this chapter.

2. In addition, if a support order does not provide medical support as defined in this chapter or equivalent medical support, the department or a party to the order may seek a modification of the order.

3. Subject to 28 U.S.C. §1738B, the department may amend information concerning the provisions regarding health benefits in a court or administrative order if notice of the amendment is provided to the court and to the parties to the order and if the amendment is filed with the clerk of court.

90 Acts, ch 1224, §37; 94 Acts, ch 1171, §30; 96 Acts, ch 1141, §25; 97 Acts, ch 175, §76

252E.14 Child support.

Unless the order specifies otherwise, medical support is not included in the monetary amount of child support ordered to be paid for orders entered on or after July 1, 1990.

90 Acts, ch 1224, §38

252E.15 Rulemaking authority — compliance.

The department shall adopt rules pursuant to chapter 17A to implement this chapter for cases for which services are being provided pursuant to chapter 252B. The department shall cooperate with any agency of the state or federal government as may be necessary to qualify for federal funds in conformity with provisions of this chapter and Tit. IV-D of the federal Social Security Act.

90 Acts, ch 1224, §39; 2010 Acts, ch 1061, §180

252E.16 Scope and effect.

1. Unless otherwise specified, the provisions of this chapter take effect July 1, 1990, for all support orders entered pursuant to chapter 234, 252A, 252C, 598, or 600B.

2. If an obligor was ordered to provide a health benefit plan or insurance coverage under an order entered prior to July 1, 1990, but did not comply with the order, insurers are not liable for medical expenses incurred prior to July 1, 1990. However, such an order may be implemented pursuant to the provisions of this chapter following its enactment. This chapter shall not be implemented retroactively; however, previous orders for medical support not otherwise complied with may be reduced to a dollar amount and collected from the obligor.

90 Acts, ch 1224, §40; 2018 Acts, ch 1111, §8, 10

CHAPTER 252F

ADMINISTRATIVE ESTABLISHMENT OF PATERNITY

Referred to in §252A.3A, 252A.6, 252A.6A, 252B.3, 252B.4, 252B.5, 252B.9, 252B.20, 252B.20A, 252B.26, 252C.1, 252C.4, 252D.1, 252D.16, 252D.16A, 252E.1, 252E.1A, 252H.2, 252H.21, 252I.2, 252J.1, 598.21C, 598.21G, 598.22, 598.22B, 598.23A, 600.11, 600B.41A, 602.8102(47)

252F.1	Definitions.	252F.4	Entry of order.
252F.2	Jurisdiction.	252F.5	Certification to district court.
252F.3	Notice of alleged paternity and support debt — conference — request for hearing.	252F.6	Filing with the district court.
		252F.7	Report to vital records.
		252F.8	Waiver of time limitations.

252F.1 Definitions.

As used in this chapter unless the context otherwise requires:

1. “*Administrator*” means the administrator of the child support recovery unit of the department of human services or the administrator’s designee.

2. “*Child*” means a person who is less than age eighteen or a person who is age eighteen but less than age nineteen and is engaged full-time in completing high school graduation or equivalency requirements in a manner which is reasonably expected to result in completion of the requirements prior to the person reaching age nineteen.

3. “*Mother*” means a mother of the child for whom paternity is being established.

4. “*Party*” means a putative father or a mother, as named in an action.

5. “*Paternity is at issue*” means any of the following conditions:

a. A child was not born or conceived within marriage.

b. A child was born or conceived within marriage but a court has declared that the child is not the issue of the marriage.

6. “*Paternity test*” means and includes any form of blood, tissue, or genetic testing administered to determine the biological father of a child.

7. “*Putative father*” means a person alleged to be the biological father of a child.

8. “Unit” means the child support recovery unit created in section 252B.2.

93 Acts, ch 79, §14; 94 Acts, ch 1171, §31; 2006 Acts, ch 1016, §12; 2007 Acts, ch 218, §168, 187; 2008 Acts, ch 1019, §18, 20; 2010 Acts, ch 1142, §2

252F.2 Jurisdiction.

In any case in which the unit is providing services pursuant to chapter 252B and paternity is at issue, proceedings may be initiated by the unit pursuant to this chapter for the sole purpose of establishing paternity and any accrued or accruing child support or medical support obligations. Proceedings under this chapter are in addition to other means of establishing paternity or support. Issues in addition to establishment of paternity or support obligations shall not be addressed in proceedings initiated under this chapter.

An action to establish paternity and support under this chapter may be brought within the time limitations set forth in section 614.8.

93 Acts, ch 79, §15

252F.3 Notice of alleged paternity and support debt — conference — request for hearing.

1. The unit may prepare a notice of alleged paternity and support debt to be served on a party if the mother of the child or a government official with knowledge of the circumstances of possible paternity relying on government records provides a written statement to the department of human services certifying in accordance with section 622.1 that the putative father is or may be the biological father of the child or children involved. The notice shall be accompanied by a copy of the statement and served on the putative father in accordance with rule of civil procedure 1.305. Service upon the mother shall not constitute valid service upon the putative father. The notice shall include or be accompanied by all of the following:

a. The name of the recipient of services under chapter 252B and the name and birth date of the child or children involved.

b. A statement that the putative father has been named as the biological father of the child or children named.

c. A statement that if paternity is established, the amount of the putative father’s monthly support obligation and the amount of the support debt accrued and accruing will be established in accordance with the guidelines established in section 598.21B, and the criteria established pursuant to section 252B.7A.

d. A statement that if paternity is established, a party has a duty to provide accrued and accruing medical support to the child or children in accordance with chapter 252E.

e. A written explanation of the procedures for determining the child support obligation and a request for financial or income information as necessary for application of the child support guidelines established pursuant to section 598.21B.

f. (1) The right of a party to request a conference with the unit to discuss paternity establishment and the amount of support that a party may be required to provide, within ten days of the date of service of the original notice or, if paternity is contested and paternity testing is conducted, within ten days of the date the paternity test results are issued or mailed to a party by the unit.

(2) A statement that if a conference is requested, a party shall have one of the following time frames, whichever is the latest, to send a written request for a court hearing on the issue of support to the unit:

(a) Ten days from the date set for the conference.

(b) Twenty days from the date of service of the original notice.

(c) If paternity was contested and paternity testing was conducted, and a party does not deny paternity after the testing or challenge the paternity test results, twenty days from the date paternity test results are issued or mailed by the unit to the party.

(3) A statement that after the holding of the conference, the unit shall issue a new notice of alleged paternity and finding of financial responsibility for child support or medical support, or both, to be provided in person to each party or sent to each party by regular mail addressed to the party’s last known address or, if applicable, to the last known address of the party’s attorney.

(4) A statement that if the unit issues a new notice of alleged paternity and finding of

financial responsibility for child support or medical support, or both, a party shall have one of the following time frames, whichever is the latest, to send a written request for a court hearing on the issue of support to the unit:

(a) Ten days from the date of issuance of the new notice.

(b) Twenty days from the date of service of the original notice.

(c) If paternity was contested and paternity testing conducted, and a party does not deny paternity after the testing or challenge the paternity test results, twenty days from the date the paternity test results are issued or mailed to the party by the unit.

g. A statement that if a conference is not requested, and a party does not deny paternity or challenge the results of any paternity testing conducted but objects to the finding of financial responsibility or the amount of child support or medical support, or both, the party shall send a written request for a court hearing on the issue of support to the unit within twenty days of the date of service of the original notice, or, if paternity was contested and paternity testing conducted, and a party does not deny paternity after the testing or challenge the paternity test results, within twenty days from the date the paternity test results are issued or mailed to the party by the unit, whichever is later.

h. A statement that if a timely written request for a hearing on the issue of support is received by the unit, the party shall have the right to a hearing to be held in district court and that if no timely written request is received and paternity is not contested, the administrator shall enter an order establishing the putative father as the father of the child or children and establishing child support or medical support, or both, in accordance with the notice of alleged paternity and support debt.

i. A written explanation of the rights and responsibilities associated with the establishment of paternity.

j. A written explanation of a party's right to deny paternity, the procedures for denying paternity, and the consequences of the denial.

k. A statement that if a party contests paternity, the party shall have twenty days from the date of service of the original notice to submit a written denial of paternity to the unit.

l. A statement that if paternity is contested, the unit shall, at the request of the party contesting paternity or on its own initiative, enter an administrative order requiring the putative father, mother, and child or children involved, to submit to paternity testing.

m. A statement that if paternity tests are conducted, the unit shall provide a copy of the test results to each party in person or send a copy to each party by regular mail, addressed to the party's last known address, or, if applicable, to the last known address of the party's attorney.

n. A statement setting forth the time frames for contesting paternity after paternity tests are conducted.

o. Other information as the unit finds appropriate.

2. The time limitations established for the notice provisions under subsection 1 are binding unless otherwise specified in this chapter or waived pursuant to section 252F.8.

3. a. If notice is served on a party, the unit shall file a true copy of the notice and the original return of service with the appropriate clerk of the district court as follows:

(1) In the county in which the child or children reside if the action is for purposes of establishing paternity and future child or medical support, or both.

(2) In the county in which the child or children involved last received public assistance benefits in the state, if the action is for purposes of establishing paternity and child or medical support, or both, only for prior periods of time when the child or children received public assistance, and no ongoing child or medical support obligation is to be established by this action.

(3) If the action is the result of a request from another state or foreign country to establish paternity of a putative father located in Iowa, in the county in which the putative father resides.

b. All subsequent documents filed or court hearings held related to the action shall be in the district court in the county in which notice was filed pursuant to this subsection. The clerk shall file and docket the action.

4. A party or the child support recovery unit may request a court hearing regarding establishment of paternity or a determination of support, or both.

a. Upon receipt of a timely written response requesting a hearing or on its own initiative, the unit shall certify the matter for hearing in the district court in the county where the original notice of alleged paternity and support debt is filed, in accordance with section 252F.5.

b. If paternity establishment was contested and paternity tests conducted, a court hearing on the issue of paternity shall be held no earlier than thirty days from the date paternity test results are issued to all parties by the unit, unless the parties mutually agree to waive the time frame pursuant to section 252F.8.

c. Any objection to the results of paternity tests shall be filed no later than twenty days after the date paternity test results are issued or mailed to each party by the unit. Any objection to paternity test results filed by a party more than twenty days after the date paternity tests are issued or mailed to the party by the unit shall not be accepted or considered by the court.

5. If a timely written response and request for a court hearing is not received by the unit and a party does not deny paternity, the administrator shall enter an order in accordance with section 252F.4.

6. a. If a party contests the establishment of paternity, the party shall submit, within twenty days of service of the notice on the party under subsection 1, a written statement contesting paternity establishment to the unit. Upon receipt of a written challenge of paternity establishment, or upon initiation by the unit, the administrator shall enter ex parte administrative orders requiring the mother, child or children involved, and the putative father to submit to paternity testing, except that if the mother and child or children previously submitted blood or genetic specimens in a prior action to establish paternity against a different putative father, the previously submitted specimens and prior results, if available, may be utilized for testing in this action. Either the mother or putative father may contest paternity under this chapter.

b. The orders shall be filed with the clerk of the district court in the county where the notice was filed and have the same force and effect as a court order for paternity testing.

c. The unit shall issue copies of the respective administrative orders for paternity testing to the mother and putative father in person, or by regular mail to the last known address of each, or if applicable, to the last known address of the attorney for each.

d. If a paternity test is ordered under this section, the administrator shall direct that inherited characteristics be analyzed and interpreted, and shall appoint an expert qualified as an examiner of genetic markers to analyze and interpret the results. The test shall be of a type generally acknowledged as reliable by accreditation entities designated by the secretary of the United States department of health and human services and shall be performed by a laboratory approved by an accreditation entity.

e. The party contesting paternity shall be provided one opportunity to reschedule the paternity testing appointment if the testing is rescheduled prior to the date of the originally scheduled appointment.

f. An original copy of the test results shall be filed with the clerk of the district court in the county where the notice was filed. The child support recovery unit shall issue a copy of the filed test results to each party in person, or by regular mail to the last known address of each, or if applicable, to the last known address of the attorney for each. However, if the action is the result of a request from another state or foreign country, the unit shall issue a copy of the results to the initiating agency in that jurisdiction.

g. Verified documentation of the chain of custody of the blood or genetic specimens is competent evidence to establish the chain of custody. The testimony of the appointed expert is not required. A verified expert's report of test results which indicate a statistical probability of paternity is sufficient authenticity of the expert's conclusion.

h. A verified expert's report shall be admitted as evidence to establish administrative paternity, and, if a court hearing is scheduled to resolve the issue of paternity, shall be admitted as evidence and is admissible at trial.

i. If the verified expert concludes that the test results show that the putative father is not excluded and that the probability of the putative father's paternity is ninety-five percent or

higher, there shall be a rebuttable presumption that the putative father is the biological father, and the evidence shall be sufficient as a basis for administrative establishment of paternity.

(1) In order to challenge the presumption of paternity, a party shall file a written notice of the challenge with the district court within twenty days from the date the paternity test results are issued or mailed to all parties by the unit. Any challenge to a presumption of paternity resulting from paternity tests, or to paternity test results filed after the lapse of the twenty-day time frame shall not be accepted or admissible by the unit or the court.

(2) A copy of the notice challenging the presumption of paternity shall be provided to any other party in person, or by mailing the notice to the last known address of each party, or if applicable, to the last known address of each party's attorney.

(3) The party challenging the presumption of paternity has the burden of proving that the putative father is not the father of the child.

(4) The presumption of paternity may be rebutted only by clear and convincing evidence.

j. If the verified expert concludes that the test results indicate that the putative father is not excluded and that the probability of the putative father's paternity is less than ninety-five percent, the administrator shall order a subsequent administrative paternity test or certify the case to the district court for resolution in accordance with the procedures and time frames specified in paragraph "i" and section 252F.5.

k. If the results of the test or the verified expert's analysis are timely challenged as provided in this subsection, the administrator, upon the request of a party and advance payment by the contestant or upon the unit's own initiative, shall order that an additional test be performed by the same laboratory or an independent laboratory. If the party requesting additional testing does not advance payment, the administrator shall certify the case to the district court in accordance with paragraph "i" and section 252F.5.

l. When a subsequent paternity test is conducted, the time frames in this chapter associated with paternity tests shall apply to the most recently completed test.

m. If the paternity test results exclude the putative father as a potential biological father of the child or children, and additional tests are not requested by either party or conducted on the unit's initiative, or if additional tests exclude the putative father as a potential biological father, the unit shall withdraw its action against the putative father and shall file a notice of the withdrawal with the clerk of the district court, and shall provide a copy of the notice to each party in person, or by regular mail sent to each party's last known address, or if applicable, the last known address of the party's attorney.

n. Except as provided in paragraph "k", the unit shall advance the costs of genetic testing. If paternity is established and paternity testing was conducted, the unit shall enter an order or, if the action proceeded to a court hearing, request that the court enter a judgment for the costs of the paternity tests consistent with applicable federal law. In a proceeding under this chapter, a copy of a bill for genetic testing shall be admitted as evidence without requiring third-party foundation testimony and shall constitute prima facie evidence of the amount incurred for genetic testing.

93 Acts, ch 79, §16; 94 Acts, ch 1171, §32; 96 Acts, ch 1141, §5, 6; 97 Acts, ch 175, §77 – 84; 2005 Acts, ch 69, §17; 2007 Acts, ch 218, §169 – 175, 187; 2008 Acts, ch 1019, §18, 20; 2009 Acts, ch 41, §263; 2010 Acts, ch 1069, §29; 2012 Acts, ch 1061, §1; 2015 Acts, ch 110, §102, 103, 124

Referred to in §234.39, 252F.4, 252F.5, 252F.6

252F.4 Entry of order.

1. If each party fails to respond to the initial notice within twenty days after the date of service of the notice or fails to appear at a conference pursuant to section 252F.3 on the scheduled date of the conference, and paternity has not been contested and each party fails to timely request a court hearing on the issue of support, the administrator shall enter an order against the parties, declaring the putative father to be the legal father of the child or children involved and assessing any accrued and accruing child support obligation pursuant to the guidelines established under section 598.21B, and medical support pursuant to chapter 252E.

2. If paternity is contested pursuant to section 252F.3, subsection 6, and the party

contesting paternity fails to appear for a paternity test and fails to request a rescheduling pursuant to section 252F.3, or fails to appear for both the initial and the rescheduled paternity tests and each party fails to timely request a court hearing on the issue of support, the administrator shall enter an order against the parties declaring the putative father to be the legal father of the child or children involved and assessing any accrued and accruing child support obligation pursuant to the guidelines established under section 598.21B, and medical support pursuant to chapter 252E.

3. If a conference pursuant to section 252F.3 is held, and paternity is not contested, and each party fails to timely request a court hearing on the issue of support, the administrator shall enter an order against the parties after the second notice has been sent declaring the putative father to be the legal father of the child or children involved and assessing any accrued and accruing child support obligation pursuant to the guidelines established under section 598.21B, and medical support pursuant to chapter 252E.

4. If paternity was contested and paternity testing was performed and the putative father was not excluded, if the test results indicate that the probability of the putative father's paternity is ninety-five percent or greater, if the test results are not timely challenged, and if each party fails to timely request a court hearing on the issue of support, the administrator shall enter an order against the parties declaring the putative father to be the legal father of the child or children involved and assessing any accrued and accruing child support obligation pursuant to the guidelines established under section 598.21B, and medical support pursuant to chapter 252E.

5. The administrator shall establish a support obligation under this section based upon the best information available to the unit and pursuant to section 252B.7A.

6. The order shall contain all of the following:

- a. A declaration of paternity.
- b. The amount of monthly support to be paid, with direction as to the manner of payment.
- c. The amount of accrued support.
- d. The name of the custodial parent or caretaker.
- e. The name and birth date of the child or children to whom the order applies.
- f. A statement that property of a party ordered to provide support is subject to income withholding, liens, garnishment, tax offset, and other collection actions.
- g. The medical support required pursuant to chapter 598 and chapter 252E.
- h. A statement that a party who is ordered to provide support is required to inform the child support recovery unit, on a continuing basis, of the name and address of the party's current employer, whether the party has access to health insurance coverage as required in the order, and if so, the health insurance policy information.

i. If paternity was contested by the putative father, the amount of any judgment assessed to the father for costs of paternity tests conducted pursuant to this chapter.

j. Statements as required pursuant to section 598.22B.

7. If paternity is not contested but a party does wish to challenge the issues of child or medical support, the administrator shall enter an order establishing paternity and reserving the issues of child or medical support for determination by the district court.

93 Acts, ch 79, §17; 94 Acts, ch 1171, §33; 97 Acts, ch 175, §85; 2005 Acts, ch 69, §18; 2007 Acts, ch 218, §176, 187; 2008 Acts, ch 1019, §18, 20; 2010 Acts, ch 1142, §3

Referred to in §252F.3

252F.5 Certification to district court.

1. Actions initiated under this chapter are not subject to contested case proceedings or further review pursuant to chapter 17A.

2. An action under this chapter may be certified to the district court if a party timely contests paternity establishment or paternity test results, or if a party requests a court hearing on the issues of child or medical support, or both, or upon the initiation of the unit as provided in this chapter. Review by the district court shall be an original hearing before the court.

3. In any action brought under this chapter, the action shall not be certified to the district court in a contested paternity action unless all of the following have occurred:

- a. Paternity testing has been completed.

b. The results of the paternity test have been issued to all parties.

c. A timely written objection to paternity establishment or paternity test results has been received from a party, or a timely written request for a court hearing on the issue of support has been received from a party by the unit, or the unit has requested a court hearing on the unit's own initiative.

4. A matter shall be certified to the district court in the county in which the notice was filed pursuant to section 252F.3, subsection 3.

5. The court shall set the matter for hearing and notify the parties of the time of and place for hearing.

6. If the court determines that the putative father is the legal father, the court shall establish the amount of the accrued and accruing child support pursuant to the guidelines established under section 598.21B, and shall establish medical support pursuant to chapter 252E.

7. If the putative father or another party contesting paternity fails to appear at the hearing, upon a showing that proper notice has been provided to the party, the court shall find the party in default and enter an appropriate order establishing paternity and support.

93 Acts, ch 79, §18; 94 Acts, ch 1171, §34; 97 Acts, ch 175, §86; 2005 Acts, ch 69, §19; 2007 Acts, ch 218, §177, 178, 187; 2008 Acts, ch 1019, §18, 20

Referred to in §252F.3

252F.6 Filing with the district court.

Following issuance of an order by the administrator, the order shall be presented to an appropriate district court judge for review and approval. Unless a defect appears on the face of the order, the district court shall approve the order. Upon approval by the district court judge, the order shall be filed in the district court in the county in which the notice was filed pursuant to section 252F.3, subsection 3. Upon filing, the order has the same force and effect as a district court order.

93 Acts, ch 79, §19

252F.7 Report to vital records.

Upon the filing of an order with the district court pursuant to this chapter, the clerk of the district court shall report the information from the order to the bureau of vital records in the manner provided in section 600B.36.

93 Acts, ch 79, §20; 2001 Acts, ch 24, §41

252F.8 Waiver of time limitations.

1. A putative father or other party may waive the time limitations established in this chapter.

2. If a party does not contest paternity or wish to request a conference or court hearing on the issue of support, upon receipt of a signed statement from the putative father and any other party that may contest establishment of paternity, waiving the time limitations, the administrator shall enter an order establishing paternity and support and the court may approve the order, notwithstanding the expiration of the period of the time limitations if paternity is established.

3. If a putative father or other party waives the time limitations and an order establishing paternity or determining support, or both, is entered under this chapter, the signed statement of the putative father and other party waiving the time limitations shall be filed with the order.

93 Acts, ch 79, §21; 94 Acts, ch 1171, §35

Referred to in §252F.3

CHAPTER 252G

CENTRAL EMPLOYEE REGISTRY

Referred to in §22.7(28), 252B.3, 252B.9

252G.1	Definitions.	252G.6	Administration and costs of the centralized employee registry.
252G.2	Establishment of central employee registry.	252G.7	Data entry and transmitting centralized employee registry records to the national new hire registry.
252G.3	Employer reporting requirements — penalty.	252G.8	Income withholding requirements.
252G.4	Alternative reporting requirements — penalty.		
252G.5	Access to centralized employee registry.		

252G.1 Definitions.

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

1. “*Business day*” means a day on which state offices are open for regular business.
2. “*Compensation*” means payment owed by the payor of income for:
 - a. Labor or services rendered by an employee or contractor to the payor of income.
 - b. Benefits including, but not limited to, vacation, holiday, and sick leave, and severance payments which are due an employee under an agreement with the employer or under a policy of the employer.
3. “*Contractor*” means a natural person who is eighteen years of age or older, who performs labor in this state to whom a payor of income makes payments which are not subject to withholding and for whom the payor of income is required by the internal revenue service to complete a 1099-MISC form.
4. “*Date of hire*” means either of the following:
 - a. The first day for which an employee is owed compensation by the payor of income.
 - b. The first day that a contractor performs labor or services for the payor of income.
5. “*Days*” means calendar days.
6. “*Department*” means the department of human services.
7. “*Dependent*” includes a spouse or child or any other person who is in need of and entitled to support from a person who is declared to be legally liable for the support of that dependent.
8. “*Employee*” means a natural person who performs labor in this state and is employed by an employer in this state for compensation and for whom the employer withholds federal or state tax liabilities from the employee’s compensation.
9. “*Employer*” means a person doing business in this state who engages an employee for compensation and for whom the employer withholds federal or state tax liabilities from the employee’s compensation. “*Employer*” includes any governmental entity and any labor organization.
10. “*Labor organization*” means any organization of any kind, or any agency, or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.
11. “*Natural person*” means an individual and not a corporation, government, business trust, estate, partnership, proprietorship, or other legal entity, however organized.
12. “*Payor of income*” includes both an employer and a person engaged in a trade or business in this state who engages a contractor for compensation.
13. “*Registry*” means the central employee registry created in section 252G.2.
14. “*Rehire*” means the first day for which an employee is owed compensation by the payor of income following a termination of employment lasting a minimum of six consecutive weeks. Termination of employment does not include temporary separations from employment such as unpaid medical leave, an unpaid leave of absence, or a temporary layoff.

15. “Unit” means the child support recovery unit created in section 252B.2. 93 Acts, ch 79, §3; 94 Acts, ch 1171, §36; 97 Acts, ch 175, §87, 88
Referred to in §84A.5, 252J.1

252G.2 Establishment of central employee registry.

By January 1, 1994, the unit shall establish a centralized employee registry database for the purpose of receiving and maintaining information on newly hired or rehired employees from employers. The unit shall establish the database and the department may adopt rules in conjunction with the department of revenue and the department of workforce development to identify appropriate uses of the registry and to implement this chapter, including implementation through the entering of agreements pursuant to chapter 28E.

93 Acts, ch 79, §4; 96 Acts, ch 1186, §23; 2003 Acts, ch 145, §286
Referred to in §252G.1, 252G.4

252G.3 Employer reporting requirements — penalty.

1. Beginning January 1, 1994, an employer who hires or rehires an employee on or after January 1, 1994, shall report the hiring or rehiring of the employee to the centralized employee registry in accordance with one of the following time frames:

a. Within fifteen days of the hiring or rehiring of the employee.

b. If the employer is transmitting hire and rehire reports magnetically or electronically, the employer may report through transmissions which are not less than twelve nor more than sixteen days apart.

2. The report submitted shall contain all of the following:

a. The employer’s name, address, and federal identification number.

b. The employee’s name, address, and social security number.

c. Information regarding whether the employer has employee dependent health care coverage available and the appropriate date on which the employee may qualify for the coverage.

d. The address to which income withholding orders or the notices of orders and garnishments should be sent.

e. The employee’s date of birth.

3. Employers required to report may report the information required under subsection 2 by any of the following means:

a. By mailing a copy of the employee’s Iowa employee’s withholding allowance certificate to the registry.

b. By submitting electronic media in a format approved by the unit in advance.

c. By submitting a fax transmission of the employee’s Iowa employee’s withholding allowance certificate to the registry.

d. By any other means authorized by the unit in advance if the means will result in timely reporting.

e. By submitting both of the following:

(1) For the information in subsection 2, paragraphs “a” and “b”, by transmitting by first class mail, magnetically or electronically, a federal W-4 form, or, at the option of the employer, an equivalent form.

(2) By reporting the other information required in subsection 2 by any of the means provided in paragraph “a”, “b”, “c”, or “d” of this subsection.

4. An employer with employees in two or more states that transmits reports magnetically or electronically may comply with subsection 1 by transmitting the report described in subsection 1 to each state, or by designating as the recipient state one state, in which the employer has employees, and transmitting the report to that state. An employer that transmits reports pursuant to this subsection shall notify the United States secretary of health and human services, in writing, of the state designated by the employer for the purpose of transmitting reports.

5. If an employer fails to report as required under this section, an action may be brought against the employer by any state agency accessing or administering the registry, or by the attorney general. The action may be brought in district court in the county in

which the employer has its principal place of business, or if the employer has no principal place of business, in any county in which an employee is performing labor or service for compensation, or in Polk county to determine noncompliance with this section. A willful failure to provide the information shall be punishable as contempt.

93 Acts, ch 79, §5; 94 Acts, ch 1171, §37; 96 Acts, ch 1141, §15; 97 Acts, ch 175, §89, 90; 98 Acts, ch 1170, §21

Referred to in §252G.4

252G.4 Alternative reporting requirements — penalty.

1. *a.* Beginning January 1, 1994, a payor of income to whom section 252G.3 is inapplicable, who enters into an agreement for the performance of services with a contractor, shall report the contractor to the registry. Payors of income shall report contractors performing labor under an agreement within fifteen days of the date on which all of the following conditions are met:

(1) The payor issues payment to the contractor in an amount which exceeds the amount required for the filing of a 1099-MISC report.

(2) Payment to the contractor under an agreement is made in a form which is other than a lump sum payment, within a calendar year.

b. The payor of income is not required to file more than one report for any contractor.

2. The report submitted to the registry shall contain all of the following:

a. The name, address, and federal identification number of the payor of income.

b. The contractor's name, address, social security number, and if known, the contractor's date of birth.

3. A payor of income required to report under this section may report the information required under subsection 1 by any written means authorized by the unit which results in timely reporting.

4. Information reported under this section shall be received and maintained as provided in section 252G.2.

5. A payor of income required to report under this section who fails to report is subject to the penalty provided in section 252G.3, subsection 5.

93 Acts, ch 79, §6; 94 Acts, ch 1171, §38; 2009 Acts, ch 41, §263

252G.5 Access to centralized employee registry.

The records of the centralized employee registry are confidential records pursuant to sections 22.7 and 252B.9, and may be accessed only by state agencies as provided in this section and section 252B.9. When a state agency accesses information in the registry, the agency may use the information to update the agency's own records. Access to and use of the information contained in the registry shall be limited to the following:

1. The unit for administration of the child support enforcement program, including but not limited to activities related to establishment and enforcement of child and medical support obligations through administrative or judicial processes, and other services authorized pursuant to chapter 252B.

2. State agencies as specified under 42 U.S.C. §653A which utilize income information for the determination of eligibility or calculation of payments for benefit or entitlement payments unless prohibited under federal law.

3. State agencies operating employment security and workers' compensation programs for the purposes of administering such programs unless prohibited under federal law.

93 Acts, ch 79, §7; 98 Acts, ch 1170, §22; 2012 Acts, ch 1033, §9

252G.6 Administration and costs of the centralized employee registry.

1. The registry shall maintain the information received from employers for a minimum period of six months.

2. State agencies accessing the centralized registry shall participate in a proportionate cost sharing to defray the administrative costs of the registry. The amount of a state agency's proportionate share shall be established by rule of the department.

93 Acts, ch 79, §8

252G.7 Data entry and transmitting centralized employee registry records to the national new hire registry.

The unit shall enter new hire data into the centralized employee directory database within five business days of receipt from employers and shall transmit the records of the centralized employee registry to the national directory of new hires within three business days after the date information regarding a newly hired employee is entered into the centralized employee registry.

97 Acts, ch 175, §91

252G.8 Income withholding requirements.

Within two business days after the date information regarding a newly hired employee is entered into the centralized employee registry and matched with obligors in cases being enforced by the unit, the unit shall transmit a notice to the employer or payor of income of the employee directing the employer or payor of income to withhold from the income of the employee in accordance with chapter 252D.

97 Acts, ch 175, §92

CHAPTER 252H

ADJUSTMENT AND MODIFICATION OF SUPPORT ORDERS

Referred to in §234.39, 252B.3, 252B.5, 252B.9, 252B.20A, 252B.26, 252D.16, 252D.16A, 252E.1, 252E.1A, 252J.1, 598.21C, 598.22B

	SUBCHAPTER I		
	GENERAL PROVISIONS		
252H.1	Purpose and intent.	252H.14A	Reviews initiated by the child support recovery unit — abbreviated method.
252H.2	Definitions.	252H.15	Notice of intent to review and adjust.
252H.3	Scope of the administrative adjustment or modification — role of district court in contested cases.	252H.16	Conducting the review — notice of decision.
252H.3A	Adding a party.	252H.17	Challenging the notice of decision — second review — notice.
252H.4	Role of the child support recovery unit.		SUBCHAPTER III
252H.5	Fees and cost recovery for review — adjustment — modification.		ADMINISTRATIVE MODIFICATION
252H.6	Collection of information.	252H.18	Orders subject to administrative modification.
252H.7	Waiver of notice periods and time limitations.	252H.18A	Request for review outside applicable time frames.
252H.8	Certification to court — hearing — default.	252H.19	Notice of intent to modify.
252H.9	Filing and docketing of administrative adjustment or modification order — order effective as district court order.	252H.20	Conference — second notice and finding of financial responsibility.
252H.10	Effective date of adjustment — modification.		SUBCHAPTER IV
252H.11	Concurrent actions.		COST-OF-LIVING ALTERATION
	SUBCHAPTER II		
	REVIEW AND ADJUSTMENT		
252H.12	Support orders subject to review and adjustment.	252H.21	Purpose — intent — effect on requirements for guidelines.
252H.13	Right to request review.	252H.22	Support orders subject to cost-of-living alteration.
252H.14	Reviews initiated by the child support recovery unit.	252H.23	Right to request cost-of-living alteration.
		252H.24	Role of the child support recovery unit — filing and docketing of cost-of-living alteration order — order effective as district court order.

SUBCHAPTER I
GENERAL PROVISIONS

Referred to in §252H.24

252H.1 Purpose and intent.

This chapter is intended to provide a means for state compliance with Tit. IV-D of the federal Social Security Act, as amended, requiring states to provide procedures for the review and adjustment of support orders being enforced under Tit. IV-D of the federal Social Security Act, and also to provide an expedited modification process when review and adjustment procedures are not required, appropriate, or applicable. Actions under this chapter shall be initiated only by the child support recovery unit.

93 Acts, ch 78, §24; 97 Acts, ch 175, §93

252H.2 Definitions.

1. As used in this chapter, unless the context otherwise requires, “*administrator*”, “*caretaker*”, “*court order*”, “*department*”, “*dependent child*”, “*medical support*”, and “*responsible person*” mean the same as defined in section 252C.1.

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

a. “*Act*” means the federal Social Security Act.

b. “*Adjustment*” applies only to the child support provisions of a support order and means either of the following:

(1) A change in the amount of child support based upon an application of the child support guidelines established pursuant to section 598.21B.

(2) An addition of or change to provisions for medical support as provided in chapter 252E.

c. “*Child*” means a child as defined in section 252B.1.

d. “*Child support agency*” means any state, county, or local office or entity of another state that has the responsibility for providing child support enforcement services under Tit. IV-D of the Act.

e. “*Child support recovery unit*” or “*unit*” means the child support recovery unit created pursuant to section 252B.2.

f. “*Cost-of-living alteration*” means a change in an existing child support order which equals an amount which is the amount of the support obligation following application of the percentage change of the consumer price index for all urban consumers, United States city average, as published in the federal register by the federal department of labor, bureau of labor statistics.

g. “*Determination of controlling order*” means the process of identifying a child support order which must be recognized pursuant to section 252K.207 and 28 U.S.C. §1738B, when more than one state has issued a support order for the same child and the same obligor, and may include a reconciliation of arrearages with information related to the calculation. Registration of an order of another state or foreign country is not necessary for a court or the unit to make a determination of controlling order.

h. “*Modification*” means either of the following:

(1) A change, correction, or termination of an existing support order.

(2) The establishment of a child or medical support obligation in a previously established order entered pursuant to chapter 234, 252A, 252C, 598, 600B, or any other support proceeding, in which such support was not previously established, or in which support was previously established and subsequently terminated prior to the emancipation of the children affected.

i. “*Parent*” means, for the purposes of requesting a review of a support order and for being entitled to notice under this chapter:

(1) The individual ordered to pay support pursuant to the order.

(2) An individual or entity entitled to receive current or future support payments pursuant to the order, or pursuant to a current assignment of support including but not limited to an agency of this or any other state that is currently providing public assistance benefits to the

child for whom support is ordered and any child support agency. Service of notice of an action initiated under this chapter on an agency is not required, but the agency may be advised of the action by other means.

j. “Public assistance” means benefits received in this state or any other state, under Tit. IV-A (temporary assistance to needy families), IV-E (foster care), or XIX (Medicaid) of the Act.

k. “Review” means an objective evaluation conducted through a proceeding before a court, administrative body, or an agency, of information necessary for the application of a state’s mandatory child support guidelines to determine:

- (1) The appropriate monetary amount of support.
- (2) Provisions for medical support.

l. “State” means “state” as defined in chapter 252K.

m. “Support order” means an order for support issued pursuant to this chapter, chapter 232, 234, 252A, 252C, 252E, 252F, 598, 600B, or any other applicable chapter, or under a comparable statute of another state or foreign country as registered with the clerk of court or certified to the child support recovery unit.

93 Acts, ch 78, §25; 93 Acts, ch 79, §47; 97 Acts, ch 175, §94 – 96; 98 Acts, ch 1170, §35; 2002 Acts, ch 1018, §10; 2005 Acts, ch 69, §20; 2007 Acts, ch 218, §179, 180, 187; 2008 Acts, ch 1019, §18, 20; 2009 Acts, ch 41, §263; 2011 Acts, ch 67, §2; 2015 Acts, ch 110, §104; 2016 Acts, ch 1011, §41

Referred to in §252B.1, 252I.4, 252J.1

252H.3 Scope of the administrative adjustment or modification — role of district court in contested cases.

1. Any action initiated under this chapter, including any court hearing resulting from an action, shall be limited in scope to the adjustment or modification of the child or medical support or cost-of-living alteration of the child support provisions of a support order. A determination of a controlling order is within the scope of this chapter. If the social security disability provisions of sections 598.22 and 598.22C apply, a determination of the amount of delinquent support due is within the scope of this chapter.

2. Nonsupport issues shall not be considered by the unit or the court in any action resulting under this chapter.

3. Actions initiated by the unit under this chapter shall not be subject to contested case proceedings or further review pursuant to chapter 17A and resulting court hearings following certification shall be an original hearing before the district court.

93 Acts, ch 78, §26; 97 Acts, ch 175, §97; 98 Acts, ch 1170, §36; 2002 Acts, ch 1018, §11

Referred to in §252H.8

252H.3A Adding a party.

A mother or father may be added as a proper party defendant to a support order upon service of a notice as provided in this chapter and without a court order as provided in the rules of civil procedure.

2007 Acts, ch 218, §181, 187; 2008 Acts, ch 1019, §18, 20

252H.4 Role of the child support recovery unit.

1. The unit may administratively adjust or modify or may provide for an administrative cost-of-living alteration of a support order entered under chapter 234, 252A, 252C, 598, or 600B, or any other support chapter if the unit is providing enforcement services pursuant to chapter 252B. The unit is not required to intervene to administratively adjust or modify or provide for an administrative cost-of-living alteration of a support order under this chapter.

2. The unit is a party to an action initiated pursuant to this chapter.

3. The unit shall conduct a review to determine whether an adjustment is appropriate or, upon the request of a parent or upon the unit’s own initiative, determine whether a modification is appropriate.

4. The unit shall adopt rules pursuant to chapter 17A to establish the process for the review of requests for adjustment, the criteria and procedures for conducting a review and determining when an adjustment is appropriate, the procedure and criteria for a cost-of-living

alteration, the criteria and procedure for a request for review pursuant to section 252H.18A, and other rules necessary to implement this chapter.

5. Legal representation of the unit shall be provided pursuant to section 252B.7, subsection 4.

93 Acts, ch 78, §27; 97 Acts, ch 175, §98

252H.5 Fees and cost recovery for review — adjustment — modification.

1. Unless the unit is already providing support enforcement service pursuant to chapter 252B, a parent ordered to provide support, who requests a review of a support order under subchapter II, shall file an application for services pursuant to section 252B.4.

2. A parent requesting a service shall pay the fee established for that service as established under this subsection. The fees established are not applicable to a parent who as a condition of eligibility for receiving public assistance benefits has assigned the rights to child or medical support for the order to be reviewed. The following fees shall be paid for the following services:

a. A fee for conducting the review, to be paid at the time the request for review is submitted to the unit. If the request for review is denied for any reason, the fee shall be refunded to the parent making the request. Any request submitted without full payment of the fee shall be denied.

b. A fee for a second review requested pursuant to section 252H.17, to be paid at the time the request for the second review is submitted to the unit. Any request submitted without full payment of the fee shall be denied.

c. A fee for activities performed by the unit in association with a court hearing requested pursuant to section 252H.8.

d. A fee for activities performed by the unit in entering an administrative order to adjust support when neither parent requests a court hearing pursuant to section 252H.8. The fee shall be paid during the postreview waiting period under section 252H.17. If the fee is not paid in full during the postreview notice period, further action shall not be taken by the unit to adjust the order unless the parent not requesting the adjustment pays the fee in full during the postreview waiting period, or unless the children affected by the order reviewed are currently receiving public assistance benefits and the proposed adjustment would result in either an increase in the amount of support or in provisions for medical support for the children.

e. A fee for conducting a conference requested pursuant to section 252H.20.

3. A parent who requests a review of a support order pursuant to section 252H.13, shall pay any service of process fees for service or attempted service of the notice required in section 252H.15. The unit shall not proceed to conduct a review pursuant to section 252H.16 until service of process fees have been paid in full. The service of process fee requirement of this subsection is not applicable to a parent who as a condition of eligibility for public assistance benefits has assigned the rights to child or medical support for the order to be reviewed. Service of process fees charged by a person other than the unit are distinct from any other fees and recovery of costs provided for in this section.

4. The unit shall, consistent with applicable federal law, recover administrative costs in excess of any fees collected pursuant to subsections 2 and 3 for providing services under this chapter and shall adopt rules providing for collection of fees for administrative costs.

5. The unit shall adopt rules pursuant to chapter 17A to establish procedures and criteria to determine the amount of any fees specified in this section and the administrative costs in excess of these fees.

93 Acts, ch 78, §28; 2019 Acts, ch 112, §3; 2020 Acts, ch 1063, §98

Unnumbered paragraph 1 stricken

252H.6 Collection of information.

The unit may request, obtain, and validate information concerning the financial circumstances of the parents of a child as necessary to determine the appropriate amount of support pursuant to the guidelines established in section 598.21B, including but not limited

to those sources and procedures described in sections 252B.7A and 252B.9. The collection of information does not constitute a review conducted pursuant to section 252H.16.

93 Acts, ch 78, §29; 97 Acts, ch 175, §99; 2005 Acts, ch 69, §21

252H.7 Waiver of notice periods and time limitations.

1. A parent may waive the fifteen-day prereview waiting period provided for in section 252H.16.

a. Upon receipt of signed requests from both parents waiving the prereview waiting period, the unit may conduct a review of the support order prior to the expiration of the fifteen-day period provided in section 252H.16.

b. If the parents jointly waive the prereview waiting period and the order under review is subsequently adjusted, the signed statements of both parents waiving the waiting period shall be filed in the court record with the order adjusting the support obligation.

2. A parent may waive the postreview waiting period provided for in section 252H.8, subsection 2 or 7, for a court hearing or in section 252H.17 for requesting of a second review.

a. Upon receipt of signed requests from both parents subject to the order reviewed, waiving the postreview waiting period, the unit may enter an administrative order adjusting the support order, if appropriate, prior to the expiration of the postreview waiting period.

b. If the parents jointly waive the postreview waiting period and an administrative order to adjust the support order is entered, the signed statements of both parents waiving the waiting period shall be filed in the court record with the administrative order adjusting the support obligation.

3. A parent may waive the time limitations established in section 252H.8, subsection 3, for requesting a court hearing, or in section 252H.20 for requesting a conference.

a. Upon receipt of signed requests from both parents who are subject to the order to be modified, waiving the time limitations, the unit may proceed to enter an administrative modification order.

b. If the parents jointly waive the time limitations and an administrative modification order is entered under this chapter, the signed statements of both parents waiving the time limitations shall be filed in the court record with the administrative modification order.

93 Acts, ch 78, §30; 2007 Acts, ch 218, §143, 156; 2010 Acts, ch 1142, §4, 5

Referred to in §252H.16

252H.8 Certification to court — hearing — default.

1. For actions initiated under section 252H.15, either parent or the unit may request a court hearing within fifteen days from the date of issuance of the notice of decision under section 252H.16, or within ten days of the date of issuance of the second notice of decision under section 252H.17, whichever is later.

2. For actions initiated under section 252H.14A, either parent or the unit may request a court hearing within ten days of the issuance of the second notice of decision under section 252H.17.

3. For actions initiated under subchapter III, either parent or the unit may request a court hearing within the latest of any of the following time periods:

a. Twenty days from the date of successful service of the notice of intent to modify required under section 252H.19.

b. Ten days from the date scheduled for a conference to discuss the modification action.

c. Ten days from the date of issuance of a second notice of a proposed modification action.

4. The time limitations for requesting a court hearing under this section may be extended by the unit.

5. If a timely written request for a hearing is received by the unit, a hearing shall be held in district court, and the unit shall certify the matter to the district court in the county in which the order subject to adjustment or modification is filed. The certification shall include the following, as applicable:

a. Copies of the notice of intent to review or notice of intent to modify.

b. The return of service, proof of service, acceptance of service, or signed statement by

the parent requesting review and adjustment or requesting modification, waiving service of the notice.

- c. Copies of the notice of decision and any revised notice as provided in section 252H.16.
 - d. Copies of any written objections to and request for a second review or conference or hearing.
 - e. Copies of any second notice of decision issued pursuant to section 252H.17, or second notice of proposed modification action issued pursuant to section 252H.20.
 - f. Copies of any financial statements and supporting documentation provided by the parents including proof of a substantial change in circumstances for a request filed pursuant to section 252H.18A.
 - g. Copies of any computation worksheet prepared by the unit to determine the amount of support calculated using the mandatory child support guidelines established under section 598.21B, and, if appropriate and the social security disability provisions of sections 598.22 and 598.22C apply, a determination of the amount of delinquent support due.
 - h. A certified copy of each order, issued by another state or foreign country, considered in determining the controlling order.
6. The court shall set the matter for hearing and notify the parties of the time and place of the hearing.
 7. For actions initiated under section 252H.15, a hearing shall not be held for at least sixteen days following the date of issuance of the notice of decision unless the parents have jointly waived, in writing, the fifteen-day postreview period.
 8. Pursuant to section 252H.3, the district court shall review the matter as an original hearing before the court.
 9. Issues subject to review by the court in any hearing resulting from an action initiated under this chapter shall be limited to the issues identified in section 252H.3.
 10. Notwithstanding any other law to the contrary, if more than one support order exists involving children with the same legally established parents, one hearing on all of the affected support orders shall be held in the district court in the county where the unit files the action. For the purposes of this subsection, the district court hearing the matter shall have jurisdiction over all other support orders entered by a court of this state and affected under this subsection.
 11. The court shall establish the amount of child support pursuant to section 598.21B, or medical support pursuant to chapter 252E, or both.
 12. If a party fails to appear at the hearing, upon a showing of proper notice to the party, the court may find the party in default and enter an appropriate order.
- 93 Acts, ch 78, §31; 96 Acts, ch 1141, §1, 2; 97 Acts, ch 175, §100; 98 Acts, ch 1170, §37; 2002 Acts, ch 1018, §12; 2004 Acts, ch 1116, §21; 2005 Acts, ch 69, §22, 23; 2007 Acts, ch 218, §144 – 147, 156; 2010 Acts, ch 1142, §6; 2015 Acts, ch 110, §105

Referred to in §252H.5, 252H.7, 252H.9, 252H.11, 252H.14A

252H.9 Filing and docketing of administrative adjustment or modification order — order effective as district court order.

1. If timely request for a court hearing is not made pursuant to section 252H.8, the unit shall prepare and present an administrative order for adjustment or modification, as applicable, for review and approval, ex parte, to the district court where the order to be adjusted or modified is filed. Notwithstanding any other law to the contrary, if more than one support order exists involving children with the same legally established parents, for the purposes of this subsection, the district court reviewing and approving the matter shall have jurisdiction over all other support orders entered by a court of this state and affected under this subsection.

2. For orders to which subchapter II or III is applicable, the unit shall determine the appropriate amount of the child support obligation using the current child support guidelines established pursuant to section 598.21B and the criteria established pursuant to section 252B.7A and shall determine the provisions for medical support pursuant to chapter 252E.

3. The administrative order prepared by the unit shall specify all of the following:
 - a. The amount of support to be paid and the manner of payment.

- b. The name of the custodian of any child for whom support is to be paid.
 - c. The name of the parent ordered to pay support.
 - d. The name and birth date of any child for whom support is to be paid.
 - e. That the property of the responsible person is subject to collection action, including but not limited to wage withholding, garnishment, attachment of a lien, and other methods of execution.
 - f. Provisions for medical support.
 - g. If applicable, the order determined to be the controlling order.
 - h. If applicable, the amount of delinquent support due based upon the receipt of social security disability payments as provided in sections 598.22 and 598.22C.
4. Supporting documents as described in section 252H.8, subsection 5, may be presented to the court with the administrative order, as applicable.
 5. Unless defects appear on the face of the order or on the attachments, the district court shall approve the order. Upon filing, the approved order shall have the same force, effect, and attributes of an order of the district court.
 6. Upon filing, the clerk of the district court shall enter the order in the judgment docket and judgment lien index.
 7. A copy of the order shall be sent by regular mail within fourteen days after filing to each parent's last known address, or if applicable, to the last known address of the parent's attorney.
 8. The order is final, and action by the unit to enforce and collect upon the order, including arrearages and medical support, or both, may be taken from the date of the entry of the order by the district court.
- 93 Acts, ch 78, §32; 97 Acts, ch 175, §101; 98 Acts, ch 1170, §38; 2002 Acts, ch 1018, §13; 2005 Acts, ch 69, §24; 2007 Acts, ch 218, §148, 156

252H.10 Effective date of adjustment — modification.

1. Pursuant to section 598.21C, any administrative or court order resulting from an action initiated under this chapter may be made retroactive only from three months after the date that all parties were successfully served the notice required under section 252H.14A, 252H.15, or section 252H.19, as applicable.
 2. The periodic due date established under a prior order for payment of child support shall not be changed in any order modified as a result of an action initiated under this chapter, unless the child support recovery unit or the court determines that good cause exists to change the periodic due date. If the unit or the court determines that good cause exists, the unit or the court shall include the rationale for the change in the modified order and shall address the issue of reconciliation of any payments due or made under a prior order which would result in payment of the child support obligation under both the prior and the modified orders.
- 93 Acts, ch 78, §33; 95 Acts, ch 115, §10; 2005 Acts, ch 69, §25; 2007 Acts, ch 218, §149, 156

252H.11 Concurrent actions.

This chapter does not prohibit or affect the ability or right of a parent or the parent's attorney to file a modification action at the parent's own initiative. If a modification action is filed by a parent concerning an order for which an action has been initiated but has not yet been completed by the unit under this chapter, the unit shall terminate any action initiated under this chapter, subject to the following:

1. The modification action filed by the parent must address the same issues as the action initiated under this chapter.
2. If the modification action filed by the parent is subsequently dismissed before being heard by the court, the unit shall continue the action previously initiated under subchapter II or III, or initiate a new action as follows:
 - a. If the unit previously initiated an action under subchapter II, and had not issued a notice of decision as required under section 252H.14A or 252H.16, the unit shall proceed as follows:
 - (1) If notice of intent to review was served ninety days or less prior to the date the modification action filed by the parent is dismissed, the unit shall complete the review and issue the notice of decision.

(2) If the modification action filed by the parent is dismissed more than ninety days after the original notice of intent to review was served, the unit shall serve or issue a new notice of intent to review and conduct the review.

(3) If the unit initiated a review under section 252H.14A, the unit may issue the notice of decision.

b. If the unit previously initiated an action under subchapter II and had issued the notice of decision as required under section 252H.14A or 252H.16, the unit shall proceed as follows:

(1) If the notice of decision was issued ninety days or less prior to the date the modification action filed by the parent is dismissed, the unit shall request, obtain, and verify any new or different information concerning the financial circumstances of the parents and issue a revised notice of decision to each parent, or if applicable, to the parent's attorney.

(2) If the modification action filed by the parent is dismissed more than ninety days after the date of issuance of the notice of decision, the unit shall serve or issue a new notice of intent to review pursuant to section 252H.15 and conduct a review pursuant to section 252H.16, or conduct a review and serve a new notice of decision under section 252H.14A.

c. If the unit previously initiated an action under subchapter III, the unit shall proceed as follows:

(1) If the modification action filed by the parent is dismissed more than ninety days after the original notice of intent to modify was served, the unit shall serve a new notice of intent to modify pursuant to section 252H.19.

(2) If the modification action filed by the parent is dismissed ninety days or less after the original notice of intent to modify was served, the unit shall complete the original modification action initiated by the unit under this subchapter.

(3) Each parent shall be allowed at least twenty days from the date the administrative modification action is reinstated to request a court hearing as provided for in section 252H.8.

3. If an action initiated under this chapter is terminated as the result of a concurrent modification action filed by one of the parents or the parent's attorney, the unit shall advise each parent, or if applicable, the parent's attorney, in writing, that the action has been terminated and the provisions of subsection 2 of this section for continuing or initiating a new action under this chapter. The notice shall be issued by regular mail to the last known mailing address of each parent, or if applicable, each parent's attorney.

4. If an action initiated under this chapter by the unit is terminated as the result of a concurrent action filed by one of the parents and is subsequently reinstated because the modification action filed by the parent is dismissed, the unit shall advise each parent, or if applicable, each parent's attorney, in writing, that the unit is continuing the prior administrative adjustment or modification action. The notice shall be issued by regular mail to the last known mailing address of each parent, or if applicable, each parent's attorney.

93 Acts, ch 78, §34; 97 Acts, ch 175, §102; 2007 Acts, ch 218, §150, 156

SUBCHAPTER II

REVIEW AND ADJUSTMENT

Referred to in §252B.20, 252H.5, 252H.9, 252H.11, 252H.18, 252H.24

252H.12 Support orders subject to review and adjustment.

A support order meeting all of the following conditions is eligible for review and adjustment under this subchapter:

1. The support order is subject to the jurisdiction of this state for the purposes of adjustment.

2. The support order provides for the ongoing support of at least one child under the age of eighteen or a child between the ages of eighteen and nineteen who has not yet graduated from high school but who is reasonably expected to graduate from high school before attaining the age of nineteen.

3. The unit is providing enforcement services for the ongoing support obligation pursuant to chapter 252B.

93 Acts, ch 78, §35; 2020 Acts, ch 1063, §99

Referred to in §252H.14

Subsection 3 stricken and former subsection 4 renumbered as 3

252H.13 Right to request review.

A parent shall have the right to request the review of a support order for which the unit is currently providing enforcement services of an ongoing child support obligation pursuant to chapter 252B including by objecting to a cost-of-living alteration pursuant to section 252H.24, subsections 1 and 2.

93 Acts, ch 78, §36; 97 Acts, ch 175, §103

Referred to in §252H.5, 252H.14A, 252H.15, 252H.24

252H.14 Reviews initiated by the child support recovery unit.

1. The unit may periodically initiate a review of support orders meeting the conditions in section 252H.12 in accordance with the following:

a. The right to any ongoing child support obligation is currently assigned to the state due to the receipt of public assistance.

b. The support order does not already include provisions for medical support.

c. The review is otherwise necessary to comply with the Act.

2. The unit may periodically initiate a request to a child support agency of another state or to a foreign country to conduct a review of a support order when the right to any ongoing child or medical support obligation due under the order is currently assigned to the state of Iowa or if the order does not include provisions for medical support.

3. The unit shall adopt rules establishing criteria to determine the appropriateness of initiating a review.

4. The unit shall initiate reviews under this section in accordance with the Act.

93 Acts, ch 78, §37; 97 Acts, ch 175, §104; 2007 Acts, ch 218, §182, 183, 187; 2008 Acts, ch 1019, §18, 20; 2015 Acts, ch 110, §106

252H.14A Reviews initiated by the child support recovery unit — abbreviated method.

1. Notwithstanding section 252H.15, the unit may use procedures under this section to review a support order if all the following apply:

a. One of the following applies:

(1) The right to ongoing child support is assigned to the state of Iowa due to the receipt of family investment program assistance, and a review of the support order is required under section 7302 of the federal Deficit Reduction Act of 2005, Pub. L. No. 109-171.

(2) A parent requests a review, provides the unit with financial information as part of that request, and the order meets the criteria for review under this subchapter.

b. The unit has access to information concerning the financial circumstances of each parent and one of the following applies:

(1) The parent is a recipient of family investment program assistance, medical assistance, or food assistance from the department.

(2) The parent's income is from supplemental security income paid pursuant to 42 U.S.C. §1381a.

(3) The parent is a recipient of disability benefits under the Act because of the parent's disability.

(4) The parent is an inmate of an institution under the control of the department of corrections.

(5) The unit has access to information described in section 252B.7A, subsection 1, paragraph "c".

2. If the conditions of subsection 1 are met, the unit may conduct a review and determine whether an adjustment is appropriate using information accessible by the unit without issuing a notice under section 252H.15 or requesting additional information from the parent.

3. Upon completion of the review, the unit shall issue a notice of decision to each parent, or if applicable, to each parent's attorney. The notice shall be served in accordance with the

rules of civil procedure or as provided in section 252B.26, except that a parent requesting a review pursuant to section 252H.13 shall waive the right to personal service of the notice in writing and accept service by regular mail. If the service by regular mail does not occur within ninety days of the written waiver of personal service, personal service of the notice is required unless a new waiver of personal service is obtained.

4. All of the following shall be included in the notice of decision:

a. The legal basis and purpose of the action, including an explanation of the procedures for determining child support, the criteria for determining the appropriateness of an adjustment, and a statement that the unit used the child support guidelines established pursuant to section 598.21B and the provisions for medical support pursuant to chapter 252E.

b. Information sufficient to identify the affected parties and the support order or orders affected.

c. An explanation of the legal rights and responsibilities of the affected parties, including time frames in which the parties must act.

d. A statement indicating whether the unit finds that an adjustment is appropriate and the basis for the determination.

e. Procedures for contesting the action, including that if a parent requests a second review both parents will be requested to submit financial or income information as necessary for application of the child support guidelines established pursuant to section 598.21B.

f. Other information as appropriate.

5. Section 252H.16, subsection 5, regarding a revised notice of decision shall apply to a notice of decision issued under this section.

6. Each parent shall have the right to challenge the notice of decision issued under this section by requesting a second review by the unit as provided in section 252H.17. If there is no new or different information to consider for the second review, the unit shall issue a second notice of decision based on prior information. Each parent shall have the right to challenge the second notice of decision by requesting a court hearing as provided in section 252H.8.

2007 Acts, ch 218, §151, 156; 2010 Acts, ch 1142, §7; 2011 Acts, ch 67, §3

Referred to in §252B.26, 252H.8, 252H.10, 252H.11, 252H.15, 252H.17

252H.15 Notice of intent to review and adjust.

1. Unless an action is initiated under section 252H.14A, prior to conducting a review of a support order, the unit shall issue a notice of intent to review and adjust to each parent, or if applicable, to each parent's attorney. However, notice to a child support agency or an agency entitled to receive child or medical support payments as the result of an assignment of support rights is not required.

2. Notice shall be served upon each parent in accordance with the rules of civil procedure, except that a parent requesting a review pursuant to section 252H.13 shall waive the right to personal service of the notice in writing and accept service by regular mail. If the service by regular mail does not occur within ninety days of the written waiver of personal service, personal service of the notice is required unless a new waiver of personal service is obtained.

3. The unit shall adopt rules pursuant to chapter 17A to ensure that all of the following are included in the notice:

a. The legal basis and purpose of the action.

b. Information sufficient to identify the affected parties and the support order or orders affected.

c. An explanation of the procedures for determining child support and a request for financial or income information as necessary for application of the child support guidelines established pursuant to section 598.21B.

d. An explanation of the legal rights and responsibilities of the affected parties, including the time frames in which the parties must act.

e. Criteria for determining appropriateness of an adjustment and a statement that the unit will use the child support guidelines established pursuant to section 598.21B and the provisions for medical support pursuant to chapter 252E to adjust the order.

- f. Procedures for contesting the action.
 - g. An explanation of the right to request a court hearing, and the applicable time frames and procedures to follow in requesting a court hearing.
 - h. Other information as appropriate.
- 93 Acts, ch 78, §38; 2004 Acts, ch 1116, §22; 2005 Acts, ch 69, §26; 2007 Acts, ch 218, §152, 156

Referred to in §252H.5, 252H.8, 252H.10, 252H.11, 252H.14A, 252H.16

252H.16 Conducting the review — notice of decision.

1. For actions initiated under section 252H.15, the unit shall conduct the review and determine whether an adjustment is appropriate. As necessary, the unit shall make a determination of the controlling order or the amount of delinquent support due based upon the receipt of social security disability payments as provided in sections 598.22 and 598.22C.

2. Unless both parents have waived the prereview notice period as provided for in section 252H.7, the review shall not be conducted for at least fifteen days from the date both parents were successfully served with the notice required in section 252H.15.

3. Upon completion of the review, the unit shall issue a notice of decision by regular mail to the last known address of each parent, or if applicable, each parent's attorney.

4. The unit shall adopt rules pursuant to chapter 17A to ensure that all of the following are included in the notice:

- a. Information sufficient to identify the affected parties and the support order or orders affected.

- b. A statement indicating whether the unit finds that an adjustment is appropriate and the basis for the determination.

- c. Other information, as appropriate.

5. A revised notice of decision shall be issued when the unit receives or becomes aware of new or different information affecting the results of the review after the notice of decision has been issued and before the entry of an administrative order adjusting the support order, when new or different information is not received in conjunction with a request for a second review, or subsequent to a request for a court hearing. If a revised notice of decision is issued, the time frames for requesting a second review or court hearing shall apply from the date of issuance of the revised notice.

93 Acts, ch 78, §39; 98 Acts, ch 1170, §39; 2002 Acts, ch 1018, §14; 2007 Acts, ch 218, §153, 156; 2010 Acts, ch 1142, §8

Referred to in §252H.5, 252H.6, 252H.7, 252H.8, 252H.11, 252H.14A, 252H.17

252H.17 Challenging the notice of decision — second review — notice.

1. Each parent shall have the right to challenge the notice of decision issued under section 252H.14A or 252H.16, by requesting a second review by the unit.

2. A challenge shall be submitted, in writing, to the local child support office that issued the notice of decision, within thirty days of service of the notice of decision under section 252H.14A or within ten days of the issuance of the notice of decision under section 252H.16.

3. A parent challenging the notice of decision shall submit any new or different information, not previously considered by the unit in conducting the review, with the challenge and request for second review.

4. A parent challenging the notice of decision shall submit any required fees with the challenge. Any request submitted without full payment of the required fee shall be denied.

5. If a timely challenge along with any necessary fee is received, the unit shall issue by regular mail to the last known address of each parent, or if applicable, to each parent's attorney, a notice that a second review will be conducted. The unit shall adopt rules pursuant to chapter 17A to ensure that all of the following are included in the notice:

- a. A statement of purpose of the second review.

- b. Information sufficient to identify the affected parties and the support order or orders affected.

- c. A statement of the information that is eligible for consideration at the second review.

- d. The procedures and time frames in conducting and completing a second review,

including a statement that only one second review shall be conducted as the result of a challenge received from either or both parents.

e. An explanation of the right to request a court hearing, and the applicable time frames and procedures to follow in requesting a court hearing.

f. Other information, as appropriate.

6. The unit shall conduct a second review, utilizing any new or additional information provided or available since issuance of the notice of decision under section 252H.14A or under section 252H.16, to determine whether an adjustment is appropriate.

7. Upon completion of the review, the unit shall issue a second notice of decision by regular mail to the last known address of each parent, or if applicable, to each parent's attorney. The unit shall adopt rules pursuant to chapter 17A to ensure that all of the following are included in the notice:

a. Information sufficient to identify the affected parties and the support order or orders affected.

b. The unit's finding resulting from the second review indicating whether the unit finds that an adjustment is appropriate, the basis for the determination, and the impact on the first review.

c. An explanation of the right to request a court hearing, and the applicable time frames and procedures to follow in requesting a court hearing.

d. Other information, as appropriate.

8. If the determination resulting from the first review is revised or reversed by the second review, the following shall be issued to each parent along with the second notice of decision and the amount of any proposed adjustment:

a. Any updated or revised financial statements provided by either parent.

b. A computation prepared by the local child support office issuing the notice, demonstrating how the amount of support due under the child support guidelines was calculated, and a comparison of the newly computed amount with the current support obligation amount.

93 Acts, ch 78, §40; 96 Acts, ch 1141, §3; 2007 Acts, ch 218, §154, 156

Referred to in §252H.5, 252H.7, 252H.8, 252H.14A

SUBCHAPTER III

ADMINISTRATIVE MODIFICATION

Referred to in §252H.8, 252H.9, 252H.11

252H.18 Orders subject to administrative modification.

An order meeting all of the following conditions is eligible for administrative modification under this subchapter.

1. The order is subject to the jurisdiction of this state for the purposes of modification.

2. The unit is providing services pursuant to chapter 252B.

3. The child was conceived or born during a marriage or paternity has been legally established.

4. Review and adjustment services pursuant to subchapter II are not required or are not applicable.

93 Acts, ch 78, §41

252H.18A Request for review outside applicable time frames.

1. If a support order is not eligible for review and adjustment because the support order is outside of the minimum time frames specified by rule of the department, a parent may request a review and administrative modification by submitting all of the following to the unit:

a. A request for review of the support order which is outside of the applicable time frames.

b. Verified documentation of a substantial change in circumstances as specified by rule of the department.

2. Upon receipt of the request and all documentation required in subsection 1, the unit

shall review the request and documentation and if appropriate shall issue a notice of intent to modify as provided in section 252H.19.

3. Notwithstanding section 598.21C, for purposes of this section, a substantial change in circumstances means there has been a change of fifty percent or more in the income of a parent, and the change is due to financial circumstances which have existed for a minimum period of three months and can reasonably be expected to exist for an additional three months.

97 Acts, ch 175, §105; 2005 Acts, ch 69, §27
 Referred to in §252H.4, 252H.8

252H.19 Notice of intent to modify.

1. The unit shall issue a notice of intent to modify to each parent. Notice to a child support agency or an agency entitled to receive child or medical support payments as the result of an assignment of support rights is not required.

2. The notice shall be served upon each parent in accordance with the rules of civil procedure, except that a parent requesting modification shall, at the time of the request, waive the right to personal service of the notice in writing and accept service by regular mail. The unit shall adopt rules pursuant to chapter 17A to ensure that all of the following are included in the notice:

- a. The legal basis and purpose of the action.
- b. Information sufficient to identify the affected parties and the support order or orders affected.
- c. An explanation of the procedures for determining child support and a request for financial or income information as necessary for application of the child support guidelines established pursuant to section 598.21B.
- d. An explanation of the legal rights and responsibilities of the affected parties, including the time frames in which the parties must act.
- e. Procedures for contesting the action through a conference or a court hearing.
- f. Other information, as appropriate.

93 Acts, ch 78, §42; 2004 Acts, ch 1116, §23; 2005 Acts, ch 69, §28
 Referred to in §252H.8, 252H.10, 252H.11, 252H.18A

252H.20 Conference — second notice and finding of financial responsibility.

1. Each parent shall have the right to request a conference with the office of the unit that issued the notice of intent to modify. The request may be made in person, in writing, or by telephone, and shall be made within ten days of the date of successful service of the notice of intent to modify.

2. A parent requesting a conference shall submit any required fee no later than the date of the scheduled conference. A conference shall not be held unless the required fee is paid in full.

3. Upon a request and full payment of any required fee, the office of the unit that issued the notice of intent to modify shall schedule a conference with the parent and advise the parent of the date, time, place, and procedural aspects of the conference. The unit shall adopt rules pursuant to chapter 17A to specify the manner in which a conference is conducted and the purpose of the conference.

4. Following the conference, the office of the unit that conducted the review shall issue a second notice of proposed modification and finding of financial responsibility to the parent requesting the conference. The unit shall adopt rules pursuant to chapter 17A to ensure that all of the following are included in the notice:

- a. Information sufficient to identify the affected parties and the support order or orders affected.
- b. If the unit will continue or terminate the action.
- c. Procedures for contesting the action and the applicable time frames for actions by the parents.
- d. Other information, as appropriate.

93 Acts, ch 78, §43
 Referred to in §252H.3, 252H.7, 252H.8

SUBCHAPTER IV
COST-OF-LIVING ALTERATION

Referred to in §252B.20, 252E.1B

252H.21 Purpose — intent — effect on requirements for guidelines.

1. This subchapter is intended to provide a procedure to accommodate a request of both parents to expeditiously change a support order due to changes in the cost of living.

2. All of the following shall apply to a cost-of-living alteration under this subchapter:

a. To the extent permitted under 42 U.S.C. §666(a)(10)(A)(i)(II), the cost-of-living alteration shall be an exception to any requirement under law for the application of the child support guidelines established pursuant to section 598.21B, including but not limited to any requirement in this chapter or chapter 234, 252A, 252B, 252C, 252F, 598, or 600B.

b. The cost-of-living alteration shall not prevent any subsequent modification or adjustment to the support order as otherwise provided in law based on application of the child support guidelines.

c. The calculation of a cost-of-living alteration to a child support order shall be compounded as follows:

(1) Increase or decrease the child support order by the percentage change of the appropriate consumer price index for the month and year after the month and year the child support order was last issued, modified, adjusted, or altered.

(2) Increase or decrease the amount of the child support order calculated in subparagraph (1) for each subsequent year by applying the appropriate consumer price index for each subsequent year to the result of the calculation for the previous year. The final year in the calculation shall be the year immediately preceding the year the unit received the completed request for the cost-of-living alteration.

d. The amount of the cost-of-living alteration in the notice in section 252H.24, subsection 1, shall be the result of the calculation in paragraph “c”.

97 Acts, ch 175, §106; 2005 Acts, ch 69, §29

252H.22 Support orders subject to cost-of-living alteration.

A support order meeting all of the following conditions is eligible for a cost-of-living alteration under this subchapter.

1. The support order is subject to the jurisdiction of this state for the purposes of a cost-of-living alteration.

2. The support order provides for the ongoing support of at least one child under the age of eighteen or a child between the ages of eighteen and nineteen who has not yet graduated from high school but who is reasonably expected to graduate from high school before attaining the age of nineteen.

3. The unit is providing enforcement services for the ongoing support obligation pursuant to chapter 252B.

4. A parent requests a cost-of-living alteration as provided in section 252H.23.

5. The support order addresses medical support for the child.

6. The support order is not subject to the social security disability provisions pursuant to sections 598.22 and 598.22C.

97 Acts, ch 175, §107; 2002 Acts, ch 1018, §15

252H.23 Right to request cost-of-living alteration.

A parent may request a cost-of-living alteration by submitting all of the following to the unit:

1. A written request for a cost-of-living alteration to the support order signed by the parent making the request.

2. A statement signed by the nonrequesting parent agreeing to the cost-of-living alteration to the support order.

3. A statement signed by each parent waiving that parent’s right to personal service and accepting service by regular mail.

4. Other documentation specified by rule of the department.

97 Acts, ch 175, §108

Referred to in §252H.22

252H.24 Role of the child support recovery unit — filing and docketing of cost-of-living alteration order — order effective as district court order.

1. Upon receipt of a request and required documentation for a cost-of-living alteration, the unit shall issue a notice of the amount of cost-of-living alteration by regular mail to the last known address of each parent, or, if applicable, each parent's attorney. The notice shall include all of the following:

a. A statement that either parent may contest the cost-of-living alteration within thirty days of the date of the notice by making a request for a review of a support order as provided in section 252H.13, and if either parent does not make a request for a review within thirty days, the unit shall prepare an administrative order as provided in subsection 4.

b. A statement that the parent may waive the thirty-day notice waiting period provided for in this section.

2. Upon timely receipt of a request and required documentation for a review of a support order as provided in subsection 1 from either parent, the unit shall terminate the cost-of-living alteration process and apply the provisions of subchapters I and II of this chapter relating to review and adjustment.

3. Upon receipt of signed requests from both parents subject to the support order, waiving the notice waiting period, the unit may prepare an administrative order pursuant to subsection 4 altering the support obligation.

4. If timely request for a review pursuant to section 252H.13 is not made, and if the thirty-day notice waiting period has expired, or if both parents have waived the notice waiting period, the unit shall prepare and present an administrative order for a cost-of-living alteration, ex parte, to the district court where the order to be altered is filed.

5. Unless defects appear on the face of the administrative order or on the attachments, the district court shall approve the order. Upon filing, the approved order shall have the same force, effect, and attributes of an order of the district court.

6. Upon filing, the clerk of the district court shall enter the order in the judgment docket and judgment lien index.

7. If the parents jointly waive the thirty-day notice waiting period, the signed statements of both parents waiving the notice period shall be filed in the court record with the administrative order altering the support obligation.

8. The unit shall send a copy of the order by regular mail to each parent's last known address, or, if applicable, to the last known address of the parent's attorney.

9. An administrative order approved by the district court is final, and action by the unit to enforce and collect upon the order may be taken from the date of the entry of the order by the district court.

97 Acts, ch 175, §109

Referred to in §252H.13, 252H.21, 598.21C

CHAPTER 252I

SUPPORT PAYMENTS — LEVIES AGAINST ACCOUNTS

Referred to in §252B.3, 252B.9

252I.1	Definitions.	252I.5	Administrative levy — notice to financial institution.
252I.2	Purpose and use.	252I.6	Administrative levy — notice to support obligor.
252I.3	Initial notice to obligor.	252I.7	Responsibilities of financial institution.
252I.4	Verification of accounts and immunity from liability.	252I.8	Challenges to action.

252I.1 Definitions.

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

1. “*Account*” means “account” as defined in section 524.103, the savings or deposits of a member received or being held by a credit union, or certificates of deposit. “*Account*” also includes deposits held by an agent, a broker-dealer, or an issuer as defined in section 502.102 and money-market mutual fund accounts and “account” as defined in 42 U.S.C. §666(a)(17). However, “*account*” does not include amounts held by a financial institution as collateral for loans extended by the financial institution.

2. “*Bank*” means “bank”, “insured bank”, and “state bank” as defined in section 524.103.

3. “*Court order*” means “support order” as defined in section 252J.1.

4. “*Credit union*” means “credit union” as defined in section 533.102.

5. “*Financial institution*” means “financial institution” as defined in 42 U.S.C. §669A(d)(1). “*Financial institution*” also includes an institution which holds deposits for an agent, broker-dealer, or an issuer as defined in section 502.102.

6. “*Obligor*” means a person who has been ordered by a court or administrative authority to pay support.

7. “*Support*” or “*support payments*” means “support” or “support payments” as defined in section 252D.16.

8. “*Unit*” or “*child support recovery unit*” means the child support recovery unit created in section 252B.2.

9. “*Working days*” means only Monday, Tuesday, Wednesday, Thursday, and Friday, but excluding the holidays specified in section 1C.2, subsection 1.

94 Acts, ch 1101, §1; 96 Acts, ch 1034, §15; 97 Acts, ch 175, §110; 98 Acts, ch 1170, §33; 2007 Acts, ch 174, §91; 2008 Acts, ch 1031, §109; 2012 Acts, ch 1017, §61, 62

Referred to in §252B.9

252I.2 Purpose and use.

1. Notwithstanding other statutory provisions which provide for the execution, attachment, or levy against accounts, the unit may utilize the process established in this chapter to collect delinquent support payments provided that any exemptions or exceptions which specifically apply to enforcement of support obligations pursuant to other statutory provisions also apply to this chapter.

2. An obligor is subject to the provisions of this chapter if the obligor’s support obligation is being enforced by the child support recovery unit, and if the support payments ordered under chapter 232, 234, 252A, 252C, 252D, 252E, 252F, 598, 600B, or any other applicable chapter, or under a comparable statute of another state or foreign country, as certified to the child support recovery unit, are not paid to the clerk of the district court or the collection services center pursuant to section 598.22 and become delinquent in an amount equal to the support payment for one month.

3. Any amount forwarded by a financial institution under this chapter shall not exceed the amounts specified in 15 U.S.C. §1673(b) and shall not exceed the delinquent or accrued amount of support owed by the obligor.

94 Acts, ch 1101, §2; 2015 Acts, ch 110, §107

Referred to in §252I.5, 252I.6

252I.3 Initial notice to obligor.

The unit or district court may include language in any new or modified support order issued on or after July 1, 1994, notifying the obligor that the obligor is subject to the provisions of this chapter. However, this chapter is sufficient notice for implementation of administrative levy provisions without further notice of the provisions of this chapter.

94 Acts, ch 1101, §3; 2005 Acts, ch 112, §12

252I.4 Verification of accounts and immunity from liability.

1. The unit may contact a financial institution to obtain verification of the account number, the names and social security numbers listed for the account, and the account balance of any account held by an obligor. Contact with a financial institution may be by telephone or by written communication. The financial institution may require positive voice recognition and may require the telephone number of the authorized person from the unit before releasing an obligor's account information by telephone.

2. The unit and financial institutions doing business in Iowa shall enter into agreements to develop and operate a data match system, using automated data exchanges to the maximum extent feasible. The data match system shall allow a means by which each financial institution shall provide to the unit for each calendar quarter the name, record address, social security number or other taxpayer identification number, and other identifying information for each obligor who maintains an account at the institution and who owes past-due support, as identified by the unit by name and social security number or other taxpayer identification number. The unit shall work with representatives of financial institutions to develop a system to assist nonautomated financial institutions in complying with the provisions of this section.

3. The unit may pay a reasonable fee to a financial institution for conducting the data match required in subsection 2, not to exceed the lower of either one hundred fifty dollars for each quarterly data match or the actual costs incurred by the financial institution for each quarterly data match. However, the unit may also adopt rules pursuant to chapter 17A to specify a fee amount for each quarterly data match based upon the estimated state share of funds collected under this chapter, which, when adopted, shall be applied in lieu of the one hundred fifty dollar fee under this subsection. In addition, the unit may pay a reasonable fee to a financial institution for automation programming development performed in order to conduct the data match required in subsection 2, not to exceed the lower of either five hundred dollars or the actual costs incurred by the financial institution. The unit may use the state share of funds collected under this chapter to pay the fees to financial institutions under this subsection. For state fiscal years beginning July 1, 1999, and July 1, 2000, the unit may use up to one hundred percent of the state share of such funds. For state fiscal years beginning on or after July 1, 2001, the unit may use up to fifty percent of the state share of such funds. Notwithstanding any other provision of law to the contrary, a financial institution shall have until a date provided in the agreement in subsection 2 to submit its claim for a fee under this subsection. If the unit does not have sufficient funds available under this subsection for payment of fees under this subsection for conducting data matches or for automation program development performed in the fiscal year beginning July 1, 1999, the cost may be carried forward to the fiscal year beginning July 1, 2000. The unit may also use funds from an amount assessed a child support agency of another state, as defined in section 252H.2, to conduct a data match requested by that child support agency as provided in 42 U.S.C. §666(a)(14) to pay fees to financial institutions under this subsection.

4. *a.* A financial institution is immune from any liability in any action or proceeding, whether civil or criminal, for any of the following:

(1) The disclosure of any information by a financial institution to the unit pursuant to this chapter or the rules or procedures adopted by the unit to implement this chapter, including disclosure of information relating to an obligor who maintains an account with the financial institution or disclosure of information relating to any other person who maintains an account with the financial institution that is provided for the purpose of complying with the data match requirements of this section and with the agreement entered into between the financial institution and the unit pursuant to subsection 2.

(2) Any encumbrance or surrender of any assets held by a financial institution in response to a notice of lien or levy issued by the unit.

(3) Any action or omission in connection with good faith efforts to comply with this chapter or any rules or procedures that are adopted by the unit to implement this chapter.

(4) The disclosure, use, or misuse by the unit or by any other person of information provided or assets delivered to the unit by a financial institution.

b. For the purposes of this section, “*financial institution*” includes officers, directors, employees, contractors, and agents of the financial institution.

5. The financial institution or the unit is not liable for the cost of any early withdrawal penalty of an obligor’s certificate of deposit.

94 Acts, ch 1101, §4; 97 Acts, ch 175, §111; 99 Acts, ch 127, §3; 2000 Acts, ch 1096, §3, 4; 2000 Acts, ch 1232, §90, 95

252I.5 Administrative levy — notice to financial institution.

1. If an obligor is subject to this chapter under section 252I.2, the unit may initiate an administrative action to levy against the accounts of the obligor.

2. The unit may send a notice to the financial institution with which the account is placed, directing that the financial institution forward all or a portion of the moneys in the obligor’s account or accounts to the collection services center established pursuant to chapter 252B. The notice shall be sent by regular mail, with proof of service completed according to rule of civil procedure 1.442.

3. The notice to the financial institution shall contain all of the following:

a. The name and social security number of the obligor.

b. A statement that the obligor is believed to have one or more accounts at the financial institution.

c. A statement that pursuant to the provisions of this chapter, the obligor’s accounts are subject to seizure and the financial institution is authorized and required to forward moneys to the collection services center.

d. The maximum amount that shall be forwarded by the financial institution, which shall not exceed the delinquent or accrued amount of support owed by the obligor.

e. The prescribed time frame which the financial institution must meet in forwarding amounts.

f. The address of the collection services center and the collection services center account number.

g. A telephone number, address, and contact name of the child support recovery unit contact initiating the action.

94 Acts, ch 1101, §5; 2005 Acts, ch 112, §13

Referred to in §252I.6, 252I.7

252I.6 Administrative levy — notice to support obligor.

1. The unit may administratively initiate an action to seize accounts of an obligor who is subject to this chapter under section 252I.2.

2. The unit shall notify an obligor subject to this chapter, and any other party known to have an interest in the account, of the action. The notice shall contain all of the following:

a. The name of the obligor.

b. A statement that the obligor is believed to have one or more accounts at the financial institution.

c. A statement that pursuant to the provisions of this chapter, the obligor’s accounts are subject to seizure and the financial institution is authorized and required to forward moneys to the collection services center.

d. The maximum amount to be forwarded by the financial institution, which shall not exceed the delinquent or accrued amount of support owed by the obligor.

e. The prescribed time frames within which the financial institution must comply.

f. A statement that any challenge to the action shall be in writing and shall be received by the child support recovery unit within ten days of the date of the notice to the obligor.

g. The address of the collection services center and the collection services center account number.

h. A telephone number, address, and contact name for the child support recovery unit contact initiating the action.

3. The unit shall forward the notice to the obligor by regular mail within two working days of sending the notice to the financial institution pursuant to section 252I.5. Proof of service shall be completed according to rule of civil procedure 1.442.

94 Acts, ch 1101, §6; 2008 Acts, ch 1019, §10

252I.7 Responsibilities of financial institution.

Upon receipt of a notice under section 252I.5, the financial institution shall do all of the following:

1. Immediately encumber funds in all accounts in which the obligor has an interest to the extent of the debt indicated in the notice from the unit.

2. No sooner than fifteen days, and no later than twenty days from the date the financial institution receives the notice under section 252I.5, unless notified by the unit of a challenge by the obligor or an account holder of interest, the financial institution shall forward the moneys encumbered to the collection services center with the obligor's name and social security number, collection services center account number, and any other information required in the notice.

3. The financial institution may assess a fee against the obligor, not to exceed ten dollars, for forwarding of moneys to the collection services center. This fee is in addition to the amount of support due. In the event that there are insufficient moneys to cover the fee and the support amount due, the institution may deduct the fee amount prior to forwarding moneys to the collection services center and the amount credited to the support obligation shall be reduced by the fee amount.

94 Acts, ch 1101, §7

Referred to in §252I.8

252I.8 Challenges to action.

1. Challenges under this chapter may be initiated only by an obligor or by an account holder of interest. Actions initiated by the unit under this chapter are not subject to chapter 17A, and resulting court hearings following certification shall be an original hearing before the district court.

2. The person challenging the action shall submit a written challenge to the person identified as the contact for the unit in the notice, within ten working days of the date of the notice.

3. The unit shall, upon receipt of a written challenge, review the facts of the case with the challenging party. Only a mistake of fact, including but not limited to, a mistake in the identity of the obligor or a mistake in the amount of delinquent support due shall be considered as a reason to dismiss or modify the proceeding.

4. If the unit determines that a mistake of fact has occurred the unit shall proceed as follows:

a. If a mistake in identity has occurred or the obligor is not delinquent in an amount equal to the payment for one month, the unit shall notify the financial institution that the administrative levy has been released. The unit shall provide a copy of the notice to the support obligor by regular mail.

b. If the obligor is delinquent, but the amount of the delinquency is less than the amount indicated in the notice, the unit shall notify the financial institution of the revised amount with a copy of the notice and issue a copy to the obligor or forward a copy to the obligor by regular mail. Upon written receipt of instructions from the unit, the financial institution shall release the funds in excess of the revised amount to the obligor and the moneys in the amount of the debt shall be processed according to section 252I.7.

5. If the unit finds no mistake of fact, the unit shall provide a notice to that effect to the challenging party by regular mail. Upon written request of the challenging party, the unit

shall request a hearing before the district court in the county in which the underlying support order is filed.

a. The financial institution shall encumber moneys if the child support recovery unit notifies the financial institution to do so.

b. The clerk of the district court shall schedule a hearing upon the request by the unit for a time not later than ten calendar days after the filing of the request for hearing. The clerk shall mail copies of the request for hearing and the order scheduling the hearing to the unit and to all account holders of interest.

c. If the court finds that there is a mistake of identity or that the obligor does not owe the delinquent support, the unit shall notify the financial institution that the administrative levy has been released.

d. If the court finds that the obligor has an interest in the account, and the amount of support due was incorrectly overstated, the unit shall notify the financial institution to release the excess moneys to the obligor and remit the remaining moneys in the amount of the debt to the collection services center for disbursement to the appropriate recipient.

e. If the court finds that the obligor has an interest in the account, and the amount of support due is correct, the financial institution shall forward the moneys to the collection services center for disbursement to the appropriate recipient.

f. If the obligor or any other party known to have an interest in the account fails to appear at the hearing, the court may find the challenging party in default, shall ratify the administrative levy, if valid upon its face, and shall enter an order directing the financial institution to release the moneys to the unit.

g. Issues related to visitation, custody, or other provisions not related to levies against accounts are not grounds for a hearing under this chapter.

h. Support orders shall not be modified under a challenge pursuant to this section.

i. Any findings in the challenge of an administrative levy related to the amount of the accruing or accrued support obligation do not modify the underlying support order.

j. An order entered under this chapter for a levy against an account of a support obligor has priority over a levy for a purpose other than the support of the dependents in the court order being enforced.

6. The support obligor may withdraw the request for challenge by submitting a written withdrawal to the person identified as the contact for the unit in the notice or the unit may withdraw the administrative levy at any time prior to the court hearing and provide notice of the withdrawal to the obligor and any account holder of interest and to the financial institution, by regular mail.

7. If the financial institution has forwarded moneys to the collection services center and has deducted a fee from the moneys of the account, or if any additional fees or costs are levied against the account, and all funds are subsequently refunded to the account due to a mistake of fact or ruling of the court, the child support recovery unit shall reimburse the account for any fees assessed by the financial institution. If the mistake of fact is a mistake in the amount of support due and any portion of the moneys is retained as support payments, however, the unit is not required to reimburse the account for any fees or costs levied against the account. Additionally, for the purposes of reimbursement to the account for any fees or costs, each certificate of deposit is considered a separate account.

94 Acts, ch 1101, §8

CHAPTER 252J

CHILD SUPPORT — LICENSING SANCTIONS

Referred to in §252B.3, 252B.9, 272D.1

252J.1	Definitions.	252J.7	Certificate of noncompliance
252J.2	Purpose and use.		— certification to licensing
252J.3	Notice to individual of potential sanction of license.		authority.
252J.4	Conference.	252J.8	Requirements and procedures of licensing authority.
252J.5	Written agreement.	252J.9	District court hearing.
252J.6	Decision of the unit.		

252J.1 Definitions.

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

1. “*Certificate of noncompliance*” means a document provided by the child support recovery unit certifying that the named individual is not in compliance with any of the following:

- a. A support order.
- b. A written agreement for payment of support entered into by the unit and the obligor.
- c. A subpoena or warrant relating to a paternity or support proceeding.

2. “*Individual*” means a parent, an obligor, or a putative father in a paternity or support proceeding.

3. “*License*” means a license, certification, registration, permit, approval, renewal, or other similar authorization issued to an individual by a licensing authority which evidences the admission to, or granting of authority to engage in, a profession, occupation, business, industry, or recreation or to operate or register a motor vehicle. “*License*” includes licenses for hunting, fishing, boating, or other recreational activity.

4. “*Licensee*” means an individual to whom a license has been issued, or who is seeking the issuance of a license.

5. “*Licensing authority*” means a county treasurer, county recorder or designated depository, the supreme court, or an instrumentality, agency, board, commission, department, officer, organization, or any other entity of the state, which has authority within this state to suspend or revoke a license or to deny the renewal or issuance of a license authorizing an individual to register or operate a motor vehicle or to engage in a business, occupation, profession, recreation, or industry.

6. “*Obligor*” means a natural person as defined in section 252G.1 who has been ordered by a court or administrative authority to pay support.

7. “*Subpoena or warrant*” means a subpoena or warrant relating to a paternity or support proceeding initiated or obtained by the unit or a child support agency as defined in section 252H.2.

8. “*Support*” means support or support payments as defined in section 252D.16, whether established through court or administrative order.

9. “*Support order*” means an order for support issued pursuant to chapter 232, 234, 252A, 252C, 252D, 252E, 252F, 252H, 598, 600B, or any other applicable chapter, or under a comparable statute of another state or foreign country as registered with the clerk of the district court or certified to the child support recovery unit.

10. “*Unit*” means the child support recovery unit created in section 252B.2.

11. “*Withdrawal of a certificate of noncompliance*” means a document provided by the unit certifying that the certificate of noncompliance is withdrawn and that the licensing authority may proceed with issuance, reinstatement, or renewal of an individual’s license.

95 Acts, ch 115, §1; 97 Acts, ch 175, §112, 113; 2015 Acts, ch 110, §108

Referred to in §252B.5, 252B.9, 252I.1

252J.2 Purpose and use.

1. Notwithstanding other statutory provisions to the contrary, and if an individual has not been cited for contempt and enjoined from engaging in the activity governed by a license

pursuant to section 598.23A, the unit may utilize the process established in this chapter to collect support.

2. For cases in which services are provided by the unit all of the following apply:

a. An obligor is subject to the provisions of this chapter if the obligor's support obligation is being enforced by the unit, if the support payments required by a support order to be paid to the clerk of the district court or the collection services center pursuant to section 598.22 are not paid and become delinquent in an amount equal to the support payment for three months, and if the obligor's situation meets other criteria specified under rules adopted by the department pursuant to chapter 17A. The criteria specified by rule shall include consideration of the length of time since the obligor's last support payment and the total amount of support owed by the obligor.

b. An individual is subject to the provisions of this chapter if the individual has failed, after receiving appropriate notice, to comply with a subpoena or warrant.

3. Actions initiated by the unit under this chapter shall not be subject to contested case proceedings or further review pursuant to chapter 17A and any resulting court hearing shall be an original hearing before the district court.

4. Notwithstanding chapter 22, all of the following apply:

a. Information obtained by the unit under this chapter shall be used solely for the purposes of this chapter or chapter 252B.

b. Information obtained by a licensing authority shall be used solely for the purposes of this chapter.

95 Acts, ch 115, §2; 97 Acts, ch 175, §114

Referred to in §252J.5, 252J.6, 252J.9

252J.3 Notice to individual of potential sanction of license.

The unit shall proceed in accordance with this chapter only if the unit sends a notice to the individual by regular mail to the last known address of the individual. The notice shall include all of the following:

1. The address and telephone number of the unit and the unit case number.

2. A statement that the obligor is not in compliance with a support order or the individual has not complied with a subpoena or warrant.

3. A statement that the individual may request a conference with the unit to contest the action.

4. A statement that if, within twenty days of mailing of the notice to the individual, the individual fails to contact the unit to schedule a conference, the unit shall issue a certificate of noncompliance, bearing the individual's name, social security number and unit case number, to any appropriate licensing authority, certifying that the obligor is not in compliance with a support order or an individual has not complied with a subpoena or warrant.

5. A statement that in order to stay the issuance of a certificate of noncompliance the request for a conference shall be in writing and shall be received by the unit within twenty days of mailing of the notice to the individual.

6. The names of the licensing authorities to which the unit intends to issue a certificate of noncompliance.

7. A statement that if the unit issues a certificate of noncompliance to an appropriate licensing authority, the licensing authority shall initiate proceedings to refuse to issue or renew, or to suspend or revoke the individual's license, unless the unit provides the licensing authority with a withdrawal of a certificate of noncompliance.

95 Acts, ch 115, §3; 97 Acts, ch 175, §115; 2005 Acts, ch 112, §14, 15

Referred to in §252J.4, 252J.6, 252J.7

252J.4 Conference.

1. The individual may schedule a conference with the unit following mailing of the notice pursuant to section 252J.3, or at any time after service of notice of suspension, revocation, denial of issuance, or nonrenewal of a license from a licensing authority, to challenge the unit's actions under this chapter.

2. The request for a conference shall be made to the unit, in writing, and, if requested after

mailing of the notice pursuant to section 252J.3, shall be received by the unit within twenty days following mailing of the notice.

3. The unit shall notify the individual of the date, time, and location of the conference by regular mail, with the date of the conference to be no earlier than ten days following issuance of notice of the conference by the unit, unless the individual and the unit agree to an earlier date which may be the same date the individual requests the conference. If the individual fails to appear at the conference, the unit shall issue a certificate of noncompliance.

4. Following the conference, the unit shall issue a certificate of noncompliance unless any of the following applies:

a. The unit finds a mistake in the identity of the individual.

b. The unit finds a mistake in determining that the amount of delinquent support is equal to or greater than three months.

c. The obligor enters a written agreement with the unit to comply with a support order, the obligor complies with an existing written agreement to comply with a support order, or the obligor pays the total amount of delinquent support due.

d. Issuance of a certificate of noncompliance is not appropriate under other criteria established in accordance with rules adopted by the department pursuant to chapter 17A.

e. The unit finds a mistake in determining the compliance of the individual with a subpoena or warrant.

f. The individual complies with a subpoena or warrant.

5. The unit shall grant the individual a stay of the issuance of a certificate of noncompliance upon receiving a timely written request for a conference, and if a certificate of noncompliance has previously been issued, shall issue a withdrawal of a certificate of noncompliance if the obligor enters into a written agreement with the unit to comply with a support order or if the individual complies with a subpoena or warrant.

6. If the individual does not timely request a conference or does not comply with a subpoena or warrant or if the obligor does not pay the total amount of delinquent support owed within twenty days of mailing of the notice pursuant to section 252J.3, the unit shall issue a certificate of noncompliance.

95 Acts, ch 115, §4; 95 Acts, ch 209, §23; 97 Acts, ch 175, §116; 2005 Acts, ch 112, §16; 2011 Acts, ch 67, §4

Referred to in §252J.6

252J.5 Written agreement.

1. If an obligor is subject to this chapter as established in section 252J.2, subsection 2, paragraph “a”, the obligor and the unit may enter into a written agreement for payment of support and compliance which takes into consideration the obligor’s ability to pay and other criteria established by rule of the department. The written agreement shall include all of the following:

a. The method, amount, and dates of support payments by the obligor.

b. A statement that upon breach of the written agreement by the obligor, the unit shall issue a certificate of noncompliance to any appropriate licensing authority.

2. A written agreement entered into pursuant to this section does not preclude any other remedy provided by law and shall not modify or affect an existing support order.

3. Following issuance of a certificate of noncompliance, if the obligor enters into a written agreement with the unit, the unit shall issue a withdrawal of the certificate of noncompliance to any appropriate licensing authority and shall forward a copy of the withdrawal by regular mail to the obligor.

95 Acts, ch 115, §5; 97 Acts, ch 175, §117; 2004 Acts, ch 1116, §24

Referred to in §252J.6

252J.6 Decision of the unit.

1. If an obligor is not in compliance with a support order or the individual is not in compliance with a subpoena or warrant pursuant to section 252J.2, the unit mails a notice to the individual pursuant to section 252J.3, and the individual requests a conference pursuant

to section 252J.4, the unit shall issue a written decision if any of the following conditions exists:

- a. The individual fails to appear at a scheduled conference under section 252J.4.
- b. A conference is held under section 252J.4.
- c. The obligor fails to comply with a written agreement entered into by the obligor and the unit under section 252J.5.

2. The unit shall send a copy of the written decision to the individual by regular mail at the individual's most recent address of record. If the decision is made to issue a certificate of noncompliance or to withdraw the certificate of noncompliance, a copy of the certificate of noncompliance or of the withdrawal of the certificate of noncompliance shall be attached to the written decision. The written decision shall state all of the following:

a. That the certificate of noncompliance or withdrawal of the certificate of noncompliance has been provided to the licensing authorities named in the notice provided pursuant to section 252J.3.

b. That upon receipt of a certificate of noncompliance, the licensing authority shall initiate proceedings to suspend, revoke, deny issuance, or deny renewal of a license, unless the licensing authority is provided with a withdrawal of a certificate of noncompliance from the unit.

c. That in order to obtain a withdrawal of a certificate of noncompliance from the unit, the obligor shall enter into a written agreement with the unit, comply with an existing written agreement with the unit, or pay the total amount of delinquent support owed or the individual shall comply with a subpoena or warrant.

d. That if the unit issues a written decision which includes a certificate of noncompliance, that all of the following apply:

(1) The individual may request a hearing as provided in section 252J.9, before the district court as follows:

(a) If the action is a result of section 252J.2, subsection 2, paragraph "a", in the county in which the underlying support order is filed, by filing a written application to the court challenging the issuance of the certificate of noncompliance by the unit and sending a copy of the application to the unit within the time period specified in section 252J.9.

(b) If the action is a result of section 252J.2, subsection 2, paragraph "b", and the individual is not an obligor, in the county in which the dependent child or children reside if the child or children reside in Iowa; in the county in which the dependent child or children last received public assistance if the child or children received public assistance in Iowa; or in the county in which the individual resides if the action is the result of a request from a child support agency in another state or foreign country.

(2) The individual may retain an attorney at the individual's own expense to represent the individual at the hearing.

(3) The scope of review of the district court shall be limited to demonstration of a mistake of fact related to the delinquency of the obligor or the compliance of the individual with a subpoena or warrant.

3. If the unit issues a certificate of noncompliance, the unit shall only issue a withdrawal of the certificate of noncompliance if any of the following applies:

- a. The unit or the court finds a mistake in the identity of the individual.
- b. The unit finds a mistake in determining compliance with a subpoena or warrant.
- c. The unit or the court finds a mistake in determining that the amount of delinquent support due is equal to or greater than three months.

d. The obligor enters a written agreement with the unit to comply with a support order, the obligor complies with an existing written agreement to comply with a support order, or the obligor pays the total amount of delinquent support owed.

e. The individual complies with the subpoena or warrant.

f. Issuance of a withdrawal of the certificate of noncompliance is appropriate under other criteria in accordance with rules adopted by the department pursuant to chapter 17A.

95 Acts, ch 115, §6; 95 Acts, ch 209, §24; 97 Acts, ch 175, §118; 2004 Acts, ch 1116, §25; 2005 Acts, ch 112, §17; 2015 Acts, ch 110, §109

Referred to in §252J.7, 252J.9

252J.7 Certificate of noncompliance — certification to licensing authority.

1. If the individual fails to respond to the notice of potential license sanction provided pursuant to section 252J.3 or the unit issues a written decision under section 252J.6 which states that the individual is not in compliance, the unit shall issue a certificate of noncompliance to any appropriate licensing authority.

2. The certificate of noncompliance shall contain the individual's name and social security number.

3. The certificate of noncompliance shall require all of the following:

a. That the licensing authority initiate procedures for the revocation or suspension of the individual's license, or for the denial of the issuance or renewal of a license using the licensing authority's procedures.

b. That the licensing authority provide notice to the individual, as provided in section 252J.8, of the intent to suspend, revoke, deny issuance, or deny renewal of a license including the effective date of the action. The suspension, revocation, or denial shall be effective no sooner than thirty days following provision of notice to the individual.

95 Acts, ch 115, §7; 97 Acts, ch 175, §119; 2004 Acts, ch 1116, §26

252J.8 Requirements and procedures of licensing authority.

1. A licensing authority shall maintain records of licensees by name, current known address, and social security number.

2. In addition to other grounds for suspension, revocation, or denial of issuance or renewal of a license, a licensing authority shall include in rules adopted by the licensing authority as grounds for suspension, revocation, or denial of issuance or renewal of a license, the receipt of a certificate of noncompliance from the unit.

3. The supreme court shall prescribe rules for admission of persons to practice as attorneys and counselors pursuant to chapter 602, article 10, which include provisions, as specified in this chapter, for the denial, suspension, or revocation of the admission for failure to comply with a child support order or a subpoena or warrant.

4. a. A licensing authority that is issued a certificate of noncompliance shall initiate procedures for the suspension, revocation, or denial of issuance or renewal of licensure to an individual. The licensing authority shall utilize existing rules and procedures for suspension, revocation, or denial of the issuance or renewal of a license.

b. In addition, the licensing authority shall provide notice to the individual of the licensing authority's intent to suspend, revoke, or deny issuance or renewal of a license under this chapter. The suspension, revocation, or denial shall be effective no sooner than thirty days following provision of notice to the individual.

c. The notice shall state all of the following:

(1) The licensing authority intends to suspend, revoke, or deny issuance or renewal of an individual's license due to the receipt of a certificate of noncompliance from the unit.

(2) The individual must contact the unit to schedule a conference or to otherwise obtain a withdrawal of a certificate of noncompliance.

(3) Unless the unit furnishes a withdrawal of a certificate of noncompliance to the licensing authority within thirty days of the issuance of the notice under this section, the individual's license will be revoked, suspended, or denied.

(4) If the licensing authority's rules and procedures conflict with the additional requirements of this section, the requirements of this section shall apply.

(5) Notwithstanding section 17A.18, the individual does not have a right to a hearing before the licensing authority to contest the authority's actions under this chapter but may request a court hearing pursuant to section 252J.9 within thirty days of the provision of notice under this subsection.

5. If the licensing authority receives a withdrawal of a certificate of noncompliance from the unit, the licensing authority shall immediately reinstate, renew, or issue a license if the individual is otherwise in compliance with licensing requirements established by the licensing authority.

95 Acts, ch 115, §8; 97 Acts, ch 175, §120; 2009 Acts, ch 41, §245

Referred to in §252J.7, 252J.9, 321.218

252J.9 District court hearing.

1. Following the issuance of a written decision by the unit under section 252J.6 which includes the issuance of a certificate of noncompliance, or following provision of notice to the individual by a licensing authority pursuant to section 252J.8, an individual may seek review of the decision and request a hearing before the district court as follows:

a. If the action is a result of section 252J.2, subsection 2, paragraph “a”, in the county in which the underlying support order is filed, by filing an application with the district court, and sending a copy of the application to the unit by regular mail.

b. If the action is a result of section 252J.2, subsection 2, paragraph “b”, and the individual is not an obligor, in a county in which the dependent child or children reside if the child or children reside in Iowa; in the county in which the dependent child or children last received public assistance if the child or children received public assistance in Iowa; or in the county in which the individual resides if the action is the result of a request from a child support agency in another state or foreign country.

2. An application shall be filed to seek review of the decision by the unit or following issuance of notice by the licensing authority no later than within thirty days after the issuance of the notice pursuant to section 252J.8. The clerk of the district court shall schedule a hearing and mail a copy of the order scheduling the hearing to the individual and the unit and shall also mail a copy of the order to the licensing authority, if applicable. The unit shall certify a copy of its written decision and certificate of noncompliance, indicating the date of issuance, and the licensing authority shall certify a copy of a notice issued pursuant to section 252J.8, to the court prior to the hearing.

3. The filing of an application pursuant to this section shall automatically stay the actions of a licensing authority pursuant to section 252J.8. The hearing on the application shall be scheduled and held within thirty days of the filing of the application. However, if the individual fails to appear at the scheduled hearing, the stay shall be lifted and the licensing authority shall continue procedures pursuant to section 252J.8.

4. The scope of review by the district court shall be limited to demonstration of a mistake of fact relating to the delinquency of the obligor or the noncompliance of the individual with a subpoena or warrant. Issues related to visitation, custody, or other provisions not related to the support provisions of a support order are not grounds for a hearing under this chapter.

5. Support orders shall not be modified by the court in a hearing under this chapter.

6. If the court finds that the unit was in error in issuing a certificate of noncompliance, or in failing to issue a withdrawal of a certificate of noncompliance, the unit shall issue a withdrawal of a certificate of noncompliance to the appropriate licensing authority.

95 Acts, ch 115, §9; 97 Acts, ch 175, §121; 2009 Acts, ch 41, §246; 2015 Acts, ch 110, §110
 Referred to in §252J.6, 252J.8

CHAPTER 252K

UNIFORM INTERSTATE FAMILY SUPPORT ACT

Referred to in §252A.18, 252B.4, 252B.9, 252B.14, 252B.20, 252B.26, 252D.1, 252D.16A, 252D.17, 252D.24, 252D.31, 252E.1, 252H.2, 598.21C, 598.21E, 598.22, 598.22B, 598.23A, 598C.309, 600B.41A, 602.6111, 602.8102(47)

ARTICLE 1

GENERAL PROVISIONS

- 252K.101 Title.
- 252K.102 Definitions.
- 252K.103 State tribunal and support enforcement agency.
- 252K.104 Remedies cumulative.
- 252K.105 Application of chapter to resident of foreign country and foreign support proceeding.

ARTICLE 2

JURISDICTION

- 252K.201 Bases for jurisdiction over nonresident.
- 252K.202 Duration of personal jurisdiction.
- 252K.203 Initiating and responding tribunal of this state.
- 252K.204 Simultaneous proceedings.
- 252K.205 Continuing, exclusive jurisdiction to modify child support order.

252K.702	Applicability.	252K.712	Personal information — limit on use.
252K.703	Relationship of child support recovery unit to United States central authority.	252K.713	Record in original language — English translation.
252K.704	Initiation by child support recovery unit of support proceeding under convention.		ARTICLE 8
252K.705	Direct request.		INTERSTATE RENDITION
252K.706	Registration of convention support order.	252K.801	Grounds for rendition.
252K.707	Contest of registered convention support order.	252K.802	Conditions of rendition.
252K.708	Recognition and enforcement of registered convention support order.		ARTICLE 9
252K.709	Partial enforcement.		MISCELLANEOUS PROVISIONS
252K.710	Foreign support agreement.	252K.901	Uniformity of application and construction.
252K.711	Modification of convention child support order.	252K.902	Short title. Repealed by 2015 Acts, ch 110, §75.
		252K.903	Severability.
		252K.904	Effective date — pending matters.

ARTICLE 1

GENERAL PROVISIONS

Referred to in §252K.613, 252K.702

252K.101 Title.

This chapter shall be known and may be cited as the “*Uniform Interstate Family Support Act*”.

2015 Acts, ch 110, §1

C2016, §252K.101

Former §252K.101 transferred to §252K.102

252K.102 Definitions.

In this chapter:

1. “*Child*” means an individual, whether over or under the age of majority, who is or is alleged to be owed a duty of support by the individual’s parent or who is or is alleged to be the beneficiary of a support order directed to the parent.

2. “*Child support order*” means a support order for a child, including a child who has attained the age of majority under the law of the issuing state or foreign country.

3. “*Convention*” means the convention on the international recovery of child support and other forms of family maintenance, concluded at the Hague on November 23, 2007.

4. “*Duty of support*” means an obligation imposed or imposed by law to provide support for a child, spouse, or former spouse, including an unsatisfied obligation to provide support.

5. “*Foreign country*” means a country, including a political subdivision thereof, other than the United States, that authorizes the issuance of support orders and which meets any of the following conditions:

a. Has been declared under the law of the United States to be a foreign reciprocating country.

b. Has established a reciprocal arrangement for child support with this state as provided in section 252K.308.

c. Has enacted a law or established procedures for the issuance and enforcement of support orders which are substantially similar to the procedures under this chapter.

d. In which the convention is in force with respect to the United States.

6. “*Foreign support order*” means a support order of a foreign tribunal.

7. “*Foreign tribunal*” means a court, administrative agency, or quasi-judicial entity of a foreign country which is authorized to establish, enforce, or modify support orders or to determine parentage of a child. The term includes a competent authority under the convention.

8. “*Home state*” means the state or foreign country in which a child lived with a parent or a person acting as parent for at least six consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than six months old, the state or foreign country in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the six-month or other period.

9. “*Income*” includes earnings or other periodic entitlements to money from any source and any other property subject to withholding for support under the law of this state.

10. “*Income withholding order*” means an order or other legal process directed to an obligor’s employer or other payor of income, as defined by the income withholding law of this state, to withhold support from the income of the obligor.

11. “*Initiating tribunal*” means the tribunal of a state or foreign country from which a petition or comparable pleading is forwarded or in which a petition or comparable pleading is filed or forwarded to another state or foreign country.

12. “*Issuing foreign country*” means the foreign country in which a tribunal issues a support order or a judgment determining parentage of a child.

13. “*Issuing state*” means the state in which a tribunal issues a support order or a judgment determining parentage of a child.

14. “*Issuing tribunal*” means the tribunal of a state or foreign country that issues a support order or a judgment determining parentage of a child.

15. “*Law*” includes decisional and statutory law and rules and regulations having the force of law.

16. “*Obligee*” means any of the following:

a. An individual to whom a duty of support is or is alleged to be owed or in whose favor a support order or a judgment determining parentage of a child has been issued.

b. A foreign country, state or political subdivision of a state to which the rights under a duty of support or support order have been assigned or which has independent claims based on financial assistance provided to an individual obligee in place of child support.

c. An individual seeking a judgment determining parentage of the individual’s child.

d. A person that is a creditor in a proceeding under article 7.

17. “*Obligor*” means an individual, or the estate of a decedent, to which any of the following applies:

a. Who owes or is alleged to owe a duty of support.

b. Who is alleged but has not been adjudicated to be a parent of a child.

c. Who is liable under a support order.

d. Who is a debtor in a proceeding under article 7.

18. “*Outside this state*” means a location in another state or a country other than the United States, whether or not the country is a foreign country.

19. “*Person*” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

20. “*Record*” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

21. “*Register*” means to file in a tribunal of this state a support order or judgment determining parentage of a child issued in another state or foreign country.

22. “*Registering tribunal*” means a tribunal in which a support order or judgment determining parentage of a child is registered.

23. “*Responding state*” means a state in which a petition or comparable pleading for support or to determine parentage of a child is filed or to which a petition or comparable pleading is forwarded for filing from another state or foreign country.

24. “*Responding tribunal*” means the authorized tribunal in a responding state or foreign country.

25. “*Spousal support order*” means a support order for a spouse or former spouse of the obligor.

26. “*State*” means a state of the United States, the District of Columbia, Puerto Rico, the

United States Virgin Islands, or any territory or insular possession under the jurisdiction of the United States. The term includes an Indian nation or tribe.

27. “*Support enforcement agency*” means a public official, government entity, or private agency authorized to do any of the following:

- a. Seek enforcement of support orders or laws relating to the duty of support.
- b. Seek establishment or modification of child support.
- c. Request determination of parentage of a child.
- d. Attempt to locate obligors or their assets.
- e. Request determination of the controlling child support order.

28. “*Support order*” means a judgment, decree, order, decision, or directive, whether temporary, final, or subject to modification, issued in a state or foreign country for the benefit of a child, a spouse, or a former spouse, which provides for monetary support, health care, arrearages, retroactive support, or reimbursement for financial assistance provided to an individual obligee in place of child support. The term may include related costs and fees, interest, income withholding, automatic adjustment, reasonable attorney’s fees, and other relief.

29. “*Tribunal*” means a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage of a child.

97 Acts, ch 175, §122

CS97, §252K.101

2015 Acts, ch 110, §2

C2016, §252K.102

Referred to in §252K.307, 252K.701

Former §252K.102 transferred to §252K.103

252K.103 State tribunal and support enforcement agency.

1. The child support recovery unit when the unit establishes or modifies an order, upon ratification by the court, and the court, are the tribunals of this state.

2. The child support recovery unit is the support enforcement agency of this state.

97 Acts, ch 175, §123

CS97, §252K.102

2015 Acts, ch 110, §3

C2016, §252K.103

Former §252K.103 transferred to §252K.104

252K.104 Remedies cumulative.

1. Remedies provided by this chapter are cumulative and do not affect the availability of remedies under other law or the recognition of a foreign support order on the basis of comity.

2. This chapter does not do either of the following:

a. Provide the exclusive method of establishing or enforcing a support order under the law of this state.

b. Grant a tribunal of this state jurisdiction to render judgment or issue an order relating to child custody or visitation in a proceeding under this chapter.

97 Acts, ch 175, §124

CS97, §252K.103

2015 Acts, ch 110, §4

C2016, §252K.104

252K.105 Application of chapter to resident of foreign country and foreign support proceeding.

1. A tribunal of this state shall apply articles 1 through 6 and, as applicable, article 7, to a support proceeding involving any of the following:

a. A foreign support order.

b. A foreign tribunal.

c. An obligee, obligor, or child residing in a foreign country.

2. A tribunal of this state that is requested to recognize and enforce a support order on the basis of comity may apply the procedural and substantive provisions of articles 1 through 6.

3. Article 7 applies only to a support proceeding under the convention. In such a proceeding, if a provision of article 7 is inconsistent with articles 1 through 6, article 7 controls.

2015 Acts, ch 110, §5

ARTICLE 2 JURISDICTION

Referred to in §252K.105, 252K.613, 252K.702

252K.201 Bases for jurisdiction over nonresident.

1. In a proceeding to establish or enforce a support order or to determine parentage of a child, a tribunal of this state may exercise personal jurisdiction over a nonresident individual or the individual's guardian or conservator if any of the following applies:

- a. The individual is personally served with notice within this state.
- b. The individual submits to the jurisdiction of this state by consent in a record, by entering a general appearance, or by filing a responsive document having the effect of waiving any contest to personal jurisdiction.
- c. The individual resided with the child in this state.
- d. The individual resided in this state and provided prenatal expenses or support for the child.
- e. The child resides in this state as a result of the acts or directives of the individual.
- f. The individual engaged in sexual intercourse in this state and the child may have been conceived by that act of intercourse.
- g. The individual asserted parentage of a child in the declaration of paternity registry maintained in this state by the Iowa department of public health pursuant to section 144.12A or established paternity by affidavit under section 252A.3A.
- h. There is any other basis consistent with the constitutions of this state and the United States for the exercise of personal jurisdiction.

2. The bases of personal jurisdiction set forth in subsection 1 or in any other law of this state may not be used to acquire personal jurisdiction for a tribunal of this state to modify a child support order of another state unless the requirements of section 252K.611 are met, or, in the case of a foreign support order, unless the requirements of section 252K.615 are met.

97 Acts, ch 175, §125; 2015 Acts, ch 110, §6

Referred to in §252A.5, 252B.12, 252K.611, 252K.708

252K.202 Duration of personal jurisdiction.

Personal jurisdiction acquired by a tribunal of this state in a proceeding under this chapter or other law of this state relating to a support order continues as long as a tribunal of this state has continuing, exclusive jurisdiction to modify its order or continuing jurisdiction to enforce its order as provided in sections 252K.205, 252K.206, and 252K.211.

97 Acts, ch 175, §126; 2015 Acts, ch 110, §7

252K.203 Initiating and responding tribunal of this state.

Under this chapter, a tribunal of this state may serve as an initiating tribunal to forward proceedings to a tribunal of another state, and as a responding tribunal for proceedings initiated in another state or foreign country.

97 Acts, ch 175, §127; 2015 Acts, ch 110, §8

252K.204 Simultaneous proceedings.

1. A tribunal of this state may exercise jurisdiction to establish a support order if the petition or comparable pleading is filed after a pleading is filed in another state or a foreign country only if all of the following apply:

- a. The petition or comparable pleading in this state is filed before the expiration of the time allowed in the other state or the foreign country for filing a responsive pleading challenging the exercise of jurisdiction by the other state or the foreign country.

b. The contesting party timely challenges the exercise of jurisdiction in the other state or the foreign country.

c. If relevant, this state is the home state of the child.

2. A tribunal of this state may not exercise jurisdiction to establish a support order if the petition or comparable pleading is filed before a petition or comparable pleading is filed in another state or a foreign country if all of the following apply:

a. The petition or comparable pleading in the other state or foreign country is filed before the expiration of the time allowed in this state for filing a responsive pleading challenging the exercise of jurisdiction by this state.

b. The contesting party timely challenges the exercise of jurisdiction in this state.

c. If relevant, the other state or foreign country is the home state of the child.

97 Acts, ch 175, §128; 2015 Acts, ch 110, §9

252K.205 Continuing, exclusive jurisdiction to modify child support order.

1. A tribunal of this state that has issued a child support order consistent with the law of this state has and shall exercise continuing, exclusive jurisdiction to modify its child support order if the order is controlling and any of the following applies:

a. At the time of the filing of a request for modification this state is the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued.

b. Even if this state is not the residence of the obligor, the individual obligee, or the child for whose benefit the order is issued, the parties consent in a record or in open court that the tribunal of this state may continue to exercise jurisdiction to modify its order.

2. A tribunal of this state that has issued a child support order consistent with the law of this state may not exercise continuing, exclusive jurisdiction to modify the order if any of the following applies:

a. All of the parties who are individuals file consent in a record with the tribunal of this state that a tribunal of another state that has jurisdiction over at least one of the parties who is an individual or that is located in the state of residence of the child may modify the order and assume continuing, exclusive jurisdiction.

b. Its order is not the controlling order.

3. If a tribunal of another state has issued a child support order pursuant to the uniform interstate family support Act or a law substantially similar to that Act which modifies a child support order of a tribunal of this state, tribunals of this state shall recognize the continuing, exclusive jurisdiction of the tribunal of the other state.

4. A tribunal of this state that lacks continuing, exclusive jurisdiction to modify a child support order may serve as an initiating tribunal to request a tribunal of another state to modify a support order issued in that state.

5. A temporary support order issued ex parte or pending resolution of a jurisdictional conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.

97 Acts, ch 175, §129; 2015 Acts, ch 110, §10

Referred to in §252K.202, 252K.207

252K.206 Continuing jurisdiction to enforce child support order.

1. A tribunal of this state that has issued a child support order consistent with the law of this state may serve as an initiating tribunal to request a tribunal of another state to enforce any of the following:

a. The order if the order is the controlling order and has not been modified by a tribunal of another state that assumed jurisdiction pursuant to the uniform interstate family support Act.

b. A money judgment for arrears of support and interest on the order accrued before a determination that an order of a tribunal of another state is the controlling order.

2. A tribunal of this state having continuing jurisdiction over a support order may act as a responding tribunal to enforce the order.

97 Acts, ch 175, §130; 2015 Acts, ch 110, §11

Referred to in §252K.202, 252K.207

252K.207 Determination of controlling child support order.

1. If a proceeding is brought under this chapter and only one tribunal has issued a child support order, the order of that tribunal controls and must be recognized.

2. If a proceeding is brought under this chapter, and two or more child support orders have been issued by tribunals of this state, another state, or a foreign country with regard to the same obligor and same child, a tribunal of this state having personal jurisdiction over both the obligor and individual obligee shall apply the following rules and by order shall determine which order controls and must be recognized:

a. If only one of the tribunals would have continuing, exclusive jurisdiction under this chapter, the order of that tribunal controls.

b. If more than one of the tribunals would have continuing, exclusive jurisdiction under this chapter, one of the following shall apply:

(1) An order issued by a tribunal in the current home state of the child controls.

(2) If an order has not been issued in the current home state of the child, the order most recently issued controls.

c. If none of the tribunals would have continuing, exclusive jurisdiction under this chapter, the tribunal of this state shall issue a child support order, which controls.

3. If two or more child support orders have been issued for the same obligor and same child, upon request of a party who is an individual or that is a support enforcement agency, a tribunal of this state having personal jurisdiction over both the obligor and the obligee who is an individual shall determine which order controls under subsection 2. The request may be filed with a registration for enforcement or registration for modification pursuant to article 6, or may be filed as a separate proceeding.

4. A request to determine which is the controlling order must be accompanied by a copy of every child support order in effect and the applicable record of payments. The requesting party shall give notice of the request to each party whose rights may be affected by the determination.

5. The tribunal that issued the controlling order under subsection 1, 2, or 3 has continuing jurisdiction to the extent provided in section 252K.205 or 252K.206.

6. A tribunal of this state that determines by order which is the controlling order under subsection 2, paragraph "a" or "b", or subsection 3, or that issues a new controlling order under subsection 2, paragraph "c", shall state in that order:

a. The basis upon which the tribunal made its determination.

b. The amount of prospective support, if any.

c. The total amount of consolidated arrears and accrued interest, if any, under all of the orders after all payments made are credited as provided in section 252K.209.

7. Within thirty days after issuance of an order determining which is the controlling order, the party obtaining the order shall file a certified copy of it in each tribunal that issued or registered an earlier order of child support. A party or support enforcement agency obtaining the order that fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the controlling order.

8. An order that has been determined to be the controlling order, or a judgment for consolidated arrears of support and interest, if any, made pursuant to this section must be recognized in proceedings under this chapter.

97 Acts, ch 175, §131; 2015 Acts, ch 110, §12

Referred to in §252H.2, 252K.611

252K.208 Child support orders for two or more obligees.

In responding to registrations or requests for enforcement of two or more child support orders in effect at the same time with regard to the same obligor and different individual obligees, at least one of which was issued by a tribunal of another state or a foreign country, a tribunal of this state shall enforce those orders in the same manner as if the orders had been issued by a tribunal of this state.

97 Acts, ch 175, §132; 2015 Acts, ch 110, §13

252K.209 Credit for payments.

A tribunal of this state shall credit amounts collected for a particular period pursuant to any child support order against the amounts owed for the same period under any other child support order for support of the same child issued by a tribunal of this state, another state, or a foreign country.

97 Acts, ch 175, §133; 2015 Acts, ch 110, §14
Referred to in §252K.207

252K.210 Application of chapter to nonresident subject to personal jurisdiction.

A tribunal of this state exercising personal jurisdiction over a nonresident in a proceeding under this chapter, under other law of this state relating to a support order, or recognizing a foreign support order may receive evidence from outside this state pursuant to section 252K.316, communicate with a tribunal outside this state pursuant to section 252K.317, and obtain discovery through a tribunal outside this state pursuant to section 252K.318. In all other respects, articles 3 through 6 do not apply, and the tribunal shall apply the procedural and substantive law of this state.

2015 Acts, ch 110, §15

252K.211 Continuing, exclusive jurisdiction to modify spousal support order.

1. A tribunal of this state issuing a spousal support order consistent with the law of this state has continuing, exclusive jurisdiction to modify the spousal support order throughout the existence of the support obligation.

2. A tribunal of this state may not modify a spousal support order issued by a tribunal of another state or a foreign country having continuing, exclusive jurisdiction over that order under the law of that state or foreign country.

3. A tribunal of this state that has continuing, exclusive jurisdiction over a spousal support order may serve as any of the following:

a. An initiating tribunal to request a tribunal of another state to enforce the spousal support order issued in this state.

b. A responding tribunal to enforce or modify its own spousal support order.

2015 Acts, ch 110, §16

Referred to in §252K.202

ARTICLE 3**CIVIL PROVISIONS OF GENERAL APPLICATION**

Referred to in §252K.105, 252K.210, 252K.613, 252K.702

252K.301 Proceedings under this chapter.

1. Except as otherwise provided in this chapter, this article applies to all proceedings under this chapter.

2. An individual movant or a support enforcement agency may initiate a proceeding authorized under this chapter by filing a petition or a comparable pleading in an initiating tribunal for forwarding to a responding tribunal or by filing a petition or a comparable pleading directly in a tribunal of another state or a foreign country which has or can obtain personal jurisdiction over the respondent or nonmoving party.

97 Acts, ch 175, §134; 2015 Acts, ch 110, §17

Referred to in §252K.305

252K.302 Proceeding by minor parent.

A minor parent, or a guardian or other legal representative of a minor parent, may maintain a proceeding on behalf of or for the benefit of the minor's child.

97 Acts, ch 175, §135; 2015 Acts, ch 110, §18

252K.303 Application of law of this state.

Except as otherwise provided by this chapter, a responding tribunal of this state shall do all of the following:

1. Apply the procedural and substantive law generally applicable to similar proceedings originating in this state and may exercise all powers and provide all remedies available in those proceedings.

2. Determine the duty of support and the amount payable in accordance with the law and support guidelines of this state.

97 Acts, ch 175, §136; 2015 Acts, ch 110, §19

252K.304 Duties of initiating tribunal.

1. Upon the filing of a petition or comparable pleading authorized by this chapter, an initiating tribunal of this state shall forward the petition or comparable pleading and its accompanying documents:

a. To the responding tribunal or appropriate support enforcement agency in the responding state.

b. If the identity of the responding tribunal is unknown, to the state information agency of the responding state with a request that they be forwarded to the appropriate tribunal and that receipt be acknowledged.

2. If requested by the responding tribunal, a tribunal of this state shall issue a certificate or other document and make findings required by the law of the responding state. If the responding tribunal is in a foreign country, upon request the tribunal of this state shall specify the amount of support sought, convert that amount into the equivalent amount in the foreign currency under applicable official or market exchange rates as publicly reported, and provide any other documents necessary to satisfy the requirements of the responding foreign tribunal.

97 Acts, ch 175, §137; 2015 Acts, ch 110, §20

252K.305 Duties and powers of responding tribunal.

1. When a responding tribunal of this state receives a petition or comparable pleading from an initiating tribunal or directly pursuant to section 252K.301, subsection 2, it shall cause the petition or pleading to be filed and notify the movant where and when it was filed.

2. A responding tribunal of this state, to the extent not prohibited by other law, may do one or more of the following:

a. Establish or enforce a support order, modify a child support order, determine the controlling child support order, or determine parentage of a child.

b. Order an obligor to comply with a support order, specifying the amount and the manner of compliance.

c. Order income withholding.

d. Determine the amount of any arrearages, and specify a method of payment.

e. Enforce orders by civil or criminal contempt, or both.

f. Set aside property for satisfaction of the support order.

g. Place liens and order execution on the obligor's property.

h. Order an obligor to keep the tribunal informed of the obligor's current residential address, electronic mail address, telephone number, employer, address of employment, and telephone number at the place of employment.

i. Issue a bench warrant for an obligor who has failed after proper notice to appear at a hearing ordered by the tribunal and enter the bench warrant in any local and state computer systems for criminal warrants.

j. Order the obligor to seek appropriate employment by specified methods.

k. Award reasonable attorney's fees and other fees and costs.

l. Grant any other available remedy.

3. A responding tribunal of this state shall include in a support order issued under this chapter, or in the documents accompanying the order, the calculations on which the support order is based.

4. A responding tribunal of this state may not condition the payment of a support order issued under this chapter upon compliance by a party with provisions for visitation.

5. If a responding tribunal of this state issues an order under this chapter, the tribunal shall send a copy of the order to the movant and the respondent and to the initiating tribunal, if any.

6. If requested to enforce a support order, arrears, or judgment or modify a support order stated in a foreign currency, a responding tribunal of this state shall convert the amount stated in the foreign currency to the equivalent amount in dollars under the applicable official or market exchange rate as publicly reported.

97 Acts, ch 175, §138; 2015 Acts, ch 110, §21

Referred to in §252K.401

252K.306 Inappropriate tribunal.

If a petition or comparable pleading is received by an inappropriate tribunal of this state, the tribunal shall forward the pleading and accompanying documents to an appropriate tribunal of this state or another state and notify the movant where and when the pleading was sent.

97 Acts, ch 175, §139; 2015 Acts, ch 110, §22

252K.307 Duties of support enforcement agency.

1. In a proceeding under this chapter, a support enforcement agency of this state, upon request:

a. Shall provide services to a movant residing in a state.

b. Shall provide services to a movant requesting services through a central authority of a foreign country as described in section 252K.102, subsection 5, paragraph “a” or “d”.

c. May provide services to a movant who is an individual not residing in a state.

2. A support enforcement agency of this state that is providing services to the movant shall:

a. Take all steps necessary to enable an appropriate tribunal of this state, another state, or a foreign country to obtain jurisdiction over the respondent.

b. Request an appropriate tribunal to set a date, time, and place for a hearing.

c. Make a reasonable effort to obtain all relevant information, including information as to income and property of the parties.

d. Within ten days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of notice in a record from an initiating, responding, or registering tribunal, send a copy of the notice to the movant.

e. Within ten days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a communication in a record from the respondent or the respondent’s attorney, send a copy of the communication to the movant.

f. Notify the movant if jurisdiction over the respondent cannot be obtained.

3. A support enforcement agency of this state that requests registration of a child support order in this state for enforcement or for modification shall make reasonable efforts to do either of the following:

a. To ensure that the order to be registered is the controlling order.

b. If two or more child support orders exist and the identity of the controlling order has not been determined, to ensure that a request for such determination is made in a tribunal having jurisdiction to do so.

4. A support enforcement agency of this state that requests registration and enforcement of a support order, arrears, or judgment stated in a foreign currency shall convert the amounts stated in the foreign currency into the equivalent amounts in dollars under the applicable official or market exchange rate as publicly reported.

5. A support enforcement agency of this state shall issue or request a tribunal of this state to issue a child support order and an income withholding order that redirect payment of current support, arrears, and interest if requested to do so by a support enforcement agency of another state pursuant to section 252K.319.

6. This chapter does not create or negate a relationship of attorney and client or other fiduciary relationship between a support enforcement agency or the attorney for the agency and the individual being assisted by the agency.

97 Acts, ch 175, §140; 2015 Acts, ch 110, §23

Referred to in §252B.16

252K.308 Duty of attorney general.

1. If the attorney general determines that the support enforcement agency is neglecting

or refusing to provide services to an individual, the attorney general may order the agency to perform its duties under this chapter or may provide those services directly to the individual.

2. The attorney general may determine that a foreign country has established a reciprocal arrangement for child support with this state and take appropriate action for notification of the determination.

97 Acts, ch 175, §141; 2015 Acts, ch 110, §24
Referred to in §252K.102

252K.309 Private counsel.

An individual may employ private counsel to represent the individual in proceedings authorized by this chapter.

97 Acts, ch 175, §142

252K.310 Duties of state information agency.

1. The child support recovery unit is the state information agency under this chapter.

2. The state information agency shall:

a. Compile and maintain a current list, including addresses, of the tribunals in this state which have jurisdiction under this chapter and any support enforcement agencies in this state and transmit a copy to the state information agency of every other state.

b. Maintain a register of names and addresses of tribunals and support enforcement agencies received from other states.

c. Forward to the appropriate tribunal in the place in this state in which the obligee who is an individual or the obligor resides, or in which the obligor's property is believed to be located, all documents concerning a proceeding under this chapter received from another state or a foreign country.

d. Obtain information concerning the location of the obligor and the obligor's property within this state not exempt from execution, by such means as postal verification and federal or state locator services, examination of telephone directories, requests for the obligor's address from employers, and examination of governmental records, including, to the extent not prohibited by other law, those relating to real property, vital statistics, law enforcement, taxation, motor vehicles, driver's licenses, and social security.

97 Acts, ch 175, §143; 2015 Acts, ch 110, §25

252K.311 Pleadings and accompanying documents.

1. In a proceeding under this chapter, a movant seeking to establish a support order, to determine parentage of a child, or to register and modify a support order of a tribunal of another state or a foreign country must file a petition or comparable pleading. Unless otherwise ordered under section 252K.312, the petition, comparable pleading, or accompanying documents must provide, so far as known, the name, residential address, and social security numbers of the obligor and the obligee or the parent and alleged parent, and the name, sex, residential address, social security number, and date of birth of each child for whose benefit support is sought or whose parentage is to be determined. Unless filed at the time of registration, the petition or comparable pleading must be accompanied by a copy of any support order known to have been issued by another tribunal. The petition or comparable pleading may include any other information that may assist in locating or identifying the respondent.

2. The petition or comparable pleading must specify the relief sought. The petition or comparable pleading and accompanying documents must conform substantially with the requirements imposed by the forms mandated by federal law for use in cases filed by a support enforcement agency.

97 Acts, ch 175, §144; 2015 Acts, ch 110, §26
Referred to in §252K.706

252K.312 Nondisclosure of information in exceptional circumstances.

If a party alleges in an affidavit or a pleading under oath that the health, safety, or liberty of a party or child would be jeopardized by disclosure of specific identifying information, that information must be sealed and may not be disclosed to the other party or the public. After a

hearing in which a tribunal takes into consideration the health, safety, or liberty of the party or child, the tribunal may order disclosure of information that the tribunal determines to be in the interest of justice.

97 Acts, ch 175, §145; 2015 Acts, ch 110, §27

Referred to in §252K.311, 252K.602

252K.313 Costs and fees.

1. The movant may not be required to pay a filing fee or other costs.

2. If an obligee prevails, a responding tribunal of this state may assess against an obligor filing fees, reasonable attorney fees, other costs, and necessary travel and other reasonable expenses incurred by the obligee and the obligee's witnesses. The tribunal may not assess fees, costs, or expenses against the obligee or the support enforcement agency of either the initiating or responding state or foreign country, except as provided by other law. Attorney fees may be taxed as costs, and may be ordered paid directly to the attorney, who may enforce the order in the attorney's own name. Payment of support owed to the obligee has priority over fees, costs, and expenses.

3. The tribunal shall order the payment of costs and reasonable attorney's fees if it determines that a hearing was requested primarily for delay. In a proceeding under article 6, a hearing is presumed to have been requested primarily for delay if a registered support order is confirmed or enforced without change.

97 Acts, ch 175, §146; 2015 Acts, ch 110, §28

252K.314 Limited immunity of movant.

1. Participation by a movant in a proceeding under this chapter before a responding tribunal, whether in person, by private attorney, or through services provided by the support enforcement agency, does not confer personal jurisdiction over the movant in another proceeding.

2. A movant is not amenable to service of civil process while physically present in this state to participate in a proceeding under this chapter.

3. The immunity granted by this section does not extend to civil litigation based on acts unrelated to a proceeding under this chapter committed by a party while physically present in this state to participate in the proceeding.

97 Acts, ch 175, §147; 2015 Acts, ch 110, §29

252K.315 Nonparentage as defense.

A party whose parentage of a child has been previously determined by or pursuant to law may not plead nonparentage as a defense to a proceeding under this chapter.

97 Acts, ch 175, §148

252K.316 Special rules of evidence and procedure.

1. The physical presence of a nonresident party who is an individual in a tribunal of this state is not required for the establishment, enforcement, or modification of a support order or the rendition of a judgment determining parentage of a child.

2. An affidavit, a document substantially complying with federally mandated forms, or a document incorporated by reference in any of them, which would not be excluded under the hearsay rule if given in person, is admissible in evidence if given under penalty of perjury by a party or witness residing outside this state.

3. A copy of the record of child support payments certified as a true copy of the original by the custodian of the record may be forwarded to a responding tribunal. The copy is evidence of facts asserted in it, and is admissible to show whether payments were made.

4. Copies of bills for testing for parentage of a child, and for prenatal and postnatal health care of the mother and child, furnished to the adverse party at least ten days before trial, are admissible in evidence to prove the amount of the charges billed and that the charges were reasonable, necessary, and customary.

5. Documentary evidence transmitted from outside this state to a tribunal of this state by

telephone, telecopier, or other electronic means that do not provide an original record may not be excluded from evidence on an objection based on the means of transmission.

6. In a proceeding under this chapter, a tribunal of this state shall permit a party or witness residing outside this state to be deposed or to testify under penalty of perjury by telephone, audiovisual means, or other electronic means at a designated tribunal or other location. A tribunal of this state shall cooperate with other tribunals in designating an appropriate location for the deposition or testimony.

7. If a party called to testify at a civil hearing refuses to answer on the ground that the testimony may be self incriminating, the trier of fact may draw an adverse inference from the refusal.

8. A privilege against disclosure of communications between spouses does not apply in a proceeding under this chapter.

9. The defense of immunity based on the relationship of husband and wife or parent and child does not apply in a proceeding under this chapter.

10. A voluntary acknowledgment of paternity, certified as a true copy, is admissible to establish parentage of a child.

97 Acts, ch 175, §149; 2015 Acts, ch 110, §30

Referred to in §252E.6A, 252K.210

252K.317 Communications between tribunals.

A tribunal of this state may communicate with a tribunal outside this state in a record, or by telephone, electronic mail, or other means, to obtain information concerning the laws, the legal effect of a judgment, decree, or order of that tribunal, and the status of a proceeding. A tribunal of this state may furnish similar information by similar means to a tribunal outside this state.

97 Acts, ch 175, §150; 2015 Acts, ch 110, §31

Referred to in §252K.210

252K.318 Assistance with discovery.

A tribunal of this state may:

1. Request a tribunal outside this state to assist in obtaining discovery.
2. Upon request, compel a person over which it has jurisdiction to respond to a discovery order issued by a tribunal outside this state.

97 Acts, ch 175, §151; 2015 Acts, ch 110, §32

Referred to in §252K.210

252K.319 Receipt and disbursement of payments.

1. A support enforcement agency or tribunal of this state shall disburse promptly any amounts received pursuant to a support order, as directed by the order. The agency or tribunal shall furnish to a requesting party or a tribunal of another state or a foreign country a certified statement by the custodian of the record of the amounts and dates of all payments received.

2. If neither the obligor, nor the obligee who is an individual, nor the child resides in this state, upon request from the support enforcement agency of this state or another state, the child support recovery unit or a tribunal of this state shall:

a. Direct that the support payment be made to the support enforcement agency in the state in which the obligee is receiving services.

b. Issue and send to the obligor's employer a conforming income withholding order or an administrative notice of change of payee, reflecting the redirected payments.

3. The support enforcement agency of this state receiving redirected payments from another state pursuant to a law similar to subsection 2 shall furnish to a requesting party or tribunal of the other state a certified statement by the custodian of the record of the amount and dates of all payments received.

97 Acts, ch 175, §152; 2015 Acts, ch 110, §33

Referred to in §252B.16, 252K.307

ARTICLE 4

ESTABLISHMENT OF SUPPORT ORDER OR DETERMINATION OF PARENTAGE

Referred to in §252K.105, 252K.210, 252K.613, 252K.702

252K.401 Establishment of support order.

1. If a support order entitled to recognition under this chapter has not been issued, a responding tribunal of this state with personal jurisdiction over the parties may issue a support order if any of the following applies:

- a. The individual seeking the order resides outside this state.
- b. The support enforcement agency seeking the order is located outside this state.

2. The tribunal may issue a temporary child support order if the tribunal determines that such an order is appropriate and the individual ordered to pay is any of the following:

- a. A presumed father of the child.
- b. Petitioning to have his paternity adjudicated.
- c. Identified as the father of the child through genetic testing.
- d. An alleged father who has declined to submit to genetic testing.
- e. Shown by clear and convincing evidence to be the father of the child.
- f. An acknowledged father as provided by section 252A.3A.
- g. The mother of the child.
- h. An individual who has been ordered to pay child support in a previous proceeding and the order has been reversed or vacated.

3. Upon finding, after notice and opportunity to be heard, that an obligor owes a duty of support, the tribunal shall issue a support order directed to the obligor and may issue other orders pursuant to section 252K.305.

97 Acts, ch 175, §153; 2015 Acts, ch 110, §34

252K.402 Proceeding to determine parentage.

A tribunal of this state authorized to determine parentage of a child may serve as a responding tribunal in a proceeding to determine parentage of a child brought under this chapter or a law or procedure substantially similar to this chapter.

2015 Acts, ch 110, §35

ARTICLE 5

ENFORCEMENT OF SUPPORT ORDER WITHOUT REGISTRATION

Referred to in §252K.105, 252K.210, 252K.613, 252K.702

252K.501 Employer's receipt of income withholding order of another state.

An income withholding order issued in another state may be sent by or on behalf of the obligee, or by the support enforcement agency, to the person defined as the obligor's employer under the income withholding law of this state without first filing a petition or comparable pleading or registering the order with a tribunal of this state.

97 Acts, ch 175, §154; 2015 Acts, ch 110, §36

252K.502 Employer's compliance with income withholding order of another state.

1. Upon receipt of an income withholding order, the obligor's employer shall immediately provide a copy of the order to the obligor.

2. The employer shall treat an income withholding order issued in another state which appears regular on its face as if it had been issued by a tribunal of this state.

3. Except as otherwise provided in subsection 4 and section 252K.503, the employer shall withhold and distribute the funds as directed in the withholding order by complying with terms of the order which specify:

- a. The duration and amount of periodic payments of current child support, stated as a sum certain.

b. The person designated to receive payments and the address to which the payments are to be forwarded.

c. Medical support, whether in the form of periodic cash payment, stated as a sum certain, or ordering the obligor to provide health insurance coverage for the child under a policy available through the obligor's employment.

d. The amount of periodic payments of fees and costs for a support enforcement agency, the issuing tribunal, and the obligee's attorney, stated as sums certain.

e. The amount of periodic payments of arrearages and interest on arrearages, stated as sums certain.

4. An employer shall comply with the law of the state of the obligor's principal place of employment for withholding from income with respect to:

a. The employer's fee for processing an income withholding order.

b. The maximum amount permitted to be withheld from the obligor's income.

c. The times within which the employer must implement the withholding order and forward the child support payment.

97 Acts, ch 175, §155; 2015 Acts, ch 110, §37

252K.503 Employer's compliance with two or more income withholding orders.

If an obligor's employer receives two or more income withholding orders with respect to the earnings of the same obligor, the employer satisfies the terms of the orders if the employer complies with the law of the state of the obligor's principal place of employment to establish the priorities for withholding and allocating income withheld for two or more child support obligees.

97 Acts, ch 175, §156; 2015 Acts, ch 110, §38

Referred to in §252K.502

252K.504 Immunity from civil liability.

An employer that complies with an income withholding order issued in another state in accordance with this article is not subject to civil liability to an individual or agency with regard to the employer's withholding of child support from the obligor's income.

97 Acts, ch 175, §157; 2015 Acts, ch 110, §39

252K.505 Penalties for noncompliance.

An employer that willfully fails to comply with an income withholding order issued in another state and received for enforcement is subject to the same penalties that may be imposed for noncompliance with an order issued by a tribunal of this state.

97 Acts, ch 175, §158; 2015 Acts, ch 110, §40

252K.506 Contest by obligor.

1. An obligor may contest the validity or enforcement of an income withholding order issued in another state and received directly by an employer in this state by registering the order in a tribunal of this state and filing a contest to that order as provided in article 6, or otherwise contesting the order in the same manner as if the order had been issued by a tribunal of this state.

2. The obligor shall give notice of the contest to:

a. A support enforcement agency providing services to the obligee.

b. Each employer that has directly received an income withholding order relating to the obligor.

c. The person designated to receive payments in the income withholding order, or if no person is designated, to the obligee.

97 Acts, ch 175, §159; 2015 Acts, ch 110, §41

252K.507 Administrative enforcement of orders.

1. A party or support enforcement agency seeking to enforce a support order or an income withholding order, or both, issued in another state or a foreign support order may send the documents required for registering the order to a support enforcement agency of this state.

2. Upon receipt of the documents, the support enforcement agency, without initially seeking to register the order, shall consider and, if appropriate, use any administrative procedure authorized by the law of this state to enforce a support order or an income withholding order, or both. If the obligor does not contest administrative enforcement, the order need not be registered. If the obligor contests the validity or administrative enforcement of the order, the support enforcement agency shall register the order pursuant to this chapter.

97 Acts, ch 175, §160; 2015 Acts, ch 110, §42

ARTICLE 6

REGISTRATION, ENFORCEMENT, AND MODIFICATION OF SUPPORT ORDER

Referred to in §252K.105, 252K.207, 252K.210, 252K.313, 252K.506, 252K.702, 252K.706

PART 1

REGISTRATION FOR ENFORCEMENT OF SUPPORT ORDER

252K.601 Registration of order for enforcement.

A support order or income withholding order issued in another state or a foreign support order may be registered in this state for enforcement.

97 Acts, ch 175, §161; 2015 Acts, ch 110, §43

Referred to in §252K.609, 252K.616

252K.602 Procedure to register order for enforcement.

1. Except as otherwise provided in section 252K.706, a support order or income withholding order of another state or a foreign support order may be registered in this state by sending the following records to the appropriate tribunal in this state:

- a. A letter of transmittal to the tribunal requesting registration and enforcement.
- b. Two copies, including one certified copy, of the order to be registered, including any modification of the order.
- c. A sworn statement by the person requesting registration or a certified statement by the custodian of the records showing the amount of any arrearage.
- d. The name of the obligor and, if known:
 - (1) The obligor's address and social security number.
 - (2) The name and address of the obligor's employer and any other source of income of the obligor.
 - (3) A description and the location of property of the obligor in this state not exempt from execution.
- e. Except as otherwise provided in section 252K.312, the name and address of the obligee and, if applicable, the person to whom support payments are to be remitted.

2. On receipt of a request for registration, the registering tribunal shall cause the order to be filed as an order of a tribunal of another state or a foreign support order, together with one copy of the documents and information, regardless of their form.

3. A petition or comparable pleading seeking a remedy that must be affirmatively sought under other law of this state may be filed at the same time as the request for registration or later. The pleading must specify the grounds for the remedy sought.

4. If two or more orders are in effect, the person requesting registration shall:

- a. Furnish to the tribunal a copy of every support order asserted to be in effect in addition to the documents specified in this section.
- b. Specify the order alleged to be the controlling order, if any.
- c. Specify the amount of consolidated arrears, if any.
5. A request for determination of which is the controlling order may be filed separately or with a request for registration and enforcement or for registration and modification. The

person requesting registration shall give notice of the request to each party whose rights may be affected by the determination.

97 Acts, ch 175, §162; 2015 Acts, ch 110, §44

Referred to in §252K.609, 252K.616, 252K.706

252K.603 Effect of registration for enforcement.

1. A support order or income withholding order issued in another state or a foreign support order is registered when the order is filed in the registering tribunal of this state.

2. A registered support order issued in another state or a foreign country is enforceable in the same manner and is subject to the same procedures as an order issued by a tribunal of this state.

3. Except as otherwise provided in this chapter, a tribunal of this state shall recognize and enforce, but may not modify, a registered support order if the issuing tribunal had jurisdiction.

97 Acts, ch 175, §163; 2015 Acts, ch 110, §45

Referred to in §252K.609, 252K.616

252K.604 Choice of law.

1. Except as otherwise provided in subsection 4, the law of the issuing state or foreign country governs:

a. The nature, extent, amount, and duration of current payments under a registered support order.

b. The computation and payment of arrearages and accrual of interest on the arrearages under the support order.

c. The existence and satisfaction of other obligations under the support order.

2. In a proceeding for arrears under a registered support order, the statute of limitation of this state or of the issuing state or foreign country, whichever is longer, applies.

3. A responding tribunal of this state shall apply the procedures and remedies of this state to enforce current support and collect arrears and interest due on a support order of another state or a foreign country registered in this state.

4. After a tribunal of this state or another state determines which is the controlling order and issues an order consolidating arrears, if any, a tribunal of this state shall prospectively apply the law of the state or foreign country issuing the controlling order, including its law on interest on arrears, on current and future support, and on consolidated arrears.

97 Acts, ch 175, §164; 2015 Acts, ch 110, §46

Referred to in §252K.607, 252K.609, 252K.616, 598.2A

See §252A.5A relating to statute of limitation in this state

PART 2

CONTEST OF VALIDITY OR ENFORCEMENT

252K.605 Notice of registration of order.

1. When a support order or income withholding order issued in another state or a foreign support order is registered, the registering tribunal of this state shall notify the nonregistering party. The notice must be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.

2. A notice must inform the nonregistering party:

a. That a registered support order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this state.

b. That a hearing to contest the validity or enforcement of the registered order must be requested within twenty days after notice unless the registered order is contested under section 252K.707.

c. That failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages.

d. Of the amount of any alleged arrearages.

3. If the registering party asserts that two or more orders are in effect, a notice must also:
 - a. Identify the two or more orders and the order alleged by the registering party to be the controlling order and the consolidated arrears, if any.
 - b. Notify the nonregistering party of the right to a determination of which is the controlling order.
 - c. State that the procedures provided in subsection 2 apply to the determination of which is the controlling order.
 - d. State that failure to contest the validity or enforcement of the order alleged to be the controlling order in a timely manner may result in confirmation that the order is the controlling order.
4. Upon registration of an income withholding order for enforcement, the support enforcement agency or the registering tribunal shall notify the obligor's employer pursuant to the income withholding law of this state.

97 Acts, ch 175, §165; 2015 Acts, ch 110, §47

Referred to in §252K.606, 252K.609, 252K.616, 252K.707

252K.606 Procedure to contest validity or enforcement of registered support order.

1. A nonregistering party seeking to contest the validity or enforcement of a registered support order in this state shall request a hearing within the time required by section 252K.605. The nonregistering party may seek to vacate the registration, to assert any defense to an allegation of noncompliance with the registered order, or to contest the remedies being sought or the amount of any alleged arrearages pursuant to section 252K.607.
2. If the nonregistering party fails to contest the validity or enforcement of the registered order in a timely manner, the order is confirmed by operation of law.
3. If a nonregistering party requests a hearing to contest the validity or enforcement of the registered support order, the registering tribunal shall schedule the matter for hearing and give notice to the parties of the date, time, and place of the hearing.

97 Acts, ch 175, §166; 2015 Acts, ch 110, §48

Referred to in §252K.609, 252K.616, 252K.707

252K.607 Contest of registration or enforcement.

1. A party contesting the validity or enforcement of a registered support order or seeking to vacate the registration has the burden of proving one or more of the following defenses:
 - a. The issuing tribunal lacked personal jurisdiction over the contesting party.
 - b. The order was obtained by fraud.
 - c. The order has been vacated, suspended, or modified by a later order.
 - d. The issuing tribunal has stayed the order pending appeal.
 - e. There is a defense under the law of this state to the remedy sought.
 - f. Full or partial payment has been made.
 - g. The statute of limitation under section 252K.604 precludes enforcement of some or all of the alleged arrearages.
 - h. The alleged controlling order is not the controlling order.
2. If a party presents evidence establishing a full or partial defense under subsection 1, a tribunal may stay enforcement of a registered support order, continue the proceeding to permit production of additional relevant evidence, and issue other appropriate orders. An uncontested portion of the registered support order may be enforced by all remedies available under the law of this state.
3. If the contesting party does not establish a defense under subsection 1 to the validity or enforcement of a registered support order, the registering tribunal shall issue an order confirming the order.

97 Acts, ch 175, §167; 2015 Acts, ch 110, §49

Referred to in §252K.606, 252K.609, 252K.616, 252K.707

252K.608 Confirmed order.

Confirmation of a registered support order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.

97 Acts, ch 175, §168; 2015 Acts, ch 110, §50

Referred to in §252K.609, 252K.616, 252K.707

PART 3

REGISTRATION AND MODIFICATION OF CHILD SUPPORT ORDER OF ANOTHER STATE

252K.609 Procedure to register child support order of another state for modification.

A party or support enforcement agency seeking to modify, or to modify and enforce, a child support order issued in another state shall register that order in this state in the same manner provided in sections 252K.601 through 252K.608 if the order has not been registered. A petition or comparable pleading for modification may be filed at the same time as a request for registration, or later. The pleading must specify the grounds for modification.

97 Acts, ch 175, §169; 2015 Acts, ch 110, §51

252K.610 Effect of registration for modification.

A tribunal of this state may enforce a child support order of another state registered for purposes of modification, in the same manner as if the order had been issued by a tribunal of this state, but the registered support order may be modified only if the requirements of section 252K.611 or 252K.613 have been met.

97 Acts, ch 175, §170; 2015 Acts, ch 110, §52

252K.611 Modification of child support order of another state.

1. If section 252K.613 does not apply, upon petition or comparable pleading, a tribunal of this state may modify a child support order issued in another state which is registered in this state if after notice and hearing the tribunal finds that paragraph “a” or “b” applies:

a. The following requirements are met:

(1) Neither the child, nor the obligee who is an individual, nor the obligor resides in the issuing state.

(2) A movant who is a nonresident of this state seeks modification.

(3) The respondent is subject to the personal jurisdiction of the tribunal of this state.

b. This state is the state of residence of the child, or a party who is an individual is subject to the personal jurisdiction of the tribunal of this state, and all of the parties who are individuals have filed consents in a record in the issuing tribunal for a tribunal of this state to modify the support order and assume continuing, exclusive jurisdiction.

2. Modification of a registered child support order is subject to the same requirements, procedures, and defenses that apply to the modification of an order issued by a tribunal of this state and the order may be enforced and satisfied in the same manner.

3. A tribunal of this state may not modify any aspect of a child support order that may not be modified under the law of the issuing state, including the duration of the obligation of support. If two or more tribunals have issued child support orders for the same obligor and same child, the order that controls and must be so recognized under section 252K.207 establishes the aspects of the support order which are nonmodifiable.

4. In a proceeding to modify a child support order, the law of the state that is determined to have issued the initial controlling order governs the duration of the obligation of support. The obligor’s fulfillment of the duty of support established by that order precludes imposition of a further obligation of support by a tribunal of this state.

5. On the issuance of an order by a tribunal of this state modifying a child support order issued in another state, the tribunal of this state becomes the tribunal having continuing, exclusive jurisdiction.

6. Notwithstanding subsections 1 through 5 and section 252K.201, subsection 2, a tribunal

of this state retains jurisdiction to modify an order issued by a tribunal of this state if both of the following apply:

- a. One party resides in another state.
- b. The other party resides outside the United States.

97 Acts, ch 175, §171; 2015 Acts, ch 110, §53

Referred to in §252K.201, 252K.610, 252K.615

252K.612 Recognition of order modified in another state.

If a child support order issued by a tribunal of this state is modified by a tribunal of another state which assumed jurisdiction pursuant to this chapter, a tribunal of this state:

1. May enforce its order that was modified only as to arrears and interest accruing before the modification.
2. May provide appropriate relief for violations of its order which occurred before the effective date of the modification.
3. Shall recognize the modifying order of the other state, upon registration, for the purpose of enforcement.

97 Acts, ch 175, §172; 2015 Acts, ch 110, §54

252K.613 Jurisdiction to modify child support order of another state when individual parties reside in this state.

1. If all of the parties who are individuals reside in this state and the child does not reside in the issuing state, a tribunal of this state has jurisdiction to enforce and to modify the issuing state's child support order in a proceeding to register that order.

2. A tribunal of this state exercising jurisdiction under this section shall apply the provisions of articles 1 and 2, this article, and the procedural and substantive law of this state to the proceeding for enforcement or modification. Articles 3, 4, 5, 7, and 8 do not apply.

97 Acts, ch 175, §173

Referred to in §252K.610, 252K.611

252K.614 Notice to issuing tribunal of modification.

Within thirty days after issuance of a modified child support order, the party obtaining the modification shall file a certified copy of the order with the issuing tribunal that had continuing, exclusive jurisdiction over the earlier order, and in each tribunal in which the party knows the earlier order has been registered. A party who obtains the order and fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the modified order of the new tribunal having continuing, exclusive jurisdiction.

97 Acts, ch 175, §174

PART 4

REGISTRATION AND MODIFICATION OF FOREIGN CHILD SUPPORT ORDER

252K.615 Jurisdiction to modify child support order of foreign country.

1. Except as otherwise provided in section 252K.711, if a foreign country lacks or refuses to exercise jurisdiction to modify its child support order pursuant to its laws, a tribunal of this state may assume jurisdiction to modify the child support order and bind all individuals subject to the personal jurisdiction of the tribunal whether the consent to modification of a child support order otherwise required of the individual pursuant to section 252K.611 has been given or whether the individual seeking modification is a resident of this state or of the foreign country.

2. An order issued by a tribunal of this state modifying a foreign child support order pursuant to this section is the controlling order.

2015 Acts, ch 110, §55

Referred to in §252K.201

252K.616 Procedures to register child support order of foreign country for modification.

A party or support enforcement agency seeking to modify, or to modify and enforce, a foreign child support order not under the convention may register that order in this state under sections 252K.601 through 252K.608 if the order has not been registered. A petition or comparable pleading for modification may be filed at the same time as a request for registration, or at another time. The pleading must specify the grounds for modification.

2015 Acts, ch 110, §56

ARTICLE 7

SUPPORT PROCEEDING UNDER CONVENTION

Referred to in §252K.102, 252K.105, 252K.613

252K.701 Definitions.

In this article:

1. “*Application*” means a request under the convention by an obligee or obligor, or on behalf of a child, made through a central authority for assistance from another central authority.

2. “*Central authority*” means the entity designated by the United States or a foreign country described in section 252K.102, subsection 5, paragraph “d”, to perform the functions specified in the convention.

3. “*Convention support order*” means a support order of a tribunal of a foreign country described in section 252K.102, subsection 5, paragraph “d”.

4. “*Direct request*” means a petition for support filed by an individual in a tribunal of this state in a proceeding involving an obligee, obligor, or a child residing outside the United States.

5. “*Foreign central authority*” means the entity designated by a foreign country described in section 252K.102, subsection 5, paragraph “d”, to perform the functions specified in the convention.

6. “*Foreign support agreement*”:

a. Means an agreement for support in a record that:

(1) Is enforceable as a support order in the country of origin.

(2) Has been formally drawn up or registered as an authentic instrument by a foreign tribunal or authenticated by, or concluded, registered, or filed with a foreign tribunal.

(3) May be reviewed and modified by a foreign tribunal.

b. “*Foreign support agreement*” includes a maintenance arrangement or authentic instrument under the convention.

7. “*United States central authority*” means the secretary of the United States department of health and human services.

97 Acts, ch 175, §175; 2015 Acts, ch 110, §57

252K.702 Applicability.

This article applies only to a support proceeding under the convention. In such a proceeding, if a provision of this article is inconsistent with articles 1 through 6, this article controls.

2015 Acts, ch 110, §58

252K.703 Relationship of child support recovery unit to United States central authority.

The child support recovery unit of this state is recognized as the agency designated by the United States central authority to perform specific functions under the convention.

2015 Acts, ch 110, §59

252K.704 Initiation by child support recovery unit of support proceeding under convention.

1. In a support proceeding under this article, the child support recovery unit of this state shall:

- a. Transmit and receive applications.
- b. Initiate or facilitate the institution of a proceeding regarding an application in a tribunal of this state.
 2. The following support proceedings are available to an obligee under the convention:
 - a. Recognition or recognition and enforcement of a foreign support order.
 - b. Enforcement of a support order issued or recognized in this state.
 - c. Establishment of a support order if there is no existing order, including, if necessary, determination of parentage of a child.
 - d. Establishment of a support order if recognition of a foreign support order is refused under section 252K.708, subsection 2, paragraph “b”, “d”, or “i”.
 - e. Modification of a support order of a tribunal of this state.
 - f. Modification of a support order of a tribunal of another state or a foreign country.
 3. The following support proceedings are available under the convention to an obligor against which there is an existing support order:
 - a. Recognition of an order suspending or limiting enforcement of an existing support order of a tribunal of this state.
 - b. Modification of a support order of a tribunal of this state.
 - c. Modification of a support order of a tribunal of another state or a foreign country.
 4. A tribunal of this state may not require security, bond, or deposit, however described, to guarantee the payment of costs and expenses in proceedings under the convention.

2015 Acts, ch 110, §60

Referred to in §252K.708

252K.705 Direct request.

1. A petitioner may file a direct request seeking establishment or modification of a support order or determination of parentage of a child. In the proceeding, the law of this state applies.
2. A petitioner may file a direct request seeking recognition and enforcement of a support order or support agreement. In the proceeding, sections 252K.706 through 252K.713 apply.
3. In a direct request for recognition and enforcement of a convention support order or foreign support agreement:
 - a. A security, bond, or deposit is not required to guarantee the payment of costs and expenses.
 - b. An obligee or obligor that in the issuing country has benefited from free legal assistance is entitled to benefit, at least to the same extent, from any free legal assistance provided for by the law of this state under the same circumstances.
4. A petitioner filing a direct request is not entitled to assistance from the child support recovery unit.
5. This article does not prevent the application of laws of this state that provide simplified, more expeditious rules regarding a direct request for recognition and enforcement of a foreign support order or foreign support agreement.

2015 Acts, ch 110, §61

252K.706 Registration of convention support order.

1. Except as otherwise provided in this article, a party who is an individual or a support enforcement agency seeking recognition of a convention support order shall register the order in this state as provided in article 6.
2. Notwithstanding section 252K.311 and section 252K.602, subsection 1, a request for registration of a convention support order must be accompanied by:
 - a. A complete text of the support order.
 - b. A record stating that the support order is enforceable in the issuing country.
 - c. If the respondent did not appear and was not represented in the proceedings in the issuing country, a record attesting, as appropriate, either that the respondent had proper notice of the proceedings and an opportunity to be heard or that the respondent had proper notice of the support order and an opportunity to be heard in a challenge or appeal on fact or law before a tribunal.
 - d. A record showing the amount of arrears, if any, and the date the amount was calculated.

e. A record showing a requirement for automatic adjustment of the amount of support, if any, and the information necessary to make the appropriate calculations.

f. If necessary, a record showing the extent to which the applicant received free legal assistance in the issuing country.

3. A request for registration of a convention support order may seek recognition and partial enforcement of the order.

4. A tribunal of this state may vacate the registration of a convention support order without the filing of a contest under section 252K.707 only if, acting on its own motion, the tribunal finds that recognition and enforcement of the order would be manifestly incompatible with public policy.

5. The tribunal shall promptly notify the parties of the registration or the order vacating the registration of a convention support order.

2015 Acts, ch 110, §62

Referred to in §252K.602, 252K.705, 252K.708

252K.707 Contest of registered convention support order.

1. Except as otherwise provided in this article, sections 252K.605 through 252K.608 apply to a contest of a registered convention support order.

2. A party contesting a registered convention support order shall file a contest not later than thirty days after notice of the registration, but if the contesting party does not reside in the United States, the contest must be filed not later than sixty days after notice of the registration.

3. If the nonregistering party fails to contest the registered convention support order by the time specified in subsection 2, the order is enforceable.

4. A contest of a registered convention support order may be based only on grounds set forth in section 252K.708. The contesting party bears the burden of proof.

5. In a contest of a registered convention support order, a tribunal of this state:

a. Is bound by the findings of fact on which the foreign tribunal based its jurisdiction.

b. May not review the merits of the order.

6. A tribunal of this state deciding a contest of a registered convention support order shall promptly notify the parties of its decision.

7. A challenge or appeal, if any, does not stay the enforcement of a convention support order unless there are exceptional circumstances.

2015 Acts, ch 110, §63

Referred to in §252K.605, 252K.705, 252K.706

252K.708 Recognition and enforcement of registered convention support order.

1. Except as otherwise provided in subsection 2, a tribunal of this state shall recognize and enforce a registered convention support order.

2. The following grounds are the only grounds on which a tribunal of this state may refuse recognition and enforcement of a registered convention support order:

a. Recognition and enforcement of the order is manifestly incompatible with public policy, including the failure of the issuing tribunal to observe minimum standards of due process, which include notice and an opportunity to be heard.

b. The issuing tribunal lacked personal jurisdiction consistent with section 252K.201.

c. The order is not enforceable in the issuing country.

d. The order was obtained by fraud in connection with a matter of procedure.

e. A record transmitted in accordance with section 252K.706 lacks authenticity or integrity.

f. A proceeding between the same parties and having the same purpose is pending before a tribunal of this state and that proceeding was the first to be filed.

g. The order is incompatible with a more recent support order involving the same parties and having the same purpose if the more recent support order is entitled to recognition and enforcement under this chapter in this state.

h. Payment, to the extent alleged arrears have been paid in whole or in part.

i. In a case in which the respondent neither appeared nor was represented in the proceeding in the issuing foreign country, any of the following is applicable:

(1) If the law of that country provides for prior notice of proceedings, the respondent did not have proper notice of the proceedings and an opportunity to be heard.

(2) If the law of that country does not provide for prior notice of the proceedings, the respondent did not have proper notice of the order and an opportunity to be heard in a challenge or appeal on fact or law before a tribunal.

j. The order was made in violation of section 252K.711.

3. If a tribunal of this state does not recognize a convention support order under subsection 2, paragraph “b”, “d”, or “i”:

a. The tribunal may not dismiss the proceeding without allowing a reasonable time for a party to request the establishment of a new convention support order.

b. The child support recovery unit shall take all appropriate measures to request a child support order for the obligee if the application for recognition and enforcement was received under section 252K.704.

2015 Acts, ch 110, §64

Referred to in §252K.704, 252K.705, 252K.707, 252K.711

252K.709 Partial enforcement.

If a tribunal of this state does not recognize and enforce a convention support order in its entirety, it shall enforce any severable part of the order. An application or direct request may seek recognition and partial enforcement of a convention support order.

2015 Acts, ch 110, §65

Referred to in §252K.705

252K.710 Foreign support agreement.

1. Except as otherwise provided in subsections 3 and 4, a tribunal of this state shall recognize and enforce a foreign support agreement registered in this state.

2. An application or direct request for recognition and enforcement of a foreign support agreement must be accompanied by:

a. A complete text of the foreign support agreement.

b. A record stating that the foreign support agreement is enforceable as an order of support in the issuing country.

3. A tribunal of this state may vacate the registration of a foreign support agreement only if, acting on its own motion, the tribunal finds that recognition and enforcement would be manifestly incompatible with public policy.

4. In a contest of a foreign support agreement, a tribunal of this state may refuse recognition and enforcement of the agreement if it finds any of the following:

a. Recognition and enforcement of the agreement is manifestly incompatible with public policy.

b. The agreement was obtained by fraud or falsification.

c. The agreement is incompatible with a support order involving the same parties and having the same purpose in this state, another state, or a foreign country if the support order is entitled to recognition and enforcement under this chapter in this state.

d. The record submitted under subsection 2 lacks authenticity or integrity.

5. A proceeding for recognition and enforcement of a foreign support agreement must be suspended during the pendency of a challenge to or appeal of the agreement before a tribunal of another state or a foreign country.

2015 Acts, ch 110, §66

Referred to in §252K.705

252K.711 Modification of convention child support order.

1. A tribunal of this state may not modify a convention child support order if the obligee remains a resident of the foreign country where the support order was issued unless any of the following applies:

a. The obligee submits to the jurisdiction of a tribunal of this state, either expressly or by

defending on the merits of the case without objecting to the jurisdiction at the first available opportunity.

b. The foreign tribunal lacks or refuses to exercise jurisdiction to modify its support order or issue a new support order.

2. If a tribunal of this state does not modify a convention child support order because the order is not recognized in this state, section 252K.708, subsection 3, applies.

2015 Acts, ch 110, §67

Referred to in §252K.615, 252K.705, 252K.708

252K.712 Personal information — limit on use.

Personal information gathered or transmitted under this article may be used only for the purposes for which it was gathered or transmitted.

2015 Acts, ch 110, §68

Referred to in §252K.705

252K.713 Record in original language — English translation.

A record filed with a tribunal of this state under this article must be in the original language and, if not in English, must be accompanied by an English translation.

2015 Acts, ch 110, §69

Referred to in §252K.705

ARTICLE 8

INTERSTATE RENDITION

Referred to in §252K.613

252K.801 Grounds for rendition.

1. For purposes of this article, “governor” includes an individual performing the functions of governor or the executive authority of a state covered by this chapter.

2. The governor of this state may:

a. Demand that the governor of another state surrender an individual found in the other state who is charged criminally in this state with having failed to provide for the support of an obligee.

b. On the demand of the governor of another state, surrender an individual found in this state who is charged criminally in the other state with having failed to provide for the support of an obligee.

3. A provision for extradition of individuals not inconsistent with this chapter applies to the demand even if the individual whose surrender is demanded was not in the demanding state when the crime was allegedly committed and has not fled therefrom.

97 Acts, ch 175, §176; 2015 Acts, ch 110, §70

252K.802 Conditions of rendition.

1. Before making a demand that the governor of another state surrender an individual charged criminally in this state with having failed to provide for the support of an obligee, the governor of this state may require a prosecutor of this state to demonstrate that at least sixty days previously the obligee had initiated proceedings for support pursuant to this chapter or that the proceeding would be of no avail.

2. If, under this chapter, or a law substantially similar to this chapter, the governor of another state makes a demand that the governor of this state surrender an individual charged criminally in that state with having failed to provide for the support of a child or other individual to whom a duty of support is owed, the governor may require a prosecutor to investigate the demand and report whether a proceeding for support has been initiated or would be effective. If it appears that a proceeding would be effective but has not been initiated, the governor may delay honoring the demand for a reasonable time to permit the initiation of a proceeding.

3. If a proceeding for support has been initiated and the individual whose rendition is demanded prevails, the governor may decline to honor the demand. If the movant prevails

and the individual whose rendition is demanded is subject to a support order, the governor may decline to honor the demand if the individual is complying with the support order.

97 Acts, ch 175, §177; 2015 Acts, ch 110, §71

ARTICLE 9

MISCELLANEOUS PROVISIONS

252K.901 Uniformity of application and construction.

In applying and construing this uniform Act, consideration must be given to the need to promote uniformity of the law with respect to the subject matter among states that enact it.

97 Acts, ch 175, §178; 2015 Acts, ch 110, §72

252K.902 Short title. Repealed by 2015 Acts, ch 110, §75. See §252K.101.

252K.903 Severability.

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

97 Acts, ch 175, §180; 2015 Acts, ch 110, §73

252K.904 Effective date — pending matters.

1. This chapter takes effect July 1, 2015.

2. A tribunal of this state shall apply this chapter beginning July 1, 2015, with the following conditions:

a. Matters pending on July 1, 2015, shall be governed by this chapter.

b. Pleadings and accompanying documents on pending matters are sufficient if the documents substantially comply with the requirements of this chapter in effect on June 30, 2015.

97 Acts, ch 175, §181; 2015 Acts, ch 110, §74

CHAPTERS 253 and 254

RESERVED

CHAPTER 255

MEDICAL AND SURGICAL TREATMENT OF INDIGENT PERSONS

Repealed by 2005 Acts, ch 167, §59, 66; see §263.18 – 263.23

CHAPTER 255A

OBSTETRICAL AND NEWBORN INDIGENT PATIENT CARE

Repealed by 2005 Acts, ch 167, §59, 66; see §135.152

TITLE VII

EDUCATION AND CULTURAL AFFAIRS

SUBTITLE 1

ELEMENTARY AND SECONDARY EDUCATION

CHAPTER 256

DEPARTMENT OF EDUCATION

Department includes Iowa advance funding authority; §7E.7, chapter 257C

	SUBCHAPTER I		
	GENERAL PROVISIONS		
256.1	Department established.		
256.2	Definitions.	256.23	Administrative advancement and recruitment program. Repealed by 2013 Acts, ch 88, §37.
256.3	State board established.	256.24	Competency-based education grant program. Repealed by its own terms; 2013 Acts, ch 121, §76.
256.4	Oath — vacancies.		
256.5	Compensation and expenses.	256.25	Therapeutic classroom incentive grant program — fund.
256.5A	Nonvoting member.	256.25A	Therapeutic classroom — claims.
256.6	Regular and special meetings.	256.26	Before and after school grant program. Repealed by 2018 Acts, ch 1057, §13.
256.7	Duties of state board.	256.27	Online state job posting system.
256.8	Director of department of education.	256.28	Teach Iowa student teaching pilot project.
256.9	Duties of director.	256.29	Council on educator development established. Repealed by 2017 Acts, ch 29, §164.
256.9A	Limitation on guidance and interpretations.	256.30	Educational expenses for American Indians.
256.10	Employment of professional staff.	256.31	Community college council.
256.10A	Duties of consultants.	256.32	Council for agricultural education.
256.11	Educational standards.	256.32A	Iowa dyslexia board.
256.11A	Teacher librarian — guidance counselor — school nurse — waivers. Repealed by 2013 Acts, ch 90, §216.	256.33	Educational technology assistance.
256.11B	Career and technical education instruction — nonpublic schools.	256.34	Fine arts beginning teacher mentoring program.
256.12	Sharing instructors and services.	256.35	Regional autism assistance program.
256.13	Nonresident pupils.	256.35A	Iowa autism council.
256.14	Permanent revolving fund.	256.36	Math and science grant program.
256.15	Nonpublic school advisory committee.	256.37	School restructuring and effectiveness — policy — findings.
256.16	Specific criteria for teacher preparation and certain educators.	256.38	School-to-work transition system. Repealed by 2013 Acts, ch 88, §37.
256.17	Postsecondary course audit committee.	256.39	Career pathways program.
256.18	Character education policy.	256.40	Statewide work-based learning intermediary network — fund — steering committee — regional networks.
256.18A	Service learning.		
256.19	Pilot projects to improve instructional programs. Repealed by 2016 Acts, ch 1036, §15.	256.41	Online learning requirements — school districts.
256.20	and 256.21 Repealed by 2013 Acts, ch 88, §37.		
256.22	Extended year school grant program. Repealed by 2013 Acts, ch 88, §37; 2013 Acts, ch 90, §216.		

256.42	Iowa learning online initiative. Repealed by 2020 Acts, ch 1107, §10.		PART 2
			LIBRARY SERVICES ADVISORY PANEL AND LOCAL FINANCIAL SUPPORT
256.43	Online learning program model.	256.60	and 256.61 Repealed by 2011 Acts, ch 132, §66, 106.
256.44	National board certification pilot project.	256.62	Library services advisory panel.
256.45	Ambassador to education.	256.63	through 256.65 Repealed by 2001 Acts, ch 158, §40.
		256.66	through 256.68 Repealed by 2011 Acts, ch 132, §66, 106.
		256.69	Local financial support.
	SUBCHAPTER II		
	PARTICIPATION IN INTERSCHOLASTIC ACTIVITIES		
256.46	Rules for participation in extracurricular activities by certain children.		PART 3
			LIBRARY COMPACT
256.47	through 256.49 Reserved.	256.70	Library compact authorized.
		256.71	Administrator.
		256.72	Agreements.
		256.73	Enforcement.
		256.74	through 256.79 Reserved.
	SUBCHAPTER III		
	LIBRARY SERVICES		
	PART 1		
	GENERAL PROVISIONS		
256.50	Division of library services — definitions.	256.80	Definitions.
256.51	Division of library services — duties and responsibilities.	256.81	Public broadcasting division created — administrator — duties.
256.52	Commission of libraries established — duties of commission and state librarian — state library fund created.	256.82	Board — advisory committees.
		256.83	Meetings.
		256.84	Powers — facilities — rules.
		256.85	Purchase of energy efficiency packages.
256.53	State publications.		Competition with private sector.
256.54	State library — law library.	256.86	Capital equipment replacement revolving fund.
256.55	State data center.	256.87	
256.56	Electronic access to documents.		Trusts.
256.57	Enrich Iowa program.	256.88	State plan. Repealed by 2006 Acts, ch 1185, §31.
256.58	Library support network.	256.89	
256.59	Specialized library services.	256.90	Narrowcast operations.

SUBCHAPTER I

GENERAL PROVISIONS

256.1 Department established.

1. The department of education is established to act in a policymaking and advisory capacity and to exercise general supervision over the state system of education including all of the following:

- a. Public elementary and secondary schools.
- b. Community colleges.
- c. Area education agencies.
- d. Vocational rehabilitation.
- e. Educational supervision over the elementary and secondary schools under the control of an administrator of a division of the department of human services.
- f. Nonpublic schools to the extent necessary for compliance with Iowa school laws.

2. The department shall stimulate and encourage educational radio and television and other educational communications services as necessary to aid in accomplishing the educational objectives of the state.

3. The department shall meet the informational needs of the three branches of state government.

4. The department shall provide for the improvement of library services to all Iowa citizens and foster development and cooperation among libraries.

5. The department shall act as an administrative, supervisory, and consultative state agency.

86 Acts, ch 1245, §1401; 93 Acts, ch 48, §12; 94 Acts, ch 1023, §92

Referred to in §7E.5, 292.1

256.2 Definitions.

As used in this chapter:

1. “*Department*” means the department of education.

2. “*Director*” means the director of the department of education.

3. “*Online learning*” and “*online coursework*” mean educational instruction and content which are delivered primarily over the internet. “*Online learning*” and “*online coursework*” do not include print-based correspondence education, broadcast television or radio, videocassettes, or stand-alone educational software programs that do not have a significant internet-based instructional component.

4. “*State board*” means the state board of education.

5. “*Telecommunications*” means narrowcast communications through systems that are directed toward a narrowly defined audience and includes interactive live communications. “*Telecommunications*” does not include online learning.

86 Acts, ch 1245, §1402; 2012 Acts, ch 1119, §13; 2015 Acts, ch 30, §86

256.3 State board established.

1. The state board of education is established for the department. The state board consists of ten members: nine voting members and one nonvoting student member. The voting members shall be appointed by the governor subject to senate confirmation. The nonvoting student member shall be appointed as provided in section 256.5A.

2. The voting members shall be registered voters of the state and hold no other elective or appointive state office. Not more than five voting members shall be of the same political party. Three of the voting members shall have substantial knowledge related to the community college system. The remaining six voting members shall be members of the general public. A voting member shall not be engaged in professional education for a major portion of the member’s time nor shall the member derive a major portion of income from any business or activity connected with education.

3. The terms of office for voting members are for six years beginning and ending as provided in section 69.19.

86 Acts, ch 1245, §1403; 90 Acts, ch 1253, §4; 95 Acts, ch 49, §4; 2002 Acts, ch 1140, §1; 2016 Acts, ch 1011, §42

Referred to in §256.31

Confirmation, see §2.32

256.4 Oath — vacancies.

The members of the state board shall qualify by taking the regular oath of office as prescribed by law for state officers. Vacancies in the voting membership shall be filled in the same manner in which regular appointments are required to be made.

86 Acts, ch 1245, §1404; 2002 Acts, ch 1140, §2

256.5 Compensation and expenses.

The members of the state board shall be reimbursed for actual and necessary expenses incurred while engaged in their official duties. Members of the state board may also be eligible to receive compensation as provided in section 7E.6. All expense moneys paid to the members shall be paid from funds appropriated to the department.

86 Acts, ch 1245, §1405

256.5A Nonvoting member.

1. a. The governor shall appoint the one nonvoting student member of the state board for a term of one year if the student is enrolled in grade eleven or for a term of two years if the

student is enrolled in grade ten. The term shall begin and end as provided in section 69.19. The nonvoting student member shall be appointed from a list of names submitted by the state board of education. Students enrolled in either grade ten or eleven in a public school may apply to the state board to serve as a nonvoting student member.

b. The department shall develop an application process that requires the consent of the student's parent or guardian if the student is a minor, initial application approval by the school district in which the student applicant is enrolled, and submission of approved applications by a school district to the department.

2. The nonvoting student member's school district of enrollment shall notify the student's parents if the student's grade point average falls during the period in which the student is a member of the state board.

3. The state board shall adopt rules under chapter 17A specifying criteria for the selection of applicants whose names shall be submitted to the governor. Criteria shall include but are not limited to academic excellence, participation in extracurricular and community activities, and interest in serving on the board. Rules adopted by the state board shall also require, if the student is a minor, supervision of the student by the student's parent or guardian while the student is engaged in authorized state board business at a location other than the community in which the student resides, unless the student's parent or guardian submits to the state board a signed release indicating the parent or guardian has determined that supervision of the student by the parent or guardian is unnecessary.

4. The nonvoting student member appointment is not subject to section 69.16 or 69.16A.

5. The nonvoting student member shall have been enrolled in a public school in Iowa for at least one year prior to the member's appointment.

6. A nonvoting student member shall be paid a per diem as provided in section 7E.6 and the student and the student's parent or guardian shall be reimbursed for actual and necessary expenses incurred in the performance of the student's duties as a nonvoting member of the state board.

7. A vacancy in the membership of the nonvoting student member shall not be filled until the expiration of the term.

2002 Acts, ch 1140, §3; 2003 Acts, ch 180, §1; 2013 Acts, ch 88, §1

Referred to in §256.3

256.6 Regular and special meetings.

The state board shall meet in May of each year for purposes of organization and shall hold at least five additional regular meetings during the twelve-month period ending April 30. Special meetings of the state board may be called by the president or by any five members of the board on five days' notice given to each member.

86 Acts, ch 1245, §1406; 88 Acts, ch 1013, §1

256.7 Duties of state board.

Except for the college student aid commission, the commission of libraries and division of library services, and the public broadcasting board and division, the state board shall:

1. Adopt and establish policy for programs and services of the department pursuant to law.

2. Constitute the state board for career and technical education under chapter 258.

3. a. Prescribe standards and procedures for the approval of practitioner preparation programs and professional development programs offered in this state by practitioner preparation institutions located within or outside this state and by area education agencies.

b. Procedures provided for approval of programs shall include procedures for enforcement of the prescribed standards and, except as provided in section 256.16, subsection 3, shall not include a procedure for the waiving of any of the standards prescribed.

c. By July 1, 2022, the board, in collaboration with the Iowa reading research center, shall adopt rules under chapter 17A prescribing standards and procedures for the approval of practitioner preparation programs that are affiliated with the Iowa reading research center and that offer practitioner preparation for the advanced dyslexia specialist endorsement issued by the board of educational examiners pursuant to section 272.2, subsection 23. The

department shall not approve programs that prepare practitioners for such an endorsement if the programs are not approved by the Iowa reading research center.

d. The board may establish by rule and collect from practitioner preparation institutions located outside this state an amount equivalent to the department's necessary travel and actual expenses incurred while engaged in the program approval process for the institution located outside this state. Amounts collected under this subsection shall be deposited in the general fund of the state.

4. Adopt, and update annually, a five-year plan for the achievement of educational goals in Iowa.

5. Adopt rules under chapter 17A for carrying out the responsibilities of the department.

6. Hear appeals of persons aggrieved by decisions of boards of directors of school corporations under chapter 290 and other appeals prescribed by law. The state board may review the record and shall review the decision of the director of the department of education or the administrative law judge designated for any appeals heard and decided by the director under chapter 290, and may affirm, modify, or vacate the decision, or may direct a rehearing before the director.

7. Adopt rules under chapter 17A for the use of telecommunications as an instructional tool for students enrolled in kindergarten through grade twelve and served by local school districts, accredited or approved nonpublic schools, area education agencies, community colleges, institutions of higher education under the state board of regents, and independent colleges and universities in elementary and secondary school classes and courses. The rules shall include but need not be limited to rules relating to programs, educational policy, instructional practices, staff development, use of pilot projects, curriculum monitoring, and the accessibility of licensed teachers.

a. When curriculum is provided by means of telecommunications, it shall be taught by an appropriately licensed teacher. The teacher shall either be present in the classroom, or be present at the location at which the curriculum delivered by means of telecommunications originates.

b. The rules shall provide that when the curriculum is taught by an appropriately licensed teacher at the location at which the telecommunications originates, the curriculum received at a remote site shall be under the supervision of a licensed teacher. The licensed teacher at the originating site may provide supervision of students at a remote site or the school district in which the remote site is located may provide for supervision at the remote site if the school district deems it necessary or if requested to do so by the licensed teacher at the originating site. For the purposes of this subsection, "supervision" means that the curriculum is monitored by a licensed teacher and the teacher is accessible to the students receiving the curriculum by means of telecommunications.

c. The state board shall establish an advisory committee to make recommendations for rules required under this subsection on the use of telecommunications as an instructional tool. The committee shall be composed of representatives from community colleges, area education agencies, accredited or approved nonpublic schools, and local school districts from various enrollment categories. The representatives shall include board members, school administrators, teachers, parents, students, and associations interested in education.

8. Rules adopted under this section shall provide that telecommunications shall not be used by school districts as the exclusive means to provide any course which is required by the minimum educational standards for accreditation.

9. Develop evaluation procedures that will measure the effects of instruction by means of telecommunications on student achievement, socialization, intellectual growth, motivation, and other related factors deemed relevant by the state board, for the development of an educational database. The state board shall consult with the state board of regents and the practitioner preparation departments at its institutions, other practitioner preparation departments located within private colleges and universities, educational research agencies or facilities, and other agencies deemed appropriate by the state board, in developing these procedures.

10. Adopt rules pursuant to chapter 17A relating to educational programs and budget limitations for educational programs pursuant to sections 282.29, 282.30, 282.31, and 282.33.

11. Prescribe guidelines for facility standards, maximum class sizes, and maximum in classroom pupil-teacher and teacher-aide ratios for grades kindergarten through three and before and after school and summer child care programs provided under the direction of the school district. The department also shall indicate modifications to such guidelines necessary to address the needs of at-risk children.

12. Elect to a two-year term, from its members in each even-numbered year, a president of the state board, who shall serve until a successor is elected and qualified.

13. Adopt rules and a procedure for accrediting all apprenticeship programs in the state which receive state or federal funding. In developing the rules, the state board shall consult with schools and labor or trade organizations affected by or currently operating apprenticeship or training programs. Rules adopted shall be the same or similar to criteria established for the operation of apprenticeship programs at community colleges.

14. Require each community college which establishes a new jobs training project or projects and receives funds derived from or associated with the project or projects to establish a separate account to act as a repository for any funds received.

15. Reserved.

16. Adopt rules that set standards for approval of family support preservice and in-service training programs, offered by area education agencies and practitioner preparation institutions, and family support programs offered by or through local school districts.

17. Receive and review the budget and unified plan of service submitted by the division of library services.

18. Adopt rules that include children who retain some sight but who have a medically diagnosed expectation of visual deterioration within the definition of children requiring special education pursuant to section 256B.2, subsection 1. Rules adopted pursuant to this subsection shall provide for or include, but are not limited to, the following:

a. A presumption that proficiency in braille reading and writing is essential for satisfactory educational progress for a visually impaired student who is not able to communicate in print with the same level of proficiency as a student of otherwise comparable ability at the same grade level. This presumption includes a student as defined in paragraph "b". A student for whom braille services are appropriate, as defined in this subsection, is entitled to instruction in braille reading and writing that is sufficient to enable the pupil to communicate with the same level of proficiency as a pupil of otherwise comparable ability at the same grade level.

b. A pupil who retains some sight but who has a medically diagnosed expectation of visual deterioration in adolescence or early adulthood may qualify for instruction in braille reading and writing.

c. Instruction in braille reading and writing may be used in combination with other special education services appropriate to a pupil's educational needs.

d. The annual review of a pupil's individual education plan shall include discussion of instruction in braille reading and writing and a written explanation of the reasons why the pupil is using a given reading and writing medium or media. If the reasons have not changed since the previous year, the written explanation for the current year may refer to the fuller explanation from the previous year.

e. A pupil as defined in paragraph "b" whose primary learning medium is expected to change may begin instruction in the new medium before it is the only medium the pupil can effectively use.

f. A pupil who receives instruction in braille reading and writing pursuant to this subsection shall be taught by a teacher licensed to teach students with visual impairments.

19. For a school or school district with a school calendar measuring instructional time in days pursuant to section 279.10, subsection 1, define the minimum school day as a day consisting of six hours of instructional time for grades one through twelve. The minimum hours shall be exclusive of the lunch period, but may include passing time between classes. Time spent on parent-teacher conferences shall be considered instructional time. A school or school district may record a day of school with less than the minimum instructional hours as a minimum school day if any of the following apply:

a. If emergency health or safety factors require the late arrival or early dismissal of students on a specific day.

b. If the total hours of instructional school time for grades one through twelve for any five consecutive school days equal a minimum of thirty hours, even though any one day of school is less than the minimum instructional hours because of a staff development opportunity provided for the professional instructional staff or because parent-teacher conferences have been scheduled beyond the regular school day. Furthermore, if the total hours of instructional time for the first four consecutive days equal at least thirty hours because parent-teacher conferences have been scheduled beyond the regular school day, a school or school district may record zero hours of instructional time on the fifth consecutive school day as a minimum school day.

20. Adopt rules that require the board of directors of a school district to waive school fees for indigent families.

21. Develop and adopt rules incorporating accountability for, and reporting of, student achievement into the standards and accreditation process described in section 256.11. The rules shall provide for all of the following:

a. Requirements that all school districts and accredited nonpublic schools develop, implement, and file with the department a comprehensive school improvement plan that includes but is not limited to demonstrated school, parental, and community involvement in assessing educational needs, establishing local education standards and student achievement levels, and, as applicable, the consolidation of federal and state planning, goal-setting, and reporting requirements. Each school district and accredited nonpublic school shall include in its comprehensive school improvement plan a list and description of the online coursework offered by the school district or accredited nonpublic school to which the student is enrolled.

b. A set of core academic indicators in mathematics and reading in grades four, eight, and eleven, a set of core academic indicators in science in grades eight and ten, and another set of core indicators that includes but is not limited to graduation rate, postsecondary education, and successful employment in Iowa. Annually, the department shall report state data for each indicator in the condition of education report.

(1) Rules adopted pursuant to this subsection shall specify that the statewide summative assessment of student progress administered by school districts for purposes of the core academic indicators shall be the summative assessment developed by the Iowa testing program within the university of Iowa college of education and administered by the Iowa testing program's designee.

(2) For the school year beginning July 1, 2018, and each succeeding school year, the rules shall also require all of the following:

(a) That all students enrolled in school districts in grades three through eleven be administered an assessment in mathematics and English language arts, including reading and writing, during the last quarter of the school year and all students enrolled in school districts in grades five, eight, and ten be administered an assessment in science during the last quarter of the school year.

(b) That the assessment, at a minimum, assess the core academic indicators identified in this paragraph "b"; be aligned with the Iowa common core standards in both content and rigor; accurately describe student achievement and growth for purposes of the school, the school district, and state accountability systems; provide valid, reliable, and fair measures of student progress toward college or career readiness; and meet the summative assessment requirements of the federal Every Student Succeeds Act, Pub. L. No. 114-95.

(c) That the assessment be available for administration in both paper-and-pencil and computer-based formats and include assessments in mathematics, science, and English language arts, including reading and writing.

(d) That the assessment be peer-reviewed by an independent, third-party evaluator to determine that the assessment is aligned with the Iowa core academic standards, provides a measurement of student growth and student proficiency, and meets the summative assessment requirements of the federal Every Student Succeeds Act, Pub. L. No. 114-95. The assessment developed by the Iowa testing program within the university of Iowa college of education shall be adjusted as necessary to meet the requirements of this subparagraph (2) as determined by the peer review.

22. Adopt rules and a procedure for the approval of para-educator preparation programs

offered by a public school district, area education agency, community college, institution of higher education under the state board of regents, or an accredited private institution as defined in section 261.9, subsection 1. The programs shall train and recommend individuals for para-educator certification under section 272.12.

23. Adopt rules directing the community colleges to annually and uniformly submit data from the most recent fiscal year to the division of community colleges and workforce preparation, using criteria determined and prescribed by the division via the management information system.

a. Financial data submitted to the division by a community college shall be broken down by fund.

b. Community colleges shall provide data to the division by a deadline set by the division. The deadline shall be set for a date that permits the division to include the data in a report submitted for state board approval and for review by December 15 of each year by the house and senate standing education committees and the joint subcommittee on education appropriations.

c. The department shall include a statewide summary of the financial data submitted in accordance with paragraph "a" in the annual condition of community colleges report, which upon approval of the state board, shall be submitted to the general assembly on or before February 1 of each year.

24. Adopt rules on or before January 1, 2001, to require school districts and accredited nonpublic schools to adopt local policies relating to health services, media services programs, and guidance programs, as part of the general accreditation standards applicable to school districts pursuant to section 256.11. This subsection shall be applicable strictly for reporting purposes and shall not be interpreted to require school districts and accredited nonpublic schools to provide or offer health services, media services programs, or guidance programs.

25. Adopt rules establishing standards for school district and area education agency professional development programs and for individual teacher professional development plans in accordance with section 284.6.

26. a. Adopt rules that establish a core curriculum and high school graduation requirements for all students in school districts and accredited nonpublic schools that include at a minimum satisfactory completion of four years of English and language arts, three years of mathematics, three years of science, and three years of social studies.

(1) The rules establishing high school graduation requirements shall provide that any student, at any grade level, who satisfactorily completes a high school-level unit of instruction at a school accredited under section 256.11 has satisfactorily completed a unit of the high school graduation requirements for that area of instruction and the school district or accredited nonpublic school of enrollment shall issue high school credit for the unit to the student unless the student is unable to demonstrate proficiency or the school district or accredited nonpublic school determines that the course unit completed by the student does not meet the school district's or accredited nonpublic school's standards, as appropriate. If a student is denied credit under this subparagraph, the school district or accredited nonpublic school denying credit shall provide to the student's parent or guardian in writing the reason for the denial.

(2) The rules shall allow a school district or accredited nonpublic school to award high school credit to an enrolled student upon the demonstration of required competencies for a course or content area, as approved by a teacher licensed under chapter 272. The school district or accredited nonpublic school shall determine the assessment methods by which a student demonstrates sufficient evidence of the required competencies.

(3) The rules establishing a core curriculum shall address the core content standards in subsection 28 and the skills and knowledge students need to be successful in the twenty-first century. The core curriculum shall include social studies and twenty-first century learning skills which include but are not limited to civic literacy, health literacy, technology literacy, financial literacy, family life and consumer sciences, and employability skills; and shall address the curricular needs of students in kindergarten through grade twelve in those areas. The state board shall further define the twenty-first century learning skills components by rule.

(4) The rules shall provide for the establishment of high-quality standards for computer science education taught by elementary, middle, and high schools, in accordance with the goal established under section 284.6A, subsection 1, setting a foundation for personal and professional success in a high-technology, knowledge-based Iowa economy. Such rules shall be applicable only to school districts and accredited nonpublic schools receiving moneys from the computer science professional development incentive fund under section 284.6A, or from other funds administered by the department for the same purposes as specified in section 284.6A, subsection 2.

b. Continue the inclusive process begun during the initial development of a core curriculum for grades nine through twelve including stakeholder involvement, including but not limited to representatives from the private sector and the business community, and alignment of the core curriculum to other recognized sets of national and international standards. The state board shall also recommend quality assessments to school districts and accredited nonpublic schools to measure the core curriculum.

c. Neither the state board nor the department shall require school districts or accredited nonpublic schools to adopt a specific textbook, textbook series, or specific instructional methodology, or acquire specific textbooks, curriculum materials, or educational products from a specific vendor in order to meet the core curriculum requirements of this subsection or the core content standards adopted pursuant to subsection 28.

27. Adopt by rule the Iowa standards for school administrators, including the knowledge and skill criteria developed by the director in accordance with section 256.9, subsection 47.

28. Adopt a set of core content standards applicable to all students in kindergarten through grade twelve in every school district and accredited nonpublic school. For purposes of this subsection, “*core content standards*” includes reading, mathematics, and science. School districts and accredited nonpublic schools shall include, at a minimum, the core content standards adopted pursuant to this subsection in any set of locally developed content standards. School districts and accredited nonpublic schools are strongly encouraged to set higher expectations in local standards. As changes in federal law or regulation occur, the state board is authorized to amend the core content standards as appropriate.

29. Adopt rules establishing nutritional content standards for foods and beverages sold or provided on the school grounds of any school district or accredited nonpublic school during the school day exclusive of the food provided by any federal school food program or pursuant to an agreement with any agency of the federal government in accordance with the provisions of chapter 283A, and exclusive of foods sold for fundraising purposes and foods and beverages sold at concession stands. The standards shall be consistent with the dietary guidelines for Americans issued by the United States department of agriculture food and nutrition service.

30. Set standards and procedures for the approval of training programs for individuals who seek an authorization issued by the board of educational examiners for the following:

a. Employment as a school business official responsible for the financial operations of a school district.

b. Employment as a school administration manager responsible for assisting a school principal in performing noninstructional duties.

31. a. Adopt by rule guidelines for school district implementation of section 279.68, including but not limited to basic levels of reading proficiency on approved locally determined or statewide assessments and identification of tools that school districts may use in evaluating and reevaluating any student who may not be or who is determined not to be reading proficiently and is persistently at risk in reading, including but not limited to initial assessments and subsequent assessments, alternative assessments, and portfolio reviews. The state board shall adopt standards that provide a reasonable expectation that a student’s progress toward reading proficiency under section 279.68 is sufficient to master appropriate grade four level reading skills prior to the student’s promotion to grade four.

b. Adopt rules for the Iowa reading research center and for implementation of the intensive summer literacy program developed and administered pursuant to section 256.9, subsection 49.

c. Adopt rules to establish standards for the identification, selection, and use of

research-based educational and instructional models for students identified as limited English proficient, and standards for the professional development of the instructional staff responsible for implementation of those models.

32. a. Adopt rules for online learning in accordance with section 256.11, subsection 17, and section 256.43, and criteria for waivers granted pursuant to section 256.11, subsection 17.

b. (1) Adopt rules which require that educational instruction and course content delivered primarily over the internet be aligned with the Iowa core content standards as applicable. Under such rules, a school district may develop and offer to students enrolled in the district educational instruction and course content for delivery primarily over the internet. A school district providing educational instruction and course content that are delivered primarily over the internet shall annually submit to the department, in the manner prescribed by the department, data that includes but is not limited to the following:

- (a) Student achievement and demographic characteristics.
- (b) Retention rates.
- (c) The percentage of enrolled students' active participation in extracurricular activities.
- (d) Academic proficiency levels, consistent with requirements applicable to all school districts and accredited nonpublic schools in this state.
- (e) Academic growth measures, which shall include either of the following:
 - (i) Entry and exit assessments in, at a minimum, math and English for elementary and middle school students, and additional subjects, including science, for high school students.
 - (ii) State-required assessments that track year-over-year improvements in academic proficiency.

(f) Academic mobility. To facilitate the tracking of academic mobility, school districts shall request the following information from the parent or guardian of a student enrolled in educational instruction and course content that are delivered primarily over the internet:

- (i) For a student newly enrolling, the reasons for choosing such enrollment.
- (ii) For a student terminating enrollment, the reasons for terminating such enrollment.
- (g) Student progress toward graduation. Measurement of such progress shall account for specific characteristics of each enrolled student, including but not limited to age and course credit accrued prior to enrollment in educational instruction and course content that are delivered primarily over the internet, and shall be consistent with evidence-based best practices.

(2) The department shall compile and review the data collected pursuant to this paragraph "b" and shall submit its findings and recommendations for the continued delivery of educational instruction and course content by school districts delivered primarily over the internet, in a report to the general assembly by January 15 annually.

c. Rules adopted pursuant to this subsection shall require that online learning coursework offered by school districts, accredited nonpublic schools, and area education agencies be rigorous, high-quality, aligned with the Iowa core and core content requirements and standards and the national standards of quality for online courses issued by an internationally recognized association for kindergarten through grade twelve online learning, and taught by a teacher licensed under chapter 272 who has specialized training or experience in online learning, including but not limited to an online-learning-for-Iowa-educators-professional-development project offered by area education agencies, a teacher preservice program, or comparable coursework.

33. a. For purposes of this subsection:

- (1) "*Adverse childhood experience*" means the same as defined in section 279.70.
- (2) "*Postvention*" means the same as defined in section 279.70.

b. Adopt rules to require school districts to adopt protocols for suicide prevention and postvention and the identification of adverse childhood experiences and strategies to mitigate toxic stress response. The protocols shall be based on nationally recognized best practices.

34. Adopt rules under chapter 17A establishing a process by which the department shall approve state-recognized work-based learning programs consisting of structured educational and training programs that include authentic worksite training, such as

registered apprenticeship programs, for purposes of eligible institutions under section 261.131.

86 Acts, ch 1245, §1407; 87 Acts, ch 224, §24, 25; 87 Acts, ch 207, §1; 87 Acts, ch 211, §2; 87 Acts, ch 233, §449; 88 Acts, ch 1266, §1; 89 Acts, ch 8, §1; 89 Acts, ch 206, §5; 89 Acts, ch 210, §1 – 3; 89 Acts, ch 265, §19 – 22; 90 Acts, ch 1249, §2, 3; 90 Acts, ch 1253, §5, 122; 90 Acts, ch 1272, §37; 91 Acts, ch 84, §1; 92 Acts, ch 1158, §2; 92 Acts, ch 1246, §26; 93 Acts, ch 48, §13; 93 Acts, ch 59, §1; 93 Acts, ch 82, §1; 94 Acts, ch 1043, §1; 94 Acts, ch 1091, §1 – 3; 94 Acts, ch 1193, §17; 96 Acts, ch 1007, §1; 96 Acts, ch 1127, §2; 98 Acts, ch 1176, §1; 98 Acts, ch 1202, §39, 46; 2000 Acts, ch 1098, §1; 2000 Acts, ch 1167, §1; 2000 Acts, ch 1170, §1; 2001 Acts, ch 24, §66, 74; 2001 Acts, ch 26, §1; 2002 Acts, ch 1140, §4; 2002 Acts, ch 1152, §1; 2003 Acts, ch 178, §56; 2003 Acts, ch 180, §2; 2004 Acts, ch 1145, §1; 2005 Acts, ch 149, §1, 2; 2006 Acts, ch 1152, §3, 4; 2007 Acts, ch 108, §1, 2; 2007 Acts, ch 214, §16, 17; 2008 Acts, ch 1127, §1; 2008 Acts, ch 1187, §140; 2008 Acts, ch 1191, §155; 2009 Acts, ch 54, §1; 2010 Acts, ch 1099, §1; 2011 Acts, ch 20, §4, 5; 2011 Acts, ch 71, §1; 2011 Acts, ch 131, §58, 158; 2011 Acts, ch 132, §41, 42, 106; 2012 Acts, ch 1119, §1, 3, 4, 14, 15, 24, 31; 2013 Acts, ch 121, §47, 79, 85; 2014 Acts, ch 1003, §1; 2014 Acts, ch 1013, §1, 2; 2014 Acts, ch 1092, §56; 2014 Acts, ch 1135, §7; 2015 Acts, ch 30, §87; 2015 Acts, ch 138, §99 – 101; 2016 Acts, ch 1036, §1; 2016 Acts, ch 1108, §24, 25; 2016 Acts, ch 1123, §1; 2016 Acts, ch 1132, §6; 2016 Acts, ch 1138, §13; 2017 Acts, ch 106, §1; 2017 Acts, ch 128, §1, 2, 4; 2018 Acts, ch 1037, §1, 2; 2018 Acts, ch 1051, §1; 2018 Acts, ch 1057, §1 – 3; 2018 Acts, ch 1119, §1 – 3; 2018 Acts, ch 1121, §1; 2018 Acts, ch 1172, §22; 2019 Acts, ch 30, §1; 2020 Acts, ch 1048, §1; 2020 Acts, ch 1063, §100; 2020 Acts, ch 1107, §1 – 3; 2020 Acts, ch 1117, §15

Referred to in §256.9, 256.11, 256.16, 256.28, 256.33, 256.43, 256F4, 256F5, 257.11, 257.31, 257.43, 260C.4, 261.110, 261.131, 261B.3A, 261E.9, 272.31, 273.2, 273.16, 279.47, 279.61, 279.68, 280.3, 280.9, 280.19, 280.28, 282.18, 282.31, 282.33, 284.5, 284.6, 284A.2, 284A.3, 284A.5, 284A.6, 284A.7, 290.5

For future amendment to subsection 26, paragraph a, subparagraph (4), effective July 1, 2021, see 2020 Acts, ch 1117, §7, 14

Subsection 3 amended

Subsection 21, paragraph a amended

Subsection 32, paragraph a amended

Subsection 32, paragraph b, subparagraph (1), unnumbered paragraph 1 amended

Subsection 32, NEW paragraph c

NEW subsection 34

256.8 Director of department of education.

The governor shall appoint a director of the department of education subject to confirmation by the senate. The director shall possess a background in education and administrative experience and shall serve at the pleasure of the governor.

86 Acts, ch 1245, §1408

Confirmation, see §2.32

256.9 Duties of director.

Except for the college student aid commission, the commission of libraries and division of library services, and the public broadcasting board and division, the director shall:

1. Carry out programs and policies as determined by the state board.
2. Recommend to the state board rules necessary to implement programs and services of the department.
3. Establish divisions of the department as necessary or desirable in addition to divisions required by law. The organization of the department shall promote coordination of functions and services relating to administration, supervision, and improvement of instruction.
4. Employ personnel and assign duties and responsibilities of the department. The director shall appoint a deputy director and division administrators deemed necessary. They shall be appointed on the basis of their professional qualifications, experience in administration, and background. Members of the professional staff are not subject to the merit system provisions of chapter 8A, subchapter IV, and are subject to section 256.10.
5. Transmit to the department of management information about the distribution of state and federal funds pursuant to state law and rules of the department.
6. Develop a budget and transmit to the department of management estimates of expenditure requirements for all functions and services of the department.
7. Accept and administer federal funds apportioned to the state for educational and

rehabilitation purposes and accept surplus commodities for distribution when made available by a governmental agency. The director may also accept grants and gifts on behalf of the department.

8. Cooperate with other governmental agencies and political subdivisions in the development of rules and enforcement of laws relating to education.

9. Conduct research on education matters.

10. Submit to each regular session of the general assembly recommendations relating to revisions or amendments to the school laws.

11. Approve, coordinate, and supervise the use of electronic data processing by school districts, area education agencies, and merged areas.

12. Act as the executive officer of the state board.

13. Act as custodian of a seal for the director's office and authenticate all true copies of decisions or documents.

14. Appoint advisory committees, in addition to those required by law, to advise in carrying out the programs, services, and functions of the department.

15. Provide the same educational supervision for the schools maintained by the director of human services as is provided for the public schools of the state and make recommendations to the director of human services for the improvement of the educational program in those institutions.

16. Interpret the school laws and rules relating to the school laws.

17. Hear and decide appeals arising from the school laws not otherwise specifically granted to the state board. If a school district, accredited nonpublic school, or area education agency requests that the director review information contained in a basic education data survey submission and the director finds that an error in the basic education data survey submission resulted in an incorrect determination by the board of educational examiners or the executive director of the board of educational examiners relating to licensure of a practitioner, the director shall notify the executive director of the board of educational examiners of the director's findings.

18. Prepare forms and procedures as necessary to be used by area education agency boards, district boards, school officials, principals, teachers, and other employees, and to insure uniformity, accuracy, and efficiency in keeping records in both pupil and cost accounting, the execution of contracts, and the submission of reports, and notify the area education agency board, district board, or school authorities when a report has not been filed in the manner or on the dates prescribed by law or by rule that the school will not be accredited until the report has been properly filed. The director shall include, on any report for which the department prescribes the form and manner of its submission, a reference to any state or federal statute, rule, or regulation that requires the inclusion of certain information in the report.

19. The department shall compile the financial information related to chapters 423E and 423F from the certified annual reports of each school district received pursuant to section 291.10, subsection 2, and shall submit the information to the general assembly in an annual report each February 1.

20. Determine by inspection, supervision, or otherwise, the condition, needs, and progress of the schools under the supervision of the department, make recommendations to the proper authorities for the correction of deficiencies and the educational and physical improvement of the schools, and request a state audit of the accounts of a school district, area education agency, school official, or school employee handling school funds when it is apparent that an audit should be made.

21. Preserve reports, documents, and correspondence that may be of a permanent value, which shall be open for inspection under reasonable conditions.

22. Keep a record of the business transacted by the director.

23. Endeavor to promote among the people of the state an interest in education.

24. Classify and define the various schools under the supervision of the department, formulate suitable courses of study, and publish and distribute the classifications and courses of study and promote their use.

25. Direct area education agency administrators to arrange for professional teachers'

meetings, demonstration teaching, or other field work for the improvement of instruction as best fits the needs of the public schools in each area.

26. Approve the salaries of area education agency administrators.

27. Develop criteria and procedures to assist in the identification of at-risk children and their developmental needs.

28. Develop, in conjunction with the child development coordinating council or other similar agency, child-to-staff ratio recommendations and standards for at-risk programs based on national literature and test results and Iowa longitudinal test results.

29. Develop programs in conjunction with the center for early development education to be made available to the school districts to assist them in identification of at-risk children and their developmental needs.

30. *a.* Conduct or direct the area education agency to conduct feasibility surveys and studies, if requested under section 282.11, of the school districts within the area education agency service areas and all adjacent territory, including but not limited to contiguous districts in other states, for the purpose of evaluating and recommending proposed whole grade sharing agreements requested under section 282.7 and section 282.10, subsections 1 and 4. The surveys and studies shall be revised periodically to reflect reorganizations which may have taken place in the area education agency, adjacent territory, and contiguous districts in other states. The surveys and studies shall include a cover page containing recommendations and a short explanation of the recommendations. The factors to be used in determining the recommendations include, but are not limited to:

(1) The possibility of long-term survival of the proposed alliance.

(2) The adequacy of the proposed educational programs versus the educational opportunities offered through a different alliance.

(3) The financial strength of the new alliance.

(4) Geographical factors.

(5) The impact of the alliance on surrounding schools.

b. Copies of the completed surveys and studies shall be transmitted to the affected districts' school boards.

31. *a.* Develop standards and instructional materials to do all of the following:

(1) Assist school districts in developing appropriate before and after school programs for elementary school children.

(2) Assist school districts in the development of child care services and programs to complement half-day and all-day kindergarten programs.

(3) Assist school districts in the development of appropriate curricula for all-day, everyday kindergarten programs.

(4) Assist school districts in the development of appropriate curricula for the early elementary grades one through three.

(5) Assist prekindergarten instructors in the development of appropriate curricula and teaching practices.

b. Standards and materials developed shall include materials which employ developmentally appropriate practices and incorporate substantial parental involvement. The materials and standards shall include alternative teaching approaches including collaborative teaching and alternative dispute resolution training. The department shall consult with the child development coordinating council, the state child care advisory committee established pursuant to section 135.173A, the department of human services, the state board of regents center for early developmental education, the area education agencies, the department of human development and family studies in the college of human sciences at Iowa state university of science and technology, the early childhood elementary division of the college of education at the university of Iowa, and the college of education at the university of northern Iowa, in developing these standards and materials.

c. For purposes of this section "*substantial parental involvement*" means the physical presence of parents in the classroom, learning experiences designed to enhance the skills of parents in parenting and in providing for their children's learning and development, or educational materials which may be borrowed for home use.

32. Develop, or direct the area education agencies to develop, a statewide technical

assistance support network to provide school districts or district subcontractors under section 279.49 with assistance in creating developmentally appropriate programs under section 279.49.

33. Administer and approve grants to school districts which provide innovative in-school programming for at-risk children in grades kindergarten through three, in addition to regular school curricula for children participating in the program, with the funds for the grants being appropriated for at-risk children by the general assembly. Grants approved shall be for programs in schools with a high percentage of at-risk children. Preference shall be given to programs which integrate at-risk children with the rest of the school population, which agree to limit class size and pupil-teacher ratios, which include parental involvement, which demonstrate community support, which cooperate with other community agencies, which provide appropriate guidance counseling services, and which use teachers with an early childhood endorsement. Grant programs shall contain an evaluation component that measures student outcomes.

34. Provide educational resources and technical assistance to schools relating to the implementation of the nutritional guidelines for food and beverages sold on public school grounds or on the grounds of nonpublic schools receiving funds under section 283A.10.

35. Explore, in conjunction with the state board of regents, the need for coordination between school districts, area education agencies, regents institutions, and community colleges for purposes of delivery of courses, use of telecommunications, transportation, and other similar issues. Coordination may include but is not limited to coordination of calendars, programs, schedules, or telecommunications emissions.

36. Develop an application and review process for approval of administrative and program sharing agreements between two or more community colleges or a community college and an institution of higher education under the board of regents entered into pursuant to section 260C.46.

37. Develop in-service and preservice training programs through the area education agencies and practitioner preparation institutions and guidelines for school districts for the establishment of family support programs. Guidelines developed shall describe barriers to learning and development which can affect children served by family support programs.

38. Serve as an ex officio member of the commission of libraries.

39. *a.* Grant annual exemptions from one or more of the minimum education standards contained in section 256.11 and rules adopted by the state board of education to nonpublic schools or public school districts who are engaging in comprehensive school transformation efforts that are broadly consistent with the current standards, but require exemption from one or more standards in order to implement the comprehensive school transformation effort within the nonpublic school or school district. Nonpublic schools or public school districts wishing to be exempted from one or more of the minimum standards contained in section 256.11 and rules adopted by the state board of education shall file a request for an exemption with the department. Requests for exemption shall include all of the following:

(1) A description of the nonpublic school or public school district's school transformation plan, including but not limited to new structures, methodologies, and creative approaches designed to help students achieve at higher levels.

(2) Identification of the standard or standards for which the exemption is being sought, including a statement of the reasons for requesting the exemption from the standard or standards.

(3) Identification of a method for periodic demonstration that student achievement will not be lessened by the granting of the exemption.

b. The director shall develop a procedure for application for exemption and receipt, review, and evaluation of nonpublic school and public school district requests, including but not limited to development of criteria for the granting or denying of requests for exemptions and a timeline for the submission, review, and granting or denying of requests for exemption from one or more standards.

40. Develop and administer, with the cooperation of the department of veterans affairs, a program which shall be known as operation recognition. The purpose of the program is to award high school diplomas to veterans of World War I, World War II, and the Korean

and Vietnam conflicts who left high school prior to graduation to enter United States military service. The department of education and the department of veterans affairs shall jointly develop an application procedure, distribute applications, and publicize the program to school districts, accredited nonpublic schools, county commissions of veteran affairs, veterans organizations, and state, regional, and local media. All honorably discharged veterans who are residents or former residents of the state; who served at any time between April 6, 1917, and November 11, 1918, at any time between September 16, 1940, and December 31, 1946, at any time between June 25, 1950, and January 31, 1955, or at any time between February 28, 1961, and May 5, 1975, all dates inclusive; and who did not return to school and complete their education after the war or conflict shall be eligible to receive a diploma. Diplomas may be issued posthumously. Upon approval of an application, the department shall issue an honorary high school diploma for an eligible veteran. The diploma shall indicate the veteran's school of attendance. The department of education and the department of veterans affairs shall work together to provide school districts, schools, communities, and county commissions of veteran affairs with information about hosting a diploma ceremony on or around Veterans Day. The diploma shall be mailed to the veteran or, if the veteran is deceased, to the veteran's family.

41. Reconcile, with the assistance of the community colleges, audited financial statements and the financial data submitted to the department. The reconciliation shall include an analysis of funding by funding source.

42. Develop core knowledge and skill criteria, based upon the Iowa teaching standards, for the evaluation, the advancement, and for teacher career development purposes pursuant to chapter 284. The criteria shall further define the characteristics of quality teaching as established by the Iowa teaching standards. The director, in consultation with the board of educational examiners, shall also develop a transition plan for implementation of the career development standards developed pursuant to section 256.7, subsection 25, with regard to licensure renewal requirements. The plan shall include a requirement that practitioners be allowed credit for career development completed prior to implementation of the career development standards developed pursuant to section 256.7, subsection 25.

43. Disburse, transfer, or receive funds as authorized or required under federal or state law or regulation in a manner that utilizes electronic transfer of the funds whenever possible.

44. Develop and implement a comprehensive management information system designed for the purpose of establishing standardized electronic data collections and reporting protocols that facilitate compliance with state and federal reporting requirements, improve school-to-school and district-to-district information exchanges, and maintain the confidentiality of individual student and staff data. The system shall provide for the electronic transfer of individual student records between schools, districts, postsecondary institutions, and the department. The director may establish, to the extent practicable, a uniform coding and reporting system, including a statewide uniform student identification system.

45. Prepare and submit to the chairpersons and ranking members of the senate and house education committees a report on the state's progress toward closing the achievement gap, including student achievement for minority subgroups, and a comprehensive summary of state agency and local district activities and practices taken in the past year to close the achievement gap.

46. a. Develop and make available to school districts, examples of age-appropriate and research-based materials and lists of resources which parents may use to teach their children to recognize unwanted physical and verbal sexual advances, to not make unwanted physical and verbal sexual advances, to effectively reject unwanted sexual advances, that it is wrong to take advantage of or exploit another person, about the dangers of sexual exploitation by means of the internet including specific strategies to help students protect themselves and their personally identifiable information from such exploitation, and about counseling, medical, and legal resources available to survivors of sexual abuse and sexual assault, including resources for escaping violent relationships. The materials and resources shall cover verbal, physical, and visual sexual harassment, including nonconsensual sexual advances, and nonconsensual physical sexual contact. In developing the materials and

resource list, the director shall consult with entities that shall include but not be limited to the departments of human services, public health, and public safety, education stakeholders, and parent-teacher organizations. School districts shall provide age-appropriate and research-based materials and a list of available community and internet-based resources to parents at registration and shall also include the age-appropriate and research-based materials and resource list in the student handbook. School districts are encouraged to work with their communities to provide voluntary parent education sessions to provide parents with the skills and appropriate strategies to teach their children as described in this subsection. School districts shall incorporate the age-appropriate and research-based materials into relevant curricula and shall reinforce the importance of preventive measures when reasonable with parents and students.

b. Make available scientifically based research studies in the area of health and wellness literacy for use by school districts and nonpublic schools in educating students. The content shall include but not be limited to research on instructional materials and teaching strategies that have proven effective in teaching students the knowledge and skills included in paragraph “a” and section 256.11. School districts are encouraged to incorporate as much of this material as practical.

47. Develop Iowa standards for school administrators, including knowledge and skill criteria, and develop, based on the Iowa standards for administrators, mentoring and induction, evaluation processes, and professional development plans pursuant to chapter 284A. The criteria shall further define the characteristics of quality administrators as established by the Iowa standards for school administrators.

48. Establish and maintain a process and a procedure, in cooperation with the board of educational examiners, to compare a practitioner’s teaching assignment with the license and endorsements held by the practitioner. The director may report noncompliance issues identified by this process to the board of educational examiners pursuant to section 272.15, subsection 4.

49. a. Develop and distribute, in collaboration with the area education agencies, core curriculum technical assistance and implementation strategies that school districts and accredited nonpublic schools shall utilize, including but not limited to the development and delivery of formative and end-of-course model assessments classroom teachers may use to measure student progress on the core curriculum adopted pursuant to section 256.7, subsection 26. The department shall, in collaboration with the advisory group convened in accordance with paragraph “b” and educational assessment providers, identify and make available to school districts end-of-course and additional model end-of-course and additional assessments to align with the expectations included in the Iowa core curriculum.

b. Convene an advisory group comprised of education stakeholders including but not limited to school district and accredited nonpublic school teachers, school administrators, higher education faculty who teach in the subjects for which the curriculum is being adopted, private sector employers, members of the boards of directors of school districts, and individuals representing the educational assessment providers. The task force shall review the national assessment of educational progress standards and assessments used by other states, and shall consider standards identified as best practices in the field of study by the national councils of teachers of English and mathematics, the national council for the social studies, the national science teachers association, and other recognized experts.

c. Establish, subject to an appropriation of funds by the general assembly, an Iowa reading research center which shall collaborate with the area education agencies in implementing the provisions of this paragraph “c”.

(1) The purpose of the center shall be to apply current research on literacy to provide for the development and dissemination of all of the following:

(a) Instructional strategies for prekindergarten through grade twelve to achieve literacy proficiency that includes reading, reading comprehension, and writing for all students.

(b) Strategies for identifying and providing evidence-based interventions for students, beginning in kindergarten, who are at risk of not achieving literacy proficiency.

(c) Models for effective school and community partnerships to improve student literacy.

(d) Reading assessments.

(e) Professional development strategies and materials to support teacher effectiveness in student literacy development. Subject to an appropriation of funds by the general assembly, the center shall collaborate and coordinate with the area education agencies and the department to develop and offer to school districts at no cost professional development services to enhance the skills of elementary teachers in the use of evidence-based strategies to improve the literacy skills of all students.

(f) Data reports on attendance center, school district, and statewide progress toward literacy proficiency in the context of student, attendance center, and school district demographic characteristics.

(g) An intensive summer literacy program. The center shall establish program criteria and guidelines for implementation of the program by school districts, under rules adopted by the state board pursuant to section 256.7, subsection 31.

(2) The first efforts of the center shall focus on kindergarten through grade three. The center shall draw upon national and state expertise in the field of literacy proficiency, including experts from Iowa's institutions of higher education and area education agencies with backgrounds in literacy development. The center shall seek support from the Iowa research community in data report development and analysis of available information from Iowa education data sources. The center shall work with the department to identify additional needs for tools and technical assistance for Iowa schools to help schools achieve literacy proficiency goals and seek public and private partnerships in developing and accessing necessary tools and technical assistance.

(3) The center shall submit a detailed annual financial report, a description of the center's activities for the prior fiscal year, and a statement of its proposed and projected activities to the general assembly by January 15 annually.

50. Convene, in collaboration with the department of public health, a nutrition advisory panel to review research in pediatric nutrition conducted in compliance with accepted scientific methods by recognized professional organizations and agencies including but not limited to the institute of medicine. The advisory panel shall submit its findings and recommendations, which shall be consistent with the dietary guidelines for Americans published jointly by the United States department of health and human services and department of agriculture if in the judgment of the advisory panel the guidelines are supported by the research findings, in a report to the state board. The advisory panel may submit to the state board recommendations on standards related to federal school food programs if the recommendations are intended to exceed the existing federal guidelines. The state board shall consider the advisory panel report when establishing or amending the nutritional content standards required pursuant to section 256.7, subsection 29. The director shall convene the advisory panel by July 1, 2008, and every five years thereafter to review the report and make recommendations for changes as appropriate. The advisory panel shall include but is not limited to at least one Iowa state university extension nutrition and health field specialist and at least one representative from each of the following:

- a. The Iowa academy of nutrition and dietetics.
- b. The school nutrition association of Iowa.
- c. The Iowa association of school boards.
- d. The school administrators of Iowa.
- e. The Iowa chapter of the American academy of pediatrics.
- f. A school association representing parents.
- g. The Iowa grocery industry association.
- h. An accredited nonpublic school.
- i. The Iowa state education association.

51. Monitor school districts and accredited nonpublic schools for compliance with the nutritional content standards for foods and beverages adopted by the state board in accordance with section 256.7, subsection 29. School districts and accredited nonpublic schools shall annually make the standards available to students, parents, and the local community. A school district or accredited nonpublic school found to be in noncompliance with the nutritional content standards by the director shall submit a corrective action plan to the director for approval which sets forth the steps to be taken to ensure full compliance.

52. Develop and implement a plan to provide, at least twice annually to all principals and guidance counselors employed by school districts and accredited nonpublic schools, notice describing how students can find and use the articulation information available on the internet site maintained by the state board of regents. The plan shall include suggested methods for elementary and secondary schools and community colleges to effectively communicate information about the articulation internet site to the following:

a. To all elementary and secondary school students interested in or potentially interested in attending a community college or institution of higher education governed by the state board of regents.

b. To all community college students interested in or potentially interested in admission to a baccalaureate degree program offered by an institution of higher education governed by the state board of regents.

53. Grant to public school districts and accredited nonpublic schools waivers from statutory obligations with which the entities cannot reasonably comply within two years after a disaster as defined in section 29C.2, subsection 4.

54. Provide guidance and standards to area education agencies for federal and state education initiatives which the area education agencies must implement statewide.

55. Develop and maintain a list of approved online providers that provide course content through an online learning platform taught by a teacher licensed under chapter 272 who has specialized training or experience in online learning including but not limited to an online-learning-for-Iowa-educators-professional-development project offered by area education agencies, a teacher preservice program, or comparable coursework, and whose online learning coursework meets the requirements established by rule pursuant to section 256.7, subsection 32, paragraph "c". Providers shall apply for approval annually or as determined by the department.

56. a. Develop and implement a coaching and support system for teachers aligned with the framework and comparable systems approved as provided in section 284.15.

b. Develop and implement in collaboration with education stakeholders, a coaching and support system for administrators. The coaching and support system shall be aligned with the beginning administrator mentoring and induction program created pursuant to section 284A.5 and shall also be designed to support administrators in school districts approved to implement the framework and comparable systems set forth pursuant to sections 284.15, 284.16, and 284.17. For the fiscal year beginning July 1, 2017, and each subsequent fiscal year, the coaching and support system for administrators shall be available to any school district whether or not the district has been approved to implement the framework and comparable systems set forth pursuant to sections 284.15, 284.16, and 284.17.

57. Administer the workforce training and economic development funds created pursuant to section 260C.18A.

58. Dedicate at least one-half of one of the department's authorized full-time equivalent positions to maintain a fine arts consultant to provide guidance and assistance, including but not limited to professional development, strategies, and materials, to the department, school districts, and accredited nonpublic schools relating to music, visual art, drama and theater, and other fine and applied arts programs and coursework.

59. Develop and administer a seal of biliteracy program to recognize students graduating from high school who have demonstrated proficiency in two or more world languages, one of which may be American sign language, though one of which must be English. Participation in the program by a school district, attendance center, or accredited nonpublic school shall be voluntary. The department shall work with stakeholders to identify standardized tests that may be utilized to demonstrate proficiency. The department shall produce a seal of biliteracy, which may include but need not be limited to a sticker that may be affixed to a student's high school transcript or a certificate that may be awarded to the student. A participating school district or school shall notify the department of the names of the students who have qualified for the seal and the department shall provide the school district or school with the appropriate number of seals or other authorized endorsement. The department may charge a nominal fee to cover printing and postage charges related to issuance of the biliteracy seal under this subsection.

60. By July 1, 2024, dedicate at least one of the department's authorized full-time equivalent positions to maintain a dyslexia consultant to provide technical guidance and assistance, including but not limited to professional development, strategies, and materials, to the department, area education agencies, school districts, and accredited nonpublic schools relating to the identification of and instruction for students with characteristics of dyslexia. The consultant shall be highly trained in dyslexia and have a minimum of three years of field experience in screening, identifying, and treating dyslexia and related disorders.

61. Develop and implement a statewide kindergarten through grade twelve computer science instruction plan by July 1, 2022.

62. Develop, establish, and distribute to all school districts evidence-based standards, guidelines, and expectations for the appropriate and inappropriate responses to behavior in the classroom that presents an imminent threat of bodily injury to a student or another person and for the reasonable, necessary, and appropriate physical restraint of a student, consistent with rules adopted by the state board pursuant to section 280.21. The director shall consult with the area education agencies to create comprehensive and consistent standards and guidance for professional development relating to successfully educating individuals in the least restrictive environment, and for evidence-based interventions consistent with the standards established pursuant to this subsection.

86 Acts, ch 1245, §1409; 87 Acts, ch 115, §36; 88 Acts, ch 1114, §1; 88 Acts, ch 1158, §54; 88 Acts, ch 1263, §1; 89 Acts, ch 155, §2; 89 Acts, ch 206, §6; 90 Acts, ch 1152, §1; 90 Acts, ch 1253, §6, 122; 90 Acts, ch 1271, §1101; 91 Acts, ch 84, §2; 91 Acts, ch 126, §1; 92 Acts, ch 1158, §3; 92 Acts, ch 1159, §1, 6; 92 Acts, ch 1221, §2; 92 Acts, ch 1246, §27; 93 Acts, ch 48, §14, 15; 94 Acts, ch 1091, §4 – 12; 98 Acts, ch 1215, §23, 63; 99 Acts, ch 192, §30; 2000 Acts, ch 1081, §1; 2000 Acts, ch 1167, §2; 2001 Acts, ch 161, §14; 2001 Acts, ch 181, §12; 2002 Acts, ch 1140, §5; 2002 Acts, ch 1152, §2; 2002 Acts, 2nd Ex, ch 1003, §92, 95; 2003 Acts, ch 145, §222; 2003 Acts, ch 180, §3, 4; 2005 Acts, ch 115, §29, 40; 2005 Acts, ch 169, §18; 2005 Acts, ch 179, §91; 2006 Acts, ch 1152, §18; 2007 Acts, ch 98, §1; 2007 Acts, ch 108, §3; 2007 Acts, ch 214, §18; 2008 Acts, ch 1127, §2, 3; 2008 Acts, ch 1187, §141; 2008 Acts, ch 1191, §156; 2009 Acts, ch 54, §2; 2009 Acts, ch 65, §2, 3; 2009 Acts, ch 168, §1; 2010 Acts, ch 1001, §1; 2010 Acts, ch 1031, §269, 359, 361; 2010 Acts, ch 1193, §118; 2011 Acts, ch 132, §43, 106; 2012 Acts, ch 1119, §16, 32; 2013 Acts, ch 30, §56; 2013 Acts, ch 90, §257; 2013 Acts, ch 121, §102; 2013 Acts, ch 129, §64; 2013 Acts, ch 141, §33; 2014 Acts, ch 1077, §1; 2014 Acts, ch 1135, §8 – 11; 2015 Acts, ch 138, §15, 161, 162; 2016 Acts, ch 1036, §2; 2017 Acts, ch 172, §10; 2018 Acts, ch 1057, §4, 5; 2018 Acts, ch 1071, §1; 2018 Acts, ch 1119, §4, 17; 2018 Acts, ch 1163, §9; 2020 Acts, ch 1048, §2; 2020 Acts, ch 1093, §1, 4; 2020 Acts, ch 1107, §4; 2020 Acts, ch 1108, §1; 2020 Acts, ch 1117, §8

Referred to in §15H.7, 22.7(1), 256.7, 256.11, 256.32A, 256.43, 256F.4, 257.50, 261E.9, 272.2, 273.2, 273.10, 279.50, 282.11, 284.3, 284.6, 284.8

Subsections 17 and 55 amended
NEW subsections 60 – 62

256.9A Limitation on guidance and interpretations.

1. For the purposes of this section, “*guidance*” means a document or statement issued by the department, the state board, or the director that purports to interpret a law, a rule, or other legal authority and is designed to provide advice or direction to a person regarding the implementation of or compliance with the law, the rule, or the other legal authority being interpreted.

2. The department, the state board, or the director shall not issue guidance inconsistent with any statute, rule, or other legal authority and shall not issue guidance that imposes any legally binding obligations or duties upon any person unless such legally binding obligations or duties are required or reasonably implied by any statute, rule, or other legal authority.

3. This section shall not apply to a rule adopted pursuant to chapter 17A, a declaratory order issued pursuant to section 17A.9, a document or statement required by federal law or a court, or a document or statement issued in the course of a contested case proceeding, an administrative proceeding, or a judicial proceeding to which the department, the state board, or the director is a party.

4. Guidance issued by the department, the state board, or the director in violation of subsection 2 shall not be deemed to be legally binding.

2018 Acts, ch 1112, §1, 16; 2018 Acts, ch 1119, §18, 19

256.10 Employment of professional staff.

1. The salary of the director shall be fixed by the governor within a range established by the general assembly.

2. Appointments to the professional staff of the department shall be without reference to political party affiliation, religious affiliation, sex, or marital status, but shall be based solely upon fitness, ability, and proper qualifications for the particular position. The professional staff shall serve at the discretion of the director. A member of the professional staff shall not be dismissed for cause without appropriate due process procedures including a hearing.

3. The director may employ full-time professional staff for less than twelve months each year, but such staff shall be employed by the director for at least nine months of each year. Salaries for full-time professional staff employed as provided in this subsection shall be comparable to other professional staff, adjusting for time worked. Salaries for professional staff employed for periods of less than twelve months shall be paid during each month of the year in which they are employed on the same schedule as full-time permanent professional staff. The director shall provide for and the department shall pay for health and dental insurance benefits for twelve months each year for the full-time professional staff employed as provided in this subsection, and the health and dental insurance benefits provided shall be comparable to the benefits provided to all other professional staff employed by the director.

86 Acts, ch 1245, §1410; 97 Acts, ch 212, §21; 2002 Acts, ch 1140, §6

Referred to in §256.9

256.10A Duties of consultants.

1. Consultants employed by the director and paid from the fund created by section 8.41 from moneys received from Pub. L. No. 97-35, Tit. V, subtit. D, ch. 2, shall assist those employees designated by the department as school improvement specialists in helping school districts to participate in school improvement activities identified as a result of the accreditation process conducted pursuant to section 256.11. The department shall assign consultants to assist school districts that the department determines are most in need of participation in school improvement activities.

2. For the purpose of this section, “*school improvement specialist*” means a consultant employed by the department who is responsible for the accreditation of school districts under section 256.11.

87 Acts, ch 233, §450; 2010 Acts, ch 1061, §180

256.11 Educational standards.

The state board shall adopt rules under chapter 17A and a procedure for accrediting all public and nonpublic schools in Iowa offering instruction at any or all levels from the prekindergarten level through grade twelve. The rules of the state board shall require that a multicultural, gender-fair approach is used by schools and school districts. The educational program shall be taught from a multicultural, gender-fair approach. Global perspectives shall be incorporated into all levels of the educational program. The rules adopted by the state board pursuant to section 256.17, Code Supplement 1987, to establish new standards shall satisfy the requirements of this section to adopt rules to implement the educational program contained in this section. The educational program shall be as follows:

1. *a.* If a school offers a prekindergarten program, the program shall be designed to help children to work and play with others, to express themselves, to learn to use and manage their bodies, and to extend their interests and understanding of the world about them. The prekindergarten program shall relate the role of the family to the child’s developing sense of self and perception of others. Planning and carrying out prekindergarten activities designed to encourage cooperative efforts between home and school shall focus on community resources. Except as otherwise provided in this subsection, a prekindergarten teacher shall hold a license certifying that the holder is qualified to teach in prekindergarten. A nonpublic

school which offers only a prekindergarten may, but is not required to, seek and obtain accreditation.

b. If the board of directors of a school district contracts for the operation of a prekindergarten program, the program shall be under the oversight of an appropriately licensed teacher. If the program contracted with was in existence on July 1, 1989, oversight of the program shall be provided by the district. If the program contracted with was not in existence on July 1, 1989, the director of the program shall be a licensed teacher and the director shall provide program oversight. Any director of a program contracted with by a school district under this section who is not a licensed teacher is required to register with the department of education.

c. For the purposes of this subsection, “*prekindergarten program*” includes but is not limited to a school district’s implementation of the preschool program established pursuant to chapter 256C.

2. The kindergarten program shall include experiences designed to develop healthy emotional and social habits and growth in the language arts and communication skills, as well as a capacity for the completion of individual tasks, and protect and increase physical well-being with attention given to experiences relating to the development of life skills and human growth and development. A kindergarten teacher shall be licensed to teach in kindergarten. An accredited nonpublic school must meet the requirements of this subsection only if the nonpublic school offers a kindergarten program.

3. The following areas shall be taught in grades one through six: English-language arts, social studies, mathematics, science, health, age-appropriate and research-based human growth and development, physical education, traffic safety, music, and visual art. Computer science instruction incorporating the standards established under section 256.7, subsection 26, paragraph “a”, subparagraph (4), shall be offered in at least one grade level commencing with the school year beginning July 1, 2023. The health curriculum shall include the characteristics of communicable diseases including acquired immune deficiency syndrome. The state board as part of accreditation standards shall adopt curriculum definitions for implementing the elementary program.

4. The following shall be taught in grades seven and eight: English-language arts; social studies; mathematics; science; health; age-appropriate and research-based human growth and development; career exploration and development; physical education; music; and visual art. Computer science instruction incorporating the standards established under section 256.7, subsection 26, paragraph “a”, subparagraph (4), shall be offered in at least one grade level commencing with the school year beginning July 1, 2023. Career exploration and development shall be designed so that students are appropriately prepared to create an individual career and academic plan pursuant to section 279.61, incorporate foundational career and technical education concepts aligned with the six career and technical education service areas as defined in subsection 5, paragraph “h”, and incorporate relevant twenty-first century skills. The health curriculum shall include age-appropriate and research-based information regarding the characteristics of sexually transmitted diseases, including HPV and the availability of a vaccine to prevent HPV, and acquired immune deficiency syndrome. The state board as part of accreditation standards shall adopt curriculum definitions for implementing the program in grades seven and eight. However, this subsection shall not apply to the teaching of career exploration and development in nonpublic schools. For purposes of this section, “*age-appropriate*”, “*HPV*”, and “*research-based*” mean the same as defined in section 279.50.

5. In grades nine through twelve, a unit of credit consists of a course or equivalent related components or partial units taught throughout the academic year. The minimum program to be offered and taught for grades nine through twelve is:

a. Five units of science including physics and chemistry; the units of physics and chemistry may be taught in alternate years.

b. Five units of the social studies including instruction in voting statutes and procedures, voter registration requirements, the use of paper ballots and voting systems in the election process, and the method of acquiring and casting an absentee ballot. All students shall complete a minimum of one-half unit of United States government and one unit of United

States history. The one-half unit of United States government shall include the voting procedure as described in this lettered paragraph and section 280.9A. The government instruction shall also include a study of the Constitution of the United States and the Bill of Rights contained in the Constitution and an assessment of a student's knowledge of the Constitution and the Bill of Rights.

c. Six units of English-language arts.

d. Four units of a sequential program in mathematics.

e. Two additional units of mathematics.

f. Four sequential units of one world language which may include American sign language. The department may waive the third and fourth years of the world language requirement on an annual basis upon the request of the board of directors of a school district or the authorities in charge of a nonpublic school if the board or authorities are able to prove that a licensed teacher was employed and assigned a schedule that would have allowed students to enroll in a world language class, the world language class was properly scheduled, students were aware that a world language class was scheduled, and no students enrolled in the class.

g. (1) All students physically able shall be required to participate in physical education activities during each semester they are enrolled in school except as otherwise provided in this paragraph. A minimum of one-eighth unit each semester is required. A twelfth grade student who meets the requirements of this paragraph may be excused from the physical education requirement by the principal of the school in which the student is enrolled if the parent or guardian of the student requests in writing that the student be excused from the physical education requirement. A student who wishes to be excused from the physical education requirement must be seeking to be excused in order to enroll in academic courses not otherwise available to the student, or be enrolled or participating in one of the following:

(a) A work-based learning program or other educational program authorized by the school which requires the student to leave the school premises for specified periods of time during the school day.

(b) An organized and supervised athletic program which requires at least as much participation per week as one-eighth unit of physical education.

(2) Students in grades nine through eleven may be excused from the physical education requirement in order to enroll in academic courses not otherwise available to the student if the board of directors of the school district in which the school is located, or the authorities in charge of the school, if the school is a nonpublic school, determine that students from the school may be permitted to be excused from the physical education requirement. A student may be excused by the principal of the school in which the student is enrolled, in consultation with the student's counselor, for up to one semester, trimester, or the equivalent of a semester or trimester, per year if the parent or guardian of the student requests in writing that the student be excused from the physical education requirement. The student seeking to be excused from the physical education requirement must, at some time during the period for which the excuse is sought, be a participant in an organized and supervised athletic program which requires at least as much time of participation per week as one-eighth unit of physical education.

(3) The principal of the school shall inform the superintendent of the school district or nonpublic school that the student has been excused. Physical education activities shall emphasize leisure time activities which will benefit the student outside the school environment and after graduation from high school.

h. (1) A minimum of three sequential units in at least four of the following six career and technical education service areas:

(a) Agriculture, food, and natural resources.

(b) Arts, communications, and information systems.

(c) Applied sciences, technology, engineering, and manufacturing, including transportation, distribution, logistics, architecture, and construction.

(d) Health sciences.

(e) Human services, including law, public safety, corrections, security, government, public administration, and education and training.

(f) Business, finance, marketing, and management.

(2) Instructional programs provided under subparagraph (1) shall comply with the provisions of chapter 258 relating to career and technical education, and shall be articulated with postsecondary programs of study and include field, laboratory, or on-the-job training. Each sequential unit shall contain a portion of a career and technical education program approved by the department. Standards for instructional programs shall include but not be limited to new and emerging technologies; job-seeking, job-adaptability, and other employment, self-employment and entrepreneurial skills that reflect current industry standards and labor-market needs; and reinforcement of basic academic skills.

(3) The department of education shall permit school districts, in meeting the requirements of this section, to use career and technical education core courses in more than one career and technical education service area and to use multi-occupational courses to complete a sequence in more than one career and technical education service area.

(4) This paragraph “h” does not apply to the teaching of career and technical education in nonpublic schools.

i. Three units in the fine arts which shall include at least two of the following: dance, music, theater, and visual art.

j. (1) One unit of health education which shall include personal health; food and nutrition; environmental health; safety and survival skills; consumer health; family life; age-appropriate and research-based human growth and development; substance abuse and nonuse; emotional and social health; health resources; and prevention and control of disease, including age-appropriate and research-based information regarding sexually transmitted diseases, including HPV and the availability of a vaccine to prevent HPV, and acquired immune deficiency syndrome.

(2) The state board as part of accreditation standards shall adopt curriculum standards for implementing the program in grades nine through twelve.

k. One-half unit of personal finance literacy. All students, beginning with the students in the 2020-2021 school year graduating class, shall complete at least one-half unit of personal finance literacy as a condition of graduation.

(1) The curriculum shall, at a minimum, address the following:

(a) Savings, including emergency fund, purchases, and wealth building.

(b) Understanding investments, including compound and simple interest, liquidity, diversification, risk return ratio, certificates of deposit, money market accounts, single stocks, bonds, mutual funds, rental real estate, annuities, commodities, and futures.

(c) Wealth building and college planning, including long-term and short-term investing using tax-favored plans, individual retirement accounts and payments from such accounts, employer-sponsored retirement plans and investments, public and private educational savings accounts, and uniform gifts and transfers to minors.

(d) Credit and debt, including credit cards, payday lending, rent-to-own transactions, debt consolidation, automobile leasing, cosigning a loan, debt avoidance, and the marketing of debt, especially to young people.

(e) Consumer awareness of the power of marketing on buying decisions including zero percent interest offers; marketing methods, including product positioning, advertising, brand recognition, and personal selling; how to read a credit report and correct inaccuracies; how to build a credit score; how to develop a plan to deal with creditors and avoid bankruptcy; and the federal Fair Debt Collection Practices Act, codified at 15 U.S.C. §1692 – 1692p.

(f) Financial responsibility and money management, including creating and living on a written budget and balancing a checkbook; basic rules of successful negotiating and techniques; and personality or other traits regarding money.

(g) Insurance, risk management, income, and career decisions, including career choices that fit personality styles and occupational goals, job search strategies, cover letters, resumes, interview techniques, payroll taxes and other income withholdings, and revenue sources for federal, state, and local governments.

(h) Different types of insurance coverage including renters, homeowners, automobile, health, disability, long-term care, identity theft, and life insurance; term life, cash value and whole life insurance; and insurance terms such as deductible, stop loss, elimination period, replacement coverage, liability, and out-of-pocket.

(i) Buying, selling, and renting advantages and disadvantages relating to real estate, including adjustable rate, balloon, conventional, government-backed, reverse, and seller-financed mortgages.

(2) (a) One-half unit of personal finance literacy may count as one-half unit of social studies in meeting the requirements of paragraph “b”, though the teacher providing personal finance literacy coursework that counts as one-half unit of social studies need not hold a social studies endorsement.

(b) Units of coursework that meet the requirements of any combination of coursework required under paragraphs “b”, “d”, “e”, or “h” and incorporate the curriculum required under subparagraph (1) shall be deemed to satisfy the offer and teach requirements of this paragraph “k” and a student who completes such units shall be deemed to have met the graduation requirement of this paragraph “k”.

l. One-half unit of computer science commencing with the school year beginning July 1, 2022. The one-half unit of computer science shall incorporate the standards established pursuant to section 256.7, subsection 26, paragraph “a”, subparagraph (4), and may be offered online in accordance with rules adopted pursuant to section 256.7, subsection 32, paragraph “a”.

6. a. A pupil is not required to enroll in either physical education or health courses, or meet the requirements of paragraph “b” or “c”, if the pupil’s parent or guardian files a written statement with the school principal that the course or activity conflicts with the pupil’s religious belief.

b. (1) All physically able students in kindergarten through grade five shall be required to engage in a physical activity for a minimum of thirty minutes per school day.

(2) All physically able students in grades six through twelve shall be required to engage in a physical activity for a minimum of one hundred twenty minutes per week. A student participating in an organized and supervised athletic program or non-school-sponsored extracurricular activity which requires the student to participate in physical activity for a minimum of one hundred twenty minutes per week is exempt from the requirements of this subparagraph.

(3) The department shall collaborate with stakeholders on the development of daily physical activity requirements and the development of models that describe ways in which school districts and schools may incorporate the physical activity requirement of this paragraph into the educational program. A school district or accredited nonpublic school shall not reduce instructional time for academic courses in order to meet the requirements of this paragraph.

c. Every student by the end of grade twelve shall complete a certification course for cardiopulmonary resuscitation. The administrator of a school may waive this requirement if the student is not physically able to successfully complete the training. A student is exempt from the requirement of this paragraph if the student presents satisfactory evidence to the school district or accredited nonpublic school that the student possesses cardiopulmonary resuscitation certification.

7. Programs that meet the needs of each of the following:

- a. Pupils requiring special education.
- b. Gifted and talented pupils.
- c. At-risk students.

8. Upon request of the board of directors of a public school district or the authorities in charge of a nonpublic school, the director may, for a number of years to be specified by the director, grant the district board or the authorities in charge of the nonpublic school exemption from one or more of the requirements of the educational program specified in subsection 5. The exemption may be renewed. Exemptions shall be granted only if the director deems that the request made is an essential part of a planned innovative curriculum project which the director determines will adequately meet the educational needs and interests of the pupils and be broadly consistent with the intent of the educational program as defined in subsection 5. The request for exemption shall include all of the following:

- a. Rationale of the project to include supportive research evidence.
- b. Objectives of the project.

c. Provisions for administration and conduct of the project, including the use of personnel, facilities, time, techniques, and activities.

d. Plans for evaluation of the project by testing and observational measures of pupil progress in reaching the objectives.

e. Plans for revisions of the project based on evaluation measures.

f. Plans for periodic reports to the department.

g. The estimated cost of the project.

9. Beginning July 1, 2006, each school district shall have a qualified teacher librarian who shall be licensed by the board of educational examiners under chapter 272. The state board shall establish in rule a definition of and standards for an articulated sequential kindergarten through grade twelve media program. A school district that entered into a contract with an individual for employment as a media specialist or librarian prior to June 1, 2006, shall be considered to be in compliance with this subsection until June 30, 2011, if the individual is making annual progress toward meeting the requirements for a teacher librarian endorsement issued by the board of educational examiners under chapter 272. A school district that entered into a contract with an individual for employment as a media specialist or librarian who holds at least a master's degree in library and information studies shall be considered to be in compliance with this subsection until the individual leaves the employ of the school district.

9A. Beginning July 1, 2007, each school district shall have a qualified guidance counselor who shall be licensed by the board of educational examiners under chapter 272. Each school district shall work toward the goal of having one qualified guidance counselor for every three hundred fifty students enrolled in the school district. The state board shall establish in rule a definition of and standards for an articulated sequential kindergarten through grade twelve guidance and counseling program.

9B. Beginning July 1, 2007, each school district shall have a school nurse to provide health services to its students. Each school district shall work toward the goal of having one school nurse for every seven hundred fifty students enrolled in the school district. For purposes of this subsection, "school nurse" means a person who holds an endorsement or a statement of professional recognition for school nurses issued by the board of educational examiners under chapter 272.

10. The state board shall establish an accreditation process for school districts and nonpublic schools seeking accreditation pursuant to this subsection and subsections 11 and 12. By July 1, 1989, all school districts shall meet standards for accreditation. For the school year commencing July 1, 1989, and school years thereafter, the department of education shall use a two-phase process for the continued accreditation of schools and school districts.

a. (1) Phase I shall consist of annual monitoring by the department of education of all accredited schools and school districts for compliance with accreditation standards adopted by the state board of education as provided in this section. The phase I monitoring requires that accredited schools and school districts annually complete accreditation compliance forms adopted by the state board and file them with the department of education. Phase I monitoring requires a comprehensive desk audit of all accredited schools and school districts including review of accreditation compliance forms, accreditation visit reports, methods of administration reports, and reports submitted in compliance with section 256.7, subsection 21, paragraph "a", and section 280.12.

(2) The department shall conduct site visits to schools and school districts to address accreditation issues identified in the desk audit. Such a visit may be conducted by an individual departmental consultant or may be a comprehensive site visit by a team of departmental consultants and other educational professionals. The purpose of a comprehensive site visit is to determine that a district is in compliance with minimum standards and to provide a general assessment of educational practices in a school or school district and make recommendations with regard to the visit findings for the purposes of improving educational practices above the level of minimum compliance. The department shall establish a long-term schedule of site visits that includes visits of all accredited schools and school districts as needed.

b. (1) Phase II requires the use of an accreditation committee, appointed by the director

of the department of education, to conduct an on-site visit to an accredited school or school district if any of the following conditions exist:

(a) When either the annual monitoring or the biennial on-site visit of phase I indicates that a school or school district is deficient and fails to be in compliance with accreditation standards.

(b) In response to a petition filed with the director requesting such a committee visitation that is signed by eligible electors residing in the school district equal in number to at least twenty percent of the registered voters of the school district.

(c) In response to a petition filed with the director requesting such a committee visitation that is signed by twenty percent or more of the parents or guardians who have children enrolled in the school or school district.

(d) At the direction of the state board of education.

(e) The school budget review committee submits to the department a recommendation for a fiscal review pursuant to section 257.31, subsection 18.

(2) The number and composition of the membership of an accreditation committee shall be determined by the director and may vary due to the specific nature or reason for the visit. In all situations, however, the chairperson and a majority of the committee membership shall be from the instructional and administrative program specialty staff of the department of education. Other members may include instructional and administrative staff from school districts, area education agencies, institutions of higher education, local board members and the general public. An accreditation committee visit to a nonpublic school requires membership on the committee from nonpublic school instructional or administrative staff or board members. A member of a committee shall not have a direct interest in the nonpublic school or school district being visited.

(3) Rules adopted by the state board may include provisions for coordination of the accreditation process under this section with activities of accreditation associations.

(4) Prior to a visit to a school district or nonpublic school, members of the accreditation committee shall have access to all annual accreditation report information filed with the department by that nonpublic school or school district.

(5) After visiting the school district or nonpublic school, the accreditation committee shall determine whether the accreditation standards have been met and shall make a report to the director, together with a recommendation whether the school district or nonpublic school shall remain accredited. If the recommendation is that a school district or nonpublic school not remain accredited, the accreditation committee shall provide the school district or nonpublic school with a report that includes a list of all of the deficiencies, a plan prescribing the actions that must be taken to correct the deficiencies, and a deadline date for completion of the prescribed actions. The accreditation committee shall advise the school district or nonpublic school of available resources and technical assistance to improve areas of weakness. The school district or nonpublic school shall be provided with the opportunity to respond to the accreditation committee's report. The director shall review the accreditation committee's report and the response of the school district or nonpublic school and shall provide a report to the state board along with copies of the accreditation committee's report, the response to the accreditation committee's report, and other pertinent information. At the request of the school district or nonpublic school, the school district or nonpublic school may appear before the state board and address the state board directly regarding any part of the plan specified in the report. The state board may modify the plan. During the period of time specified in the plan for its implementation by a school district or nonpublic school, the school district or school shall remain accredited.

11. The accreditation committee shall revisit the school district or nonpublic school and shall determine whether the deficiencies in the standards have been corrected.

a. The accreditation team shall make a report and recommendation to the director and the state board. The committee recommendation shall specify whether the school district or nonpublic school shall remain accredited. For a school district, the committee report and recommendation shall also specify under what conditions the district may remain accredited. The conditions may include but are not limited to providing temporary oversight authority, operational authority, or both oversight and operational authority to the director and the state

board for some or all aspects of the school district in order to bring the school district into compliance with minimum standards.

b. The state board shall review the report and recommendation, may request additional information, and shall determine whether the deficiencies have been corrected.

c. If the deficiencies have not been corrected, and the conditional accreditation alternatives contained in the report are not mutually acceptable to the state board and the local board, the state board shall deaccredit the school district and merge the territory of the school district with one or more contiguous school districts at the end of the school year. The state board may place a district under receivership for the remainder of the school year. The receivership shall be under the direct supervision and authority of the area education agency in which the district is located. The decision of whether to deaccredit the school district or to place the district under receivership shall be based upon a determination by the state board of the best interests of the students, parents, residents of the community, teachers, administrators, and school district board members and upon the recommendations of the accreditation committee and the director.

d. In the case of a nonpublic school, if the deficiencies have not been corrected, the state board may deaccredit the nonpublic school. The deaccreditation shall take effect on the date established by the resolution of the state board, which shall be no later than the end of the school year in which the nonpublic school is deaccredited.

12. If the state board deaccredits a school district and merges the territory of the school district with one or more contiguous school districts, the deaccredited school district ceases to exist as a school corporation on the effective date set by the state board for deaccreditation. Notwithstanding any other provision of law, the contiguous school districts receiving territory of the deaccredited school district are not considered successor school corporations of the deaccredited school district.

a. Division of assets and liabilities of the deaccredited school district shall be as provided in this paragraph "a" and in sections 275.29 through 275.31.

(1) If one or more of the contiguous school districts receiving assets and liabilities of the deaccredited school district utilizes the equalization levy, only that territory in the school district imposing the equalization levy that comprises territory of the deaccredited school district shall be taxed.

(2) Income surtax revenue and revenues generated by property taxes shall be distributed proportionately based on taxable value of the territory received by one or more school districts contiguous to the deaccredited school district.

(3) Revenues that are based on student enrollment shall be distributed based on percentages of students who were enrolled in the deaccredited school district in the school year immediately prior to deaccreditation and who now reside in territory received by one or more school districts contiguous to the deaccredited school district.

(4) If the deaccredited school district has a negative fund balance in its general fund at the time it is deaccredited by the state board, the director may order that the positive balance from one or more other funds of the deaccredited school district be transferred to the deaccredited school district's general fund.

b. Prior to the effective date set by the state board for deaccreditation, the school district shall remain responsible for, and may retain such authority as is necessary to complete, all of the following:

(1) Execution of one or more quitclaim deeds, in fulfillment of the merger of territory received by one or more contiguous school districts from the deaccredited school district.

(2) Preparation of and payment for a final audit of all the district's financial accounts.

(3) Preparation and certification of a final certified annual report to the department.

c. The provisions of section 275.57 apply when deaccreditation of a school district and merger of the territory of such school district with a contiguous school district that is currently divided into director districts leads to the formation of new director districts.

13. Notwithstanding subsections 1 through 12 and as an exception to their requirements, a private high school or private combined junior-senior high school operated for the express purpose of teaching a program designed to qualify its graduates for matriculation at accredited four-year or equivalent liberal arts, scientific, or technological colleges or

universities shall be placed on a special accredited list of college preparatory schools, which list shall signify accreditation of the school for that express purpose only, if:

a. The school complies with minimum standards established by the Code other than this section, and rules adopted under the Code, applicable to:

- (1) Courses comprising the limited program.
- (2) Health requirements for personnel.
- (3) Plant facilities.
- (4) Other environmental factors affecting the programs.

b. At least eighty percent of those graduating from the school within the four most recent calendar years, other than those graduating who are aliens, graduates entering military or alternative civilian service, or graduates deceased or incapacitated before college acceptance, have been accepted by accredited four-year or equivalent liberal arts, scientific, or technological colleges or universities.

c. A school claiming to be a private college preparatory school which fails to comply with the requirement of paragraph “b” of this subsection shall be placed on the special accredited list of college preparatory schools probationally if the school complies with the requirements of paragraph “a” of this subsection, but a probational accreditation shall not continue for more than four successive years.

14. Notwithstanding subsections 1 through 13 and as an exception to their requirements, a nonpublic grade school which is reopening is accredited even if it does not have a complete grade one through grade six program. However, the nonpublic grade school must comply with other minimum standards established by law and administrative rules adopted pursuant to the law and the nonpublic grade school must show progress toward reaching a grade one through grade six program.

15. The board of directors of a school district or the authorities in charge of a nonpublic school may award credit toward graduation to a student if the student successfully completes basic training for service as a member of the Iowa army national guard, the Iowa air national guard, the active military forces of the United States, the army national guard of the United States, or the air national guard of the United States.

16. a. Notwithstanding subsections 1 through 12, a nonpublic school may be accredited by an approved independent accrediting agency instead of by the state board as provided in this subsection. The state board shall maintain a list of approved independent accrediting agencies comprised of at least six regional or national nonprofit, nongovernmental agencies recognized as reliable authorities concerning the quality of education offered by a school and shall publish the list of independent accrediting agencies on the department’s internet site. The list shall include accrediting agencies that, as of January 1, 2013, accredited a nonpublic school in this state that was concurrently accredited under this section; and any agency that has a formalized partnership agreement with another agency on the list and has member schools in this state as of January 1, 2013.

b. A nonpublic school that participates in the accreditation process offered by an independent accrediting agency on the approved list published pursuant to paragraph “a” shall be deemed to meet the education standards of this section. However, such a school shall comply with statutory health and safety requirements for school facilities.

c. If the state board takes preliminary action to remove an agency from the approved list published on the department’s internet site pursuant to paragraph “a”, the department shall, at least one year prior to removing the agency from the approved list, notify the nonpublic schools participating in the accreditation process offered by the agency of the state board’s intent to remove the accrediting agency from its approved list of independent accrediting agencies. The notice shall also be posted on the department’s internet site and shall contain the proposed date of removal. The nonpublic school shall attain accreditation under this subsection or subsections 1 through 12 not later than one year following the date on which the state board removes the agency from its list of independent accrediting agencies.

17. a. (1) The offer and teach requirements of subsection 5, paragraphs “a” through “e” and “g” through “j”, shall not apply for up to two specified subjects at a school district or accredited nonpublic school if any of the following apply:

- (a) The school district or accredited nonpublic school makes every reasonable and good

faith effort to employ a teacher licensed under chapter 272 for the specified subject and is unable to employ such a teacher.

(b) Fewer than ten students typically register for instruction in the specified subject at the school district or accredited nonpublic school.

(2) If a school district or accredited nonpublic school meets the requirements of subparagraph (1), subparagraph division (a) or (b), the school district or accredited nonpublic school may exceed the two-subject limitation specified in subparagraph (1), unnumbered paragraph 1, for the purpose of providing world language, personal finance literacy, and computer science coursework online in accordance with paragraph “c”.

b. The department may waive the applicability of subsection 5, paragraphs “a” through “e” and “g” through “j”, for up to two additional specified subject areas for a school district or accredited nonpublic school that proves to the satisfaction of the department that the school district or accredited nonpublic school has made every reasonable effort, but is unable to meet such requirements. A school district or accredited nonpublic school may apply for an annual waiver each year.

c. If the provisions of subsection 5, paragraphs “a” through “e” and “g” through “j”, are made inapplicable under paragraph “a”, or are waived under paragraph “b”, the specified subject shall be provided by an area education agency under section 273.16, or by the school district or accredited nonpublic school if an online alternative satisfying the requirements of subparagraph (1), (2), or (3) can be made available by the school district or accredited nonpublic school. Any course not required under subsection 5 may also be provided by an area education agency under section 273.16 or by the school district or accredited nonpublic school. However, in either case, if offered by the school district or accredited nonpublic school, the specified subject or course shall be offered through any of the following means:

(1) An online learning platform if the course is developed by the school district or accredited nonpublic school itself or is developed by a partnership or consortium of schools that have developed the course individually or cooperatively, provided the course is taught and supervised by a teacher licensed under chapter 272 who has online learning experience and the course content meets the requirements established by rule pursuant to section 256.7, subsection 32, paragraph “c”. A partnership or consortium of schools may include two or more school districts or accredited nonpublic schools, or any combination thereof.

(2) A private provider utilized to provide the course that meets the standards of this section and is approved in accordance with section 256.9, subsection 55.

(3) An online learning platform offered, subject to the initial availability of federal funds, by the department in collaboration with one or more area education agencies or in partnership with school districts and accredited nonpublic schools. The online learning platform may deliver distance education to students, including students receiving independent private instruction as defined in section 299A.1, subsection 2, paragraph “b”, competent private instruction under section 299A.2, or private instruction by a nonlicensed person under section 299A.3, provided such students register with the school district of residence and the coursework offered by the online learning platform is taught and supervised by a teacher licensed under chapter 272 who has online learning experience and the course content meets the requirements established by rule pursuant to section 256.7, subsection 32, paragraph “c”. The department and the area education agencies operating online learning programs pursuant to section 273.16 shall coordinate to ensure the most effective use of resources and delivery of services. Federal funds, if available, may be used to offset what would otherwise be costs to school districts for participation in the program.

d. For purposes of this subsection, “good faith effort” means the same as defined in section 279.19A, subsection 9.

86 Acts, ch 1245, §1411; 87 Acts, ch 224, §26; 87 Acts, ch 233, §451; 88 Acts, ch 1018, §1, 2; 88 Acts, ch 1262, §1, 2; 89 Acts, ch 210, §4, 5; 89 Acts, ch 265, §23 – 26; 89 Acts, ch 278, §1, 2; 89 Acts, ch 319, §39, 40; 90 Acts, ch 1272, §32, 39, 40; 91 Acts, ch 104, §1; 91 Acts, ch 193, §1; 92 Acts, ch 1088, §1; 92 Acts, ch 1127, §1, 2; 92 Acts, ch 1159, §2; 92 Acts, ch 1163, §58; 93 Acts, ch 127, §1, 2; 94 Acts, ch 1091, §13; 94 Acts, ch 1152, §1; 2001 Acts, ch 56, §11; 2001 Acts, ch 159, §1 – 3; 2002 Acts, ch 1140, §7; 2004 Acts, ch 1027, §1; 2005 Acts, ch 3, §55; 2006 Acts, ch 1182, §2; 2007 Acts, ch 42, §1; 2007 Acts, ch 98, §2, 3; 2007 Acts, ch 108, §4;

2007 Acts, ch 148, §7; 2008 Acts, ch 1031, §42; 2008 Acts, ch 1187, §142, 145; 2009 Acts, ch 50, §1, 2; 2009 Acts, ch 57, §74; 2010 Acts, ch 1061, §180; 2010 Acts, ch 1064, §1, 2; 2013 Acts, ch 121, §89; 2016 Acts, ch 1108, §26 – 28; 2016 Acts, ch 1138, §15, 24; 2017 Acts, ch 29, §58; 2018 Acts, ch 1083, §2; 2018 Acts, ch 1119, §20, 21; 2018 Acts, ch 1163, §10; 2019 Acts, ch 93, §1; 2020 Acts, ch 1062, §37; 2020 Acts, ch 1107, §5; 2020 Acts, ch 1117, §9, 10

Referred to in §161A.7, 237.1, 237A.1, 256.7, 256.9, 256.10A, 256.11B, 257.11, 257.31, 258.3A, 258.4, 258.6, 258.10, 258.14, 258.15, 261E.8, 261E.9, 273.2, 279.50, 279.50A, 279.61, 280.2, 280.3, 280A.1, 282.18, 282.34, 285.16, 299.2, 299.24, 422.7(32)(c), 422.11S, 422.12, 455E.8, 483A.27, 514C.35, 714.19

Career and technical agriculture education; §280.20

Subsections 3 and 4 amended

Subsection 5, paragraph k, subparagraph (1), subparagraph division (e) amended

Subsection 5, NEW paragraph l

NEW subsection 17

256.11A Teacher librarian — guidance counselor — school nurse — waivers. Repealed by 2013 Acts, ch 90, §216.

256.11B Career and technical education instruction — nonpublic schools.

A nonpublic school that provides an educational program that includes grades nine through twelve shall offer and teach five units of career and technical education subjects, which may include, but are not limited to, programs, services, and activities which prepare students for employment in occupations relating to service areas specified in section 256.11, subsection 5, paragraph “h”. Instruction shall be competency-based, articulated with postsecondary programs of study, and may include field, laboratory, or on-the-job training.

92 Acts, ch 1127, §3; 2016 Acts, ch 1108, §29

Referred to in §261E.8

256.12 Sharing instructors and services.

1. The director, when necessary to realize the purposes of this chapter, shall approve the enrollment in public schools for specified courses of students who also are enrolled in private schools, when the courses in which they seek enrollment are not available to them in their private schools, provided the students have satisfactorily completed prerequisite courses, if any, or have otherwise shown equivalent competence through testing. Courses made available to students in this manner shall be considered as compliance by the private schools in which the students are enrolled with any standards or laws requiring private schools to offer or teach the courses.

2. a. This section does not deprive the respective boards of public school districts of any of their legal powers, statutory or otherwise, and in accepting the specially enrolled students, each of the boards shall prescribe the terms of the special enrollment, including but not limited to scheduling of courses and the length of class periods. In addition, the board of the affected public school district shall be given notice by the department of its decision to permit the special enrollment not later than six months prior to the opening of the affected public school district’s school year, except that the board of the public school district may waive the notice requirement. School districts and area education agency boards shall make public school services, which shall include special education programs and services and may include health services, services for remedial education programs, guidance services, and school testing services, available to children attending nonpublic schools in the same manner and to the same extent that they are provided to public school students. Service activities shall be similar to those undertaken for public school students. Health services, special education support, and related services provided by area education agencies for the purpose of identifying children with disabilities, assistance with physical and communications needs of students with physical disabilities, and services of an educational interpreter may be provided on nonpublic school premises with the permission of the lawful custodian of the property. Other special education services may be provided on nonpublic school premises at the discretion of the school district or area education agency provider of the service and with the permission of the lawful custodian of the property.

b. Students enrolled in nonpublic schools who receive services pursuant to this subsection shall be weighted at the level provided for in section 256B.9, subsection 1.

c. A local school district providing services pursuant to this subsection shall submit

an accounting to the department of education by August 1 following the school year for the actual costs of the special education programs and services provided. The department shall review and approve or modify the accounting by September 1 and shall notify the department of administrative services of the approved accounting amount. The department of administrative services shall adjust the September payment to the local school district for the next fiscal year by the difference between the amount generated by the weighting for the provision of services to nonpublic school students, as provided in this subsection, and the amount of the actual costs as reflected in the local school district's accounting. Any amount paid by the department of administrative services shall be deducted monthly from the state foundation aid paid under section 257.16 during that fiscal year to all school districts in the state. The portion of the total amount of the approved accounting amount that shall be deducted from the state aid of a school district shall be the same as the ratio that the budget enrollment for the budget year of the school district bears to the total budget enrollment in the state for that budget year.

86 Acts, ch 1245, §1412; 93 Acts, ch 101, §101; 94 Acts, ch 1161, §1; 98 Acts, ch 1096, §1; 2003 Acts, ch 145, §286; 2006 Acts, ch 1152, §19; 2010 Acts, ch 1061, §180

Referred to in §256B.9, 257.6, 273.2

256.13 Nonresident pupils.

The boards of directors of two or more school districts may by agreement provide for attendance of pupils residing in one district in the schools of another district for the purpose of taking courses not offered in the district of their residence. The boards may also provide by agreement that the districts will combine their enrollments for one or more grades. Courses and grades made available to students in this manner shall be considered as complying with any standards or laws requiring the offering of such courses and grades. The boards of directors of districts entering into such agreements may provide for sharing the costs and expenses of the courses. If the agreement provides for whole grade sharing, the costs and expenses shall be paid as provided in sections 282.10 through 282.12.

86 Acts, ch 1245, §1413; 87 Acts, ch 224, §27

Referred to in §275.1, 275.2, 282.10

256.14 Permanent revolving fund.

1. A permanent revolving fund is established for the department. Expenses incurred by the department from this fund shall be paid subject to reimbursement by the federal government.

2. There is appropriated from the general fund of the state to the department of education the sum of one hundred twenty-five thousand dollars for the purpose of establishing the fund created by subsection 1. If any surplus accrues to the revolving fund in excess of the original appropriation for which there is no anticipated need or use, the governor shall order the surplus to be transferred to the general fund.

86 Acts, ch 1244, §32; 86 Acts, ch 1245, §1414

256.15 Nonpublic school advisory committee.

1. A nonpublic school advisory committee is established which consists of five members, to be appointed by the governor, each of them to be a citizen of the United States and a resident of the state of Iowa. The term of the members is four years. The duties of the committee are to advise the state board and the director on matters affecting nonpublic schools, including but not limited to the establishment of standards for teacher certification and the establishment of standards for, and approval of, all nonpublic schools. Notice of meetings of the state board shall be sent by the director to members of the committee.

2. Committee members shall be reimbursed for actual and necessary expenses incurred in performance of their duties. Members may also be eligible to receive compensation as provided in section 7E.6. The expense money shall be paid from the appropriations to the department of education.

86 Acts, ch 1245, §1415

256.16 Specific criteria for teacher preparation and certain educators.

1. Pursuant to section 256.7, subsection 5, the state board shall adopt rules requiring all higher education institutions providing practitioner preparation to do the following:

a. (1) If the institution administers a preprofessional skills test offered by a nationally recognized testing service to practitioner preparation program admission candidates, the institution shall report to the department no later than August 1 annually, in the form and manner prescribed by the department, the percentage of students whose scores on the assessments administered during the prior fiscal year were above, at, and below the minimum passing score set by the institution, and shall report any services or opportunities to retake the assessment the institution may make available to a student who fails assessment. The department shall compile the reports submitted under this subparagraph and publish the compiled information on its internet site.

(2) Administer, prior to a student's completion of the practitioner preparation program and subject to the director's approval, subject assessments designed by a nationally recognized testing service that measure pedagogy and knowledge of at least one subject area; or, a valid and reliable subject-area-specific, performance-based assessment for preservice teacher candidates, centered on student learning. A student shall not successfully complete the program unless the scores achieved by the student on the assessments administered under this subparagraph are at or above the minimum passing scores set by the department.

(a) In setting the minimum passing scores for purposes of this subparagraph, the department shall consider all of the following:

(i) Scores required for similar tests in all of the states contiguous to Iowa.

(ii) The supply and demand imbalance of content areas or teaching positions currently experienced in Iowa.

(b) A student who successfully completes the practitioner preparation program as required under this subparagraph shall be deemed to have attained a passing score on the assessments administered under this subparagraph even if the department subsequently sets different minimum passing scores.

b. Include preparation in reading theory, knowledge, strategies, and approaches; and for integrating literacy instruction into content areas. Such preparation shall address all students, including but not limited to students with disabilities; students who are at risk of academic failure; students who have been identified as gifted and talented or limited English proficient; and students with dyslexia, whether or not such students have been identified as children requiring special education under chapter 256B.

c. Include in the professional education program, preparation that contributes to the education of students with disabilities and students who are gifted and talented, and preparation in classroom management addressing high-risk behaviors including, but not limited to, behaviors related to substance abuse. Preparation required under this paragraph must be successfully completed before graduation from the practitioner preparation program.

d. Require that each student admitted to an approved practitioner preparation program participate in field experiences that include both observation and participation in teaching activities in a variety of school settings. These field experiences shall comprise a total of at least fifty hours in duration, at least ten hours of which shall occur prior to a student's acceptance in an approved practitioner preparation program. The student teaching experience shall be a minimum of fourteen weeks in duration during the student's final year of the practitioner preparation program. The program shall make every reasonable effort to offer the student teaching experience prior to a student's last semester, or equivalent, in the program, and to expand the student's student teaching opportunities beyond one semester or the equivalent.

e. Require that faculty members in professional education maintain an ongoing involvement in activities in elementary, middle, or secondary schools. The activities shall include at least forty hours of team teaching during a period not exceeding five years in duration at the elementary, middle, or secondary level.

f. Include instruction in skills and strategies to be used in classroom management of individuals, and of small and large groups, under varying conditions; skills for

communicating and working constructively with pupils, teachers, administrators, and parents; preparation in reading theory, knowledge, strategies, and approaches, and for integrating literacy instruction into content areas in accordance with this section; and skills for understanding the role of the state board and the functions of other education agencies in the state. Rules adopted in accordance with this paragraph shall be based upon recommendations of the department after consultation with teacher education faculty members in colleges and universities.

g. Prescribe minimum experiences and responsibilities to be accomplished during the student teaching experience by the student teacher and by the cooperating teacher based upon recommendations of the department after consultation with teacher education faculty members in colleges and universities. The student teaching experience shall include opportunities for the student teacher to become knowledgeable about the Iowa teaching standards, including but not limited to a mock evaluation performed by the cooperating teacher. The mock evaluation shall not be used as an assessment tool by the practitioner preparation program. The student teaching experience shall consist of interactive experiences involving the college or university personnel, the student teacher, the cooperating teacher, and administrative personnel from the cooperating teacher's school district.

h. Offer annually a workshop of at least one day in duration for prospective cooperating teachers. The workshop shall define the objectives of the student teaching experience, review the responsibilities of the cooperating teacher, and provide the cooperating teacher with other information and assistance the institution deems necessary.

i. Provide practitioner preparation students with instruction in the use of electronic technology for classroom and instructional purposes.

j. Annually solicit the views of the education community regarding the institution's practitioner preparation programs.

k. Submit evidence that the college or department of education in the institution is communicating with other colleges or departments in the institution so that practitioner preparation students may integrate teaching methodology with subject matter areas of specialization.

l. Submit evidence that the performance evaluation of a student teacher is a cooperative process that involves both the faculty member supervising the student teacher and the cooperating teacher. The rules shall require that each institution develop a written evaluation procedure for use by the cooperating teacher and a form for evaluating student teachers, and require that a copy of the completed form be included in the student teacher's permanent record.

m. If the rules adopted by the board of educational examiners for issuance of any type or class of license require an applicant to complete work in student teaching, pre-student teaching experiences, field experiences, practicums, clinicals, or internships, enter into a written contract with any school district, accredited nonpublic school, preschool registered or licensed by the department of human services, or area education agency in Iowa, to provide for such work under terms and conditions as agreed upon by the contracting parties. The terms and conditions of a written contract entered into with a preschool pursuant to this paragraph shall require that a student teacher be under the direct supervision of an appropriately licensed cooperating teacher who is employed to teach at the preschool. Students actually teaching or engaged in preservice licensure activities in a school district under the terms of such a contract are entitled to the same protection under section 670.8 as is afforded by that section to officers and employees of the school district, during the time such students are so assigned.

2. A person initially applying for a license shall successfully complete a practitioner preparation program approved under section 256.7, subsection 3, and containing the subject matter specified in this section, before the initial action by the board of educational examiners under chapter 272 takes place. However, this subsection shall not apply to a person who meets the requirements for an initial one-year license in accordance with subsection 3.

3. The state board shall adopt rules under chapter 17A to provide that the director shall

waive the assessment requirements of subsection 1, paragraph “a”, subparagraph (2), for not more than one year for a person who has completed the course requirements for an approved practitioner preparation program but attained an assessment score below the minimum passing scores set by the department for successful completion of the program under subsection 1, paragraph “a”, subparagraph (2).

86 Acts, ch 1245, §1416; 89 Acts, ch 265, §27; 96 Acts, ch 1129, §67; 99 Acts, ch 191, §1; 2012 Acts, ch 1119, §39; 2016 Acts, ch 1078, §1; 2018 Acts, ch 1057, §6; 2019 Acts, ch 30, §2 – 4; 2020 Acts, ch 1085, §1

Referred to in §256.7, 272.2

For future amendment to subsection 1, paragraph c, effective July 1, 2021, see 2020 Acts, ch 1108, §2, 16
Subsection 1, paragraph a, subparagraph (1) amended

256.17 Postsecondary course audit committee.

1. The department shall establish and facilitate a postsecondary course audit committee which shall annually audit postsecondary courses offered to high school students in accordance with chapter 261E.

2. The committee shall include but not be limited to representatives from the kindergarten through grade twelve education community, community colleges, and regents universities.

3. The committee shall establish a sampling technique that randomly selects courses for audit. The audit shall include but not be limited to a review of the course syllabus, teacher qualifications, examples of student products, and results of student assessments. Standards for review shall be established by the committee and approved by the department. Audit findings shall be submitted to the institutions providing the classes audited and shall be posted on the department’s internet site.

4. If the committee determines that a postsecondary course offered to high school students in accordance with chapter 261E does not meet the standards established by the committee pursuant to subsection 3, the course shall not be eligible for future supplementary weighting under section 257.11. If the institution makes changes to the course sufficient to cause the course to meet the standards of the committee, the committee may reinstate the eligibility of the course for future supplementary weighting under section 257.11.

2008 Acts, ch 1181, §44

256.18 Character education policy.

1. a. It is the policy of the general assembly that Iowa’s schools be the best and safest possible. To that end, each school is encouraged to instill the highest character and academic excellence in each student, in close cooperation with the student’s parents, and with input from the community and educators.

b. Schools should make every effort, formally and informally, to stress character qualities that will maintain a safe and orderly learning environment, and that will ultimately equip students to be model citizens. These qualities may include caring, civic virtue and citizenship, justice and fairness, respect, responsibility, trustworthiness, giving, honesty, self-discipline, respect for and obedience to the law, citizenship, courage, initiative, commitment, perseverance, kindness, compassion, service, loyalty, patience, the dignity and necessity of hard work, and any other qualities deemed appropriate by a school.

2. The department of education shall assist schools in accessing financial and curricular resources to implement programs stressing these character qualities. Schools are encouraged to use their existing resources to implement programs stressing these qualities. Whenever possible, the department shall develop partnerships with schools, nonprofit organizations, or an institution of higher education, or with a consortium of two or more of those entities, to design and implement character education programs that may be integrated into classroom instruction and may be carried out with other educational reforms.

94 Acts, ch 1131, §1; 2002 Acts, ch 1083, §1; 2003 Acts, ch 180, §6; 2009 Acts, ch 54, §3

256.18A Service learning.

The board of directors of a school district or the authorities in charge of a nonpublic school may require a certain number of service learning units as a condition for the inclusion of a service learning endorsement on a student’s diploma or as a condition of graduation from

the district or school. For purposes of this section, “*service learning*” means a method of teaching and learning which engages students in solving problems and addressing issues in their school or greater community as part of the academic curriculum.

2003 Acts, ch 27, §1; 2013 Acts, ch 30, §57

256.19 Pilot projects to improve instructional programs. Repealed by 2016 Acts, ch 1036, §15.

256.20 and 256.21 Repealed by 2013 Acts, ch 88, §37.

256.22 Extended year school grant program. Repealed by 2013 Acts, ch 88, §37; 2013 Acts, ch 90, §216.

256.23 Administrative advancement and recruitment program. Repealed by 2013 Acts, ch 88, §37.

256.24 Competency-based education grant program. Repealed by its own terms; 2013 Acts, ch 121, §76.

256.25 Therapeutic classroom incentive grant program — fund.

1. The department shall create a therapeutic classroom incentive grant program to provide competitive grants to school districts for the establishment of therapeutic classrooms.

2. A school district, which may collaborate and partner with one or more school districts, area education agencies, accredited nonpublic schools, nonprofit agencies, and institutions that provide children’s mental health services, located in mental health and disability services regions providing children’s behavioral health services in accordance with chapter 331, subchapter III, part 6, may apply for a grant under this program to establish a therapeutic classroom in the school district in accordance with this section.

3. The department shall develop a grant application and selection and evaluation criteria. Selection criteria shall include a method for prioritizing grant applications submitted by school districts located in mental health and disability services regions providing children’s behavioral health services in accordance with chapter 331, subchapter III, part 6, with those proposing to serve the most students given highest priority. Grant awards shall be distributed as equitably as possible among small, medium, and large school districts. For purposes of this subsection, a small school district is a district with an actual enrollment of fewer than six hundred pupils; a medium school district is a district with an actual enrollment that is at least six hundred pupils, but less than two thousand five hundred pupils; and a large school district is a district with an actual enrollment of two thousand five hundred or more pupils.

4. a. The department may disburse moneys contained in the therapeutic classroom incentive fund as grants to school districts for the establishment of therapeutic classrooms.

b. The total amount of funding awarded for the establishment of therapeutic classrooms for a fiscal year shall not exceed an amount equivalent to the state cost per pupil multiplied by weighting of one and one-half pupil calculated for one hundred fifty pupils.

c. Grant awards shall be made for the establishment of therapeutic classrooms with one to five pupils, classrooms with six to ten pupils, and classrooms with eleven to fifteen pupils.

d. For purposes of calculating a therapeutic classroom grant award, the department shall determine grant awards based on the following:

(1) For classrooms with one to five pupils, using the state cost per pupil multiplied by weighting of one and one-half pupil multiplied by five.

(2) For classrooms with six to ten pupils, using the state cost per pupil multiplied by weighting of one and one-half pupil multiplied by ten.

(3) For classrooms with eleven to fifteen pupils, using the state cost per pupil multiplied by weighting of one and one-half pupil multiplied by fifteen.

e. Grant moneys credited to the therapeutic classroom incentive fund established under subsection 5 shall be distributed after December 31 but before the start of the school calendar for start-up costs for a new therapeutic classroom in the fall semester.

5. A therapeutic classroom incentive fund is established in the state treasury under the control of the department. Moneys credited to the fund are appropriated to the department for purposes of distributing grants under this section. The department may accept gifts, grants, bequests, and other private contributions, as well as state or federal moneys, for deposit in the fund. Moneys available in the therapeutic classroom incentive fund for a fiscal year shall be distributed as grants pursuant to this section. Notwithstanding section 8.33, moneys in the fund at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated for subsequent fiscal years.

6. Placement of a child requiring special education under chapter 256B in a therapeutic classroom, whether or not the school district operating such classroom receives funds under this section, is subject to the provisions of chapter 256B, to the administrative rules adopted by the state board for purposes of chapter 256B, and to the federal Individuals with Disabilities Education Act, 20 U.S.C. §1400 et seq., and shall not violate such laws, rules, or regulations.

7. For purposes of this section, “*therapeutic classroom*” means a classroom designed for the purpose of providing support for any student whose emotional, social, or behavioral needs interfere with the student’s ability to be successful in the current educational environment, with or without supports, until the student is able to successfully return to the student’s current education environment, with or without supports, including but not limited to the general education classroom.

2020 Acts, ch 1108, §3, 17

Referred to in §256.25A

NEW section

256.25A Therapeutic classroom — claims.

1. A school district may submit claims to the department for the costs of providing therapeutic classroom services and transportation services in accordance with this section.

a. (1) If the general assembly appropriates moneys for purposes of transportation claims reimbursement in accordance with this paragraph “a”, a school district may submit a claim for reimbursement for transportation services for students who are enrolled in the school district or in an accredited nonpublic school located within the boundaries of the school district, who have not been assigned a weighting under section 256B.9, but who are assigned to a therapeutic classroom that is located more than thirty miles from the school designated for attendance or accredited nonpublic school and is operated by another school district or accredited nonpublic school under an agreement between the school districts or between a school district and an accredited nonpublic school.

(2) Claims for transportation reimbursement shall be made to the department by the school district providing transportation during a school year pursuant to subparagraph (1). Claims submitted under this paragraph “a” shall be on a form prescribed by the department, and the claim shall include the number of eligible pupils transported, the number of days each pupil was transported, and a listing of the actual costs incurred. On or before December 1, 2023, the director of the department shall review the data collected through the claims process and shall prepare and submit to the general assembly a report containing an analysis of the efficacy of claims reimbursement in accordance with this section and recommendations for changes as appropriate.

b. (1) For each fiscal year beginning on or after July 1, 2022, there is appropriated from the general fund of the state to the department an amount necessary to pay all approved claims submitted under this paragraph “b”.

(2) A school district that provides a therapeutic classroom to students enrolled in a school district or an accredited nonpublic school may submit claims to the department for students assigned to such a classroom during the preceding school budget year who are not assigned a weighting under section 256B.9, subsection 1, paragraph “b”, “c”, or “d”, and for whom behavioral intervention plans have been implemented.

(3) The amount of the claim shall be equal to the product of the following amounts:

(a) The product of one and five-tenths multiplied by the regular program district cost per pupil for the budget year during which the students identified under subparagraph (2) were assigned to the therapeutic classroom.

(b) The quotient of the total number of days the students identified under subparagraph (2) were served in a therapeutic classroom divided by the maximum number of school days in the school district's calendar.

(4) Using end-of-year data submitted by each school district through student-level data collection, the department shall make claim forms available to each eligible school district containing the available data.

2. Nonpublic school students assigned to a therapeutic classroom under subsection 1, paragraph "b", shall be enrolled in a school district as shared-time pupils under section 257.6, subsection 1, paragraph "a", subparagraph (7), in order for the school district to submit a claim for reimbursement for services provided to such students under subsection 1, paragraph "b".

3. The department shall prorate the amount of claims reimbursement under subsection 1, paragraph "a", if the amount of reimbursement claimed for all school districts under subsection 1, paragraph "a", exceeds the amount appropriated by the general assembly for such purpose plus any available remaining balances from prior fiscal years.

4. The costs of providing transportation to nonpublic school pupils as provided in this section shall not be included in the computation of district cost under chapter 257, but shall be shown in the budget as an expense from miscellaneous income. Any transportation reimbursements received by a school district for transporting nonpublic school pupils shall not affect district cost limitations of chapter 257. The reimbursements provided in this section are miscellaneous income as defined in section 257.2.

5. By June 15 of each year, school districts with eligible claims shall submit such claims to the department. By July 1 of each year, the department shall draw warrants payable to school districts which have established claims.

6. The state board shall adopt rules pursuant to chapter 17A to administer this section.

7. For purposes of this section, "therapeutic classroom" means the same as defined in section 256.25, subsection 7.

2020 Acts, ch 1108, §4

Referred to in §257.6, 257.16C

NEW section

256.26 Before and after school grant program. Repealed by 2018 Acts, ch 1057, §13.

256.27 Online state job posting system.

1. The department shall provide for the operation of an online state job posting system. The system shall be designed and implemented for the online posting of job openings offered by school districts, charter schools, area education agencies, the department, and accredited nonpublic schools. The system shall be accessible via the department's internet site. The system shall include a mechanism for the electronic submission of job openings for posting on the system as provided in subsection 2. The system and each job posting on the system shall include a statement that an employer submitting a job opening for posting on the system will not discriminate in hiring on the basis of race, ethnicity, national origin, gender, age, physical disability, sexual orientation, gender identity, religion, marital status, or status as a veteran. The department may contract for, or partner with another entity for, the use of an existing internet site to operate the online state job posting system if the existing internet site is more effective and economical than the department's internet site.

2. A school district, charter school, or area education agency shall submit all of its job openings to the department for posting on the system. The department shall post all of its job openings on the system. An accredited nonpublic school may submit job openings to the department for posting on the system.

3. This section shall not be construed to do any of the following:

a. Prohibit any employer from advertising job openings and recruiting employees independently of the system.

b. Prohibit any employer from using another method of advertising job openings or another applicant tracking system in addition to the system.

c. Provide the department with any regulatory authority in the hiring process or hiring decisions of any employer other than the department.

2013 Acts, ch 121, §44

256.28 Teach Iowa student teaching pilot project.

1. Subject to an appropriation of sufficient funds by the general assembly, the department shall establish a teach Iowa student teaching pilot project in collaboration with two institutions of higher education which offer teacher preparation programs approved by the state board of education pursuant to section 256.7, subsection 3. The two institutions of higher education shall include one institution of higher education under the control of the state board of regents and one accredited private institution as defined in section 261.9.

2. The teach Iowa student teaching pilot project shall provide students in teacher preparation programs with a one-year student teaching experience. A student teaching experience provided under the pilot project must include all of the following requirements:

a. A participating institution of higher education shall work with one or more school districts individually or collaboratively to place groups of students in a student teaching experience for an entire academic year. A participating institution of higher education shall take into consideration geographic diversity in the selection of school districts for participation in the pilot project.

b. A participating institution of higher education shall supervise the student teachers in the classroom and shall provide the students with weekly on-site instruction in pedagogy in the participating school districts.

3. The state board shall adopt rules pursuant to chapter 17A to administer this section.

2013 Acts, ch 121, §45

256.29 Council on educator development established. Repealed by 2017 Acts, ch 29, §164.

256.30 Educational expenses for American Indians.

1. For the fiscal year beginning July 1, 2011, and ending June 30, 2012, and for each succeeding fiscal year, there is appropriated from the general fund of the state to the department the sum of one hundred thousand dollars. The department shall distribute the appropriation to the tribal council of the Sac and Fox Indian settlement for expenses of educating American Indian children residing in the Sac and Fox Indian settlement on land held in trust by the secretary of the interior of the United States in excess of federal moneys paid to the tribal council for educating the American Indian children.

2. The tribal council shall administer the moneys distributed by the department pursuant to subsection 1 and shall first use moneys distributed to pay the additional costs of salaries for licensed instructional staff for educational attainment and full-time equivalent years of experience to equal the salaries listed on the proposed salary schedule for the school at the Sac and Fox Indian settlement for that school year, but the salary for a licensed instructional staff member employed on a full-time basis shall not be less than eighteen thousand dollars. The department of management shall approve allotments of moneys appropriated in and distributed pursuant to this section.

87 Acts, ch 233, §453; 88 Acts, ch 1284, §43; 89 Acts, ch 265, §40; 2011 Acts, ch 131, §4, 158; 2013 Acts, ch 88, §2

256.31 Community college council.

1. A community college council is established consisting of six members. Membership of the council shall be as follows:

a. The three members of the state board of education who have knowledge of issues and concerns affecting the community college system as provided in section 256.3.

b. An additional member of the state board of education appointed annually by the president of the state board of education.

c. A community college president appointed by an association which represents the largest number of community college presidents in the state.

d. A community college trustee appointed by an association which represents the largest number of community college trustees in the state.

2. The nonboard members shall serve staggered terms of three years beginning on May 1 of the year of appointment. Vacancies on the council shall be filled in the same manner as the original appointment. A person appointed to fill a vacancy shall commence service on the date of appointment and shall serve only for the unexpired portion of the term.

3. The council shall assist the state board of education with substantial issues which are directly related to the community college system. The state board shall refer all substantial issues directly related to the community college system to the council. The council shall formulate recommendations on each issue referred to it by the state board and shall submit the recommendations to the state board within any specified time periods.

90 Acts, ch 1253, §7; 92 Acts, ch 1027, §1, 2; 2000 Acts, ch 1167, §3; 2011 Acts, ch 20, §6; 2011 Acts, ch 118, §85, 89

256.32 Council for agricultural education.

1. An advisory council for agricultural education is established, which consists of nine members appointed by the governor. The nine members shall include the following:

- a. Five persons representing all areas of agriculture and diverse geographical areas.
- b. An individual representing agriculture on a council created to advise the state on career and technical education matters.
- c. A secondary school program instructor, a postsecondary school program instructor, and a teacher educator.

2. The council may also include as ex officio members the following persons, as determined by the voting members of the council:

- a. The state future farmers of America president.
- b. The current state future farmers of America alumni association president.
- c. The current postsecondary agriculture student organization of Iowa president.
- d. A state consultant in agricultural education.
- e. The secretary of agriculture or the secretary's designee.
- f. Two members of each house of the general assembly. This membership shall be bipartisan in composition and one member each shall be selected by the president of the senate, after consultation with the majority leader of the senate, and by the minority leader of the senate, and one member each shall be selected by the speaker of the house of representatives and by the minority leader of the house of representatives.

3. The duties of the council are to review, develop, and recommend standards for secondary and postsecondary agricultural education. The council shall annually issue a report to the state board of education and the chairpersons of the house and senate agriculture and education committees regarding both short-term and long-term curricular standards for agricultural education and the council's activities. The council shall meet a minimum of twice annually, and must have a quorum consisting of a majority of voting members present to hold an official meeting and to take any final council action. However, hearings may be held without a quorum. The chairperson shall be elected annually by and from the voting membership. The initial organizational meeting shall be called by the director of the department of education.

4. The term of membership is three years. The terms shall be staggered so that three of the terms end each year, but no member serving on the initial council shall serve less than one year. The governor shall determine the length of the initial terms of office. However, the terms of office for members of the general assembly shall be as provided in section 69.16B.

2011 Acts, ch 85, §1; 2012 Acts, ch 1021, §55; 2012 Acts, ch 1023, §33; 2016 Acts, ch 1108, §31

256.32A Iowa dyslexia board.

1. An Iowa dyslexia board is established to guide, facilitate, and oversee implementation of dyslexia instruction in Iowa and make recommendations for continued improvement of such instruction. The Iowa dyslexia board shall also submit recommendations as follows:

- a. To the department regarding the required and preferred qualifications for a dyslexia consultant position required in accordance with section 256.9, subsection 60.
- b. To the area education agencies regarding the required and preferred qualifications for dyslexia specialists required in accordance with section 273.2, subsection 11.
2. The Iowa dyslexia board shall consist of the following members:
 - a. The director of the department or the director's designee.
 - b. A representative of the Iowa reading research center.
 - c. A representative of an area education agency.
 - d. One school administrator.
 - e. One reading specialist.
 - f. One special education teacher.
 - g. An elementary core literacy teacher.
 - h. Two representatives of decoding dyslexia who are parents of children with dyslexia.
 - i. One representative of decoding dyslexia who is an individual with dyslexia.
 - j. One provider certified in a structured literacy reading program.
 - k. One psychologist or speech language pathologist licensed in the state of Iowa with experience in diagnosing dyslexia.
 - l. A representative of an institution of higher education in Iowa with documented expertise in dyslexia and reading instruction.
 - m. The department dyslexia consultant if maintained by the department pursuant to section 256.9, subsection 60.
3. The term of membership is three years. The terms shall be staggered so that at least four of the terms end each year, but no member serving on the initial board shall serve less than one year. The governor shall determine the length of the initial terms of office.
4. The Iowa dyslexia board shall submit its findings and recommendations in a report to the general assembly by November 15 annually.
5. This section is repealed July 1, 2025.
2020 Acts, ch 1048, §3
NEW section

256.33 Educational technology assistance.

1. The department shall consort with school districts, area education agencies, community colleges, and colleges and universities to provide assistance to them in the use of educational technology for instruction purposes. The department shall consult with the advisory committee on telecommunications, established in section 256.7, subsection 7, and other users of educational technology on the development and operation of programs under this section.
2. If moneys are appropriated by the general assembly for a fiscal year for purposes provided in this section, the programs funded by the department may include but not be limited to:
 - a. The development and delivery of in-service training, including summer institutes and workshops for individuals employed by elementary, secondary, and higher education corporations and institutions who are using educational technology for instructional purposes. The in-service programs shall include the use of hardware as well as effective methods of delivery and maintenance of a learning environment.
 - b. Research projects on ways to improve instruction at all educational levels using educational technology.
 - c. Demonstration projects which model effective uses of educational technology.
 - d. Establishment of a clearinghouse for information and research concerning practices relating to and uses of educational technology.
 - e. Development of curricula that could be used by approved teacher preparation institutions to prepare teachers to use educational technology in the classroom.
 - f. Pursuit of additional funding from public and private sources for the functions listed in this section.
3. Priority shall be given to programs integrating educational technology into the

classroom. The department may award grants to school corporations and higher education institutions to perform the functions listed in this section.

89 Acts, ch 319, §41; 93 Acts, ch 48, §16; 95 Acts, ch 67, §20; 2010 Acts, ch 1061, §180; 2012 Acts, ch 1119, §20

256.34 Fine arts beginning teacher mentoring program.

1. The department shall establish a fine arts beginning teacher mentoring program under a contract with an Iowa-based nonprofit organization that is exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code; has membership from the six state fine arts organizations representing kindergarten through grade twelve general music, choral music, instrumental music, visual arts, and drama and theater arts educators; and has administered a federally funded statewide fine arts mentoring program since 2006.

2. Program criteria shall include a required match of one dollar provided by the organization contracting to deliver services under subsection 1 for each dollar provided to the organization by the department. Moneys in the fund established under subsection 6 shall not be disbursed until the department receives evidence that the organization meets or will meet the match requirement.

3. The program provided under contract by the nonprofit organization shall provide for all of the following:

a. Activities and consultation in support of beginning fine arts teachers employed in Iowa's school districts, including but not limited to guidance in the classroom and at meetings, and resources of materials, time, and financial scholarship for state conferences that will support a beginning fine arts teacher's effectiveness in the classroom.

b. Coordination of retired and currently employed experienced fine arts mentor educators with beginning fine arts educators.

c. Materials and advice specifically designed to prepare beginning fine arts teachers for success in the fine arts classroom and to prepare kindergarten through grade twelve students for school district fine arts performances and festivals.

4. The nonprofit organization under contract with the department under this section shall provide quarterly reports detailing the organization's compliance with the requirements of subsection 3 and the expenditures of moneys for purposes of the fine arts beginning teacher mentoring program.

5. The director of the department may for good cause suspend, revoke, or refuse to renew a contract entered into in accordance with the provisions of this section.

6. There is established in the state treasury a fine arts beginning teacher mentoring fund that is under the control of and administered by the department of education. The department may accept gifts, grants, bequests, and other private contributions, as well as state or federal funds, and shall deposit the moneys in the fund to be used for purposes of the fine arts beginning teacher mentoring program. Moneys in the fund are appropriated to the department and shall be used for the purposes of this section. Moneys in the fund may be used to reimburse mentors for business travel expenses incurred in the performance of a mentor's duties at a rate not to exceed the current rate of reimbursement allowed under the standard method for computation of business travel expenses pursuant to the Internal Revenue Code. The department shall not commingle federal, state, and private funds within the fund. Moneys appropriated for the program shall supplement, not supplant, moneys appropriated for purposes of the beginning teacher mentoring and induction program created under section 284.5. Notwithstanding section 8.33, moneys in the fund that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year. Notwithstanding section 12C.7, subsection 2, interest earned on moneys in the fine arts beginning teacher mentoring fund shall be credited to the fund.

2016 Acts, ch 1132, §7

Referred to in §284.13

256.35 Regional autism assistance program.

The department shall establish a regional autism assistance program, to be administered by the child health specialty clinics of the university of Iowa hospitals and clinics. The program shall be designed to coordinate educational, medical, and other human services for persons with autism, their parents, and providers of services to persons with autism. The function of the program shall include but is not limited to the coordination of diagnostic and assessment services, the maintaining of a research base, coordination of in-service training, providing technical assistance, and providing consultation.

90 Acts, ch 1272, §42; 2014 Acts, ch 1026, §60

Referred to in §225D.1

256.35A Iowa autism council.

1. An Iowa autism council is created to act in an advisory capacity to the state in developing and implementing a comprehensive, coordinated system to provide appropriate diagnostic, intervention, and support services for children with autism and to meet the unique needs of adults with autism.

2. *a.* The council shall consist of thirteen voting members appointed by the governor and confirmed by the senate. The majority of the voting members shall be individuals with autism or members of their families. Additionally, each of the following shall be represented among the voting members:

- (1) Autism diagnostic and research specialists.
- (2) Individuals with recognized expertise in utilizing best practices for diagnosis, intervention, education, and support services for individuals with autism.
- (3) Individuals providing residential services for individuals with autism.
- (4) Mental health professionals with background or expertise in a pertinent mental health field such as psychiatry, psychology, or behavioral health.
- (5) Private insurers.
- (6) Teachers and representatives of area education agencies.

b. In addition, representatives of the department of education, the division of vocational rehabilitation of the department of education, the department of public health, the department of human services, the Iowa developmental disabilities council, the division of insurance of the department of commerce, and the state board of regents shall serve as ex officio members of the advisory council. Ex officio members shall work together in a collaborative manner to serve as a resource to the advisory council. The council may also form workgroups as necessary to address specific issues within the technical purview of individual members.

c. Voting members shall serve three-year terms beginning and ending as provided in section 69.19, and appointments shall comply with sections 69.16 and 69.16A. Vacancies on the council shall be filled in the same manner as the original appointment. A person appointed to fill a vacancy shall serve only for the unexpired portion of the term. Public members shall receive reimbursement for actual expenses incurred while serving in their official capacity and may also be eligible to receive compensation as provided in section 7E.6.

d. The council shall elect a chairperson from its voting members annually. A majority of the voting members of the council shall constitute a quorum.

e. The department shall convene and provide administrative support to the council.

3. The council shall focus its efforts on addressing the unmet needs of individuals with autism at various levels of severity and their families. The council shall address all of the following:

a. Early identification by medical professionals of autism, including education and training of health care and mental health care professionals and the use of best practice guidelines.

b. Appropriate early and intensive early intervention services with access to models of training.

c. Integration and coordination of the medical community, community educators, childhood educators, health care providers, and community-based services into a seamless support system for individuals and their families.

- d. General and special education support services.
 - e. In-home support services for families requiring behavioral and other supports.
 - f. Training for educators, parents, siblings, and other family members.
 - g. Enhancing of community agency responsiveness to the living, learning, and employment needs of adults with autism and provision of services including but not limited to respite services, crisis intervention, employment assistance, case management, and long-term care options.
 - h. Financing options including but not limited to medical assistance waivers and private health insurance coverage.
 - i. Data collection.
4. The council shall meet quarterly. The council shall submit a report to the governor and the general assembly, annually by December 15, identifying the needs and making recommendations for improving and enhancing the lives of individuals with autism and their families.
5. For the purposes of this section, “autism” means a spectrum disorder that includes at various levels of severity, autism, Asperger’s disorder, pervasive developmental disorder not otherwise specified, Rett’s syndrome, and childhood disintegrative disorder.

2008 Acts, ch 1187, §126; 2012 Acts, ch 1023, §34

Confirmation, see §2.32

256.36 Math and science grant program.

1. a. The department shall establish a math and science education grant program to provide for the allocation of grant moneys to public school corporations and to contract for the development of statewide program models and recommendations in keeping with the goals stated in this section.

(1) A public school corporation desiring to receive grant moneys under the program may submit plans and a proposed budget to the department for approval. The department shall review each plan and its proposed budget and award grants, which may be matching funds grants, for approved plans by July 1 of the calendar year in which the approved plans were submitted. Provision of matching funds from institutional private sources shall be considered by the department in reviewing plans and proposed budgets and awarding grant moneys.

(2) However, for the first school year for which program funds are appropriated, a board of directors of a public school corporation may submit a proposed plan and budget not later than January 1 of that school year and the department shall notify public school corporations by February 15 of that same school year that their plans have been approved or disapproved by the department.

b. In addition to awarding grants, and if the activity does not violate federal matching funds requirements for an Iowa math and science grant program, the department may expend funds to contract with a public or private nonprofit education organization, association, or laboratory for the development of models or recommendations with statewide applications to further the goals of this section.

2. The department shall make recommendations for, and the state board shall adopt, rules relating to program goals and program administration.

a. The goals of the math and science education program may include but are not limited to the following:

(1) The development of a model multidisciplinary science curricula that will serve as the framework for the development of individual teaching modules.

(2) The design and implementation of a statewide model for staff development in science and math education.

(3) The development of specific recommendations and rationale for changes in school standards that will facilitate improvements in math and science education and provide outcomes that serve as a standard of successful learning.

(4) The provision of a sequence of competencies and instructional strategies for inclusion in teacher preparation programs for those entering math and science programs in Iowa teacher preparation institutions.

(5) The development and implementation of a new statewide assessment program that is consistent with the materials and approaches envisioned.

(6) The development and implementation strategies for recruitment and retention of females and minorities in math and science education.

b. Program administration rules shall include but are not limited to development of standard formats and procedures for the submission and assessment of grant applications.

3. The board of educational examiners may develop recommendations for specific changes in the licensing requirements for math and science teachers.

4. There is established in the state treasury a math and science education account that is under the control of and administered by the department of education. The department may accept gifts, grants, bequests, and other private contributions, as well as state or federal funds, and shall deposit the moneys in the account to be used for distribution as grant award moneys under the math and science education program. Moneys in the account are appropriated and may be used for the purposes of this section. The department shall not commingle federal, state, and private funds within the account. Not more than six percent of any state funds appropriated for the program may be used for administrative purposes. State funds appropriated and any interest earned on the state funds but not expended for the first two years of the program shall not revert to the general fund under section 8.33, but shall remain available for expenditure until June 30 of the third year of the program. In subsequent years, state funds and any interest earned on the state funds which are appropriated, but not expended by June 30 of the school year shall revert to the general fund as provided under section 8.33. Receipt of funds during the first year of the program shall not affect eligibility to receive funds during any subsequent years.

91 Acts, ch 71, §1; 2010 Acts, ch 1069, §68

256.37 School restructuring and effectiveness — policy — findings.

It is the policy of the state of Iowa to provide an education system that prepares the children of this state to meet and exceed the technological, informational, and communications demands of our society. The general assembly finds that the current education system must be transformed to deliver the enriched educational program that the adults of the future will need to have to compete in tomorrow's world. The general assembly further finds that the education system must strive to reach the following goals:

1. All children in Iowa must start school ready to learn.
2. Iowa's high school graduation rate must increase to at least ninety percent.
3. Students graduating from Iowa's education system must demonstrate competency in challenging subject matter, and must have learned to use their minds well, so they may be prepared for responsible citizenship, further learning, and productive employment in a global economy.
4. Iowa students must be first in the world in science and mathematics achievement.
5. Every adult Iowan must be literate and possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.
6. Every school in Iowa must be free of drugs and violence and offer a disciplined environment conducive to learning.

92 Acts, ch 1159, §4

256.38 School-to-work transition system. Repealed by 2013 Acts, ch 88, §37.

256.39 Career pathways program.

1. If the general assembly appropriates moneys for the establishment of a career pathways program, the department of education shall develop a career pathways grant program, criteria for the formation of ongoing career pathways consortia in each merged area, and guidelines and a process to be used in selecting career pathways consortium grant recipients, including a requirement that grant recipients shall provide matching funds or match grant funds with in-kind resources on a dollar-for-dollar basis. A portion of the moneys appropriated by the general assembly shall be made available to schools to pay for the issuance of employability skills assessments to public or nonpublic school students. An

existing partnership or organization, including a regional career and technical education planning partnership, that meets the established criteria, may be considered a consortium for grant application purposes. One or more school districts may be considered a consortium for grant application purposes, provided the district can demonstrate the manner in which a community college, area education agency, representatives from business and labor organizations, and others as determined within the region will be involved. Existing regional career and technical education planning partnerships are encouraged to assist the local consortia in developing a plan and budget. The department shall provide assistance to consortia in planning and implementing career pathways program efforts.

2. To be eligible for a career pathways grant, a career pathways consortium shall develop a career pathways program that includes but is not limited to the following:

a. Measurement of the employability skills of students. Employability skills shall include but are not limited to reading for information, applied mathematics, listening, and writing.

b. Curricula designed to integrate academic and work-based learning to achieve high employability skills by all students related to career pathways. The curricula shall be designed through the cooperative efforts of secondary and postsecondary education professionals, business professionals, and community services professionals.

c. Staff development to implement the high-standard curriculum. These efforts may include team teaching techniques that utilize expertise from partnership businesses and postsecondary institutions.

3. In addition to the provisions of subsection 2, a career pathways program may include but is not limited to the following:

a. Career guidance and exploration for students.

b. Involvement and recognition of business, labor, and community organizations as partners in the career pathways program.

c. Provision for program accountability.

d. Encouragement of team teaching within the school or in partnership with postsecondary schools, and business, labor, community, and nonprofit organizations.

e. Service learning opportunities for students.

4. Business, labor, and community organizations are encouraged to market the career pathways program to the local community and provide students with mentors, shadow professionals, speakers, field trip sites, summer jobs, internships, and job offers for students who graduate with high performance records. Students are encouraged to volunteer their time to community organizations in exchange for workplace learning opportunities that do not displace current employees.

5. In developing career pathways program efforts, each consortium shall make every effort to cooperate with the juvenile courts, the economic development authority, the department of workforce development, the department of human services, and the new Iowa schools development corporation.

6. The department of education shall direct and monitor the progress of each career pathways consortium in developing career pathways programs.

7. Notwithstanding section 8.33, unencumbered or unobligated funds remaining on June 30 of the fiscal year for which the funds were appropriated shall not revert but shall be available for expenditure for the following fiscal year for the purposes of this section.

95 Acts, ch 196, §2; 96 Acts, ch 1186, §23; 2003 Acts, ch 180, §7; 2011 Acts, ch 118, §85, 89; 2014 Acts, ch 1026, §61; 2016 Acts, ch 1108, §32; 2017 Acts, ch 29, §59

256.40 Statewide work-based learning intermediary network — fund — steering committee — regional networks.

1. A statewide work-based learning intermediary network program is established in the department and shall be administered by the department. A separate, statewide work-based learning intermediary network fund is created in the state treasury under the control of the department. The fund shall consist of all moneys deposited in the fund, including any moneys appropriated by the general assembly and any other moneys available to and obtained or accepted by the department from federal or private sources for purposes of the program. Notwithstanding section 8.33, moneys in the fund at the end of a fiscal year shall not revert

to the general fund of the state. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the fund shall be credited to the fund.

2. The purpose of the program shall be to prepare students for the workforce by connecting business and the education system and offering relevant, work-based learning activities to students and teachers. The program shall:

a. Better prepare students to make informed postsecondary education and career decisions.

b. Provide communication and coordination in order to build and sustain relationships between employers and local youth, the education system, and the community at large.

c. Connect students to local career opportunities, creating economic capital for the region using a skilled and available workforce.

d. Provide a one-stop contact point for information useful to both educators and employers, including information on internships, job shadowing experiences, apprenticeable occupations as defined in section 15B.2, and other workplace learning opportunities for students, particularly related to science, technology, engineering, or mathematics occupations, occupations related to critical infrastructure and commercial and residential construction, or targeted industries as defined in section 15.102.

e. Integrate services provided through the program with other career exploration-related activities, which may include but are not limited to the career and academic plans and career information and decision-making systems utilized in accordance with section 279.61.

f. Facilitate the attainment of portable credentials of value to employers such as the national career readiness certificate, where appropriate.

g. Develop work-based capacity with employers.

h. Provide core services, which may include student job shadowing, student internships, and teacher or student tours.

3. The department shall establish and facilitate a steering committee comprised of representatives from the department of workforce development, the economic development authority, the community colleges, the institutions under the control of the state board of regents, accredited private institutions, area education agencies, school districts, the workplace learning connection, and an apprenticeship sponsor as defined in section 15B.2. The steering committee shall be responsible for the development and implementation of the statewide work-based learning intermediary network.

4. The steering committee shall develop a design for a statewide network comprised of fifteen regional work-based learning intermediary networks. The design shall include network specifications, strategic functions, and desired outcomes. The steering committee shall recommend program parameters and reporting requirements to the department.

5. Each regional network shall establish an advisory council to provide advice and assistance to the regional network. The advisory council shall include representatives of business and industry, including construction trade industry professionals, and shall meet at least annually.

6. Each regional network or consortium of networks shall annually submit a work-based learning plan to the department. Each plan shall include provisions to provide core services referred to in subsection 2, paragraph "h", to all school districts within the region and for the integration of job shadowing and other work-based learning activities into secondary career and technical education programs.

7. a. Moneys deposited in the statewide work-based learning intermediary network fund created in subsection 1 shall be distributed annually to each region for the implementation of the statewide work-based learning intermediary network upon approval by the department of the region's work-based learning plan submitted pursuant to subsection 6.

b. If the balance in the statewide work-based learning intermediary network fund on July 1 of a fiscal year is one million five hundred thousand dollars or less, the department shall distribute moneys in the fund to regions or consortiums of regions on a competitive basis. If the balance in the statewide work-based learning intermediary network fund on July 1 of a fiscal year is greater than one million five hundred thousand dollars, the department shall distribute one hundred thousand dollars to each region and distribute the remaining moneys pursuant to the formula established in section 260C.18C.

8. The department shall provide oversight of the statewide work-based learning intermediary network. The department shall require each region to submit an annual report on its ongoing implementation of the statewide work-based learning intermediary network program to the department.

9. Each regional network shall match the moneys received pursuant to subsection 7 with financial resources equal to at least twenty-five percent of the amount of the moneys received pursuant to subsection 7. The financial resources used to provide the match may include private donations, in-kind contributions, or public moneys other than the moneys received pursuant to subsection 7.

10. The state board of education shall adopt rules under chapter 17A for the administration of this section.

2005 Acts, ch 154, §1; 2006 Acts, ch 1030, §31; 2011 Acts, ch 118, §85, 89; 2013 Acts, ch 141, §34; 2016 Acts, ch 1108, §1, 9, 33, 34

Referred to in §85.61, 258.6, 258.10

256.41 Online learning requirements — school districts.

1. A school district providing educational instruction and course content delivered primarily over the internet shall do all of the following with regard to such instruction and content:

a. Monitor and verify full-time student enrollment, timely completion of graduation requirements, course credit accrual, and course completion.

b. Monitor and verify student progress and performance in each course through a school-based assessment plan that includes submission of coursework and security and validity of testing components.

c. Conduct parent-teacher conferences.

d. Administer assessments required by the state to all students in a proctored setting and pursuant to state law.

2. Online learning curricula shall be provided and supervised by a teacher licensed under chapter 272.

2012 Acts, ch 1119, §18; 2018 Acts, ch 1119, §5

256.42 Iowa learning online initiative. Repealed by 2020 Acts, ch 1107, §10.

256.43 Online learning program model.

1. *Online learning program model established.* The director, pursuant to section 256.9, subsection 55, shall establish an online learning program model that provides for the following:

a. Online access to high-quality content, instructional materials, and blended learning.

b. Coursework customized to the needs of the student using online content.

c. A means for a student to demonstrate competency in completed online coursework.

d. High-quality online instruction taught by teachers licensed under chapter 272.

e. Online content and instruction evaluated on the basis of student learning outcomes.

f. Use of funds available for online learning for program development, implementation, and innovation.

g. Infrastructure that supports online learning.

h. Online administration of online course assessments.

i. Criteria for school districts or schools to use when choosing providers of online learning to meet the online learning program requirements specified in rules adopted pursuant to section 256.7, subsection 32.

2. *Private providers.*

a. At the discretion of the school board or authorities in charge of an accredited nonpublic school, after consideration of circumstances created by necessity, convenience, and cost-effectiveness, courses developed by private providers may be utilized by the school district or school in implementing a high-quality online learning program. Courses obtained from private providers shall be taught by teachers licensed under chapter 272.

b. A school district may provide courses developed by private providers and delivered

primarily over the internet to pupils who are participating in open enrollment under section 282.18. However, if a student's participation in open enrollment to receive educational instruction and course content delivered primarily over the internet results in the termination of enrollment in the receiving district, the receiving district shall, within thirty days of the termination, notify the district of residence of the termination and the date of the termination.

c. Courses provided by private providers to a school district or accredited nonpublic school in accordance with this section shall meet the Iowa core and core content requirements and standards, as well as national standards of quality for online courses issued by an internationally recognized association for kindergarten through grade twelve online learning, and be approved in accordance with section 256.9, subsection 55.

3. *Grading.* Grades in online courses shall be based, at a minimum, on whether a student mastered the subject, demonstrated competency, and met the standards established by the school district. Grades shall be conferred only by teachers licensed under chapter 272.

4. *Accreditation criteria.* All online courses and programs shall meet existing accreditation standards.

5. *Prohibited activities.* A rebate for tuition or fees paid or any other dividend or bonus moneys for enrollment of a child shall not be offered or provided directly or indirectly by a school district, school, or private provider to the parent or guardian of a pupil who enrolls in a school district or school to receive educational instruction and course content delivered primarily over the internet.

2012 Acts, ch 1119, §19; 2018 Acts, ch 1119, §9 – 11; 2018 Acts, ch 1163, §12; 2020 Acts, ch 1107, §6

Referred to in §256.7

Subsection 2, paragraph c amended

256.44 National board certification pilot project.

1. A national board certification pilot project is established to be administered by the department of education. A teacher, as defined in section 272.1, who registers for or achieves national board for professional teaching standards certification, and who is employed by a school district in Iowa and receiving a salary as a classroom teacher, may be eligible for the following:

a. If a teacher registers for national board for professional teaching standards certification after December 31, 2007, a one-time initial reimbursement award in the amount of up to one-half of the registration fee paid by the teacher for registration for certification by the national board for professional teaching standards. The teacher shall apply to the department in a manner and according to procedures required by the department, submitting to the department any documentation the department requires. A teacher who receives an initial reimbursement award shall receive a one-time final registration award in the amount of the remaining national board registration fee paid by the teacher if the teacher notifies the department of the teacher's certification achievement and submits any documentation requested by the department.

b. (1) (a) If, by May 1, 2000, the teacher applies to the department for an annual award and submits documentation of certification by the national board for professional teaching standards, an annual award in the amount of five thousand dollars. However, if the teacher does not achieve certification on the teacher's first attempt to pass the national board for professional teaching standards assessment, the teacher shall be paid the award amount as provided in subparagraph division (b) upon achieving certification. The department shall award not more than a total of fifty thousand dollars in annual awards to an individual during the individual's term of eligibility for annual awards.

(b) If the teacher registers for national board for professional teaching standards certification and achieves certification within the timelines and policies established by the national board for professional teaching standards, an annual award in the amount of two thousand five hundred dollars upon achieving certification by the national board of professional teaching standards.

(2) To receive an annual award pursuant to this paragraph "b", a teacher shall apply to the department for an award within one year of eligibility. Payment for awards shall be made

only upon departmental approval of an application or recertification of eligibility. A term of eligibility shall be for ten years or for the years in which the individual maintains a valid certificate, whichever time period is shorter. In order to continue receipt of payments, a recipient shall annually recertify eligibility.

2. *a.* If the amount appropriated annually for purposes of this section is insufficient to pay the full amount of reimbursement awards in accordance with subsection 1, paragraph “a”, the department shall annually prorate the amount of the registration awards provided to each teacher who meets the requirements of this section.

b. If the amount appropriated annually for purposes of providing an annual award in accordance with subsection 1, paragraph “b”, is insufficient to pay the full annual award to all teachers approved by the department for an annual award, the department shall prorate the amount of the annual award based upon the amount appropriated.

3. A teacher receiving an annual award pursuant to this section may provide additional services to the school district that employs the teacher. The additional services to be provided by the teacher may be mutually agreed upon by the school district and the teacher.

4. Awards shall be paid to teachers by the department as follows:

a. Upon receipt of reimbursement documentation as provided in subsection 1, paragraph “a”.

b. Not later than June 1 to teachers whose applications and recertifications for annual awards as provided in subsection 1, paragraph “b”, are submitted to the department by May 1 and subsequently approved.

5. Notwithstanding any provision to the contrary, a teacher approved by the department to receive an annual award for certification in accordance with this section in the fiscal year beginning July 1, 1998, shall receive the annual award amount specified in subsection 1, paragraph “b”, subparagraph (1), subparagraph division (a), to commence with the fiscal year beginning July 1, 1999.

6. From funds appropriated for purposes of this section by the general assembly to the department of education for each fiscal year in the fiscal period beginning July 1, 1999, and ending June 30, 2004, three hundred thousand dollars, or so much thereof as may be necessary, shall be used for the payment of registration awards as provided in subsection 4, paragraph “a”.

7. The department shall prorate the amount of the annual awards paid in accordance with this section when the number of award recipients exceeds one thousand one hundred individuals. The department may prorate the amount of an annual award when a teacher who meets the qualifications of subsection 1 is employed on a less than full-time basis by a school district. The state board shall adopt rules under chapter 17A establishing criteria for the proration of annual awards.

8. Notwithstanding section 8.33, funds appropriated for purposes of this section which remain unencumbered or unobligated at the close of the fiscal year for which the funds were appropriated shall not revert but shall be available for expenditure for the following fiscal year for purposes of this section.

98 Acts, ch 1216, §5; 99 Acts, ch 142, §1; 99 Acts, ch 205, §20; 2002 Acts, ch 1152, §3, 4; 2004 Acts, ch 1175, §90; 2005 Acts, ch 169, §20, 21; 2006 Acts, ch 1182, §4; 2007 Acts, ch 108, §6, 7; 2009 Acts, ch 41, §263; 2012 Acts, ch 1119, §29, 30

Referred to in §284.13, 284.15

256.45 Ambassador to education.

1. The department of education shall establish and administer the position of ambassador to education. It shall be the function of the ambassador to education to act as an education liaison to primary and secondary schools in this state. The ambassador to education position shall be filled by the educator selected as teacher of the year by the governor, but only if that person agrees to fill the ambassador to education position.

2. The ambassador to education’s duties shall be established by the director of the department and shall be tailored to the relative skills and educational background of the person designated as ambassador. Duties of the ambassador may include but are not limited to providing seminars and workshops in the subject matter area in which the ambassador

possesses expertise, accompanying the director of the department of education in the exercise of the director's duties in the state, and speaking at public gatherings in the state.

3. The ambassador to education shall receive, in lieu of compensation from the district in which the ambassador is regularly employed, a salary equal to the amount of salary the person would have received from the district in the person's regular position during the school year for which the person serves as ambassador, or thirty thousand dollars, whichever amount is greater. The ambassador shall also be compensated for actual expenses incurred as a result of the performance of duties under this section.

4. The department shall grant funds in an amount equal to the salary and benefits the person selected as ambassador to education would have received from the district, or thirty thousand dollars, whichever amount is greater, to the school district that employs the person selected as the ambassador. The department shall also reimburse the school district for actual expenses incurred as a result of the performance of duties under this section. The school district shall grant the person a one-year sabbatical in order to allow the person to be the ambassador to education, and during the sabbatical, shall pay the salary and benefits of the ambassador with funds granted by the department. The person selected as the ambassador to education shall be entitled to return to the person's same or a comparable position without loss of accrued benefits or seniority.

90 Acts, ch 1272, §43; 98 Acts, ch 1216, §6; 2017 Acts, ch 54, §76

Referred to in §284.13

SUBCHAPTER II

PARTICIPATION IN INTERSCHOLASTIC ACTIVITIES

256.46 Rules for participation in extracurricular activities by certain children.

1. The state board shall adopt rules that permit a child who does not meet the residence requirements for participation in extracurricular interscholastic contests or competitions sponsored or administered by an organization as defined in section 280.13 to participate in the contests or competitions immediately if the child is duly enrolled in a school, is otherwise eligible to participate, and meets one of the following circumstances or a similar circumstance:

- a. The child has been adopted.
- b. The child is placed under foster or shelter care.
- c. The child is living with one of the child's parents as a result of divorce, separation, death, or other change in the child's parents' marital relationship, or pursuant to other court-ordered decree or order of custody.
- d. The child is a foreign exchange student, unless undue influence was exerted to place the child for primarily athletic purposes.
- e. The child has been placed in a juvenile correctional facility.
- f. The child is a ward of the court or the state.
- g. The child is a participant in a substance abuse or mental health program.
- h. The child is enrolled in an accredited nonpublic high school because the child's district of residence has entered into a whole grade sharing agreement for the pupil's grade with another district.

2. The rules shall permit a child who is otherwise eligible to participate, but who does not meet one of the foregoing or similar circumstances relating to residence requirements, to participate at any level of competition other than the varsity level.

3. For purposes of this section and section 282.18, "varsity" means the highest level of competition offered by one school or school district against the highest level of competition offered by an opposing school or school district.

90 Acts, ch 1049, §1; 92 Acts, ch 1135, §1; 93 Acts, ch 101, §201; 2002 Acts, ch 1129, §1; 2005 Acts, ch 79, §1; 2006 Acts, ch 1152, §20; 2019 Acts, ch 24, §30

Referred to in §282.18

256.47 through 256.49 Reserved.

SUBCHAPTER III
LIBRARY SERVICES

PART 1
GENERAL PROVISIONS

256.50 Division of library services — definitions.

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

1. “*Commission*” means the commission of libraries.
 2. “*Division*” means the division of library services of the department of education.
 3. “*State agency*” means a legislative, executive, or judicial office of the state and all of its respective officers, departments, divisions, bureaus, boards, commissions, and committees, except the state institutions of higher education governed by the state board of regents.
 4. “*State publications*” means all multiply produced publications regardless of format, which are issued by a state agency and supported by public funds, but it does not include:
 - a. Correspondence and memoranda intended solely for internal use within the agency or between agencies.
 - b. Materials excluded from this definition by the commission through the adoption and enforcement of rules.
- 93 Acts, ch 48, §17; 2011 Acts, ch 132, §44, 106

256.51 Division of library services — duties and responsibilities.

1. The division of library services is attached to the department of education for administrative purposes. The state librarian shall be responsible for the division’s budgeting and related management functions in accordance with section 256.52, subsection 3. The division shall do all of the following:
 - a. Provide support services to libraries, including but not limited to consulting, continuing education, interlibrary loan services, and references services to assure consistency of service statewide and to encourage local financial support for library services.
 - b. Determine policy for providing information service to the three branches of state government and to the legal community in this state.
 - c. Coordinate a statewide interregional interlibrary loan and information network among libraries in this state and support activities which increase cooperation among all types of libraries.
 - d. Establish and administer a program for the collection and distribution of state publications to depository libraries.
 - e. Develop, in consultation with the area education agency media centers, a biennial unified plan of service and service delivery for the division of library services.
 - f. Establish and administer a statewide continuing education program for librarians and trustees.
 - g. Give to libraries advice and counsel in specialized areas which may include, but are not limited to, building construction and space utilization, children’s services, and technological developments.
 - h. Obtain from libraries reports showing the condition, growth, and development of services provided and disseminate this information in a timely manner to the citizens of Iowa.
 - i. Establish and administer certification guidelines for librarians not covered by other accrediting agencies.
 - j. Foster public awareness of the condition of libraries in Iowa and of methods to improve library services to the citizens of the state.
 - k. Establish and administer standards for state agency libraries and public libraries.

l. Allow a public library that receives state assistance under section 256.57, or financial support from a city or county pursuant to section 256.69, to dispose of, through sale, conveyance, or exchange, any library materials that may be obsolete or worn out or that may no longer be needed or appropriate to the mission of the public library. These materials may be sold by the public library directly or the governing body of the public library may sell the materials by consignment to a public agency or to a private agency organized to raise funds solely for support of the public library. Proceeds from the sale of the library materials may be remitted to the public library and may be used by the public library for the purchase of books and other library materials or equipment, or for the provision of library services.

2. The division may do all of the following:

a. Enter into interstate library compacts on behalf of the state of Iowa with any state which legally joins in the compacts as provided in section 256.70.

b. Receive and expend money for providing programs and services. The division may receive, accept, and administer any moneys appropriated or granted to it, separate from the general library fund, by the federal government or by any other public or private agency.

c. Accept gifts, contributions, bequests, endowments, or other moneys, including but not limited to the Westgate endowment fund, for any or all purposes of the division. Interest earned on moneys accepted under this paragraph shall be credited to the fund or funds to which the gifts, contributions, bequests, endowments, or other moneys have been deposited, and is available for any or all purposes of the division. The division shall report annually to the commission and the general assembly regarding the gifts, contributions, bequests, endowments, or other moneys accepted pursuant to this paragraph and the interest earned on them.

93 Acts, ch 48, §18; 2001 Acts, ch 158, §12; 2006 Acts, ch 1152, §21; 2010 Acts, ch 1031, §316, 321; 2010 Acts, ch 1183, §15; 2010 Acts, ch 1193, §44, 80; 2011 Acts, ch 132, §45 – 50, 106

Referred to in §256.57

256.52 Commission of libraries established — duties of commission and state librarian — state library fund created.

1. a. The state commission of libraries consists of one member appointed by the supreme court, the director of the department of education, or the director's designee, and the following seven members who shall be appointed by the governor to serve four-year terms beginning and ending as provided in section 69.19.

(1) Two members shall be employed in the state as public librarians.

(2) One member shall be a public library trustee.

(3) One member shall be employed in this state as an academic librarian.

(4) One member shall be employed as a librarian by a school district or area education agency.

(5) Two members shall be selected at large.

b. The members shall be reimbursed for their actual expenditures necessitated by their official duties. Members may also be eligible for compensation as provided in section 7E.6.

2. The commission shall elect one of its members as chairperson. The commission shall meet at the time and place specified by call of the chairperson. Five members are a quorum for the transaction of business.

3. a. The commission shall appoint the state librarian who shall administer the division, and serve at the pleasure of the commission.

b. The state librarian shall do all of the following:

(1) Organize, staff, and administer the division so as to render the greatest benefit to libraries in the state.

(2) Submit a biennial report to the governor on the activities and an evaluation of the division and its programs and policies.

(3) Control all property of the division. The state librarian may dispose of, through sale, conveyance, or exchange, any library materials that may be obsolete or worn out or that may no longer be needed or appropriate to the mission of the state library of Iowa. These materials may be sold by the state library directly or the library may sell the materials by consignment

with an outside entity. A state library fund is created in the state treasury. Proceeds from the sale of the library materials shall be remitted to the treasurer of state and credited to the state library fund and shall be used for the purchase of books and other library materials. Notwithstanding section 8.33, any balance in the fund on June 30 of any fiscal year shall not revert to the general fund of the state.

(4) Appoint and approve the technical, professional, secretarial, and clerical staff necessary to accomplish the purposes of the division subject to chapter 8A, subchapter IV.

(5) Perform other duties imposed by law.

4. The commission shall adopt rules under chapter 17A for carrying out the responsibilities of the division.

5. The commission shall receive and approve the budget and unified plan of service submitted by the division.

93 Acts, ch 48, §19; 94 Acts, ch 1193, §18; 96 Acts, ch 1215, §21; 2003 Acts, ch 145, §223; 2010 Acts, ch 1031, §317, 318, 321; 2010 Acts, ch 1061, §180; 2011 Acts, ch 132, §51 – 54, 69, 106

[Subsection 3, paragraph b, subparagraph (5) was inadvertently omitted from the 2016 Code]

Referred to in §256.51

256.53 State publications.

Upon issuance of a state publication in any format, a state agency shall provide the division with an electronic version of the publication at no cost to the division.

93 Acts, ch 48, §20; 2003 Acts, ch 35, §41, 49; 2010 Acts, ch 1031, §56

256.54 State library — law library.

1. The state library includes but is not limited to the library support network, the specialized library services unit, and the state data center. The law library shall be under the direction of the specialized library services unit.

2. The law library shall be administered by a law librarian appointed by the state librarian subject to chapter 8A, subchapter IV, who shall do all of the following:

a. Operate the law library which shall be maintained in the state capitol or in rooms convenient to the state supreme court and which shall be available for free use by the residents of Iowa under rules the commission adopts.

b. Maintain, as an integral part of the law library, reports of various boards and agencies, copies of bills, journals, other information relating to current or proposed legislation, and copies of the Iowa administrative bulletin and Iowa administrative code and any publications incorporated by reference in the bulletin or code.

c. Arrange to make exchanges of all printed material published by the states and the government of the United States.

d. Perform other duties imposed by law or by the rules of the commission.

93 Acts, ch 48, §21; 95 Acts, ch 14, §2; 2003 Acts, ch 145, §224, 225; 2010 Acts, ch 1031, §319 – 321; 2011 Acts, ch 132, §55, 56, 106

256.55 State data center.

A state data center is established in the division. The state data center shall be administered by the state data center coordinator, who shall do all of the following:

1. Manage the state data center program to make United States census data available to the residents of Iowa under rules the commission adopts.

2. Act as the state's liaison with the United States census bureau in matters relating to United States decennial, economic, and agricultural census data, and population estimates and projections.

3. Perform other duties imposed by law or prescribed by the commission.

93 Acts, ch 48, §22; 2011 Acts, ch 132, §57, 106

256.56 Electronic access to documents.

The state library shall work to develop a system of electronic access to documents maintained by the state library with a goal of providing electronic access to all such documents. The access shall be provided using a current, widely accepted and utilized technology. This section shall not prohibit the state librarian from considering other forms of electronic access if the use of such other access is shown to exceed the benefits of, and is more cost-effective than, the currently used technology.

93 Acts, ch 178, §32; 2020 Acts, ch 1022, §1

Section amended

256.57 Enrich Iowa program.

1. An enrich Iowa program is established in the division to provide direct state assistance to public libraries, to support the open access and access plus programs, to provide public libraries with an incentive to improve library services that are in compliance with performance measures, and to reduce inequities among communities in the delivery of library services based on performance measures adopted by rule by the commission. The commission shall adopt rules governing the allocation of funds appropriated by the general assembly for purposes of this section to provide direct state assistance to eligible public libraries. A public library is eligible for funds under this chapter if it is in compliance with the commission's performance measures.

2. The amount of direct state assistance distributed to each eligible public library shall be based on the following:

a. The level of compliance by the eligible public library with the performance measures adopted by the commission as provided in this section.

b. The number of people residing within an eligible library's geographic service area for whom the library provides services.

c. The amount of other funding the eligible public library received in the previous fiscal year for providing services to rural residents and to contracting communities.

3. Moneys received by a public library pursuant to this section shall supplement, not supplant, any other funding received by the library.

4. For purposes of this section, "*eligible public library*" means a public library that meets all of the following requirements:

a. Submits to the division all of the following:

(1) The report provided for under section 256.51, subsection 1, paragraph "h".

(2) An application and accreditation report, in a format approved by the commission, that provides evidence of the library's compliance with at least one level of the standards established in accordance with section 256.51, subsection 1, paragraph "k".

(3) Any other application or report the division deems necessary for the implementation of the enrich Iowa program.

b. Participates in the library resource and information sharing programs established by the state library.

c. Is a public library established by city ordinance or a library district as provided in chapter 336.

5. Each eligible public library shall maintain a separate listing within its budget for payments received and expenditures made pursuant to this section, and shall annually submit this listing to the division.

6. By January 15, annually, the division shall submit a program evaluation report to the general assembly and the governor detailing the uses and the impacts of funds allocated under this section.

7. A public library that receives funds in accordance with this section shall have an internet use policy in place, which may or may not include internet filtering. The library shall submit a report describing the library's internet use efforts to the division.

8. A public library that receives funds in accordance with this section shall provide open access, the reciprocal borrowing program, as a service to its patrons, at a reimbursement rate determined by the state library.

9. Funds appropriated for purposes of this section shall not be used by the division for administrative purposes.

2006 Acts, ch 1180, §16; 2007 Acts, ch 126, §46 – 48

Referred to in §256.51

256.58 Library support network.

1. A library support network is established in the division to offer services and programs for libraries, including but not limited to individualized, locally delivered consulting and training, and to facilitate resource sharing and innovation through the use of technology, administer enrich Iowa programs, advocate for libraries, promote excellence and innovation in library services, encourage governmental subdivisions to provide local financial support for local libraries, and ensure the consistent availability of quality service to all libraries throughout the state, regardless of location or size.

2. The organizational structure to deliver library support network services shall include district offices. The district offices shall serve as a basis for providing field services to local libraries in the counties comprising the district. The division shall determine which counties are served by each district office. The number of district offices established to provide services pursuant to this section shall be six.

2011 Acts, ch 132, §58, 106

256.59 Specialized library services.

The specialized library services unit is established in the division to provide information services to the three branches of state government and to offer focused information services to the general public in the areas of Iowa law, Iowa state documents, and Iowa history and culture.

2011 Acts, ch 132, §59, 106

PART 2

LIBRARY SERVICES ADVISORY PANEL AND LOCAL FINANCIAL SUPPORT

256.60 and 256.61 Repealed by 2011 Acts, ch 132, §66, 106.

256.62 Library services advisory panel.

1. The state librarian shall convene a library services advisory panel to advise and recommend to the commission and the division evidence-based best practices, to assist the commission and division to determine service priorities and launch programs, articulate the needs and interests of Iowa librarians, and share research and professional development information.

2. The library services advisory panel shall consist of no fewer than eleven members representing libraries of all sizes and types, and various population levels and geographic regions of the state. A simple majority of the members appointed shall be appointed by the executive board of the Iowa library association and the remaining members shall be appointed by the state librarian. Terms of members shall begin and end as provided in section 69.19. Any vacancy shall be filled in the same manner as regular appointments are made for the unexpired portion of the regular term. Members shall serve four-year terms which are staggered at the discretion of the state librarian. A member is eligible for reappointment for three successive terms. The members shall elect a chairperson annually.

3. The library services advisory panel shall meet at least twice annually and shall submit its recommendations in a report to the commission and the state librarian at least once annually. The report shall be timely submitted to allow for consideration of the recommendations prior to program planning and budgeting for the following fiscal year.

4. Members of the library services advisory panel shall receive actual and necessary expenses incurred in the performance of their duties. Expenses shall be paid from funds appropriated to the department for purposes of the division.

2011 Acts, ch 132, §60, 106

256.63 through 256.65 Repealed by 2001 Acts, ch 158, §40.

256.66 through 256.68 Repealed by 2011 Acts, ch 132, §66, 106.

Length of service of library service area employees hired by division of library services on or after July 1, 2011, to be prorated and credited as state employment service for certain purposes; personnel records to be submitted to division by July 1, 2011; 2011 Acts, ch 132, §68, 106

256.69 Local financial support.

Commencing July 1, 1977, each city within its corporate boundaries and each county within the unincorporated area of the county shall levy a tax of at least six and three-fourths cents per thousand dollars of assessed value on the taxable property or at least the monetary equivalent thereof when all or a portion of the funds are obtained from a source other than taxation, for the purpose of providing financial support to the public library which provides library services within the respective jurisdictions.

93 Acts, ch 48, §32

Referred to in §256.51, 336.13, 692A.101

PART 3

LIBRARY COMPACT

256.70 Library compact authorized.

The division of library services of the department of education is hereby authorized to enter into interstate library compacts on behalf of the state of Iowa with any state bordering on Iowa which legally joins therein in substantially the following form and the contracting states agree that:

1. *Article I — Purpose.* Because the desire for the services provided by public libraries transcends governmental boundaries and can be provided most effectively by giving such services to communities of people regardless of jurisdictional lines, it is the policy of the states who are parties to this compact to cooperate and share their responsibilities in providing joint and cooperative library services in areas where the distribution of population makes the provision of library service on an interstate basis the most effective way to provide adequate and efficient services.

2. *Article II — Procedure.* The appropriate state library officials and agencies having comparable powers with those of the Iowa commission of libraries of the party states or any of their political subdivisions may, on behalf of said states or political subdivisions, enter into agreements for the cooperative or joint conduct of library services when they shall find that the execution of agreements to that end as provided herein will facilitate library services.

3. *Article III — Content.* Any such agreement for the cooperative or joint establishment, operation or use of library services, facilities, personnel, equipment, materials or other items not excluded because of failure to enumerate shall, as among the parties of the agreement:

a. Detail the specific nature of the services, facilities, properties or personnel to which it is applicable;

b. Provide for the allocation of costs and other financial responsibilities;

c. Specify the respective rights, duties, obligations and liabilities;

d. Stipulate the terms and conditions for duration, renewal, termination, abrogation, disposal of joint or common property, if any, and all other matters which may be appropriate to the proper effectuation and performance of said agreement.

4. *Article IV — Conflict of laws.* Nothing in this compact or in any agreement entered into hereunder shall alter, or otherwise impair any obligation imposed on any public library by otherwise applicable laws, or be constituted to supersede.

5. *Article V — Administrator.* Each state shall designate a compact administrator with whom copies of all agreements to which the state or any subdivision thereof is party shall be filed. The administrator shall have such powers as may be conferred by the laws of the administrator's state and may consult and cooperate with the compact administrators of other party states and take such steps as may effectuate the purposes of this compact.

6. *Article VI — Effective date.* This compact shall become operative when entered in by two or more entities having the powers enumerated herein.

7. *Article VII — Renunciation.* This compact shall continue in force and remain binding upon each party state until six months after any such state has given notice of repeal by the legislature. Such withdrawal shall not be construed to relieve any party to an agreement authorized by articles II and III of the compact from the obligation of that agreement prior to the end of its stipulated period of duration.

8. *Article VIII — Severability — construction.* The provisions of this compact shall be severable. It is intended that the provisions of this compact be reasonably and liberally construed.

93 Acts, ch 48, §33; 2008 Acts, ch 1032, §201; 2011 Acts, ch 132, §61, 106
Referred to in §256.51, 331.381

256.71 Administrator.

The administrator of the division of library services shall be the compact administrator. The compact administrator shall receive copies of all agreements entered into by the state or its political subdivisions and other states or political subdivisions; consult with, advise and aid such governmental units in the formulation of such agreements; make such recommendations to the governor, legislature, governmental agencies and units as the administrator deems desirable to effectuate the purposes of this compact and consult and cooperate with the compact administrators of other party states.

93 Acts, ch 48, §34; 2011 Acts, ch 132, §62, 106
Referred to in §331.381

256.72 Agreements.

The compact administrator and the chief executive of a county, city, or library board may enter into agreements with other states or their political subdivisions pursuant to the compact. The agreements made pursuant to this compact on behalf of the state of Iowa shall be made by the compact administrator. The agreements made on behalf of a political subdivision shall be made after due notice to and consultation with the compact administrator.

93 Acts, ch 48, §35
Referred to in §331.381

256.73 Enforcement.

The agencies and officers of this state and its subdivisions shall enforce this compact and do all things appropriate to effect its purpose and intent which may be within their respective jurisdiction.

93 Acts, ch 48, §36
Referred to in §331.381

256.74 through 256.79 Reserved.

SUBCHAPTER IV PUBLIC BROADCASTING

256.80 Definitions.

As used in this subchapter unless the context otherwise requires:

1. “*Administrator*” means the administrator of the public broadcasting division of the department of education.
2. “*Board*” means the Iowa public broadcasting board.
3. “*Broadcast*” means communications through a system that is receivable by the general public with programming designed for a large group of users.
4. “*Narrowcast*” means communications through systems that are directed toward a narrowly defined audience.

5. “Radio and television facility” means transmitters, towers, studios, and all necessary associated equipment for broadcasting, including closed circuit television.

93 Acts, ch 48, §37

256.81 Public broadcasting division created — administrator — duties.

1. The public broadcasting division of the department of education is created. The chief administrative officer of the division is the administrator who shall be appointed by and serve at the pleasure of the Iowa public broadcasting board. The board shall set the division administrator’s salary within the applicable salary range established by the general assembly unless otherwise provided by law. Educational programming shall be the highest priority of the division. The division shall be governed by the national principles of editorial integrity developed by the editorial integrity project. The director of the department of education and the state board of education are not liable for the activities of the division of public broadcasting.

2. The administrator shall do all of the following:

a. Direct and organize the activities of the division.

b. Submit a biennial report to the governor on the activities and an evaluation of the division and its programs and policies.

c. Control all property of the division.

d. Perform other duties imposed by law.

93 Acts, ch 48, §38; 2006 Acts, ch 1185, §22; 2010 Acts, ch 1069, §69

Referred to in §8F2

256.82 Board — advisory committees.

1. The Iowa public broadcasting board is created to plan, establish, and operate educational radio and television facilities and other telecommunications services to serve the educational needs of the state. The board shall be composed of nine members selected in the following manner:

a. Four members shall be appointed by the governor so that the portion of the board membership appointed under this paragraph includes two male board members and two female board members at all times:

(1) One member shall be appointed from the business community other than the television and telecommunications industry.

(2) One member shall be appointed with experience in or knowledge about the television industry.

(3) One member shall be appointed from the membership of a fund-raising nonprofit organization financially assisting the Iowa public broadcasting division.

(4) One member shall represent the general public.

b. Five members shall be selected in the manner provided in this paragraph and the gender balance of the membership shall be coordinated among the associations and boards making the appointments so that not more than three members serving under this paragraph at the same time are of the same gender.

(1) One member shall be appointed by the state association of private colleges and universities.

(2) One member shall be appointed jointly by the superintendents of the community colleges created by chapter 260C.

(3) One member shall be appointed jointly by the administrators of the area education agencies created by chapter 273.

(4) One member shall be appointed by the state board of regents.

(5) One member shall be appointed by the state board of education.

2. a. Board members shall serve a three-year term commencing on July 1 of the year of appointment. A vacancy shall be filled in the same manner as the original appointment for the remainder of the term.

b. Membership on the board does not constitute holding a public office and members shall not be required to take and file oaths of office before serving. A member shall not be disqualified from holding any public office or employment by reason of appointment to the

board nor shall a member forfeit an office or employment by reason of appointment to the board.

3. a. The board shall appoint an advisory committee on journalistic and editorial integrity which has no more than a simple majority of members of the same gender.

b. Duties of the advisory committee, and of additional advisory committees the board may from time to time appoint, shall be specified in rules of internal management adopted by the board.

c. Members of advisory committees shall receive actual expenses incurred in performing their official duties.

93 Acts, ch 48, §39; 94 Acts, ch 1184, §22; 2006 Acts, ch 1185, §23 – 25; 2010 Acts, ch 1069, §70

256.83 Meetings.

1. The board shall elect from among its members a president and a vice president to serve a one-year term. The board shall meet at least four times annually and shall hold special meetings at the call of the president or in the absence of the president by the vice president or by the president upon written request of four members. The board shall establish procedures and requirements relating to quorum, place, and conduct of meetings.

2. Board members shall receive actual expenses incurred in performing their official duties.

93 Acts, ch 48, §40

256.84 Powers — facilities — rules.

1. The board may purchase, lease, and improve property, equipment, and services for educational telecommunications including the broadcast and narrowcast systems, and may dispose of property and equipment when not necessary for its purposes.

2. The board shall apply for channels, frequencies, licenses, permits, and other authorizations as necessary for the performance of the board's duties.

3. This section does not prohibit institutions under the state board of regents and community colleges under the department of education from owning, operating, improving, maintaining, and restructuring educational radio and television stations and transmitters now in existence or other educational narrowcast telecommunications systems and services. The institutions and schools may enter into agreements with the board for the lease or purchase of equipment and facilities.

4. The board may locate its administrative offices and production facilities outside the city of Des Moines.

5. The board shall establish guidelines for and may impose and collect fees and charges for services. Fees and charges collected by the board for services shall be deposited to the credit of the division. Any interest earned on these receipts, and revenues generated under subsection 7, shall be retained and may be expended by the division subject to the approval of the board.

6. The board may make and execute agreements, contracts, and other instruments with any public or private entity and may retain revenues generated from these contracts. State departments and agencies, other public agencies, and governmental subdivisions and private entities including but not limited to institutions of higher education and nonpublic schools may enter into contracts and otherwise cooperate with the board.

7. The board may contract with engineers, attorneys, accountants, financial experts, and other advisors upon the recommendation of the administrator. The board may enter into contracts or agreements for such services with local, state, or federal governmental agencies.

8. To preserve the integrity of its editorial processes, the board may select programming, content partners, and other authorized contractual services without using a competitive selection process or performance measures that may otherwise be required by law for such services. For purposes of this subsection, authorized contractual services are those services related, directly or indirectly, to the development of program production and instructional and educational media. Authorized contractual services include but are not limited to on-air performers, producers or directors, field producers, writers, production assistants, manual

laborers, mobile unit services, closed captioning services, duplication of tape services, and satellite services.

9. The board shall approve for submission the annual budget request and any supplementary budget request for the public broadcasting division of the department of education.

10. The board may adopt rules to implement and administer the programs of the division.

11. The decision of the board is final agency action under chapter 17A.

93 Acts, ch 48, §41; 2006 Acts, ch 1185, §26 – 28

256.85 Purchase of energy efficiency packages.

The public broadcasting division of the department of education may use the state of Iowa facilities improvement corporation to purchase energy efficiency packages.

93 Acts, ch 48, §42; 2006 Acts, ch 1185, §29

256.86 Competition with private sector.

1. It is the intent of the general assembly that the division shall not compete with the private sector by actively seeking revenue from its operations except as provided in this chapter.

2. a. The division may receive revenue for providing services, products, and usage of facilities and equipment if one or more of the following conditions are met:

(1) The service, product, or usage is not reasonably available in the private sector.

(2) The division can provide the service, product, or usage at a time, price, location, or terms that are not reasonably available through the private sector.

(3) The service, product, or usage is deemed by the division to be related to public service or the educational mission of the division.

b. The division may charge reasonable fees for providing services, products, and usage of facilities and equipment in accordance with paragraph "a", including but not limited to a reasonable equipment and facilities usage fee.

c. Fees charged in accordance with this subsection shall be deposited in the capital equipment replacement revolving fund created pursuant to section 256.87.

3. It is not the intent of the general assembly to prohibit the receipt of charitable contributions as defined by section 170 of the Internal Revenue Code.

4. The board, the governor, or the administrator may apply for and accept federal or nonfederal gifts, loans, or grants of funds and may use the funds for projects under this chapter.

93 Acts, ch 48, §43; 2012 Acts, ch 1132, §8

256.87 Capital equipment replacement revolving fund.

1. A capital equipment replacement revolving fund is created in the state treasury. The revolving fund shall be administered by the board and shall consist of moneys collected by the division as fees and any other moneys obtained or accepted by the division for deposit in the revolving fund.

2. The board may expend moneys from the capital equipment replacement revolving fund to update facilities and purchase equipment for its operations.

3. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the revolving fund shall be credited to the revolving fund. Notwithstanding section 8.33, moneys in the revolving fund that remain unencumbered or unobligated at the close of the fiscal year shall not revert to any other fund but shall remain available in the revolving fund for the purposes designated.

93 Acts, ch 48, §44; 2012 Acts, ch 1132, §9

Referred to in §256.86

256.88 Trusts.

Notwithstanding section 633.63, the board may accept and administer trusts and may authorize nonprofit foundations acting solely for the support of educational telecommunications including the broadcast and narrowcast systems to accept and

administer trusts deemed by the board to be beneficial to the operation of the educational radio and television facility. The board and the foundations may act as trustees in such instances.

93 Acts, ch 48, §45

256.89 State plan. Repealed by 2006 Acts, ch 1185, §31.

256.90 Narrowcast operations.

1. The board shall not use, permit use, or permit resale of its telecommunications narrowcast system for other than educational purposes. The board, in the establishment and operation of its telecommunications narrowcast system, shall use facilities and services of the private telecommunications industry companies to the greatest extent possible and is prohibited from constructing telecommunications facilities unless comparable facilities are not available from the private telecommunications industry at comparable quality and price.

2. Notwithstanding chapter 476, the provisions of chapter 476 shall not apply to a public utility in furnishing a telecommunications service or facility to the board.

93 Acts, ch 48, §47

CHAPTER 256A

CHILD DEVELOPMENT ASSISTANCE

Referred to in §256C.4, 273.2, 279.51

256A.1	Title.	256A.3	Duties of council.
256A.2	Child development coordinating council established.	256A.4	Family support programs.
		256A.5	District advisory committees.

256A.1 Title.

This chapter shall be known as the “*Child Development Assistance Act*”.

88 Acts, ch 1130, §2

256A.2 Child development coordinating council established.

1. A child development coordinating council is established to promote the provision of child development services to at-risk three-year-old and four-year-old children. The council shall consist of the following members:

- a. The administrator of the division of adult, children and family services of the department of human services or the administrator’s designee.
- b. The director of the department of education or the director’s designee.
- c. The director of human services or the director’s designee.
- d. The director of the department of public health or the director’s designee.
- e. An early childhood specialist of an area education agency selected by the area education agency administrators.
- f. The dean of the college of human sciences at Iowa state university of science and technology or the dean’s designee.
- g. The dean of the college of education from the university of northern Iowa or the dean’s designee.
- h. The professor and head of the department of pediatrics at the university of Iowa or the professor’s designee.
- i. A resident of this state who is a parent of a child who is or has been served by a federal head start program.

2. Staff assistance for the council shall be provided by the department of education. Members of the council shall be reimbursed for actual and necessary expenses incurred

while engaged in their official duties and shall receive per diem compensation at the level authorized under section 7E.6, subsection 1, paragraph “a”.

88 Acts, ch 1130, §3; 89 Acts, ch 206, §7; 91 Acts, ch 109, §5, 6; 2007 Acts, ch 22, §58; 2020 Acts, ch 1022, §2

Subsection 1, paragraphs a and f amended

256A.3 Duties of council.

The child development coordinating council shall:

1. Develop a definition of at-risk children for the purposes of this chapter. The definition shall include income, family structure, the child’s level of development, and availability or accessibility for the child of a head start or other child care program as criteria.

2. Establish minimum guidelines for comprehensive early child development services for at-risk three-year- and four-year-old children. The guidelines shall reflect current research findings on the necessary components for cost-effective child development services.

3. At least biennially, develop an inventory of child development services provided to at-risk three-year- and four-year-old children in this state and identify the number of children receiving and not receiving these services, the types of programs under which the services are received, the degree to which each program meets the council’s minimum guidelines for a comprehensive program, and the reasons children not receiving the services are not being served. The council is not required to conduct independent research in developing the inventory, but shall determine information needs necessary to provide a more complete inventory.

4. Make recommendations to the department of education and the general assembly regarding appropriate curricula and staff qualifications and training for early elementary education, coordination of the curricula with child development programs, and the development of an at-risk children definition for use in school-district-sponsored early elementary and before and after school child care programs.

5. Subject to the availability of funds appropriated or otherwise available for the purpose of providing child development services, award grants for programs that provide new or additional child development services to at-risk children.

a. In awarding program grants to an agency or individual, the council shall consider the following:

(1) The quality of the staff and staff background in child development services.

(2) The degree to which the program is or will be integrated with existing community resources and has the support of the local community.

(3) The ability of the program to provide for child care in addition to child development services for families needing full-day child care.

(4) A staff-to-children ratio within the guidelines established under subsection 2, but not less than one staff member per eight children.

(5) The degree to which the program involves and works with the parents, and includes home visits, instruction for parents on parenting skills, on enhancement of skills in providing for their children’s learning and development, and the physical, mental, and emotional development of children, and experiential education.

(6) The manner in which health, medical, dental, and nutrition services are incorporated into the program.

(7) The degree to which the program complements existing programs and services for at-risk three-year-old and four-year-old children available in the area, including other child care services, services provided through the school district, and services available through area education agencies.

(8) The degree to which the program can be monitored and evaluated to determine its ability to meet its goals.

(9) The provision of transportation or other auxiliary services that may be necessary for families to participate in the program.

(10) The provision of staff training and development, and staff compensation sufficient to assure continuity.

b. Program grants funded under this subsection may integrate children not meeting

at-risk criteria into the program and shall establish a fee for participation in the program in the manner provided in section 279.49, but grant funds shall not be used to pay the costs for those children.

c. Programs awarded grants under this subsection shall meet the national association for the education of young children program standards and accreditation criteria, the Iowa quality preschool program standards and criteria, or other approved program standards as determined by the department of education. Programs awarded grants prior to July 1, 2015, shall continue to be evaluated and assessed based on eligibility and award criteria established under rules adopted by the state board of education pursuant to section 279.51 prior to June 30, 2015.

6. Encourage the submission of grant requests from all potential providers of child development services and shall be flexible in evaluating grants, recognizing that different types of programs may be suitable for different locations in the state.

a. Requests for grants must contain a procedure for evaluating the effectiveness of the program and accounting procedures for monitoring the expenditure of grant moneys.

b. The council shall seek to use performance-based measures to evaluate programs. Not more than five percent of any state funds appropriated for child development purposes may be used for administration and evaluation.

7. Encourage the establishment of regional councils designed to facilitate the development on a regional basis of programs for at-risk three-year-old and at-risk four-year-old children.

8. Annually, submit recommendations to the governor and the general assembly on the need for investment in child development services in the state.

9. Subject to a decision by the council to initiate the programs, develop criteria for and award grants under section 279.51, subsection 2.

10. Encourage the establishment of programs that will enhance the skills of parents in parenting and in providing for the learning and development of their children.

88 Acts, ch 1130, §4; 89 Acts, ch 135, §54, 55; 89 Acts, ch 206, §8, 9; 92 Acts, ch 1221, §3; 99 Acts, ch 192, §33; 2003 Acts, ch 108, §45; 2004 Acts, ch 1086, §53; 2010 Acts, ch 1069, §71; 2015 Acts, ch 140, §10, 58, 59

Referred to in §272.28, 279.51

256A.4 Family support programs.

1. a. The board of directors of each school district may develop and offer a family support program which provides outreach and incentives for the voluntary participation of expectant parents and parents of children in the period of life from birth through age five, who reside within district boundaries, in educational family support experiences designed to assist parents in learning about the physical, mental, and emotional development of their children. A board may contract with another school district or public or private nonprofit agency for provision of the approved program or program site.

b. A family support program shall meet multicultural gender fair guidelines. The program shall encourage parents to be aware of practices that may affect equitable development of children. The program shall include parents in the planning, implementation, and evaluation of the program. A program shall be designed to meet the needs of the residents of the participating district and may use unique approaches to provide for those needs. The goals of a family support program shall include but are not limited to the following:

(1) Family involvement as a key component of school improvement with an emphasis on communication and active family participation in family support programming.

(2) Family participation in the planning and decision-making process for the program and encouragement of long-term parental involvement in their children's education.

(3) Meeting the educational and developmental needs of expectant parents and parents of young children.

(4) Developmentally appropriate activities for children that include those skills necessary for adaptation to both the home and school environments.

2. The department of education shall develop guidelines for family support programs. Program components may include, but are not limited to, all of the following:

a. Instruction, techniques, and materials designed to educate parents about the physical, mental, character, and emotional development of children.

b. Instruction, techniques, and materials designed to enhance the skills of parents in assisting in their children's learning and development.

c. Assistance to parents about learning experiences for both children and parents.

d. Activities, such as developmental screenings, designed to detect children's physical, mental, emotional, or behavioral problems that may cause learning problems and referrals to appropriate agencies, authorities, or service providers.

e. Activities and materials designed to encourage parents' and children's self-esteem and to enhance parenting skills and both parents' and children's appreciation of the benefits of education.

f. Information on related community resources, programs, or activities.

g. Role modeling and mentoring techniques for families of children who meet one or more of the criteria established for the definition of at-risk children by the child development coordinating council.

3. Family support programs shall be provided by family support program educators who have completed a minimum of thirty clock hours of an approved family support preservice or in-service training program and meet one of the following requirements:

a. The family support program educator is licensed in elementary education, early childhood education, early childhood special education, home economics, or consumer and homemaking education, or is licensed or certified in occupational child care services and has demonstrated an ability to work with young children and their parents.

b. The family support program educator has achieved child development associate recognition in early childhood education, has completed programming in child development and nursing, and has demonstrated an ability to work with young children and their parents.

c. The family support program educator has completed sixty college credit hours and possesses two years of experience in a program working with young children and their parents.

d. The family support program educator possesses five years of experience in a program working with young children and their parents.

4. Each district shall maintain a separate account within the district budget for moneys allocated for family support programs. A district may receive moneys from state and federal sources, and may solicit funds from private sources, for deposit into the account.

5. A district shall coordinate a family support program with district special education and career and technical education programs and with any related services or programs provided by other state, federal, or private nonprofit agencies.

92 Acts, ch 1158, §4; 2001 Acts, ch 159, §4; 2003 Acts, ch 180, §8; 2010 Acts, ch 1061, §42; 2016 Acts, ch 1108, §35

Legislative intent; 92 Acts, ch 1158, §1

256A.5 District advisory committees.

The board of directors of a school district shall appoint an advisory committee for each family support program. The members shall include participating parents and members of the community which participates in the program, such as members of the district's local early childhood education committees and representatives of local businesses, service organizations, educators, head start educators, parents, private child care providers, county home extension economists, area education agencies, the school board, the community education advisory board, local social services organizations, the local board of health, public health care practitioners, maternal and child health care providers, and persons knowledgeable about developmentally appropriate learning and parent or family education programs. The committee shall be responsible for assessing current programs and services for expectant parents and parents of children who are less than six years of age. The committee shall also assist the board in developing, planning, and monitoring the program and shall submit any recommendations in a report to the board.

The child development coordinating council shall develop a resource directory of parent involvement programs to assist districts in planning family support programs.

92 Acts, ch 1158, §5

CHAPTER 256B

SPECIAL EDUCATION

Referred to in §237A.1, 256.16, 256.25, 256F.4, 257.36, 261E.9, 272.2, 273.2, 273.3, 273.5, 273.9, 273.23, 280.7A, 280.8, 282.3, 282.8, 282.18, 299.18, 299.22, 299A.9

256B.1	Division of special education created.	256B.7	Examinations of children.
256B.2	Definitions — policies — funds.	256B.8	Exceptions.
256B.3	Powers and duties of division of special education.	256B.9	Weighting plan — audits — evaluations — expenditures.
256B.4	Powers of board of directors.	256B.10	Reserved.
256B.5	Information available upon request by bureau.	256B.11	Program plans.
256B.6	Parent's or guardian's duties — review.	256B.12	through 256B.14 Reserved.
		256B.15	Reimbursement for special education services.

256B.1 Division of special education created.

There is created within the department of education a division of special education for the promotion, direction, and supervision of education for children requiring special education in the schools under the supervision and control of the department. The director of the department of education may organize the division and employ the necessary qualified personnel to implement this chapter.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §281.1]

85 Acts, ch 212, §22; 86 Acts, ch 1245, §1476

C93, §256B.1

256B.2 Definitions — policies — funds.

1. As used in this chapter:

a. "Children requiring special education" means persons under twenty-one years of age, including children under five years of age, who have a disability in obtaining an education because of a head injury, autism, behavioral disorder, or physical, mental, communication, or learning disability, as defined by the rules of the department of education. "*Children requiring special education*" includes children receiving special education services, who reach the age of twenty-one during an academic year, and who elect to receive special education services until the end of the academic year.

b. "Special education" means classroom, home, hospital, institutional, or other instruction designed to meet the needs of children requiring special education as defined in this subsection; transportation and corrective and supporting services required to assist children requiring special education, as defined in this subsection, in taking advantage of, or responding to, educational programs and opportunities, as defined by rules of the state board of education.

2. *a.* It is the policy of this state to require school districts and state-operated educational programs to provide or make provision, as an integral part of public education, for a free and appropriate public education sufficient to meet the needs of all children requiring special education. This chapter is not to be construed as encouraging separate facilities or segregated programs designed to meet the needs of children requiring special education when the children can benefit from all or part of the education program as offered by the local school district. Children requiring special education shall, consistent with the least restrictive environment requirements under the federal Individuals with Disabilities Education Act, 20 U.S.C. §1400 et seq., attend regular classes and shall be educated with children who do not require special education.

b. (1) Whenever appropriate, hindrances to learning and to the normal functioning of children requiring special education within the regular school environment shall be overcome by the provision of special aids and services rather than by separate programs for those in need of special education.

(2) Special classes, separate schooling, or other removal of children requiring special education from the regular educational environment, shall occur only when, and to the extent that the nature or severity of the educational disability is such, that education in regular classes, even with the use of supplementary aids and services, cannot be accomplished satisfactorily.

(3) Individualized education programs for children requiring special education within the regular school environment and behavioral intervention plans shall not include provisions for clearing all other students out of the regular classroom in order to calm the child requiring special education or the child for whom a behavioral intervention plan has been implemented except as provided in section 279.51A.

c. For those children who cannot adapt to the regular educational or home living conditions, and who are attending facilities under chapters 263, 269, and 270, upon the request of the board of directors of an area education agency, the department of human services shall provide residential or detention facilities and the area education agency shall provide special education programs and services. The area education agencies shall cooperate with the board of regents to provide the services required by this chapter.

3. Special aids and services shall be provided to children requiring special education who are less than five years of age if the aids and services will reasonably permit the child to enter the educational process or school environment when the child attains school age.

4. Every child requiring special education shall, if reasonably possible, receive a level of education commensurate with the level provided each child who does not require special education. The cost of providing such an education shall be paid as provided in section 273.9, this chapter, and chapter 257. It shall be the primary responsibility of each school district to provide special education to children who reside in that district if the children requiring special education are properly identified, the educational program or service has been approved, the teacher or instructor has been licensed, the number of children requiring special education needing that educational program or service is sufficient to make offering the program or service feasible, and the program or service cannot more economically and equably be obtained from the area education agency, another school district, another group of school districts, a qualified private agency, or in cooperation with one or more other districts.

5. Moneys received by the school district of the child's residence for the child's education, derived from moneys received through chapter 257, this chapter, and section 273.9 shall be paid by the school district of the child's residence to the appropriate education agency, private agency, or other school district providing special education for the child pursuant to contractual arrangements as provided in section 273.3, subsections 5 and 6.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §281.2]

83 Acts, ch 3, §1; 83 Acts, ch 96, §157, 159; 85 Acts, ch 24, §1; 89 Acts, ch 135, §82; 89 Acts, ch 265, §41; 92 Acts, ch 1022, §1; 92 Acts, ch 1163, §63

C93, §256B.2

96 Acts, ch 1129, §68, 113; 97 Acts, ch 23, §24; 2009 Acts, ch 133, §224; 2010 Acts, ch 1016, §1; 2015 Acts, ch 30, §88; 2020 Acts, ch 1108, §5

Referred to in §234.1, 237.3, 256.7, 256B.8, 273.1, 273.2, 273.7, 422.7(32)(c), 598.21B

Subsection 2 amended

256B.3 Powers and duties of division of special education.

The division of special education has the following duties and powers:

1. To aid in the organization of special schools, classes and instructional facilities for children requiring special education, and to supervise the system of special education for children requiring special education.

2. To administer rules adopted by the state board that are consistent with this chapter for the approval of plans for special education programs and services submitted by the director of special education of the area education agency.

3. To adopt plans for the establishment and maintenance of day classes, schools, home instruction, and other methods of special education for children requiring special education.

4. To purchase and otherwise acquire special equipment, appliances and other aids for use in special education, and to loan or lease same under such rules and regulations as the department may prescribe.

5. To prescribe courses of study, and curricula for special schools, special classes and special instruction of children requiring special education, including physical and psychological examinations, and to prescribe minimum requirements for children requiring special education to be admitted to any such special schools, classes or instruction.

6. To provide for certification by the director of special education of the eligibility of children requiring special education for admission to, or discharge from, special schools, classes or instruction.

7. To initiate the establishment of classes for children requiring special education or home study services in hospitals, nursing, convalescent, juvenile and private homes, in cooperation with the management thereof and local school districts or area education agency boards.

8. To cooperate with school districts or area education agency boards in arranging for any child requiring special education to attend school in a district other than the one in which the child resides when there is no available special school, class, or instruction in the districts in which the child resides.

9. To cooperate with existing agencies such as the department of human services, the Iowa department of public health, the Iowa school for the deaf, the Iowa braille and sight saving school, the children's hospitals, or other agencies concerned with the welfare and health of children requiring special education in the coordination of their educational activities for such children.

10. To investigate and study the needs, methods and costs of special education for children requiring special education.

11. To provide for the employment and establish standards for the performance of special education support personnel required to assist in the identification of and educational programs for children requiring special education.

12. To provide for the establishment of special education research and demonstration projects and models for special education program development.

13. To establish a special education resource, materials and training system for the purposes of developing specialized instructional materials and provide in-service training to personnel employed to provide educational services to children requiring special education.

14. To approve the acquisition and use of special facilities designed for the purpose of providing educational services to children requiring special education.

15. To submit copies of all reports the division provides to the United States department of education under part B of the federal Individuals with Disabilities Education Act, as amended, including but not limited to any report concerning disproportionate representation in special education based on race or ethnicity, to the general assembly on the date each such report is provided to the United States department of education.

16. To make rules to carry out the powers and duties provided for in this section.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §281.3]

83 Acts, ch 96, §160; 83 Acts, ch 101, §64; 86 Acts, ch 1245, §1477, 1478

C93, §256B.3

2010 Acts, ch 1016, §2; 2011 Acts, ch 34, §64; 2020 Acts, ch 1102, §11

Subsection 9 amended

256B.4 Powers of board of directors.

1. The board of directors of a school district or area education agency, with the approval of the director of the department of education, may provide special education programs and services as defined in this chapter. If services are provided by the area education agency, the board of directors of the area education agency with the cooperation of the local school districts within its jurisdiction may:

a. Establish and operate special education programs and classes for the education of children requiring special education.

b. Acquire, maintain, and construct facilities in which to provide education, corrective services, and supportive services for children requiring special education.

c. Make arrangements with participating school districts for the provision of special education, corrective, and supportive services to the children requiring special education residing in the school districts.

d. Employ special education teachers and personnel required to furnish corrective or supportive services to children requiring special education services.

e. Provide transportation for children requiring special education services that are in need of transportation in connection with any programs, classes, or services.

f. Receive, administer, and expend funds appropriated for its use.

g. Receive, administer, and expend the proceeds of any issue of school bonds or other bonds intended wholly or partly for its benefit.

h. Apply for, accept, and utilize grants, gifts, or other assistance.

i. Participate in, and make its employees eligible to participate in, any retirement system, group insurance system, or other program of employee benefits, on the same terms as govern school districts and their employees.

j. Do such other things as are necessary and incidental to the execution of any of its powers.

2. The board of directors of the local district or the area education agency shall employ qualified teachers certified by the authority provided by law as teachers for children requiring such special education. The maximum number of pupils per teacher shall be determined by the board of directors of the local district or the area education agency board in accordance with the rules and regulations of the state board of education.

3. The board of directors of the local district or the area education agency may establish and operate one or more special education centers to provide diagnostic, therapeutic, corrective, and other services, on a more comprehensive, expert, economical, and efficient basis than can be reasonably provided by a single school district. The services, if offered by the area education agency board, may be provided in the regular schools using personnel and equipment of the area education agency or, if it is impractical or inefficient to provide them on the premises of a regular school, the area education agency may provide services in its own facilities. To the maximum extent feasible, centers shall be established at and in conjunction with, or in close proximity to, one or more elementary and secondary schools. Local districts or the area education agencies may accept diagnostic and evaluation studies conducted by other individuals, hospitals, or centers, if determined to be competent. Children requiring special education services may be identified in any way that the department of education determines to be reliable. Centers established pursuant to this section may contain classrooms and other educational facilities and equipment to supplement instruction and other services to children with disabilities in the regular schools, and to provide separate instruction to children whose degree or type of educational disability makes it impractical or inappropriate for them to participate in classes with normal children.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §281.4]

86 Acts, ch 1245, §1479, 1480

C93, §256B.4

96 Acts, ch 1129, §113; 2010 Acts, ch 1061, §180

256B.5 Information available upon request by bureau.

The Iowa department of public health shall furnish to the state bureau of special education upon request information obtained from birth certificates relative to the name, address, and disability of any case of developmental disability. The state child health specialty clinics of the university of Iowa shall upon request furnish to the state bureau of special education the name, address, and disability of all children of their register.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §281.5]

C93, §256B.5

94 Acts, ch 1091, §15

256B.6 Parent's or guardian's duties — review.

1. When the school district or area education agency has provided special education services and programs as provided herein for any child requiring special education, either by admission to a special class or by supportive services, it shall be the duty of the parent or guardian to enroll the child for instruction in such special classes or supportive services as may be established, except in the event a doctor's certificate is filed with the secretary of the school district showing that it is inadvisable for medical reasons for the child requiring special education to receive the special education provided; all the provisions and conditions of chapter 299 shall be applicable to this section, and any violations shall be punishable as provided in chapter 299.

2. A child, or the parent or guardian of the child, or the school district in which the child resides, may obtain a review of an action or omission of local authorities pursuant to the procedures established by the state board of education on the ground that the child has been or is about to be:

a. Denied entry or continuance in a program of special education appropriate to the child's condition and needs.

b. Placed in a special education program which is inappropriate to the child's condition and needs.

c. Denied educational services because no suitable program of education or related services is maintained.

d. Provided with special education which is insufficient in quantity to satisfy the requirements of law.

e. Assigned to a program of special education when the child does not have a disability.

3. When a child requiring special education attains the age of majority or is incarcerated in an adult or juvenile, state or local, correctional institution, all rights accorded to the parent or guardian under this chapter transfer to the child except as provided in this subsection. Any notice required by this chapter shall be provided to both the child who has reached the age of majority or is incarcerated in an adult or juvenile, state or local, correctional institution and the parent or guardian. If rights under this chapter have transferred to the child and the child has been determined to be incompetent by a court or determined unable to provide informed educational consent by a court or other competent authority, then rights under this chapter shall be exercised by the person who has been appointed to represent the educational interest of the child. The director of the department of education may establish standards for determining whether a public agency, as defined in section 28E.2, is competent to determine whether a child is unable to provide informed educational consent, and the procedures by which such determination shall be made and reviewed.

4. Notwithstanding section 17A.11, the state board of education shall adopt rules for the appointment of an impartial administrative law judge for special education appeals. The rules shall comply with federal statutes and regulations.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §281.6]

84 Acts, ch 1070, §1; 88 Acts, ch 1109, §22

C93, §256B.6

96 Acts, ch 1129, §69; 2010 Acts, ch 1016, §3; 2010 Acts, ch 1061, §180

Referred to in §256B.7, 299.5

256B.7 Examinations of children.

In order to render proper instruction to each child requiring special education, the school districts shall certify children requiring special education for special instruction in accordance with the requirements set up by the division of special education and shall provide examinations for children preliminary to making certification. The examinations necessary for the certification of children requiring special education shall be prescribed by the state division of special education. Disputes concerning a child's eligibility for special education shall be addressed under rules and procedures adopted by the state board of education pursuant to section 256B.6 and consistent with the federal Individuals with Disabilities Education Act of 2004, 20 U.S.C. §1400 et seq.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §281.7]

86 Acts, ch 1245, §1481
C93, §256B.7
2013 Acts, ch 88, §3
Referred to in §299.5

256B.8 Exceptions.

1. It is not incumbent upon the school districts to keep a child requiring special education in regular instruction when the child cannot sufficiently profit from the work of the regular classroom, nor to keep a child requiring special education in the special class or instruction for children requiring special education when it is determined by the diagnostic educational team that the child can no longer benefit from the instruction or needs more specialized instruction available in special schools. However, the school district shall count the child requiring special education in the enrollment as provided in sections 256B.9, 257.6, and 273.9 and shall ensure that appropriate educational provisions are made for the child requiring special education.

2. An area education agency director of special education may request approval from the department of education to continue the special education program of a person beyond the period specified in section 256B.2, subsection 1, paragraph “a”, if the person had an accident or prolonged illness that resulted in delays in the initiation of or interruptions in that person’s special education program. Approval may be granted by the department to continue the special education program of that person for up to three years or until the person’s twenty-fourth birthday.

3. No provision of this chapter shall be construed to require or compel any person who is a member of a well-recognized church or religious denomination and whose religious convictions, in accordance with the tenets or principles of the person’s church or religious denomination, are opposed to medical or surgical treatment for disease to take or follow a course of physical therapy, or submit to medical treatment, nor shall any parent or guardian who is a member of such church or religious denomination and who has such religious convictions be required to enroll a child in any course or instruction which utilizes medical or surgical treatment for disease.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §281.8]

84 Acts, ch 1001, §1; 89 Acts, ch 135, §83

C93, §256B.8

93 Acts, ch 101, §102; 2010 Acts, ch 1016, §4

256B.9 Weighting plan — audits — evaluations — expenditures.

1. In order to provide funds for the excess costs of instruction of children requiring special education, above the costs of instruction of pupils in a regular curriculum, a special education weighting plan for determining enrollment in each school district is adopted as follows:

a. Pupils in a regular curriculum are assigned a weighting of one.

b. Children requiring special education who require special adaptations while assigned to a regular classroom for basic instructional purposes and pupils with disabilities placed in a special education class who receive part of their instruction in regular classrooms are assigned a weighting of one and eight-tenths. This paragraph also applies to children requiring special education who require specially designed instruction while assigned to a regular classroom for basic instructional purposes.

c. Children requiring special education who require full-time, self-contained special education placement with little integration into a regular classroom are assigned a weighting of two and two-tenths. This paragraph also applies to children requiring special education who require substantial modifications, adaptations, or special education accommodations in order to benefit from instruction in an integrated classroom.

d. Children requiring special education who have severe disabilities or who have multiple disabilities are assigned a weighting of four and four-tenths. This paragraph also applies to children requiring special education who have severe and profound disabilities.

e. Shared-time and part-time pupils of school age who require special education shall be placed in the proper category and counted in the proportion that the time for which they

are enrolled or receive instruction for the school year bears to the time that full-time pupils, carrying a normal course schedule, in the same school district, for the same school year are enrolled and receive instruction.

2. The weighting for each category of child multiplied by the number of children in each category in the enrollment of a school district, as identified and certified by the director of special education for the area, determines the weighted enrollment to be used in that district for purposes of computations required under the state school foundation plan in chapter 257.

3. The weight that a child is assigned under this section shall be dependent upon the required educational modifications necessary to meet the special education needs of the child. Enrollment for the purpose of this section, and all payments to be made pursuant thereto, includes all children for whom a special education program or course is to be provided pursuant to section 256.12, subsection 2, sections 273.1 to 273.9, and this chapter, whether or not the children are actually enrolled upon the records of a school district.

4. On December 1, 1987, and no later than December 1 every two years thereafter, for the school year commencing the following July 1, the director of the department of education shall report to the school budget review committee the average costs of providing instruction for children requiring special education in the categories of the weighting plan established under this section, and for providing services to nonpublic school students pursuant to section 256.12, subsection 2, and the director of the department of education shall make recommendations to the school budget review committee for needed alterations to make the weighting plan suitable for subsequent school years. The school budget review committee shall establish the weighting plan for each school year and shall report the plan to the director of the department of education. The school budget review committee may establish weights to the nearest hundredth. The school budget review committee shall not alter the weighting assigned to pupils in a regular curriculum, but it may increase or decrease the weighting assigned to each category of children requiring special education by not more than two-tenths of the weighting assigned to pupils in a regular curriculum. The state board of education shall adopt rules under chapter 17A to implement the weighting plan for each year and to assist in identification and proper indexing of each child in the state who requires special education.

5. The division of special education shall audit the reports required in section 273.5 to determine that all children in the area who have been identified as requiring special education have received the appropriate special education instructional and support services, and to verify the proper identification of pupils in the area who will require special education instructional services during the school year in which the report is filed. The division shall certify to the director of the department of management the correct total enrollment of each school district in the state, determined by applying the appropriate pupil weighting index to each child requiring special education, as certified by the directors of special education in each area.

6. The division may conduct an evaluation of the special education instructional program or special education support services being provided by an area education agency, school district, or private agency, pursuant to sections 273.1 to 273.9 and this chapter, to determine if the program or service is adequate and proper to meet the needs of the child; if the child is benefiting from the program or service; if the costs are in proportion to the educational benefits being received; and if there are any improvements that can be made in the program or service. A written report of the evaluation shall be sent to the area education agency, school district, or private agency evaluated and to the president of the senate and speaker of the house of representatives of the general assembly.

7. The costs of special education instructional programs include the costs of purchase of transportation equipment to meet the special needs of children requiring special education with the approval of the director of the department of education. The state board of education shall adopt rules under chapter 17A for the purchase of transportation equipment pursuant to this section.

8. Commencing with the school year beginning July 1, 1976, a school district may expend an amount not to exceed two-sevenths of an amount equal to the district cost of a school district for the costs of regular classroom instruction of a child certified under the special

education weighting plan in subsection 1, paragraph “b”, as a pupil with disabilities who is enrolled in a special class, but who receives part of the pupil’s instruction in a regular classroom. Unencumbered funds generated for special education instructional programs for the school year beginning July 1, 1975, and for the school year beginning July 1, 1976, shall not be expended for such purpose.

9. Funds generated for special education instructional programs under this chapter and chapter 257 shall not be expended for modifications of school buildings to make them accessible to children requiring special education.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §281.9]

83 Acts, ch 3, §2; 85 Acts, ch 212, §21; 86 Acts, ch 1237, §18; 86 Acts, ch 1245, §1482; 88 Acts, ch 1134, §64; 89 Acts, ch 135, §84; 91 Acts, ch 39, §1

C93, §256B.9

94 Acts, ch 1161, §2; 96 Acts, ch 1129, §70, 71; 2010 Acts, ch 1069, §30

Referred to in §225C.40, 256.12, 256.25A, 256B.8, 256C.4, 257.6, 257.11, 257.19, 257.31, 273.3, 273.5, 273.9, 273.23, 282.31, 298.1

256B.10 Reserved.

256B.11 Program plans.

1. Program plans submitted to the department of education pursuant to section 273.5 for approval by the director of the department of education shall establish all of the following:

- a. That there are sufficient children requiring special education within the area.
- b. That the service or program will be provided by the most appropriate educational agency.
- c. That the educational agency providing the service or program has employed qualified special educational personnel.
- d. That the instruction is a natural and normal progression of a planned course of instruction.
- e. That all revenue raised for support of special education instruction and services is expended for actual delivery of special education instruction or services.

f. Other factors as the state board may require.

2. Notwithstanding subsection 1 and section 273.5, subsection 6, the director of the department of education may authorize the area education agency to submit a statement assuring that the requirements of subsection 1 are satisfied in lieu of submitting a special education instructional and support program plan.

[C73, 75, 77, 79, 81, §281.11]

86 Acts, ch 1245, §1483

C93, §256B.11

2010 Acts, ch 1016, §5

Referred to in §298.1

256B.12 through 256B.14 Reserved.

256B.15 Reimbursement for special education services.

1. The state board of education in conjunction with the department of education shall develop a program to utilize federally funded health care programs, except the federal medically needy program for individuals who have a spend-down, to share in the costs of services which are provided to children requiring special education.

2. The department of education shall designate an area education agency to develop a system for collecting the information necessary to implement procedures for billing and collecting the costs of the services. The area education agency shall begin to develop the system immediately. The area education agency shall consult with and work jointly with state agencies and federal agencies to determine procedures and standards which shall be initiated by all area education agencies to qualify for receipt of benefits under federal programs.

3. The department of education, in conjunction with the area education agency, shall determine those specific services which are covered by federally funded health care

programs, which shall include, but not be limited to, physical therapy, audiology, speech language therapy, and psychological evaluations. The department shall also determine which other special services may be subject to reimbursement and the qualifications necessary for personnel providing those services. If it is determined that services are required from other service providers, these providers shall be reimbursed for those services.

4. All services referred to in subsection 1 shall be initially funded by the area education agency and shall be provided regardless of subsequent subrogation collections. The area education agency shall make a claim for reimbursement to federally funded health care programs.

5. Not later than July 1, 1988, the area education agency designated by the department of education shall have developed the program for collecting for the services provided. The program shall be distributed to all of the area education agencies in the state. All area education agencies shall begin collecting the information on July 1, 1988.

6. Effective November 1, 1988, all area education agencies in the state shall participate in the program and begin billing for and collecting for the covered services and shall bill for services provided retroactive to July 1, 1988. Retroactive Tit. XIX billing is contingent upon state plan approval. Nothing contained in this section shall be construed to allow nonlicensed individuals to perform services which otherwise require licenses under the laws of this state or to allow licensed providers to perform services outside their scope of practice.

7. The area education agencies shall transfer to the department of human services an amount equal to the nonfederal share of the payments to be received from the medical assistance program pursuant to chapter 249A. The nonfederal share amount shall be transferred to the medical assistance account prior to claims payment. This requirement does not apply to medical assistance reimbursement for services provided by an area education agency under part C of the federal Individuals With Disabilities Education Act. Funds received under this section shall not be considered or included as part of the area education agencies' budgets when calculating funds that are to be received by area education agencies during a fiscal year.

8. Students or their parents or guardians covered by a federal health care program shall provide health care information to an area education agency or local school district.

9. The department of education and the department of human services shall adopt rules to implement this section.

10. The department of human services shall offer assistance to the area education agencies in the identification of children eligible for reimbursement for services under this section.

88 Acts, ch 1155, §1

C89, §281.15

89 Acts, ch 296, §25; 91 Acts, ch 125, §1, 2; 92 Acts, ch 1021, §1

C93, §256B.15

94 Acts, ch 1120, §12; 2000 Acts, ch 1223, §24; 2001 Acts, ch 41, §1, 2; 2006 Acts, ch 1030, §32; 2008 Acts, ch 1181, §23; 2010 Acts, ch 1016, §6

CHAPTER 256C

STATEWIDE PRESCHOOL PROGRAM FOR FOUR-YEAR-OLD CHILDREN

Referred to in §135.173A, 256.11, 257.16, 272.2, 272.28, 285.1, 298A.2, 299.1A

256C.1	Definitions.	256C.4	Funding provisions — enrollment.
256C.2	Statewide preschool program for four-year-old children — purpose.	256C.5	Funding formula.
		256C.6	Phase-in — appropriations. Repealed by its own terms; 2007 Acts, ch 148, §6.
256C.3	Preschool program requirements.		

256C.1 Definitions.

As used in this chapter:

1. “*Approved local program*” means a school district’s program for four-year-old children approved by the department of education to provide high quality preschool instruction.
2. “*Department*” means the department of education.
3. “*Director*” means the director of the department of education.
4. “*Preschool program*” means the statewide preschool program for four-year-old children created in accordance with this chapter.
5. “*School district approved to participate in the preschool program*” means a school district that meets the school district requirements under section 256C.3 and has been approved by the department to participate in the preschool program.
6. “*State board*” means the state board of education.
2007 Acts, ch 148, §1

256C.2 Statewide preschool program for four-year-old children — purpose.

1. A statewide preschool program for four-year-old children is established. The purpose of the preschool program is to provide an opportunity for all young children in the state to enter school ready to learn by expanding voluntary access to quality preschool curricula for all children who are four years old.
2. The state board shall adopt rules in accordance with chapter 17A as necessary to implement the preschool program as provided in this chapter.
2007 Acts, ch 148, §2

256C.3 Preschool program requirements.

1. *Eligible children.*
 - a. A child who is a resident of Iowa and is four years of age on or before September 15 of a school year shall be eligible to enroll in the preschool program under this chapter. If such a child is enrolled under this chapter, the child shall be considered to be of compulsory attendance age as provided in section 299.1A, subsection 3.
 - b. If space and funding are available, including funding from another school district account or fund from which preschool program expenditures are authorized by law, a school district approved to participate in the preschool program may enroll and pay the cost of attendance for a younger or older child in the preschool program; however, the child shall not be counted for state funding purposes.
2. *Teacher requirements.*
 - a. An individual serving as a teacher in the preschool program must meet all of the following qualifications:
 - (1) The individual is either employed by or under contract with the school district implementing the program.
 - (2) The individual is appropriately licensed under chapter 272 and meets requirements under chapter 284.
 - (3) The individual possesses a bachelor’s or graduate degree from an accredited college or university with a major in early childhood education or other appropriate major identified in rule by the department.
 - b. A teacher in the preschool program shall collaborate with other agencies,

organizations, and boards in the community to further the program's capacity to meet the diverse needs of the children taught by the teacher and the families of the children, such as needs for early care, health, and human services. In addition, a teacher in the preschool program shall work to maintain relationships with each child's family in order to enhance the child's development in all settings by collaborating with providers of parent education and family support opportunities.

3. *Program requirements.* The state board shall adopt rules to further define the following preschool program requirements which shall be used to determine whether or not a local program implemented by a school district approved to implement the preschool program qualifies as an approved local program:

a. Maximum and minimum teacher-to-child ratios and class sizes.

b. Applicable state and federal program standards.

c. Student learning standards.

d. Provisions for the integration of children from other state and federally funded preschools.

e. Collaboration with participating families, early care providers, and community partners including but not limited to early childhood Iowa area boards, head start programs, shared visions and other programs provided under the auspices of the child development coordinating council, licensed child care centers, registered child development homes, area education agencies, child care resource and referral services provided under section 237A.26, early childhood special education programs, services funded by Tit. I of the federal Elementary and Secondary Education Act of 1965, and family support programs.

f. A minimum of ten hours per week of instruction delivered on the skills and knowledge included in the student learning standards developed for the preschool program.

g. Parental involvement in the local program.

h. Provision for ensuring that children receiving care from other child care arrangements can participate in the preschool program with minimal disruption due to transportation and movement from one site to another. The children participating in the preschool program may be transported by the school district to activities associated with the program along with other children.

4. *School district requirements.* The state board shall adopt rules to further define the following requirements of school districts implementing the preschool program:

a. Methods of demonstrating community readiness to implement high-quality instruction in a local program shall be identified. The potential provider shall submit a collaborative program proposal that demonstrates the involvement of multiple community stakeholders including but not limited to, and only as applicable, parents, the school district, accredited nonpublic schools and faith-based representatives, the area education agency, the early childhood Iowa area board, representatives of business, head start programs, shared visions and other programs provided under the auspices of the child development coordinating council, center-based and home-based providers of child care services, human services, public health, and economic development programs. The methods may include but are not limited to a school district providing evidence of a public hearing on the proposed programming and written documentation of collaboration agreements between the school district, existing community providers, and other community stakeholders addressing operational procedures and other critical measures.

b. Subject to implementation of chapter 28E agreements between a school district and community-based providers of services to four-year-old children, a four-year-old child who is enrolled in a child care center or child development home licensed or registered under chapter 237A, or in an existing public or private preschool program, shall be eligible for services provided by the school district's local preschool program.

c. A school district shall participate in data collection and performance measurement processes and reporting as defined by rule.

d. Professional development for school district preschool teachers shall be addressed in the school district's professional development plan implemented in accordance with section 284.6.

5. *Department requirements.*

a. The department shall implement an application and selection process for school district participation in the preschool program that includes but is not limited to the enrollment requirements provided under section 256C.4.

b. The department shall track the progress of students served by a school district preschool program and the students' performance in elementary and secondary education.

c. The department shall implement procedures to monitor the quality of the programming provided under the preschool program.

d. The state board, in collaboration with the department, shall ensure that the administrative rules adopted to support the preschool program emphasize that children's access to the program is voluntary, that the preschool foundation aid provided to a school district is provided based upon the enrollment of eligible students in the school district's local program regardless of whether an eligible student is a resident of the school district, and that agreements entered into by a school district for the provision of programming in settings other than the school district's facilities are between the school district and the private provider.

2007 Acts, ch 148, §3; 2007 Acts, ch 215, §100; 2008 Acts, ch 1032, §42; 2008 Acts, ch 1181, §67, 74; 2010 Acts, ch 1031, §303, 304; 2013 Acts, ch 78, §1; 2015 Acts, ch 140, §30, 58, 59; 2017 Acts, ch 153, §12, 14, 15

Referred to in §256C.1, 256C.4

2017 amendment to subsection 1, paragraph b, takes effect May 11, 2017, and applies to school budget years beginning on or after July 1, 2017; 2017 Acts, ch 153, §14, 15

256C.4 Funding provisions — enrollment.

1. General.

a. State funding provided under the preschool program shall be based upon the enrollment of eligible students in the preschool programming provided by a school district approved to participate in the preschool program.

b. A school district approved to participate in the preschool program may authorize expenditures for the district's preschool programming from any of the revenue sources available to the district from the sources listed in chapter 298A, provided the expenditures are within the uses permitted for the revenue source. In addition, the use of the revenue source for preschool or prekindergarten programming must have been approved prior to any expenditure from the revenue source for the district's approved local program.

c. Funding provided under the preschool program is intended to supplement, not supplant, existing public funding for preschool programming.

d. Preschool foundation aid funding shall not be commingled with the other state aid payments made under section 257.16 to a school district and shall be accounted for by the local school district separately from the other state aid payments. Preschool foundation aid payments made to school districts are miscellaneous income for purposes of chapter 257. A school district shall maintain a separate listing within its budget for preschool foundation aid payments received and expenditures made. A school district shall certify to the department of education that preschool foundation aid funding received by the school district was used to supplement, not supplant, moneys otherwise received and used by the school district for preschool programming.

e. Preschool foundation aid funding shall not be used for the costs of constructing a facility in connection with an approved local program. Preschool foundation aid funding may be used by approved local programs and community providers for any purpose determined by the board of directors of the school district to meet standards for high-quality preschool instruction and for purposes that directly or indirectly benefit students enrolled in the approved local program, including but not limited to professional development for preschool teachers, instructional equipment and supplies, material and equipment designed to develop pupils' large and small motor skills, translation services, playground equipment and repair costs, food and beverages used by children in the approved local program, safety equipment, facility rental fees, and for other direct costs that enhance the approved local program, including by contracting with community partners for any such services. Preschool foundation aid funding may be used by approved local programs for the costs of transportation involving children participating in the preschool program. The costs

of transporting other children associated with the preschool program or transported as provided in section 256C.3, subsection 3, paragraph “h”, may be prorated by the school district. Preschool foundation aid funding received by an approved local program that remains unexpended and unobligated at the end of a fiscal year beginning on or after July 1, 2017, shall be used to build the approved local program’s preschool program capacity in the next succeeding fiscal year excluding that portion of such unexpended and unobligated funding that the school district authorizes for transfer for deposit in the school district’s flexibility account established under section 298A.2, subsection 2, if the statutory requirements for the use of such funding are met. For purposes of determining whether a school district has authority to transfer preschool foundation aid funding for deposit in the school district’s flexibility account established under section 298A.2, subsection 2, the school district must have provided preschool programming during the fiscal year for which funding remains unexpended and unobligated to all eligible students for whom a timely application for enrollment was submitted.

f. The receipt of funding by a school district for the purposes of this chapter, the need for additional funding for the purposes of this chapter, or the enrollment count of eligible students under this chapter shall not be considered to be unusual circumstances, create an unusual need for additional funds, or qualify under any other circumstances that may be used by the school budget review committee to grant supplemental aid to or establish a modified supplemental amount for a school district under section 257.31.

g. For the fiscal year beginning July 1, 2015, and each succeeding fiscal year, of the amount of preschool foundation aid received by a school district for a fiscal year in accordance with section 257.16, not more than five percent may be used by the school district for administering the district’s approved local program. Outreach activities and rent for facilities not owned by the school district are permissive uses of the administrative funds.

h. For the fiscal year beginning July 1, 2015, and each succeeding fiscal year, of the amount of preschool foundation aid received by a school district for a fiscal year in accordance with section 257.16, not less than ninety-five percent of the per pupil amount shall be passed through to a community-based provider for each pupil enrolled in the district’s approved local program. For the fiscal year beginning July 1, 2015, and each succeeding fiscal year, not more than ten percent of the amount of preschool foundation aid passed through to a community-based provider may be used by the community-based provider for administrative costs. The costs of outreach activities and rent for facilities not owned by the school district are permissive administrative costs. The costs of transportation involving children participating in the preschool program and other children may be prorated.

2. *Eligible student enrollment.*

a. To be included as an eligible student in the enrollment count of the preschool programming provided by a school district approved to participate in the preschool program, a child must be four years of age by September 15 in the base year and attending the school district’s approved local program.

b. The enrollment count of eligible students shall not include a child who is included in the enrollment count determined under section 257.6 or a child who is served by a program already receiving state or federal funds for the purpose of the provision of four-year-old preschool programming while the child is being served by the program. Such preschool programming includes but is not limited to child development assistance programs provided under chapter 256A, special education programs provided under section 256B.9, school ready children grant programs and other programs provided under chapter 256I, and federal head start programs and the services funded by Tit. I of the federal Elementary and Secondary Education Act of 1965.

2007 Acts, ch 148, §4; 2008 Acts, ch 1181, §68, 74; 2010 Acts, ch 1031, §305; 2012 Acts, ch 1138, §23, 42; 2013 Acts, ch 121, §10, 42, 103, 108; 2015 Acts, ch 140, §31, 58, 59; 2016 Acts, ch 1132, §8; 2017 Acts, ch 153, §13 – 15; 2017 Acts, ch 154, §1

Referred to in §256C.3, 256C.5

2017 amendment to subsection 1, paragraph e, by 2017 Acts, ch 153, §13, takes effect May 11, 2017, and applies to school budget years beginning on or after July 1, 2017; 2017 Acts, ch 153, §14, 15

256C.5 Funding formula.

1. *Definitions.* For the purposes of this section and section 256C.4:
 - a. “Base year”, “budget year”, “regular program state cost per pupil”, and “school district” mean the same as defined or described in chapter 257.
 - b. “Eligible student” means a child who meets eligibility requirements under section 256C.4.
 - c. “Preschool budget enrollment” means the figure that is equal to fifty percent of the actual enrollment of eligible students in the preschool programming provided by a school district approved to participate in the preschool program on October 1 of the base year, or the first Monday in October if October 1 falls on a Saturday or Sunday.
 - d. “Preschool foundation aid” means the product of the regular program state cost per pupil for the budget year multiplied by the school district’s preschool budget enrollment.
2. *Preschool foundation aid district amount.*
 - a. For the initial school year for which a school district approved to participate in the preschool program receives that approval and implements the preschool program, the funding for the preschool foundation aid payable to that school district shall be paid from the appropriation made for that school year in section 256C.6, Code 2011, or in another appropriation made for purposes of this chapter. For that school year, the preschool foundation aid payable to the school district is the product of the regular program state cost per pupil for the school year multiplied by sixty percent of the school district’s eligible student enrollment on the date in the school year determined by rule.
 - b. For budget years subsequent to the initial school year for which a school district approved to participate in the preschool program receives that initial approval and implements the preschool program, the funding for the preschool foundation aid payable to that school district shall be paid from the appropriation made in section 257.16. Continuation of a school district’s participation in the preschool program for a second or subsequent budget year is subject to the approval of the department based upon the school district’s compliance with accountability provisions and the department’s on-site review of the school district’s implementation of the preschool program.
3. *Aid payments.* Preschool foundation aid shall be paid as part of the state aid payments made to school districts in accordance with section 257.16.
4. *Administration and oversight.* Except as otherwise provided by law for a fiscal year, of the amount appropriated for that fiscal year for payment of preschool foundation aid statewide, the department may use an amount sufficient to fund up to three full-time equivalent positions which shall be in addition to the number of positions authorized for the fiscal year, as necessary to provide administration and oversight of the preschool program.
2007 Acts, ch 148, §5; 2008 Acts, ch 1181, §69, 74; 2011 Acts, ch 131, §91, 101; 2012 Acts, ch 1023, §35

256C.6 Phase-in — appropriations. Repealed by its own terms; 2007 Acts, ch 148, §6.

CHAPTER 256D

IOWA EARLY INTERVENTION BLOCK GRANT PROGRAM

Repealed pursuant to terms of former §256D.9; 2013 Acts, ch 121, §104

CHAPTER 256E

BEGINNING TEACHER INDUCTION PROGRAMS

Repealed by 2001 Acts, ch 161, §20; see chapter 284

CHAPTER 256F

CHARTER SCHOOLS AND INNOVATION ZONE SCHOOLS

256F.1	Authorization and purpose.	256F.8	Procedures for revocation or nonrenewal of contract.
256F.2	Definitions.	256F.9	Procedures after revocation — student enrollment.
256F.3	Application.	256F.10	Reports.
256F.4	General operating requirements.	256F.11	Future repeal. Repealed by 2010 Acts, ch 1001, §23.
256F.5	Application — definition.		
256F.6	Contract.		
256F.7	Employment and related matters.		

256F.1 Authorization and purpose.

1. Charter schools and innovation zone schools shall be part of the state's program of public education.

2. A charter school may be established by creating a new school within an existing public school or converting an existing public school to charter status.

3. The purpose of a charter school or an innovation zone school established pursuant to this chapter shall be to accomplish the following:

- a. Improve student learning.
- b. Increase learning opportunities for students.
- c. Encourage the use of different and innovative methods of teaching.
- d. Require the measurement of learning outcomes and create different and innovative forms of measuring outcomes.
- e. Establish new forms of accountability for schools.
- f. Create new professional opportunities for teachers and other educators, including the opportunity to be responsible for the learning program at the school site.
- g. Create different organizational structures for continuous learner progress.
- h. Allow greater flexibility to meet the education needs of a diverse and constantly changing student population.
- i. Allow for the allocation of resources in innovative ways through implementation of specialized school budgets for the benefit of the schools served.

4. An innovation zone school may be established pursuant to this chapter to encourage diverse approaches to learning and education within individual schools.

2002 Acts, ch 1124, §1, 16; 2003 Acts, ch 79, §7, 8; 2010 Acts, ch 1001, §2 – 5

Referred to in §256F.3, 256F.5

256F.2 Definitions.

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

1. “*Advisory council*” means a council appointed by the school board of directors of a charter school or an innovation zone consortium pursuant to section 256F.5, subsection 4.

2. “*Attendance center*” means a public school building that contains classrooms used for instructional purposes for elementary, middle, or secondary school students.

3. “*Charter school*” means a charter school established in accordance with this chapter.

4. “*Department*” means the department of education.

5. “*Innovation zone consortium*” means a consortium of two or more school districts and an area education agency in which one or more of the school districts are located, that receives approval to establish an innovation zone school pursuant to this chapter. In addition, the innovation zone consortium may receive technical assistance from an accredited higher education institution.

6. “*Innovation zone school*” means a public school administered by a principal that is, pursuant to an innovation zone school contract entered into by an innovation zone consortium pursuant to section 256F.6, established as an innovation zone school.

7. “*School board*” means a board of directors regularly elected by the registered voters of a school district.

8. “*State board*” means the state board of education.

2002 Acts, ch 1124, §2, 16; 2003 Acts, ch 79, §7, 8; 2010 Acts, ch 1001, §6 - 9; 2010 Acts, ch 1069, §32; 2014 Acts, ch 1026, §62; 2015 Acts, ch 30, §89

256F.3 Application.

1. The department shall monitor the effectiveness of charter schools and innovation zone schools and shall implement the applicable provisions of this chapter.

2. *a.* To receive approval to establish a charter school in accordance with this chapter, the principal, teachers, or parents or guardians of students at an existing public school shall submit an application to the school board to convert an existing attendance center to a charter school. An attendance center shall not enter into a charter school contract with a school district under this chapter unless the attendance center is located within the school district. The application shall demonstrate the support of at least fifty percent of the teachers employed at the school on the date of the submission of the application and fifty percent of the parents or guardians voting whose children are enrolled at the school, provided that a majority of the parents or guardians eligible to vote participate in the ballot process, according to procedures established by rules of the state board.

b. To receive approval to establish an innovation zone school in accordance with this chapter, an innovation zone consortium shall submit an application to the state board which demonstrates the support of at least fifty percent of the teachers employed at each proposed innovation zone school on the date of the submission of the application and fifty percent of the parents or guardians voting whose children are enrolled at each proposed innovation zone school, provided that a majority of the parents or guardians eligible to vote participate in the ballot process, according to procedures established by rules of the state board.

c. A parent or guardian voting in accordance with this subsection must be a resident of this state.

3. A school board shall receive and review all applications for converting an existing building or creating a new building for a charter school. Applications received on or before October 1 of a calendar year shall be considered for charter schools to be established at the beginning of the school district's next school year or at a time agreed to by the applicant and the school board. However, a school board may receive and consider applications after October 1 at its discretion.

4. A school board shall by a majority vote approve or deny an application relating to a charter school no later than sixty calendar days after the application is received. An application approved by a school board and subsequently approved by the state board pursuant to subsection 6 shall constitute, at a minimum, an agreement between the school board and the charter school for the operation of the charter school. A school board that denies an application for a conversion to a charter school shall provide notice of denial to the applicant in writing within thirty days after board action. The notice shall specify the exact reasons for denial and provide documentation supporting those reasons.

5. An applicant may appeal school board denial of the applicant's charter school application to the state board in accordance with the procedures set forth in chapter 290. The state board shall affirm, modify, or reverse the school board's decision on the basis of the information provided in the application indicating the ability and willingness of the proposed charter school to meet the requirements of section 256F.1, subsection 3, and section 256F.4.

6. Upon approval of an application for the proposed establishment of a charter school, the school board shall submit an application for approval to establish the charter school to the state board in accordance with section 256F.5.

7. An application submitted to the state board pursuant to subsection 2, paragraph "b", or subsection 6 shall set forth the manner in which the charter school or innovation zone school will provide special instruction, in accordance with section 280.4, to students who are limited English proficient. The application shall set forth the manner in which the charter school or innovation zone school will comply with federal and state laws and regulations relating to the federal National School Lunch Act and the federal Child Nutrition Act of 1966, 42 U.S.C. §1751-1785, and chapter 283A. The state board shall approve only those applications that meet the requirements specified in section 256F.1, subsection 3, and sections 256F.4 and 256F.5. The state board may deny an application if the state board deems that approval of the application is not in the best interest of the affected students.

8. The state board shall approve not more than ten innovation zone consortium applications.

9. The state board shall adopt rules in accordance with chapter 17A for the implementation of this chapter. If federal rules or regulations relating to the distribution or utilization of federal funds allocated to the department pursuant to this section are adopted that are inconsistent with the provisions of this chapter, the state board shall adopt rules to comply with the requirements of the federal rules or regulations. The state board shall identify inconsistencies between federal and state rules and regulations as provided in this subsection and shall submit recommendations for legislative action to the chairpersons and ranking members of the senate and house standing committees on education at the next meeting of the general assembly.

2002 Acts, ch 1124, §3, 16; 2003 Acts, ch 79, §1, 7, 8; 2006 Acts, ch 1152, §7, 17; 2010 Acts, ch 1001, §10; 2010 Acts, ch 1061, §180; 2010 Acts, ch 1193, §45; 2018 Acts, ch 1057, §7

Referred to in §256F.4

256F.4 General operating requirements.

1. Within fifteen days after approval of a charter school or innovation zone school application submitted in accordance with section 256F.3, subsection 2, a school board or innovation zone consortium shall report to the department the name of the charter school applicant if applicable, the proposed charter school or innovation zone school location, and the charter school or innovation zone school's projected enrollment.

2. Although a charter school or innovation zone school may elect to comply with one or more provisions of statute or administrative rule, a charter school or innovation zone school is exempt from all statutes and rules applicable to a school, a school board, or a school district, except that the charter school or innovation zone school shall do all of the following:

a. Meet all applicable federal, state, and local health and safety requirements and laws prohibiting discrimination on the basis of race, creed, color, sex, sexual orientation, gender identity, national origin, religion, ancestry, or disability. A charter school or innovation zone school shall be subject to any court-ordered desegregation plan in effect for the school district at the time the charter school or innovation zone school application is approved.

b. Operate as a nonsectarian, nonreligious public school.

c. Be free of tuition and application fees to Iowa resident students between the ages of five and twenty-one years.

d. Be subject to and comply with chapters 216 and 216A relating to civil and human rights.

e. Provide special education services in accordance with chapter 256B.

f. Be subject to the same financial audits, audit procedures, and audit requirements as a school district. The audit shall be consistent with the requirements of sections 11.6, 11.14, 11.19, 256.9, subsection 20, and section 279.29, except to the extent deviations are necessary because of the program at the school. The department, the auditor of state, or the legislative services agency may conduct financial, program, or compliance audits.

g. Be subject to and comply with chapter 284 relating to the student achievement and teacher quality program. A charter school or innovation zone school that complies with chapter 284 shall receive state moneys or be eligible to receive state moneys calculated as provided in section 257.10, subsections 9 and 10, and section 257.37A as if it did not operate under a charter school or innovation zone school contract.

h. Be subject to and comply with chapters 20 and 279 relating to contracts with and discharge of teachers and administrators.

i. Be subject to and comply with the provisions of chapter 285 relating to the transportation of students.

j. Meetings and records of the advisory council are subject to the provisions of chapters 21 and 22.

3. A charter school or innovation zone school shall not discriminate in its student admissions policies or practices on the basis of intellectual or athletic ability, measures of achievement or aptitude, or status as a person with a disability. However, a charter school or innovation zone school may limit admission to students who are within a particular range of ages or grade levels or on any other basis that would be legal if initiated by a school district. Enrollment priority shall be given to the siblings of students enrolled in a charter school or innovation zone school.

4. A charter school or innovation zone school shall enroll an eligible resident student who submits a timely application unless the number of applications exceeds the capacity of a program, class, grade level, or building. In this case, students must be accepted by lot. A charter school or innovation zone school may enroll an eligible nonresident student who submits a timely application in accordance with the student admission policy established pursuant to section 256F.5, subsection 1. If the charter school or innovation zone school enrolls an eligible nonresident student, the charter school or innovation zone school shall notify the school district of residence and the sending district not later than March 1 of the preceding school year. Transportation for the student shall be in accordance with section 282.18, subsection 10. The sending district shall make payments to the charter school or innovation zone consortium in the manner required under section 282.18, subsection 7. If the nonresident pupil is also an eligible pupil under section 261E.6, the innovation zone consortium shall pay the tuition reimbursement amount to an eligible postsecondary institution as provided in section 261E.7.

5. A charter school or innovation zone school shall provide instruction for at least the number of days or hours required by section 279.10, subsection 1.

6. Notwithstanding subsection 2, a charter school or innovation zone school shall meet the requirements of section 256.7, subsection 21.

7. a. A charter school shall be considered a part of the school district in which it is located for purposes of state school foundation aid pursuant to chapter 257.

b. Students enrolled in an innovation zone school shall be counted, for state school foundation aid purposes, in the student's district of residence.

8. A charter school or innovation zone consortium may enter into contracts in accordance with chapter 26.

2002 Acts, ch 1124, §4, 16; 2002 Acts, ch 1175, §81; 2003 Acts, ch 35, §46, 49; 2003 Acts, ch 79, §2, 7, 8; 2006 Acts, ch 1185, §127; 2010 Acts, ch 1001, §11 – 14; 2013 Acts, ch 121, §80, 85
 Referred to in §256F.3, 256F.5, 256F.10, 282.9

256F.5 Application — definition.

An application to the state board for the approval of a charter school or innovation zone school shall include but shall not be limited to a description of the following:

1. The method for admission to the charter school or innovation zone school.
2. The mission, purpose, innovation, and specialized focus of the charter school or innovation zone school.
3. Performance goals and objectives in addition to those required under section 256.7, subsection 21, by which the school's student achievement shall be judged, the measures to be used to assess progress, and the current baseline status with respect to the goals.
4. The method for appointing or forming an advisory council for the charter school or innovation zone school. The membership of an advisory council appointed or formed in accordance with this chapter shall not include more than one member of a participating school board.
5. Procedures for teacher evaluation and professional development for teachers and administrators.
6. The charter school or innovation zone school governance and bylaws.
7. The financial plan for the operation of the charter school or innovation zone school including, at a minimum, a listing of the support services the school district or innovation zone consortium will provide, and the charter school or innovation zone school's revenues, budgets, and expenditures.
8. The educational program and curriculum, instructional methodology, and services to be offered to students.
9. The number and qualifications of teachers and administrators to be employed.
10. The organization of the charter school or innovation zone school in terms of ages of students or grades to be taught along with an estimate of the total enrollment of the charter school or innovation zone school.
11. The provision of school facilities.
12. A statement indicating how the charter school or innovation zone school will meet the

requirements of section 256F.1, as applicable; section 256F.4, subsection 2, paragraph “a”; and section 256F.4, subsection 3.

13. Assurance of the assumption of liability by the charter school or the innovation zone consortium for the innovation zone school.

14. The types and amounts of insurance coverage to be obtained by the charter school or innovation zone consortium for the innovation zone school.

15. A plan of operation to be implemented if the charter school or innovation zone consortium revokes or fails to renew its contract.

16. The means, costs, and plan for providing transportation for students enrolled in the charter school or innovation zone school.

17. The specific statutes, administrative rules, and school board policies with which the charter school or innovation zone school does not intend to comply.

2002 Acts, ch 1124, §5, 16; 2003 Acts, ch 79, §7, 8; 2010 Acts, ch 1001, §15, 16; 2011 Acts, ch 34, §65

Referred to in §256F.2, 256F.3, 256F.4, 256F.6

256F.6 Contract.

1. *a.* An approved charter school or innovation zone school application shall constitute an agreement, the terms of which shall, at a minimum, be the terms of a four-year enforceable, renewable contract between a school board, or the boards participating in an innovation zone consortium, and the state board. The contract shall include an operating agreement for the operation of the charter school or innovation zone school. The terms of the contract may be revised at any time with the approval of both the state board and the school board or the boards participating in the innovation zone consortium, whether or not the stated provisions of the contract are being fulfilled.

b. A contract may be renewed by agreement of the school board or the boards participating in an innovation zone consortium, as applicable, and the state board.

c. The charter school or innovation zone consortium shall provide parents and guardians of students enrolled in the charter school or innovation zone school with a copy of the charter school or innovation zone school application approved pursuant to section 256F.5.

2. The contract shall outline the reasons for revocation or nonrenewal of the contract.

3. The state board of education shall provide by rule for the ongoing review of each party’s compliance with a contract entered into in accordance with this chapter.

2002 Acts, ch 1124, §6, 16; 2003 Acts, ch 79, §7, 8; 2010 Acts, ch 1001, §17; 2010 Acts, ch 1193, §46; 2013 Acts, ch 90, §64

Referred to in §256F.2

256F.7 Employment and related matters.

1. A charter school or the boards participating in an innovation zone consortium shall employ or contract with necessary teachers and administrators, as defined in section 272.1, who hold a valid license with an endorsement for the type of service for which the teacher or administrator is employed.

2. The school board or innovation zone consortium, as specified in the application, in consultation with the advisory council, shall decide matters related to the operation of the charter school or innovation zone school, including budgeting, curriculum, and operating procedures.

3. *a.* Employees of a charter school shall be considered employees of the school district.

b. Employees of an innovation zone school shall be considered employees of a board participating in the innovation zone consortium.

2002 Acts, ch 1124, §7, 16; 2003 Acts, ch 79, §7, 8; 2010 Acts, ch 1001, §18

256F.8 Procedures for revocation or nonrenewal of contract.

1. A contract for the establishment of a charter school or innovation zone school may be revoked by the state board, the school board that established the charter school, or the innovation zone consortium that established the innovation zone school if the appropriate board or consortium determines that one or more of the following occurred:

a. Failure of the charter school or innovation zone school to abide by and meet the provisions set forth in the contract, including educational goals.

b. Failure of the charter school or innovation zone school to comply with all applicable law.

c. Failure of the charter school or innovation zone school to meet generally accepted public sector accounting principles.

d. The existence of one or more other grounds for revocation as specified in the contract.

e. Assessment of student progress, which is administered in accordance with state and locally determined indicators established pursuant to rules adopted by the state board, does not show improvement in student progress over that which existed in the same student population prior to the establishment of the charter school or the innovation zone school.

2. The decision by a school board or an innovation zone consortium to revoke or to fail to take action to renew a charter school or innovation zone school contract is subject to appeal under procedures set forth in chapter 290.

3. A school board or a board participating in an innovation zone consortium that is considering revocation or nonrenewal of a charter school or innovation zone school contract shall notify the advisory council, the parents or guardians of the students enrolled in the charter school or innovation zone school, and the teachers and administrators employed by the charter school or innovation zone school, sixty days prior to revoking or the date by which the contract must be renewed, but not later than the last day of classes in the school year.

4. If the state board determines that a charter school or innovation zone school is in substantial violation of the terms of the contract, the state board shall notify the school board or innovation zone consortium and the advisory council of its intention to revoke the contract at least sixty days prior to revoking a contract and the school board or the school boards participating in the innovation zone consortium shall assume oversight authority, operational authority, or both oversight and operational authority. The notice shall state the grounds for the proposed action in writing and in reasonable detail. The school board or innovation zone consortium may request in writing an informal hearing before the state board within fourteen days of receiving notice of revocation of the contract. Upon receiving a timely written request for a hearing, the state board shall give reasonable notice to the school board or innovation zone consortium of the hearing date. The state board shall conduct an informal hearing before taking final action. Final action to revoke a contract shall be taken in a manner least disruptive to students enrolled in the charter school or innovation zone school. The state board shall take final action to revoke or approve continuation of a contract by the last day of classes in the school year. If the final action to revoke a contract under this section occurs prior to the last day of classes in the school year, a charter school or innovation zone school student may enroll in the resident district.

5. The decision of the state board to revoke a contract under this section is solely within the discretion of the state board and is final.

6. A school board revoking a contract or a school board, innovation zone consortium, or advisory council that fails to renew a contract under this chapter is not liable for that action to the charter school or innovation zone school, a student enrolled in the charter school or innovation zone school or the student's parent or guardian, or any other person.

2002 Acts, ch 1124, §8, 16; 2003 Acts, ch 79, §7, 8; 2010 Acts, ch 1001, §19, 20

Referred to in §282.18

256F.9 Procedures after revocation — student enrollment.

If a charter school or innovation zone school contract is revoked in accordance with this chapter, a nonresident student who attended the school, and any siblings of the student, shall be determined to have shown “good cause” as provided in section 282.18, subsection 4, paragraph “b”, and may submit an application to another school district according to section 282.18 at any time. Applications and notices required by section 282.18 shall be processed

and provided in a prompt manner. The application and notice deadlines in section 282.18 do not apply to a nonresident student application under these circumstances.

2002 Acts, ch 1124, §9, 16; 2003 Acts, ch 79, §7, 8; 2009 Acts, ch 133, §234; 2010 Acts, ch 1001, §21

256F.10 Reports.

1. A charter school or innovation zone school shall report at least annually to the school board or innovation zone consortium, advisory council, and the state board the information required by the school board or innovation zone consortium, advisory council, or the state board. The reports are public records subject to chapter 22.

2. Not later than December 1 annually, the state board shall submit a comprehensive report with findings and recommendations to the general assembly. The report shall evaluate the state's charter school and innovation zone school programs generally, including but not limited to an evaluation of whether the charter schools and innovation zone schools are fulfilling the purposes set forth in section 256F.4, subsection 2. The report also shall contain, for each charter school or innovation zone school, a copy of the charter school or innovation zone school's mission statement, attendance statistics and dropout rate, aggregate assessment test scores, projections of financial stability, the number and qualifications of teachers and administrators, and number of and comments on supervisory visits by the department of education.

2002 Acts, ch 1124, §10, 16; 2003 Acts, ch 79, §7, 8; 2010 Acts, ch 1001, §22

256F.11 Future repeal. Repealed by 2010 Acts, ch 1001, §23.

CHAPTER 256G

RESEARCH AND DEVELOPMENT SCHOOL

Repealed by 2020 Acts, ch 1045, §24

CHAPTER 256H

INTERSTATE COMPACT ON EDUCATION OF MILITARY CHILDREN

256H.1	Interstate compact on educational opportunity for military children.	256H.2	Council on educational opportunity for military children.
		256H.3	Compact commissioner — appointment.

256H.1 Interstate compact on educational opportunity for military children.

The interstate compact on educational opportunity for military children is enacted into law and entered into by this state with any other state or jurisdiction legally joining the compact in the form substantially as follows:

1. *Article I — Purpose.* It is the purpose of this compact to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents by:

a. Facilitating the timely enrollment of children of military families and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of education records from the previous school district or variations in entrance and age requirements.

b. Facilitating the student placement process through which children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content, or assessment.

c. Facilitating the qualification and eligibility for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities.

d. Facilitating the on-time graduation of children of military families.

e. Providing for the promulgation and enforcement of administrative rules implementing the provisions of this compact.

f. Providing for the uniform collection and sharing of information between and among member states, schools, and military families under this compact.

g. Promoting coordination between this compact and other compacts affecting military children.

h. Promoting flexibility and cooperation between the educational system, parents, and the student in order to achieve educational success for the student.

2. *Article II — Definitions.* As used in this compact, unless the context clearly requires a different construction:

a. “*Active duty*” means full-time duty status in the active uniformed service of the United States, including members of the national guard and reserve on active duty orders pursuant to 10 U.S.C. ch. 1209 and 1211.

b. “*Children of military families*” means a school-aged child, enrolled in kindergarten through twelfth grade, in the household of an active duty member.

c. “*Compact commissioner*” means the voting representative of each compacting state appointed pursuant to article VIII of this compact.

d. “*Deployment*” means the period one month prior to the service members’ departure from their home station on military orders through six months after return to their home station.

e. “*Education records*” or “*educational records*” means those official records, files, and data directly related to a student and maintained by the school or local education agency, including but not limited to records encompassing all the material kept in the student’s cumulative folder such as general identifying data, records of attendance and of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs.

f. “*Extracurricular activities*” means a voluntary activity sponsored by the school or local education agency or an organization sanctioned by the local education agency. Extracurricular activities include but are not limited to preparation for and involvement in public performances, contests, athletic competitions, demonstrations, displays, and club activities.

g. “*Interstate commission*” means the commission on educational opportunity for military children that is created under article IX of this compact.

h. “*Local education agency*” means a public authority legally constituted by the state as an administrative agency to provide control of and direction for kindergarten through twelfth grade public educational institutions.

i. “*Member state*” means a state that has enacted this compact.

j. “*Military installation*” means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the United States department of defense, including any leased facility, which is located within any state. Such term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.

k. “*Nonmember state*” means a state that has not enacted this compact.

l. “*Receiving state*” means the state to which a child of a military family is sent, brought, or caused to be sent or brought.

m. “*Rule*” means a written statement by the interstate commission promulgated pursuant to article XII of this compact that is of general applicability, implements, interprets, or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the interstate commission, and has the force and effect of statutory law in a member state, and includes the amendment, repeal, or suspension of an existing rule.

n. “*Sending state*” means the state from which a child of a military family is sent, brought, or caused to be sent or brought.

o. “*State*” means the same as defined in section 4.1.

p. “*Student*” means the child of a military family for whom the local education agency receives public funding and who is formally enrolled in kindergarten through twelfth grade.

q. “*Transition*” means the formal and physical process of transferring from school to school or the period of time in which a student moves from one school in the sending state to another school in the receiving state.

r. “*Uniformed service*” means the army, navy, air force, marine corps, coast guard, commissioned corps of the national oceanic and atmospheric administration, or commissioned corps of the public health services.

s. “*Veteran*” means a person who served in the uniformed services and who was discharged or released therefrom under conditions other than dishonorable.

3. *Article III — Applicability.*

a. Except as otherwise provided in paragraph “b”, this compact shall apply to the children of:

(1) Active duty members of the uniformed services as defined in this compact, including members of the national guard and reserve on active duty orders pursuant to 10 U.S.C. ch. 1209 and 1211.

(2) Members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one year after medical discharge or retirement.

(3) Members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of one year after death.

b. The provisions of this interstate compact shall only apply to local education agencies as defined in this compact.

c. The provisions of this compact shall not apply to the children of any of the following:

(1) Inactive members of the national guard and military reserves.

(2) Members of the uniformed services now retired, except as provided in paragraph “a”.

(3) Veterans of the uniformed services, except as provided in paragraph “a”.

(4) Other United States department of defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

4. *Article IV — Educational records and enrollment.*

a. *Unofficial or hand-carried education records.* In the event that official education records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set of unofficial educational records containing uniform information as determined by the interstate commission. Upon receipt of the unofficial education records by a school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible.

b. *Official education records or transcripts.* Simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student’s official education record from the school in the sending state. Upon receipt of this request, the school in the sending state will process and furnish the official education records to the school in the receiving state within ten days or within such time as is reasonably determined under the rules promulgated by the interstate commission.

c. *Immunizations.* Compacting states shall give students thirty days from the date of enrollment or such time as is reasonably determined under the rules promulgated by the interstate commission, to obtain any immunization required by the receiving state. For a series of immunizations, initial vaccinations must be obtained within thirty days or within such time as is reasonably determined under the rules promulgated by the interstate commission.

d. *Kindergarten and first grade entrance age.* Students shall be allowed to continue their enrollment at grade level in the receiving state commensurate with their grade level, including kindergarten, from a local education agency in the sending state at the time of transition, regardless of age. A student who has satisfactorily completed the prerequisite grade level in the local education agency in the sending state shall be eligible for enrollment in the next highest grade level in the receiving state, regardless of age. A student transferring after the

start of the school year in the receiving state shall enter the school in the receiving state on the student's validated level from an accredited school in the sending state.

5. *Article V — Placement and attendance.*

a. *Course placement.* When the student transfers before or during the school year, the receiving state school shall initially honor placement of the student in educational courses based on the student's enrollment in the sending state school or educational assessments conducted at the school in the sending state if the courses are offered, or both. Course placement includes but is not limited to honors, international baccalaureate, advanced placement, vocational, technical, and career pathways courses. Continuing the student's academic program from the previous school and promoting placement in academically and career challenging courses should be paramount when considering placement. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the course.

b. *Educational program placement.* The receiving state school shall initially honor placement of the student in educational programs based on current educational assessments conducted at the school in the sending state or participation and placement in like programs in the sending state. Such programs include but are not limited to gifted and talented programs and English as a second language programs. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

c. *Special education services.* In compliance with the federal requirements of the Individuals with Disabilities Education Act, 20 U.S.C. §1400 et seq., the receiving state shall initially provide comparable services to a student with disabilities based on the student's current individualized education program; and, in compliance with the requirements of section 504 of the Rehabilitation Act, 29 U.S.C. §794, and with Tit. II of the Americans with Disabilities Act, 42 U.S.C. §12131-12165, the receiving state shall make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing section 504 or Tit. II plan, to provide the student with equal access to education. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

d. *Placement flexibility.* Local education agency administrative officials shall have flexibility in waiving course and program prerequisites, or other preconditions for placement in courses and programs offered under the jurisdiction of the local education agency.

e. *Absence as related to deployment activities.* A student whose parent or legal guardian is an active duty member of the uniformed services, as defined by this compact, and has been called to duty for, is on leave from, or immediately returned from deployment to a combat zone or combat support posting, shall be granted additional excused absences at the discretion of the local education agency superintendent to visit with the student's parent or legal guardian relative to such leave or deployment of the parent or guardian.

6. *Article VI — Eligibility.*

a. *Eligibility for enrollment.*

(1) Special power of attorney, relative to the guardianship of a child of a military family and executed under applicable law shall be sufficient for the purposes of enrollment and all other actions requiring parental participation and consent.

(2) A local education agency shall be prohibited from charging local tuition to a transitioning military child placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent.

(3) A transitioning military child, placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent, may continue to attend the school in which the child was enrolled while residing with the custodial parent.

b. *Eligibility for extracurricular participation.* State and local education agencies shall facilitate the opportunity for transitioning military children's inclusion in extracurricular activities, regardless of application deadlines, to the extent they are otherwise qualified.

7. *Article VII — Graduation.* In order to facilitate the on-time graduation of children

of military families, states and local education agencies shall incorporate the following procedures:

a. *Waiver requirements.* Local education agency administrative officials shall waive specific courses required for graduation if similar course work has been satisfactorily completed in another local education agency or shall provide reasonable justification for denial. Should a waiver not be granted to a student who would qualify to graduate from the sending school, the local education agency shall provide an alternative means of acquiring required coursework so that graduation may occur on time.

b. *Exit exams.*

(1) States shall accept any of the following in lieu of testing requirements for graduation in the receiving state:

(a) Exit or end-of-course exams required for graduation from the sending state.

(b) National norm-referenced achievement tests.

(c) Alternative testing.

(2) In the event the above alternatives cannot be accommodated by the receiving state for a student transferring in the student's senior year, then the provisions of paragraph "c" shall apply.

c. *Transfers during senior year.* Should a military student transferring at the beginning or during the student's senior year be ineligible to graduate from the receiving local education agency after all alternatives have been considered, the sending and receiving local education agencies shall ensure the receipt of a diploma from the sending local education agency, if the student meets the graduation requirements of the sending local education agency. In the event that one of the states in question is not a member of this compact, the member state shall use best efforts to facilitate the on-time graduation of the student in accordance with paragraphs "a" and "b".

8. *Article VIII — State coordination.*

a. Each member state shall, through the creation of a state council or use of an existing body or board, provide for the coordination among its agencies of government, local education agencies and military installations concerning the state's participation in, and compliance with, this compact and interstate commission activities. While each member state may determine the membership of its own state council, its membership must include at least: the director of the department of education, a superintendent of a school district with a high concentration of military children, a representative from a military installation, one representative each from the legislative and executive branches of government, and other offices and stakeholder groups the state council deems appropriate. A member state that does not have a school district deemed to contain a high concentration of military children may appoint a superintendent from another school district to represent local education agencies on the state council.

b. The state council of each member state shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of this compact.

c. The compact commissioner responsible for the administration and management of the state's participation in this compact shall be appointed by the governor or as otherwise determined by each member state.

d. The compact commissioner and the military family education liaison designated in sections 256H.2 and 256H.3 shall be ex officio members of the state council, unless either is already a full voting member of the state council.

9. *Article IX — Interstate commission on educational opportunity for military children.* The member states hereby create the interstate commission on educational opportunity for military children. The activities of the interstate commission are the formation of public policy and are a discretionary state function. The interstate commission shall:

a. Be a body corporate and joint agency of the member states and shall have all the responsibilities, powers, and duties set forth herein, and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of this compact.

b. Consist of one interstate commission voting representative from each member state who shall be that state's compact commissioner.

(1) Each member state represented at a meeting of the interstate commission is entitled to one vote.

(2) A majority of the total member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the interstate commission.

(3) A representative shall not delegate a vote to another member state. In the event the compact commissioner is unable to attend a meeting of the interstate commission, the governor or state council may delegate voting authority to another person from the compact commissioner's state for a specified meeting.

(4) The bylaws may provide for meetings of the interstate commission to be conducted by telecommunication or electronic communication.

c. Consist of ex officio, nonvoting representatives who are members of interested organizations. Such ex officio members, as defined in the bylaws, may include but not be limited to members of the representative organizations of military family advocates, local education agency officials, parent and teacher groups, the United States department of defense, the education commission of the states, the interstate agreement on the qualification of educational personnel and other interstate compacts affecting the education of children of military members.

d. Meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states, shall call additional meetings.

e. Establish an executive committee, whose members shall include the officers of the interstate commission and such other members of the interstate commission as determined by the bylaws. Members of the executive committee shall serve a one-year term. Members of the executive committee shall be entitled to one vote each. The executive committee shall have the power to act on behalf of the interstate commission, with the exception of rulemaking, during periods when the interstate commission is not in session. The executive committee shall oversee the day-to-day activities of the administration of this compact including enforcement and compliance with the provisions of this compact, its bylaws and rules, and other such duties as deemed necessary. The United States department of defense shall serve as an ex officio, nonvoting member of the executive committee.

f. Establish bylaws and rules that provide for conditions and procedures under which the interstate commission shall make its information and official records available to the public for inspection or copying. The interstate commission may exempt from disclosure information or official records to the extent disclosure would adversely affect personal privacy rights or proprietary interests.

g. Give public notice of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in this compact. The interstate commission and its committees may close a meeting, or portion thereof, where it determines by two-thirds vote that an open meeting would likely do any of the following:

(1) Relate solely to the interstate commission's internal personnel practices and procedures.

(2) Disclose matters specifically exempted from disclosure by federal and state statute.

(3) Disclose trade secrets or commercial or financial information which is privileged or confidential.

(4) Involve accusing a person of a crime, or formally censuring a person.

(5) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.

(6) Disclose investigative records compiled for law enforcement purposes.

(7) Specifically relate to the interstate commission's participation in a civil action or other legal proceeding.

h. Cause its legal counsel or designee to certify that a meeting may be closed and shall reference each relevant exemptible provision for any meeting, or portion of a meeting, which is closed pursuant to this provision. The interstate commission shall keep minutes which shall fully and clearly describe all matters discussed in a meeting and shall provide a full and

accurate summary of actions taken, and the reasons therefore, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the interstate commission.

i. Collect standardized data concerning the educational transition of the children of military families under this compact as directed through its rules which shall specify the data to be collected, the means of collection, and data exchange and reporting requirements. Such methods of data collection, exchange, and reporting shall, in so far as is reasonably possible, conform to current technology and coordinate its information functions with the appropriate custodian of records as identified in the bylaws and rules.

j. Create a process that permits military officials, education officials, and parents to inform the interstate commission if and when there are alleged violations of this compact or its rules or when issues subject to the jurisdiction of this compact or its rules are not addressed by the state or local education agency. This section shall not be construed to create a private right of action against the interstate commission or any member state.

10. *Article X — Powers and duties of the interstate commission.* The interstate commission shall have the following powers:

a. To provide for dispute resolution among member states.

b. To promulgate rules and take all necessary actions to effect the goals, purposes, and obligations as enumerated in this compact. The rules shall have the force and effect of statutory law and shall be binding in the compact states to the extent and in the manner provided in this compact.

c. To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of this compact, its bylaws, rules, and actions.

d. To enforce compliance with the compact provisions, the rules promulgated by the interstate commission, and the bylaws, using all necessary and proper means, including but not limited to the use of judicial process.

e. To establish and maintain offices which shall be located within one or more of the member states.

f. To purchase and maintain insurance and bonds.

g. To borrow, accept, hire, or contract for services of personnel.

h. To establish and appoint committees including but not limited to an executive committee as required by article IX of this compact which shall have the power to act on behalf of the interstate commission in carrying out its powers and duties under this compact.

i. To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties, and determine their qualifications; and to establish the interstate commission's personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel.

j. To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of it.

k. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve, or use any property, real, personal, or mixed.

l. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed.

m. To establish a budget and make expenditures.

n. To adopt a seal and bylaws governing the management and operation of the interstate commission.

o. To report annually to the legislatures, governors, judiciary, and state councils of the member states concerning the activities of the interstate commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the interstate commission.

p. To coordinate education, training, and public awareness regarding this compact, its implementation and operation for officials and parents involved in such activity.

q. To establish uniform standards for the reporting, collecting, and exchanging of data.

r. To maintain corporate books and records in accordance with the bylaws.

s. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

t. To provide for the uniform collection and sharing of information between and among member states, schools, and military families under this compact.

11. *Article XI — Organization and operation of the interstate commission.*

a. The interstate commission shall, by a majority of the members present and voting, within twelve months after the first interstate commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of this compact, including but not limited to:

- (1) Establishing the fiscal year of the interstate commission.
- (2) Establishing an executive committee, and such other committees as may be necessary.
- (3) Providing for the establishment of committees and for governing any general or specific delegation of authority or function of the interstate commission.
- (4) Providing reasonable procedures for calling and conducting meetings of the interstate commission, and ensuring reasonable notice of each such meeting.
- (5) Establishing the titles and responsibilities of the officers and staff of the interstate commission.
- (6) Providing a mechanism for concluding the operations of the interstate commission and the return of surplus funds that may exist upon the termination of this compact after the payment and reserving of all of its debts and obligations.
- (7) Providing start-up rules for initial administration of this compact.

b. The interstate commission shall, by a majority of the members, elect annually from among its members a chairperson, a vice chairperson, and a treasurer, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice chairperson, shall preside at all meetings of the interstate commission. The officers so elected shall serve without compensation or remuneration from the interstate commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the interstate commission.

c. (1) The executive committee shall have such authority and duties as may be set forth in the bylaws, including but not limited to the following:

(a) Managing the affairs of the interstate commission in a manner consistent with the bylaws and purposes of the interstate commission.

(b) Overseeing an organizational structure within, and appropriate procedures for the interstate commission to provide for the creation of rules, operating procedures, and administrative and technical support functions.

(c) Planning, implementing, and coordinating communications and activities with other state, federal, and local government organizations in order to advance the goals of the interstate commission.

(2) The executive committee may, subject to the approval of the interstate commission, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation, as the interstate commission may deem appropriate. The executive director shall serve as secretary to the interstate commission, but shall not be a member of the interstate commission. The executive director shall hire and supervise such other persons as may be authorized by the interstate commission.

d. The interstate commission's executive director and its employees shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred, within the scope of interstate commission employment, duties, or responsibilities; provided, that such person shall not be protected from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

(1) The liability of the interstate commission's executive director and employees or interstate commission representatives, acting within the scope of such person's employment

or duties for acts, errors, or omissions occurring within such person's state shall not exceed the limits of liability set forth under the Constitution and laws of that state for state officials, employees, and agents. The interstate commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this paragraph "d" shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

(2) The interstate commission shall defend the executive director and its employees and, subject to the approval of the attorney general or other appropriate legal counsel of the member state represented by an interstate commission representative, shall defend such interstate commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

(3) To the extent not covered by the state involved, member state, or the interstate commission, the representatives or employees of the interstate commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

12. *Article XII — Rulemaking functions of the interstate commission.*

a. The interstate commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of this compact. Notwithstanding the foregoing, in the event the interstate commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this compact, or the powers granted under this compact, then such an action by the interstate commission shall be invalid and have no force or effect.

b. Rules shall be made pursuant to a rulemaking process that substantially conforms to the model state administrative procedure Act of 1981, uniform laws annotated, as amended, as may be appropriate to the operations of the interstate commission.

c. Not later than thirty days after a rule is promulgated, any person may file a petition for judicial review of the rule; provided, that the filing of such a petition shall not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the interstate commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the interstate commission's authority.

d. If a majority of the legislatures of the compacting states rejects a rule by enactment of a statute or resolution in the same manner used to adopt this compact, then such rule shall have no further force and effect in any compacting state.

13. *Article XIII — Oversight, enforcement, and dispute resolution.*

a. *Oversight.*

(1) The executive, legislative, and judicial branches of state government in each member state shall enforce this compact and shall take all actions necessary and appropriate to effectuate this compact's purposes and intent. The provisions of this compact and the rules promulgated under this compact shall have standing as statutory law.

(2) All courts shall take judicial notice of this compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the interstate commission.

(3) The interstate commission shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the interstate commission shall render a judgment or order void as to the interstate commission, this compact, or promulgated rules.

b. *Default, technical assistance, suspension, and termination.*

(1) If the interstate commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, or the bylaws or promulgated rules, the interstate commission shall:

(a) Provide written notice to the defaulting state and other member states, of the nature of the default, the means of curing the default, and any action taken by the interstate commission. The interstate commission shall specify the conditions by which the defaulting state must cure its default.

(b) Provide remedial training and specific technical assistance regarding the default.

(2) If the defaulting state fails to cure the default, the defaulting state shall be terminated from this compact upon an affirmative vote of a majority of the member states and all rights, privileges, and benefits conferred by this compact shall be terminated from the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.

(3) Suspension or termination of membership in this compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the interstate commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

(4) The state which has been suspended or terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of suspension or termination including obligations, the performance of which extends beyond the effective date of suspension or termination.

(5) The interstate commission shall not bear any costs relating to any state that has been found to be in default or which has been suspended or terminated from the compact, unless otherwise mutually agreed upon in writing between the interstate commission and the defaulting state.

(6) The defaulting state may appeal the action of the interstate commission by petitioning the United States district court for the District of Columbia or the federal district where the interstate commission has its principal offices. The prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

c. Dispute resolution.

(1) The interstate commission shall attempt, upon the request of a member state, to resolve disputes which are subject to this compact and which may arise among member states and between member and nonmember states.

(2) The interstate commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

d. Enforcement.

(1) The interstate commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

(2) The interstate commission, may by majority vote of the members, initiate legal action in the United States district court for the District of Columbia or, at the discretion of the interstate commission, in the federal district where the interstate commission has its principal offices, to enforce compliance with the provisions of this compact, its promulgated rules and bylaws, against a member state in default. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

(3) The remedies in this compact shall not be the exclusive remedies of the interstate commission. The interstate commission may avail itself of any other remedies available under state law or the regulation of a profession.

14. Article XIV — Financing of the interstate commission.

a. The interstate commission shall pay, or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.

b. The interstate commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the interstate commission and its staff which must be in a total amount sufficient to cover the interstate commission's annual budget as approved each year. The aggregate annual assessment amount shall be

allocated based upon a formula to be determined by the interstate commission, which shall promulgate a rule binding upon all member states.

c. The interstate commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the interstate commission pledge the credit of any of the member states, except by and with the authority of the member state.

d. The interstate commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the interstate commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the interstate commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the interstate commission.

15. *Article XV — Member states, effective date, and amendment.*

a. Any state is eligible to become a member state.

b. This compact shall become effective and binding upon legislative enactment of this compact into law by no less than ten of the states. The effective date shall be no earlier than December 1, 2007. Thereafter it shall become effective and binding as to any other member state upon enactment of this compact into law by that state. The governors of nonmember states or their designees shall be invited to participate in the activities of the interstate commission on a nonvoting basis prior to adoption of this compact by all states.

c. The interstate commission may propose amendments to this compact for enactment by the member states. An amendment shall not become effective and binding upon the interstate commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

16. *Article XVI — Withdrawal and dissolution.*

a. *Withdrawal.*

(1) Once effective, this compact shall continue in force and remain binding upon each and every member state; provided that a member state may withdraw from this compact by specifically repealing the statute which enacted this compact into law.

(2) Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until one year after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the governor of each other member jurisdiction.

(3) The withdrawing state shall immediately notify the chairperson of the interstate commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The interstate commission shall notify the other member states of the withdrawing state's intent to withdraw within sixty days of its receipt of the notice.

(4) The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, including obligations, the performance of which extend beyond the effective date of withdrawal.

(5) Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting this compact or upon such later date as determined by the interstate commission.

b. *Dissolution of compact.*

(1) This compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in this compact to one member state.

(2) Upon the dissolution of this compact, this compact becomes null and void and shall be of no further force or effect, and the business and affairs of the interstate commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

17. *Article XVII — Severability and construction.*

a. The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

b. The provisions of this compact shall be liberally construed to effectuate its purposes.

c. Nothing in this compact shall be construed to prohibit the applicability of other interstate compacts to which the states are members.

18. *Article XVIII — Binding effect of compact and other laws.*

a. Other laws.

(1) Nothing in this compact prevents the enforcement of any other law of a member state that is not inconsistent with this compact.

(2) All member states' laws conflicting with this compact are superseded to the extent of the conflict.

b. Binding effect of the compact.

(1) All lawful actions of the interstate commission, including all rules and bylaws promulgated by the interstate commission, are binding upon the member states.

(2) All agreements between the interstate commission and the member states are binding in accordance with their terms.

(3) In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

2009 Acts, ch 31, §1, 4; 2011 Acts, ch 34, §66; 2017 Acts, ch 29, §61, 62

Referred to in §256H.2, 256H.3

256H.2 Council on educational opportunity for military children.

1. A council on educational opportunity for military children is created to provide advice and recommendations regarding this state's participation in and compliance with the interstate compact on educational opportunity for military children in accordance with section 256H.1.

2. The council shall consist of the following seven members:

a. The director of the department of education or the director's designee.

b. The superintendent, or the superintendent's designee, for the school district with the highest percentage per capita of military children during the previous school year.

c. Two members appointed by the governor, one of whom shall represent a military installation located within this state and one of whom shall represent the executive branch and possess experience in assisting military families in obtaining educational services for their children. The term of each member appointed under this paragraph shall be for four years, except that, in order to provide for staggered terms, the governor shall initially appoint one member to a term of two years and one member to a term of three years.

d. One member appointed jointly by the president of the senate and the speaker of the house of representatives as provided in sections 2.32A and 69.16B.

e. The compact commissioner appointed pursuant to section 256H.3 and the military family education liaison appointed in accordance with subsection 4, shall serve as nonvoting, ex officio members of the council unless already appointed to the council as voting members. The compact commissioner and the military family education liaison shall serve at the pleasure of the governor.

3. Nonlegislative members of the council shall serve without compensation, but shall receive their actual and necessary expenses and travel incurred in the performance of their duties. Vacancies on the commission shall be filled for the unexpired portion of the term in the same manner as the original appointments.

4. The council shall appoint a military family education liaison pursuant to section 256H.1, article VIII of the interstate compact on educational opportunity for military children, to assist military families and the state in facilitating the implementation of this compact.

5. The council shall comply with the requirements of chapters 21 and 22.

6. The department of education shall provide administrative support to the council.

2009 Acts, ch 31, §2, 4

Referred to in §256H.1

256H.3 Compact commissioner — appointment.

In accordance with section 256H.1, article VIII of the interstate compact on educational opportunity for military children, the governor shall designate a compact commissioner, who shall serve at the pleasure of the governor and who shall be responsible for the administration and management of this state's participation in the compact and shall serve as this state's

voting representative on the interstate commission on educational opportunity for military children as provided in section 256H.1, article IX of the compact.

2009 Acts, ch 31, §3, 4

Referred to in §256H.1, 256H.2

CHAPTER 256I

EARLY CHILDHOOD IOWA INITIATIVE

Referred to in §135.106, 237A.26, 256C.4, 915.35

256I.1	Definitions.	256I.8	Early childhood Iowa area board duties.
256I.2	Desired results — purpose and scope.	256I.9	School ready children grant program.
256I.3	Early childhood Iowa state board created.	256I.10	Early childhood Iowa internet site.
256I.4	Early childhood Iowa state board duties.	256I.11	Early childhood Iowa fund.
256I.5	Early childhood Iowa coordination staff.	256I.12	Early childhood stakeholders alliance.
256I.6	Early childhood Iowa areas.	256I.13	Family support program — funding intent.
256I.7	Early childhood Iowa area boards created.		

256I.1 Definitions.

For the purposes of this chapter, unless the context otherwise requires:

1. “*Department*” means the department of management.
2. “*Desired results*” means the set of desired results for improving the quality of life in this state for young children and their families identified in section 256I.2.
3. “*Early care*”, “*early care services*”, or “*early care system*” means the programs, services, support, or other assistance made available to a parent or other person who is involved with addressing the health and education needs of a child from zero through age five. “*Early care*”, “*early care services*”, or “*early care system*” includes but is not limited to public and private efforts and formal and informal settings.
4. “*Early childhood Iowa area*” means a geographic area designated in accordance with this chapter.
5. “*Early childhood Iowa area board*” or “*area board*” means the board for an early childhood Iowa area created in accordance with this chapter.
6. “*Early childhood Iowa state board*” or “*state board*” means the early childhood Iowa state board created in section 256I.3.

2010 Acts, ch 1031, §278

256I.2 Desired results — purpose and scope.

1. It is intended that through the early childhood Iowa initiative every community in Iowa will develop the capacity and commitment for using local, informed decision making to achieve the following set of desired results for improving the quality of life in this state for young children and their families:

- a. Healthy children.
- b. Children ready to succeed in school.
- c. Safe and supportive communities.
- d. Secure and nurturing families.
- e. Secure and nurturing early learning environments.

2. The purpose of creating the early childhood Iowa initiative is to empower individuals, communities, and state level partners to achieve the desired results. The desired results will be achieved as private and public entities work collaboratively. This initiative creates a partnership between communities and state level partners to support children zero through age five and their families. The role of the early childhood Iowa state board, area boards, and

other state and local government agencies is to provide support, leadership, and facilitation of the growth of individual, community, and state responsibility in addressing the desired results.

3. To achieve the desired results, the initiative's primary focus shall be on the efforts of the state and communities to work together to improve the efficiency and effectiveness of early care, education, health, and human services provided to families with children from zero through age five.

2010 Acts, ch 1031, §279

Referred to in §256I.1

256I.3 Early childhood Iowa state board created.

1. The early childhood Iowa state board is created to promote a vision for a comprehensive early care, education, health, and human services system in this state. The board shall oversee state and local efforts. The vision shall be achieved through strategic planning, funding identification, guidance, and decision-making authority to assure collaboration among state and local early care, education, health, and human services systems.

2. a. The board shall consist of twenty-one voting members with fifteen citizen members and six state agency members. The six state agency members shall be the directors or their designees of the following agencies: economic development authority, education, human rights, human services, public health, and workforce development. The designees of state agency directors shall be selected on an annual basis. The citizen members shall be appointed by the governor, subject to confirmation by the senate. The governor's appointments of citizen members shall be made in a manner so that each of the state's congressional districts is represented by at least two citizen members and so that all the appointments as a whole reflect the ethnic, cultural, social, and economic diversity of the state. A member of the state board shall not be a provider of services or other entity receiving funding through the early childhood Iowa initiative or be employed by such a provider or other entity.

b. The governor's appointees shall be selected from individuals nominated by area boards. The nominations shall reflect the range of interests represented on the area boards so that the governor is able to appoint one or more members each for early care, education, health, human services, business, faith, and public interests. At least one of the citizen members shall be a service consumer or the parent of a service consumer. The term of office of the citizen members is three years. A citizen member vacancy on the board shall be filled in the same manner as the original appointment for the balance of the unexpired term.

3. In addition to the voting members, the state board shall include four members of the general assembly with not more than one member from each chamber being from the same political party. The two senators shall be appointed one each by the majority leader of the senate and by the minority leader of the senate. The two representatives shall be appointed one each by the speaker of the house of representatives and by the minority leader of the house of representatives. Legislative members shall serve in an ex officio, nonvoting capacity. A legislative member is eligible for per diem and expenses as provided in section 2.10.

4. The state board shall elect a chairperson from among the citizen members and may select other officers from the voting members as determined to be necessary by the board. The board shall meet regularly as determined by the board, upon the call of the board's chairperson, or upon the call of a majority of voting members. The board shall meet at least quarterly.

2010 Acts, ch 1031, §280; 2011 Acts, ch 118, §87, 89; 2012 Acts, ch 1021, §56; 2019 Acts, ch 85, §85

Referred to in §256I.1

Confirmation; see §2.32

256I.4 Early childhood Iowa state board duties.

The state board shall perform the following duties:

1. Provide oversight of early childhood Iowa areas.
2. Manage and coordinate the provision of grant funding and other moneys made

available to early childhood Iowa areas by combining all or portions of appropriations or other revenues as authorized by law.

3. Approve the geographic boundaries for the early childhood Iowa areas throughout the state and approve any proposed changes in the boundaries.

4. Create a strategic plan that supports a comprehensive system of early care, education, health, and human services. The strategic plan shall be developed with extensive community involvement. The strategic plan shall be annually updated and disseminated to the public. Specific items to be addressed in the strategic plan shall include but are not limited to all of the following:

a. Provisions to strengthen the state structure including interagency levels of collaboration, coordination, and integration.

b. Provisions for building public-private partnerships.

c. Provisions to support consolidating, blending, and redistributing state-administered funding streams and the coordination of federal funding streams. The strategic plan shall also address integration of services provided through area boards, other state and local commissions, committees, and other bodies with overlapping and similar purposes which contribute to redundancy and fragmentation in early care, education, health, and human services programs provided to the public.

d. Provisions for improving the efficiency of working with federally mandated bodies.

e. Identification of indicators that measure the success of the various strategies that impact communities, families, and children. The indicators shall be developed with input from area boards.

5. Adopt common performance measures and data reporting requirements, applicable statewide, for services, programs, and activities provided by area boards. The data from common performance measures and other data shall be posted on the early childhood Iowa internet site and disseminated by other means and shall also be aggregated to provide statewide information. The state board shall establish a submission deadline for the annual budget and any budget amendments submitted by early childhood Iowa area boards in accordance with section 256I.8, subsection 1, paragraph "d", that allow a reasonable period of time for preparation by the area boards and for review and approval or request for modification of the materials by the state board.

6. Assist with the linkage of child welfare and juvenile justice decategorization projects with early childhood Iowa areas.

7. Coordinate and respond to requests from an area board relating to any of the following:

a. Waiver of existing rules, federal regulation, or amendment of state law, or removal of other barriers. The state board shall consider a community's current coverage of family support programs and services when responding to an area board's request for a waiver from the requirement in section 256I.9, subsection 3, paragraph "b".

b. Pooling and redirecting of existing federal, state, or other public or private funds.

c. Seeking of federal waivers.

d. Consolidating community-level committees, planning groups, and other bodies with common memberships formed in response to state requirements.

8. Develop and implement a designation process for area boards. Allow for flexibility and creativity of area boards in implementing area board responsibilities and provide authority for the area boards to support the communities in the areas served. The process shall provide for action to address poor performing areas as well as higher performing areas. The state board shall determine how often area boards are reviewed under the process.

9. Adopt rules pursuant to chapter 17A as necessary for the designation, governance, and oversight of area boards and the administration of this chapter. The state board shall provide for area board input in the rules adoption process.

10. Develop guidelines for recommended insurance or other liability coverage and take other actions to assist area boards in acquiring such coverage at a reasonable cost. Moneys expended by an area board to acquire necessary insurance or other liability coverage shall be considered an administrative cost.

11. In January each year, submit an annual report to the governor and general assembly that includes but is not limited to all of the following:

- a. Any updates to the strategic plan.
 - b. The status and results of the early childhood Iowa initiative efforts to engage the public regarding the early care, education, health, human services, and other needs of children zero through age five.
 - c. The status and results of the efforts to develop and promote private sector involvement with the early care system.
 - d. The status of the early childhood Iowa initiative and the overall early care system in achieving the set of desired results.
 - e. The data and common performance measures addressed by the strategic plan, which shall include but is not limited to funding amounts.
 - f. The indicators addressed by the strategic plan along with associated data trends and their source.
12. Integrate statewide quality standards and results indicators adopted by other boards and commissions into the state board's funding requirements for investments in early care, health, education, and human services.
13. Ensure alignment of other state departments' activities with the strategic plan.
14. Develop and keep current memoranda of agreements between the state agencies represented on the state board to promote system development and integration and to clarify the roles and responsibilities of partner agencies.
15. Work with the early childhood Iowa office in building public-private partnerships for promoting the collaborative early care, education, health, and human services system.
16. Support and align the early childhood Iowa internet site with other agencies and improve internet communication.
17. Except for the fiscal oversight measures to be adopted by the department, adopt rules to implement this chapter. The rules shall include but are not limited to the following:
- a. Indicators of the effectiveness of early childhood Iowa areas, area boards, and the services provided under the auspices of the area boards. The indicators shall be developed with input from area boards and shall build upon the core indicators of effectiveness for the school ready children grant program.
 - b. Minimum standards to further the provision of equal access to services subject to the authority of area boards.
 - c. Core functions for family support services, parent education programs, preschool services provided under a school ready children grant, and other programs and services provided under this chapter. The state board shall also develop guidelines and standards for state-supported family support programs, based upon existing guidelines and standards for the services.
18. Address other measures to advance the initiative. The measures may include any of the following:
- a. Advance the development of integrated data systems.
 - b. Expand efforts to improve quality and utilize evidence-based practices.
 - c. Further develop kindergarten assessment approaches that are tied to state early learning standards.
19. Direct staff to work with the early childhood stakeholders alliance created in section 256I.12 to inventory technical assistance needs.
- 2010 Acts, ch 1031, §281; 2015 Acts, ch 140, §11, 12, 58, 59; 2016 Acts, ch 1113, §2, 3; 2017 Acts, ch 29, §63

Referred to in §135.173A, 256I.13

256I.5 Early childhood Iowa coordination staff.

1. The department shall provide administrative support for implementation of the early childhood Iowa initiative and for the state board. The department shall adopt rules in consultation with the state board to provide fiscal oversight of the initiative. The fiscal oversight measures adopted shall include but are not limited to all of the following:
- a. Reporting and other requirements to address the financial activities employed by area boards.
 - b. Regular audits and other requirements of fiscal agents for area boards.

c. Requirements for area boards to undertake and report on fiscal and performance reviews of the programs, contracts, services, and other functions funded by the area boards.

2. An early childhood Iowa office is established in the department to provide leadership for facilitation, communication, and coordination for the early childhood Iowa initiative activities and funding and for improvement of the early care, education, health, and human services systems. An administrator for the early childhood Iowa office shall be appointed by the director of the department. Other staff may also be designated, subject to appropriation made for this purpose.

3. The state agencies represented on the state board may designate additional staff, as part of the early childhood Iowa initiative, to work as a technical assistance team with the office in providing coordination and other support to the state's comprehensive early care, education, health, and human services system.

4. The office shall work with the state and area boards to provide leadership for comprehensive system development. The office shall also do all of the following:

a. Enter into memoranda of agreement with the departments of education, human rights, human services, public health, and workforce development and the economic development authority to formalize the commitments of the respective departments and the authority to collaborating with and integrating a comprehensive early care, education, health, and human services system. Items addressed in the memoranda shall include but are not limited to data sharing and providing staffing to the technical assistance team.

b. Work with private businesses, foundations, and nonprofit organizations to develop sustained funding.

c. Maintain the internet site in accordance with section 256I.10.

d. Propose any needed revisions to administrative rules based on stakeholder input.

e. Provide technical support to the state and area boards and to the early childhood Iowa areas through staffing services made available through the state agencies that serve on the state board.

f. Develop, collect, disseminate, and provide guidance for common performance measures for the programs receiving funding under the auspices of the area boards.

g. If a disagreement arises within an early childhood Iowa area regarding the interests represented on the area's board, board decisions, or other disputes that cannot be locally resolved, upon request, provide state or regional technical assistance as deemed appropriate by the office to assist the area in resolving the disagreement.

2010 Acts, ch 1031, §282; 2011 Acts, ch 118, §87, 89; 2012 Acts, ch 1021, §57

Referred to in §237A.30, 256I.9, 279.60

256I.6 Early childhood Iowa areas.

1. The purpose of an early childhood Iowa area is to enable local citizens to lead collaborative efforts involving early care, education, health, and human services on behalf of the children, families, and other citizens residing in the area. Leadership functions may include but are not limited to strategic planning for and oversight and managing of such programs and the funding made available to the early childhood Iowa area for such programs from federal, state, local, and private sources. The focus of the area shall be to achieve the desired results and to improve other results for families with young children.

2. An early childhood Iowa area shall be designated by using existing county boundaries to the extent possible.

3. The designation of an early childhood Iowa area's boundaries and the creation of an area board are both subject to the approval of the state board. The state board shall determine if a proposed area board can efficiently and effectively administer the responsibilities and authority of the area to be served. The state board may apply additional criteria for designating areas and approving area boards, but shall apply all of the following minimum criteria:

a. An area cannot encompass more than four counties.

b. The counties encompassing a multicounty area must have contiguous borders.

c. A single county area shall have a minimum population of children zero through age

five in excess of five thousand, based on the most recent population estimates issued by the United States bureau of the census.

4. If the state board determines exceptional circumstances exist, the state board may waive any of the criteria otherwise specified in subsection 3.

2010 Acts, ch 1031, §283

256I.7 Early childhood Iowa area boards created.

1. a. The early childhood Iowa initiative functions for an area shall be performed under the authority of an early childhood Iowa area board. The members of an area board shall be elected officials or members of the public who are not employed by a provider of services to or for the area board. In addition, the membership of an area board shall include representation from education, health, human services, business, and faith interests, and at least one parent, grandparent, or guardian of a child from zero through age five. However, not more than one member shall represent the same entity or interest.

b. Terms of office of area board members shall be not more than three years and the terms shall be staggered.

2. An area board may designate an advisory council consisting of persons employed by or otherwise paid to represent an entity listed in subsection 1 or other provider of service. However, the deliberations of and documents considered by such an advisory council shall be public.

3. An area board shall elect a chairperson from among the members who are citizens or elected officials.

4. An area board is a unit of local government for purposes of chapter 670, relating to tort liability of governmental subdivisions. For purposes of implementing a formal organizational structure, an area board may utilize recommended guidelines and bylaws established for this purpose by the state board.

5. All meetings of an area board or any committee or other body established by an area board at which public business is discussed or formal action taken shall comply with the requirements of chapter 21. An area board shall maintain its records in accordance with chapter 22.

2010 Acts, ch 1031, §284; 2010 Acts, ch 1183, §18; 2013 Acts, ch 141, §11; 2016 Acts, ch 1113, §4; 2018 Acts, ch 1026, §75

256I.8 Early childhood Iowa area board duties.

1. An early childhood Iowa area board shall do all of the following:

a. Designate a public agency of this state, as defined in section 28E.2, a community action agency as defined in section 216A.91, an area education agency established under section 273.2, or a nonprofit corporation, to be the fiscal agent for grant moneys and for other moneys administered by the area board.

b. Administer early childhood Iowa grant moneys available from the state to the area board as provided by law and other federal, state, local, and private moneys made available to the area board. Eligibility for receipt of early childhood Iowa grant moneys shall be limited to those early childhood Iowa area boards that have developed an approved community plan in accordance with this chapter. An early childhood Iowa area board may apply to the state board for any private moneys received by the early childhood Iowa initiative outside of a state appropriation.

c. Develop a comprehensive community plan for providing services for children from zero through age five. At a minimum, the plan shall do all of the following:

(1) Describe community and area needs for children from zero through age five as identified through ongoing assessments.

(2) Describe the current and desired relationships and services between community providers.

(3) Identify federal, state, local, and private funding sources including funding estimates available in the early childhood Iowa area that will be used to provide services to children from zero through age five.

(4) Describe how funding sources will be used to support young children and their families.

(5) Identify the desired results and the community-wide indicators the area board expects to address through implementation of the comprehensive community plan.

d. Submit an annual report on the effectiveness of the community plan in addressing school readiness and children's health and safety needs to the state board and to the local government bodies in the area. The annual report shall indicate the effectiveness of the area board in addressing state and locally determined goals and the progress on each of the community-wide indicators identified by the area board under paragraph "c", subparagraph (5). The report shall include an annual budget developed for the following fiscal year for the area's comprehensive school ready children grant for providing services for children from zero through age five, and provide other information specified by the state board, including budget amendments, as needed. In addition, each area board must comply with reporting provisions and other requirements adopted by the state board in implementing section 256I.9.

e. Function as a coordinating body for services offered by different entities directed to similar purposes within the area.

f. Assume other responsibilities established by law or administrative rule.

g. Cooperate with the state board, department of education, and school districts and other local education agencies in securing unique student identifiers, in compliance with all applicable federal and state confidentiality provisions.

2. An area board may do any of the following:

a. Designate one or more committees to assist with area board functions.

b. Utilize community bodies for input to the area board and implementation of services.

3. An area board shall not be a provider of services to or for the area board.

2010 Acts, ch 1031, §285; 2013 Acts, ch 141, §12; 2015 Acts, ch 140, §13, 58, 59; 2016 Acts, ch 1113, §5; 2018 Acts, ch 1026, §76, 77

Referred to in §256I.4

256I.9 School ready children grant program.

1. The state board shall develop and promote a school ready children grant program which shall provide for all of the following components:

a. Identify the performance measures that will be used to assess the effectiveness of the school ready children grants, including the amount of early intellectual stimulation of very young children, the basic skill levels of students entering school, the health status of children, the incidence of child abuse and neglect, the level of involvement by parents with their children, and the degree of quality of an accessibility to child care.

b. Identify guidelines and a process to be used for determining the readiness of an early childhood Iowa area board for administering a school ready children grant.

c. Provide for technical assistance concerning funding sources, program design, and other pertinent areas.

2. The state board shall provide maximum flexibility to grantees for the use of the grant moneys included in a school ready children grant, including but not limited to authorizing an area board to use grant moneys to pay for regular audits required pursuant to section 256I.5, subsection 1, if moneys distributed to an area board for administrative costs are insufficient to pay for the required audits.

3. A school ready children grant shall, to the extent possible, be used to support programs that meet quality standards identified by the state board. At a minimum, a grant shall be used to provide all of the following:

a. Preschool services provided on a voluntary basis to children deemed at risk.

b. (1) Family support services promoted to parents of children from zero through age five. Family support services shall include but are not limited to home visitation and parent education. Of the state funding that an area board designates for family support programs, at least sixty percent shall be committed to programs with a home visitation component.

(2) It is the intent of the general assembly that priority for family support program funding be given to programs using evidence-based or promising models for family support.

c. Other services to support the strategic plan developed by the state board.

d. Services to improve the quality and availability of all types of child care.

4. a. A school ready children grant shall be awarded to an area board annually, as funding is available. Receipt of continued funding is subject to submission of the required annual report data and the state board's determination that the area board is making progress, through the use of specific, quantifiable performance measures and locally identified community-wide indicators, toward achieving the desired results and other results identified in the community plan. Each area board shall participate in the designation process to measure the area's success. If the use of performance measures and community-wide indicators does not show that an area board has made progress toward achieving the results identified in the community plan, the state board shall require a plan of corrective action, provide technical assistance, withhold any increase in funding, or withdraw grant funding.

b. The state board shall distribute school ready children grant moneys to area boards with approved comprehensive community plans based upon a determination of an early childhood Iowa area's designation.

c. An area board's designation shall be determined by evidence of successful collaboration among public and private early care, education, health, and human services interests in the area or a documented program design that supports a strong likelihood of a successful collaboration between these interests.

d. The provisions for distribution of school ready children grant moneys shall be determined by the state board.

e. The amount of school ready children grant funding an area board may carry forward from one fiscal year to the succeeding fiscal year shall not exceed twenty percent of the grant amount for the fiscal year. All of the school ready children grant funds received by an area board for a fiscal year which remain unencumbered or unobligated at the close of a fiscal year shall be carried forward to the succeeding fiscal year. However, the grant amount for the succeeding fiscal year shall be reduced by the amount in excess of twenty percent of the grant amount received for the fiscal year.

2010 Acts, ch 1031, §286; 2011 Acts, ch 132, §10, 11, 106; 2016 Acts, ch 1113, §6, 7; 2017 Acts, ch 29, §64

Referred to in §256I.4, 256I.8, 256I.13

256I.10 Early childhood Iowa internet site.

1. The department shall provide for the operation of an internet site for purposes of widely distributing information regarding early care, education, health, and human services and other information provided by the departments represented on the state board and the public and private agencies addressing the comprehensive system for such services.

2. Information provided on the internet site shall include but is not limited to all of the following:

a. Information about the early childhood Iowa initiative for state and local use. The information shall include data from the indicators of success and performance measures adopted by the state board and fiscal information and other data developed by the department.

b. A link to a special internet site directed to parents, including parent-specific information on early care, education, health, and human services and links to other resources available on the internet and from other sources.

c. Program standards for early care, education, health, and human services that have been approved by state agencies.

2010 Acts, ch 1031, §287; 2016 Acts, ch 1113, §8

Referred to in §256I.5

256I.11 Early childhood Iowa fund.

1. An early childhood Iowa fund is created in the state treasury. The moneys credited to the fund are not subject to section 8.33 and moneys in the fund shall not be transferred, used, obligated, appropriated, or otherwise encumbered except as provided by law.

Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the fund shall be credited to the fund.

2. A school ready children grants account is created in the fund under the authority of the director of the department of education. Moneys credited to the account are appropriated to and shall be distributed by the department in the form of grants to early childhood Iowa areas pursuant to criteria established by the state board in accordance with law.

a. Moneys appropriated for deposit in the school ready children grants account for purposes of preschool tuition assistance shall be used for early care, health, and education programs to assist low-income parents with tuition for preschool and other supportive services for children ages three, four, and five who are not attending kindergarten in order to increase the basic family income eligibility requirement to not more than two hundred percent of the federal poverty level. In addition, if sufficient funding is available after addressing the needs of those who meet the basic income eligibility requirement, an early childhood Iowa area board may provide for eligibility for those with a family income in excess of the basic income eligibility requirement through use of a sliding scale or other copayment provisions.

b. Moneys appropriated for deposit in the school ready children grants account for purposes of family support services and parent education programs shall be targeted to families expecting a child or with newborn and infant children through age five and shall be distributed using the distribution formula approved by the early childhood Iowa state board and shall be used by an early childhood Iowa area board only for family support services and parent education programs targeted to families expecting a child or with newborn and infant children through age five.

3. Unless a different amount is authorized by law, up to three percent of the school ready children grant moneys distributed to an area board may be used by the area board for administrative costs.

4. a. An early childhood programs grant account is created in the fund under the authority of the director of the department of human services. Moneys credited to the account are appropriated to and shall be distributed by the department of human services in the form of grants to early childhood Iowa areas pursuant to criteria established by the state board in accordance with law. The criteria shall include but are not limited to a requirement that an early childhood Iowa area must be designated by the state board in order to be eligible to receive an early childhood programs grant.

b. An early childhood Iowa area receiving funding from the early childhood programs grant account shall comply with any federal reporting requirements associated with the use of that funding and other results and reporting requirements established by the state board. The department of human services shall provide technical assistance in identifying and meeting the federal requirements. The availability of funding provided from the account is subject to changes in federal requirements and amendments to Iowa law.

c. The moneys distributed from the early childhood programs grant account shall be used by early childhood Iowa areas for the purposes of enhancing quality child care capacity in support of parent capability to obtain or retain employment. The moneys shall be used with a primary emphasis on low-income families and children from zero to age five. Moneys shall be provided in a flexible manner and shall be used to implement strategies identified by the early childhood Iowa area to achieve such purposes. The department of human services may use a portion of the funding appropriated to the department under this subsection for provision of technical assistance and other support to the early childhood Iowa areas developing and implementing strategies with grant moneys distributed from the account.

d. Moneys from a federal block grant that are credited to the early childhood programs grant account but are not distributed to an early childhood Iowa area or otherwise remain unobligated or unexpended at the end of the fiscal year shall revert to the fund created in section 8.41 to be available for appropriation by the general assembly in a subsequent fiscal year.

5. A first years first account is created in the fund under the authority of the department of management. The account shall consist of gift or grant moneys obtained from any source, including but not limited to the federal government. Moneys credited to the account are

appropriated to the department to be used for the early childhood-related purposes for which the moneys were received.

2010 Acts, ch 1031, §288; 2010 Acts, ch 1183, §19; 2015 Acts, ch 140, §14, 58, 59; 2016 Acts, ch 1113, §9

Referred to in §272.28

256I.12 Early childhood stakeholders alliance.

1. *Alliance created.* An early childhood stakeholders alliance is created to support the state board in addressing the early care, health, and education systems that affect children zero through age five in Iowa.

2. *Purpose.* The purpose of the early childhood stakeholders alliance is to oversee and provide broad input into the development of a high quality Iowa early childhood system that meets the needs of children zero through age five and their families and integrates the early care, health, and education systems. The alliance shall advise the governor, general assembly, state board, and other public and private policy bodies and service providers in coordinating activities throughout the state to fulfill its purpose.

3. *Vision statement.* All system development activities addressed by the early childhood stakeholders alliance shall be aligned around the following vision statement for the children of Iowa:

“Every child, beginning at birth, will be healthy and successful.”

4. *Membership.* The early childhood stakeholders alliance membership shall include a representative of any organization that touches the lives of young children in the state zero through age five, has endorsed the purpose and vision statement for the alliance, has endorsed the guiding principles adopted by the alliance for the early childhood system, and has formally asked to be a member and remains actively engaged in alliance activities. The alliance shall work to ensure there is geographic, cultural, and ethnic diversity among the membership.

5. *Procedure.* Except as otherwise provided by law, the early childhood stakeholders alliance shall determine its own rules of procedure and operating provisions.

6. *Steering committee.* The early childhood stakeholders alliance shall operate with a steering committee to organize, manage, and coordinate the activities of the alliance and its component groups. The steering committee may act on behalf of the alliance as necessary. The steering committee membership shall consist of the co-chairpersons of the alliance’s component groups, the administrator of the early childhood Iowa office, and other leaders designated by the alliance.

7. *Component groups.* The early childhood stakeholders alliance shall maintain component groups to address the key components of the Iowa early childhood system. Each component group shall have one private and one public agency co-chairperson. The alliance may change the component groups as deemed necessary by the alliance. Initially, there shall be a component group for each of the following:

- a. Governance planning and administration.
- b. Professional development.
- c. Public engagement.
- d. Quality services and programs.
- e. Resources and funding.
- f. Results accountability.

8. *Duties.* The early childhood stakeholders alliance duties shall include but are not limited to all of the following regarding the Iowa early childhood system:

- a. Coordinate with the early childhood Iowa state board.
- b. Serve as the state advisory council required under the federal Improving Head Start for School Readiness Act of 2007, Pub. L. No. 110-134, as designated by the governor.

9. *Staffing.* Staff support for the early childhood stakeholders alliance shall be provided by the department.

2010 Acts, ch 1031, §289; 2018 Acts, ch 1026, §78

Referred to in §256I.4

256I.13 Family support program — funding intent.

1. In order to implement the legislative intent stated in sections 135.106 and 256I.9, that priority for family support program funding be given to programs using evidence-based or promising models for family support, it is the intent of the general assembly that by July 1, 2016, ninety percent of state funds expended for family support programs shall be used for evidence-based or promising program models. The remaining ten percent of funds may be used for innovative program models that do not yet meet the definition of evidence-based or promising programs.

2. For the purposes of this section, unless the context otherwise requires or unless otherwise provided under federal law:

a. “*Evidence-based program*” means a program that is based on scientific evidence demonstrating that the program model is effective. An evidence-based program shall be reviewed on site and compared to program model standards by the model developer or the developer’s designee at least every five years to ensure that the program continues to maintain fidelity with the program model. The program model shall have had demonstrated significant and sustained positive outcomes in an evaluation utilizing a well-designed and rigorous randomized controlled research design or a quasi-experimental research design, and the evaluation results shall have been published in a peer-reviewed journal.

b. “*Family support programs*” includes group-based parent education or home visiting programs that are designed to strengthen protective factors, including parenting skills, increasing parental knowledge of child development, and increasing family functioning and problem solving skills. A family support program may be used as an early intervention strategy to improve birth outcomes, parental knowledge, family economic success, the home learning environment, family and child involvement with others, and coordination with other community resources. A family support program may have a specific focus on preventing child maltreatment or ensuring children are safe, healthy, and ready to succeed in school.

c. “*Promising program*” means a program that meets all of the following requirements:

(1) The program conforms to a clear, consistent family support model that has been in existence for at least three years.

(2) The program is grounded in relevant empirically based knowledge.

(3) The program is linked to program-determined outcomes.

(4) The program is associated with a national or state organization that either has comprehensive program standards that ensure high-quality service delivery and continuous program quality improvement or the program model has demonstrated through the program’s benchmark outcomes that the program has achieved significant positive outcomes equivalent to those achieved by program models with published significant and sustained results in a peer-reviewed journal.

(5) The program has been awarded the Iowa family support credential and has been reviewed on site at least every five years to ensure the program’s adherence to the Iowa family support standards approved by the state board or a comparable set of standards. The on-site review is completed by an independent review team that is not associated with the program or the organization administering the program.

3. a. The data reporting requirements adopted by the state board pursuant to section 256I.4 for the family support programs targeted to families expecting a child or with newborn and infant children through age five and funded through the state board shall require the programs to participate in a state-administered internet-based data collection system. The state board’s annual report submitted each January to the governor and general assembly under section 256I.4 shall include family support program outcomes.

b. The data on families served that is collected by the family support programs funded through the early childhood Iowa initiative shall include but is not limited to basic demographic information, services received, funding utilized, and program outcomes for the children and families served. The state board shall adopt performance benchmarks for the family support programs and shall revise the Iowa family support credential to incorporate the performance benchmarks on or before January 1, 2014.

c. The state board shall identify minimum competency standards for the employees and supervisors of family support programs funded through the early childhood Iowa initiative.

d. The state board shall adopt criminal and child abuse record check requirements for the employees and supervisors of family support programs funded through the early childhood Iowa initiative.

e. The state board shall develop a plan to implement a coordinated intake and referral process for publicly funded family support programs in order to engage the families expecting a child or with newborn and infant children through age five in all communities in the state by July 1, 2015.

2013 Acts, ch 141, §13; 2016 Acts, ch 1113, §10

CHAPTER 257

FINANCING SCHOOL PROGRAMS

Referred to in §256.25A, 256B.2, 256B.9, 256C.4, 256C.5, 256F.4, 260C.18B, 273.3, 273.9, 273.23, 274.3, 282.3, 284.11, 284.13, 284.15, 285.2, 298.1, 301.1, 331.512, 463B.2, 465A.4

257.1	State school foundation program — state aid.	257.26	Instructional support income surtax distribution.
257.2	Definitions.	257.27	Continuation of instructional support program.
257.3	Foundation property tax.	257.28	Enrichment levy.
257.4	Additional property tax.	257.29	Educational improvement program.
257.5	Continuation of supplemental aid.	257.30	School budget review committee.
257.6	Enrollment.	257.31	Duties of the committee.
257.7	Authorized expenditures.	257.32	Area education budget review.
257.8	State percent of growth — supplemental state aid.	257.33	Prior enrichment approval.
257.9	State cost per pupil.	257.34	Cash reserve information.
257.10	District cost per pupil — district cost.	257.35	Area education agency payments.
257.11	Supplementary weighting plan.	257.36	Special education support services balances.
257.11A	Supplementary weighting and school reorganization.	257.37	Funding media and educational services.
257.12	Adjustment in state foundation aid.	257.37A	Area education agency salary supplement funding.
257.13	On-time funding budget adjustment.	257.38	Funding for at-risk, alternative school, and returning dropouts and dropout prevention programs — plan.
257.14	Budget adjustment.	257.39	Definitions — potential dropouts and returning dropouts.
257.15	Property tax adjustment.	257.40	Approval of requests for modified supplement amounts for adopted program plans.
257.16	Appropriations.	257.41	Funding for programs for returning dropouts and dropout prevention.
257.16A	Property tax equity and relief fund.	257.42	Gifted and talented children.
257.16B	School district property tax replacement payments.	257.43	Program plans.
257.16C	Transportation equity program — fund — appropriation.	257.44	Gifted and talented children defined.
257.16D	Foundation base supplement fund.	257.45	Submission of program plans.
257.17	Aid reduction for early school starts.	257.46	Funding.
257.18	Instructional support program.	257.47	Cooperation by area education agencies.
257.19	Instructional support funding.	257.48	Advisory council.
257.20	Instructional support state aid appropriation.	257.49	Duties of advisory council.
257.21	Computation of instructional support amount.	257.50	Federal assistance — school district responsibilities.
257.22	Statutes applicable.	257.51	Career academy fund — grant program.
257.23	Form and time of return.		
257.24	Deposit of instructional support income surtax.		
257.25	Instructional support income surtax certification.		

257.1 State school foundation program — state aid.

1. *Program established.* A state school foundation program is established for the school year commencing July 1, 1991, and succeeding school years.

2. *State school foundation aid — foundation base.*

a. For a budget year, each school district in the state is entitled to receive foundation aid, in an amount per pupil equal to the difference between the amount per pupil of foundation property tax in the district, and the combined foundation base per pupil or the combined district cost per pupil, whichever is less. However, if the amount of foundation aid received by a school district under this chapter is less than three hundred dollars per pupil, the district is entitled to receive three hundred dollars per pupil unless the receipt of three hundred dollars per pupil plus the per pupil amount raised by the foundation property tax exceeds the combined district cost per pupil of the district for the budget year. In that case, the district is entitled to receive an amount per pupil equal to the difference between the per pupil amount raised by the foundation property tax for the budget year and the combined district cost per pupil for the budget year.

b. For the budget year commencing July 1, 1999, and for each succeeding budget year the regular program foundation base per pupil is eighty-seven and five-tenths percent of the regular program state cost per pupil. For the budget year commencing July 1, 1991, and for each succeeding budget year the special education support services foundation base is seventy-nine percent of the special education support services state cost per pupil. The combined foundation base is the sum of the regular program foundation base, the special education support services foundation base, the total teacher salary supplement district cost, the total professional development supplement district cost, the total early intervention supplement district cost, the total teacher leadership supplement district cost, the total area education agency teacher salary supplement district cost, and the total area education agency professional development supplement district cost.

3. *Computations rounded.* In making computations and payments under this chapter, except in the case of computations relating to funding of special education support services, media services, and educational services provided through the area education agencies, and the teacher salary supplement, the professional development supplement, the early intervention supplement, and the teacher leadership supplement, the department of management shall round amounts to the nearest whole dollar.

4. *Legislative review.* The provisions of this chapter shall be subject to legislative review at least every five years. The review shall be based upon a school finance formula status report containing the recommendations of a legislative interim committee appointed to conduct a review of the school finance formula, to be prepared with the assistance of the department of education, in association with the departments of management and revenue. The report shall include recommendations for school finance formula changes or revisions based upon demographic changes, enrollment trends, and property tax valuation fluctuations observed during the preceding five-year interval; an analysis of the operation of the school finance formula during the preceding five-year interval; and a summary of issues that have arisen since the previous review and potential approaches for their resolution. The first such report shall be submitted to the general assembly no later than January 1, 2005, with subsequent reports developed and submitted by January 1 at least every fifth year thereafter.

89 Acts, ch 135, §1; 91 Acts, ch 267, §517; 95 Acts, ch 130, §1; 96 Acts, ch 1197, §5, 6; 99 Acts, ch 2, §1, 4; 99 Acts, ch 178, §1, 10; 2000 Acts, ch 1186, §2; 2003 Acts, ch 145, §286; 2008 Acts, ch 1181, §93, 94; 2013 Acts, ch 121, §49, 50; 2016 Acts, ch 1036, §3

Referred to in §257.3, 257.4, 257.12, 257.15, 257.16B, 257.16D, 257.34

257.2 Definitions.

As used in this chapter:

1. “*Base year*” means the school year ending during the calendar year in which a budget is certified.

2. “*Budget adjustment*” means an adjustment to the regular program district cost of a school district for school districts in which the regular program district cost for a year would be less than the regular program district cost for the previous year.

3. “*Budget year*” means the school year beginning during the calendar year in which a budget is certified.

4. “*Combined district cost per pupil*” is an amount determined by adding together the regular program district cost per pupil for a year and the special education support services district cost per pupil for that year as calculated under section 257.10.

5. “*Combined state cost per pupil*” is a per pupil amount determined by adding together the regular program state cost per pupil for a year and the special education support services state cost per pupil for that year as calculated under section 257.9.

6. “*Committee*” means the school budget review committee.

7. “*Expenditures*” means the total amounts paid from the general fund of a school district.

8. “*Miscellaneous income*” means the receipts deposited to the general fund of the school district but not including any of the following:

a. Foundation aid.

b. Revenue obtained from the foundation property tax.

c. Revenue obtained from the additional property tax under section 257.4.

d. Property tax replacement payments received under section 257.16B.

e. Foundation base supplement payments received under section 257.16D.

9. “*Property tax adjustment*” means state aid distributed to those school districts in which the property tax revenues generated under this chapter would be higher than the revenues generated under chapter 442, Code 1991.

10. “*School district*” means a school corporation organized under chapter 274.

11. “*State percent of growth*” means the percent of growth which is established by statute pursuant to section 257.8, and which is used in determining the supplemental state aid.

12. “*Supplemental state aid*” means the amount by which state cost per pupil and district cost per pupil will increase from one budget year to the next as the result of the state percent of growth.

13. “*Unexpended fund balance*” means a school district’s unreserved and undesignated fund balances.

89 Acts, ch 135, §2; 90 Acts, ch 1190, §1; 91 Acts, ch 267, §518; 94 Acts, ch 1023, §93; 2010 Acts, ch 1004, §1, 10; 2013 Acts, ch 121, §1, 9, 11 – 13, 42; 2018 Acts, ch 1007, §1, 6; 2019 Acts, ch 166, §1

Referred to in §24.17, 256.25A, 273.13, 279.45, 285.2, 298.10

257.3 Foundation property tax.

1. Amount of tax.

a. Except as provided in subsections 2 and 3, a school district shall cause to be levied each year, for the school general fund, a foundation property tax equal to five dollars and forty cents per thousand dollars of assessed valuation on all taxable property in the district. The county auditor shall spread the foundation levy over all taxable property in the district.

b. The amount paid to each school district for the tax replacement claim for industrial machinery, equipment and computers under section 427B.19A shall be regarded as property tax. The portion of the payment which is foundation property tax shall be determined by applying the foundation property tax rate to the amount computed under section 427B.19, subsection 3, paragraph “a”, as adjusted by paragraph “d”, if any adjustment was made.

c. Replacement taxes under chapter 437A or chapter 437B shall be regarded as property taxes for purposes of this chapter.

d. The amount paid to each school district for the commercial and industrial property tax replacement claim under section 441.21A shall be regarded as property tax. The portion of the payment which is foundation property tax shall be determined by applying the foundation property tax rate to the amount computed under section 441.21A, subsection 4, paragraph “a”, and such amount shall be prorated pursuant to section 441.21A, subsection 2, if applicable.

2. Tax for reorganized and dissolved districts.

a. Notwithstanding subsection 1, a reorganized school district shall cause a foundation property tax of four dollars and forty cents per thousand dollars of assessed valuation to be levied on all taxable property which, in the year preceding a reorganization, was within a school district affected by the reorganization as defined in section 275.1, or in the year

preceding a dissolution was a part of a school district that dissolved if the dissolution proposal has been approved by the director of the department of education pursuant to section 275.55.

b. In succeeding school years, the foundation property tax levy on that portion shall be increased to the rate of four dollars and ninety cents per thousand dollars of assessed valuation the first succeeding year, five dollars and fifteen cents per thousand dollars of assessed valuation the second succeeding year, and five dollars and forty cents per thousand dollars of assessed valuation the third succeeding year and each year thereafter.

c. The foundation property tax levy reduction pursuant to this subsection shall be available if either of the following apply:

(1) In the year preceding the reorganization or dissolution, the school district affected by the reorganization or the school district that dissolved had a certified enrollment of fewer than six hundred pupils.

(2) In the year preceding the reorganization or dissolution, the school district affected by the reorganization or the school district that dissolved had a certified enrollment of six hundred pupils or greater, and entered into a reorganization or dissolution with one or more school districts with a certified enrollment of fewer than six hundred pupils. The amount of foundation property tax reduction received by a school district qualifying for the reduction pursuant to this subparagraph shall not exceed the highest reduction amount provided in paragraphs “a” and “b” received by any of the school districts with a certified enrollment of fewer than six hundred pupils involved in the reorganization pursuant to subparagraph (1) of this paragraph “c”.

d. For purposes of this section, a reorganized school district is one which absorbs at least thirty percent of the enrollment of the school district affected by a reorganization or dissolved during a dissolution and in which action to bring about a reorganization or dissolution is initiated by a vote of the board of directors or jointly by the affected boards of directors to take effect on or after July 1, 2007, and on or before July 1, 2024. Each district which initiated, by a vote of the board of directors or jointly by the affected boards, action to bring about a reorganization or dissolution to take effect on or after July 1, 2007, and on or before July 1, 2024, shall certify the date and the nature of the action taken to the department of education by January 1 of the year in which the reorganization or dissolution takes effect.

3. *Railway corporations.* For purposes of section 257.1, the “*amount per pupil of foundation property tax*” does not include the tax levied under subsection 1 or 2 on the property of a railway corporation, or on its trustee if the corporation has been declared bankrupt or is in bankruptcy proceedings.

89 Acts, ch 135, §3; 91 Acts, ch 178, §1; 93 Acts, ch 180, §92 – 95; 95 Acts, ch 206, §34; 98 Acts, ch 1194, §27, 40; 2001 Acts, ch 126, §1 – 3; 2003 Acts, ch 180, §10, 71; 2007 Acts, ch 130, §1; 2010 Acts, ch 1061, §180; 2013 Acts, ch 94, §1, 35, 36; 2013 Acts, ch 123, §14, 22, 23; 2014 Acts, ch 1017, §1; 2019 Acts, ch 101, §1

Referred to in §275.55

257.4 Additional property tax.

1. Computation of tax.

a. A school district shall cause an additional property tax to be levied each year. The rate of the additional property tax levy in a school district shall be determined by the department of management and shall be calculated to raise the difference between the combined district cost for the budget year and the sum of the following:

(1) The product of the regular program foundation base per pupil times the weighted enrollment in the district.

(2) The product of special education support services foundation base per pupil times the special education support services weighted enrollment in the district.

(3) The total teacher salary supplement district cost.

(4) The total professional development supplement district cost.

(5) The total early intervention supplement district cost.

(6) The total area education agency teacher salary supplement district cost.

(7) The total area education agency professional development supplement district cost.

(8) The amount of the school district property tax replacement payment to be received by the school district under section 257.16B.

(9) The total teacher leadership supplement district cost.

(10) The amount of the foundation base supplement payment to be received by the school district under section 257.16D.

b. For the budget year beginning July 1, 2008, and succeeding budget years, the department of management shall annually determine an adjusted additional property tax levy and a statewide maximum adjusted additional property tax levy rate, not to exceed the statewide average additional property tax levy rate, calculated by dividing the total adjusted additional property tax levy dollars statewide by the statewide total net taxable valuation. For purposes of this paragraph, the adjusted additional property tax levy shall be that portion of the additional property tax levy corresponding to the state cost per pupil multiplied by a school district's weighted enrollment, and then multiplied by one hundred percent less the regular program foundation base per pupil percentage pursuant to section 257.1, and then reduced by the amount of the property tax replacement payment to be received under section 257.16B and the amount of the foundation base supplement payment to be received under section 257.16D. The district shall receive adjusted additional property tax levy aid in an amount equal to the difference between the adjusted additional property tax levy rate and the statewide maximum adjusted additional property tax levy rate, as applied per thousand dollars of assessed valuation on all taxable property in the district. The statewide maximum adjusted additional property tax levy rate shall be annually determined by the department taking into account amounts allocated pursuant to section 257.15, subsection 4, and the balance of the property tax equity and relief fund created in section 257.16A at the end of the calendar year.

2. *Supplemental aid.*

a. However, if the rate of the additional property tax levy determined under subsection 1 with the application of section 257.15 for a budget year for a reorganized school district is higher than the rate of additional property tax levy determined under subsection 1 with the application of section 257.15 for the year previous to the reorganization for a school district that had a certified enrollment of less than six hundred and that was within the school districts affected by the reorganization as defined in section 275.1, the department of management shall reduce the rate of the additional property tax levy in the portion of the reorganized district where the new rate is higher, to the rate that was levied in that portion of the district during the year preceding the reorganization, for a five-year period. The department of management shall include in the state aid payments made to each reorganized school district under section 257.16 during each of the first five years of existence of the reorganized district as supplemental aid, moneys equal to the reduction in property tax revenues made under this subsection. For the budget year beginning July 1, 1991, the base year calculation shall be made using chapter 442, Code 1991.

b. For purposes of this section, a reorganized school district is one in which action to bring about a reorganization was initiated by a vote of the board of directors or jointly by the affected boards of directors prior to November 30, 1990, and the reorganization will take effect on or after July 1, 1991, and on or before July 1, 1993. Each district which initiated, by a vote of the board of directors or jointly by the affected boards, action to bring about a reorganization or dissolution by November 30, 1990, shall certify the date and the nature of the action taken to the department of education by September 1, 1991.

3. *Application of tax.* No later than June 15 of each year, the department of management shall notify the county auditor of each county the amount, in dollars and cents per thousand dollars of assessed value, of the additional property tax levy in each school district in the county. A county auditor shall spread the additional property tax levy for each school district in the county over all taxable property in the district.

89 Acts, ch 135, §4; 91 Acts, ch 178, §2; 93 Acts, ch 1, §3; 2001 Acts, ch 126, §4, 12; 2006 Acts, ch 1182, §38, 53; 2008 Acts, ch 1134, §1; 2008 Acts, ch 1181, §95; 2013 Acts, ch 121, §2, 3, 9, 51; 2019 Acts, ch 166, §2, 3

Referred to in §257.2, 257.5, 257.15, 257.16, 257.31

257.5 Continuation of supplemental aid.

1. A reorganized school district, as defined in section 257.4, subsection 2, receiving supplemental aid prior to July 1, 1991, under section 442.9A, Code 1991, shall continue to receive supplemental aid as provided in that section for the five-year period specified in that section.

2. There is appropriated from the general fund of the state to the department of management for each fiscal year an amount sufficient to pay the supplemental aid to school districts under this section. Supplemental aid shall be paid in the manner provided in section 257.16.

3. For the purpose of the department of management's determination of the portion of a school district's budget that was property tax and the portion that was state aid under section 257.36, supplemental aid shall be considered property tax.

89 Acts, ch 135, §5; 91 Acts, ch 178, §3; 2016 Acts, ch 1011, §121

257.6 Enrollment.**1. Actual enrollment.**

a. Actual enrollment is determined annually on October 1, or the first Monday in October if October 1 falls on a Saturday or Sunday, and includes all of the following:

(1) Resident pupils who were enrolled in public schools within the district in grades kindergarten through twelve and including prekindergarten pupils enrolled in special education programs.

(2) Full-time equivalent resident pupils of high school age for which the district pays tuition to attend an Iowa community college.

(3) Shared-time and part-time pupils of school age enrolled in public schools within the district, irrespective of the districts in which the pupils reside, in the proportion that the time for which they are enrolled or receive instruction for the school year is to the time that full-time pupils carrying a normal course schedule, at the same grade level, in the same school district, for the same school year, are enrolled and receive instruction. Tuition charges to the parent or guardian of a shared-time or part-time nonresident pupil shall be reduced by the amount of any increased state aid received by the district by the counting of the pupil. This subparagraph applies to pupils enrolled in grades nine through twelve under section 299A.8 and to pupils from accredited nonpublic schools accessing classes or services on the accredited nonpublic school premises under section 256.12 or on the school district site, but excludes accredited nonpublic school pupils receiving classes or services funded entirely by federal grants or allocations.

(4) Eleventh and twelfth grade nonresident pupils who were residents of the district during the preceding school year and are enrolled in the district until the pupils graduate. Tuition for those pupils shall not be charged by the district in which the pupils are enrolled and the requirements of section 282.18 do not apply.

(5) Resident pupils receiving competent private instruction from a licensed practitioner provided through a public school district pursuant to chapter 299A shall be counted as three-tenths of one pupil. Revenues received by a school district attributed to a school district's weighted enrollment pursuant to this subparagraph shall be expended for the purpose for which the weighting was assigned under this subparagraph. If the school district determines that the expenditures associated with providing competent private instruction pursuant to chapter 299A are in excess of the revenue attributed to the school district's weighted enrollment for such instruction in accordance with this subparagraph, the school district may submit a request to the school budget review committee for a modified supplemental amount in accordance with section 257.31, subsection 5, paragraph "n". A home school assistance program shall not provide moneys received pursuant to this subparagraph, nor resources paid for with moneys received pursuant to this subparagraph, to parents or students utilizing the program. Moneys received by a school district pursuant to this subparagraph shall be used as provided in section 299A.12.

(6) Resident pupils receiving competent private instruction under dual enrollment pursuant to chapter 299A shall be counted as one-tenth of one pupil.

(7) A student attending an accredited nonpublic school or receiving competent private

instruction under chapter 299A, who is assigned to a therapeutic classroom in accordance with section 256.25A or is participating in a program under chapter 261E, shall be counted as a shared-time student in the school district in which the nonpublic school of attendance is located for state foundation aid purposes.

(8) Pupils who are enrolled in public schools within the district under section 282.1, subsection 3, in grades kindergarten through twelve and including prekindergarten pupils enrolled in special education programs.

b. A school district shall certify its actual enrollment to the department of education by October 15 of each year, and the department shall promptly forward the information to the department of management.

c. The department of management shall adjust the enrollment of the school district for the audit year based upon reports filed under section 11.6, and shall further adjust the budget of the second year succeeding the audit year for the property tax and state aid portions of the reported differences in enrollments for the year succeeding the audit year.

2. *Basic enrollment.* Basic enrollment for a budget year is a district's actual enrollment for the base year. Basic enrollment for the base year is a district's actual enrollment for the year preceding the base year.

3. *Additional enrollment because of special education.*

a. A school district shall determine its additional enrollment because of special education, as defined in this section, by November 1 of each year and shall certify its additional enrollment because of special education to the department of education by November 15 of each year, and the department shall promptly forward the information to the department of management.

b. For the purposes of this chapter, "*additional enrollment because of special education*" is determined by multiplying the weighting of each category of child under section 256B.9 times the number of children in each category totaled for all categories minus the total number of children in all categories.

4. *Budget enrollment.* Budget enrollment for the budget year is the basic enrollment for the budget year.

5. *Weighted enrollment.*

a. Weighted enrollment is the budget enrollment plus the district's additional enrollment because of special education calculated by November 1 of the base year plus additional pupils added due to the application of the supplementary weighting.

b. Weighted enrollment for special education support services costs is equal to the weighted enrollment minus the additional pupils added due to the application of the supplementary weighting.

6. *Students excluded.* For the school year beginning July 1, 2008, and each succeeding school year, a student shall not be included in a district's enrollment for purposes of this chapter or considered an eligible pupil under section 261E.6 if the student meets all of the following:

a. Was eligible to receive a diploma with the class in which they were enrolled and that class graduated in the previous school year.

b. Continues enrollment in the district to take courses either provided by the district or offered by community colleges under the provisions of section 257.11, or to take courses under the provisions of section 261E.6.

89 Acts, ch 135, §6; 92 Acts, ch 1187, §2; 92 Acts, ch 1230, §1, 2; 92 Acts, ch 1247, §47; 2001 Acts, ch 159, §6 – 8; 2001 Acts, ch 176, §32, 33; 2006 Acts, ch 1152, §22, 23; 2007 Acts, ch 22, §59; 2008 Acts, ch 1181, §45 – 47; 2008 Acts, ch 1191, §108, 113; 2009 Acts, ch 41, §100; 2009 Acts, ch 177, §15, 53, 57; 2010 Acts, ch 1061, §180; 2010 Acts, ch 1069, §34; 2010 Acts, ch 1183, §20; 2013 Acts, ch 88, §4; 2013 Acts, ch 121, §14, 42; 2018 Acts, ch 1172, §87; 2020 Acts, ch 1022, §3; 2020 Acts, ch 1108, §6

Referred to in §11.6, 256.25A, 256B.8, 256C.4, 257.9, 257.10, 257.11A, 257.13, 257.16, 257.16C, 257.16D, 257.31, 257.37, 261E.7, 273.22, 275.14, 275.33, 279.60, 282.8, 282.12, 282.18, 282.31, 299A.2, 299A.8, 299A.12, 423E.3, 423F.2

Subsection 1, paragraph a, subparagraphs (3) and (7) amended

257.7 Authorized expenditures.

1. *Budgets.* School districts are subject to chapter 24. The authorized expenditures of

a school district during a base year shall not exceed the lesser of the budget for that year certified under section 24.17 plus any allowable amendments permitted in this section, or the authorized budget, which is the sum of the combined district cost for that year, the actual miscellaneous income received for that year, and the actual unspent balance from the preceding year.

2. *Budget amendments.* If actual miscellaneous income for a budget year exceeds the anticipated miscellaneous income in the certified budget for that year, or if an unspent balance has not been previously certified, a school district may amend its certified budget.

89 Acts, ch 135, §7; 90 Acts, ch 1190, §2

Referred to in §298.10, 298A.12

257.8 State percent of growth — supplemental state aid.

1. *State percent of growth.* The state percent of growth for the budget year beginning July 1, 2018, is one percent. The state percent of growth for the budget year beginning July 1, 2019, is two and six hundredths percent. The state percent of growth for the budget year beginning July 1, 2020, is two and three-tenths percent. The state percent of growth for each subsequent budget year shall be established by statute which shall be enacted within thirty days of the transmission of the governor's budget required by February 1 under section 8.21 during the regular legislative session beginning in the base year.

2. *Categorical state percent of growth.* The categorical state percent of growth for the budget year beginning July 1, 2018, is one percent. The categorical state percent of growth for the budget year beginning July 1, 2019, is two and six hundredths percent. The categorical state percent of growth for the budget year beginning July 1, 2020, is two and three-tenths percent. The categorical state percent of growth for each budget year shall be established by statute which shall be enacted within thirty days of the transmission of the governor's budget required by February 1 under section 8.21 during the regular legislative session beginning in the base year. The categorical state percent of growth may include state percents of growth for the teacher salary supplement, the professional development supplement, the early intervention supplement, the teacher leadership supplement, and for budget years beginning on or after July 1, 2020, transportation equity aid payments under section 257.16C.

3. *Supplemental state aid calculation.* The department of management shall calculate the regular program supplemental state aid for a budget year by multiplying the state percent of growth for the budget year by the regular program state cost per pupil for the base year and shall calculate the special education support services supplemental state aid for the budget year by multiplying the state percent of growth for the budget year by the special education support services state cost per pupil for the base year.

4. *Combined supplemental state aid.* The combined supplemental state aid per pupil for each school district is the sum of the regular program supplemental state aid per pupil and the special education support services supplemental state aid per pupil for the budget year, which may be modified as follows:

- a. By the school budget review committee under section 257.31.
- b. By the department of management under section 257.36.

5. *Alternate supplemental state aid — definitions.*

a. For budget years beginning July 1, 2000, and subsequent budget years, references to the terms “*supplemental state aid*”, “*regular program state cost per pupil*”, and “*regular program district cost per pupil*” shall mean those terms as calculated for those school districts that calculated regular program supplemental state aid for the school budget year beginning July 1, 1999, with the additional thirty-eight dollars specified in section 257.8, subsection 4, Code 2013.

b. For the budget year beginning July 1, 2018, and subsequent budget years, references to “*supplemental state aid*” and “*regular program state cost per pupil*” shall mean those terms as calculated including the additional amounts for the specified budget years under section

257.9, subsection 2, and references to “*regular program district cost per pupil*” shall mean that term as calculated including any adjustments made under section 257.10, subsection 2.

89 Acts, ch 135, §8; 92 Acts, ch 1227, §15; 95 Acts, ch 11, §1; 96 Acts, ch 1001, §1; 98 Acts, ch 1005, §1, 2; 99 Acts, ch 1, §1, 2; 99 Acts, ch 178, §2, 10; 2000 Acts, ch 1001, §1, 2; 2001 Acts, ch 2, §1, 2; 2002 Acts, ch 1159, §1, 2; 2002 Acts, ch 1167, §1, 6; 2003 Acts, ch 1, §1, 2; 2004 Acts, ch 1175, §234, 287; 2005 Acts, ch 1, §1, 2; 2006 Acts, ch 1154, §1, 2; 2007 Acts, ch 3, §1, 2; 2008 Acts, ch 1002, §1, 2; 2008 Acts, ch 1181, §96; 2009 Acts, ch 5, §1, 2; 2009 Acts, ch 6, §1, 2; 2011 Acts, ch 131, §122 – 125, 158; 2013 Acts, ch 121, §4, 9, 15, 16, 42, 52; 2015 Acts, ch 126, §1, 3, 4; 2015 Acts, ch 127, §1, 3, 4; 2016 Acts, ch 1047, §1, 3; 2016 Acts, ch 1048, §1, 3; 2017 Acts, ch 1, §1, 5, 6; 2018 Acts, ch 1005, §1, 5; 2018 Acts, ch 1007, §2, 6; 2019 Acts, ch 1, §1, 7; 2019 Acts, ch 2, §1, 2, 6

[A portion of subsection 2 relating to the budget year beginning July 1, 2019, was inadvertently omitted in the 2020 Code]

2020 Acts, ch 1012, §1, 5

Referred to in §257.2, 257.9, 257.16C, 273.23

Subsections 1 and 2 amended

257.9 State cost per pupil.

1. Regular program state cost per pupil for 1991-1992.

a. For the budget year beginning July 1, 1991, for the regular program state cost per pupil, the department of management shall add together the sum of the products of each district’s regular program district cost per pupil for the base year, as regular program district cost per pupil would have been calculated under section 442.9, Code 1989, multiplied by its budget enrollment as budget enrollment would have been calculated under section 442.4, Code 1989, for the base year, plus the sum of the amounts added to the district cost of school districts pursuant to section 442.21, Code 1989.

b. The total calculated under this subsection shall be divided by the total of the budget enrollments of all school districts for the budget year beginning July 1, 1990, calculated under section 257.6, subsection 4, if section 257.6, subsection 4, had been in effect for that budget year. The regular program state cost per pupil for the budget year beginning July 1, 1991, is the amount calculated by the department of management under this subsection plus an amount of supplemental state aid, as defined in section 257.2, Code 2014, that is equal to the state percent of growth for the budget year multiplied by the amount calculated by the department of management under this subsection.

2. Regular program state cost per pupil for 1992-1993 and succeeding years.

a. For the budget year beginning July 1, 1992, and succeeding budget years beginning before July 1, 2018, the regular program state cost per pupil for a budget year is the regular program state cost per pupil for the base year plus the regular program supplemental state aid for the budget year.

b. For the budget year beginning July 1, 2018, the regular program state cost per pupil is the regular program state cost per pupil for the base year plus the regular program supplemental state aid for the budget year, plus five dollars.

c. For the budget year beginning July 1, 2019, the regular program state cost per pupil is the regular program state cost per pupil for the base year plus the regular program supplemental state aid for the budget year, plus five dollars.

d. For the budget year beginning July 1, 2020, the regular program state cost per pupil is the regular program state cost per pupil for the base year plus the regular program supplemental state aid for the budget year, plus ten dollars.

e. For the budget year beginning July 1, 2021, and succeeding budget years, the regular program state cost per pupil for a budget year is the regular program state cost per pupil for the base year plus the regular program supplemental state aid for the budget year.

3. *Special education support services state cost per pupil for 1991-1992.* For the budget year beginning July 1, 1991, for the special education support services state cost per pupil, the department of management shall divide the total of the approved budgets of the area education agencies for special education support services for that year approved by the state board of education under section 273.3, subsection 12, by the total of the weighted enrollment

for special education support services in the state for the budget year. The special education support services state cost per pupil for the budget year is the amount calculated by the department of management under this subsection.

4. *Special education support services state cost per pupil for 1992-1993 and succeeding years.* For the budget year beginning July 1, 1992, and succeeding budget years, the special education support services state cost per pupil for the budget year is the special education support services state cost per pupil for the base year plus the special education support services supplemental state aid for the budget year.

5. *Combined state cost per pupil.* The combined state cost per pupil is the sum of the regular program state cost per pupil and the special education support services state cost per pupil.

6. *Teacher salary supplement state cost per pupil.* For the budget year beginning July 1, 2009, for the teacher salary supplement state cost per pupil, the department of management shall add together the teacher compensation allocation made to each district for the fiscal year beginning July 1, 2008, pursuant to section 284.13, subsection 1, paragraph "h", Code 2009, and the phase II allocation made to each district for the fiscal year beginning July 1, 2008, pursuant to section 294A.9, Code 2009, and divide that sum by the statewide total budget enrollment for the fiscal year beginning July 1, 2009. The teacher salary supplement state cost per pupil for the budget year beginning July 1, 2010, and succeeding budget years, shall be the amount calculated by the department of management under this subsection for the base year plus a supplemental state aid amount that is equal to the teacher salary supplement categorical state percent of growth, pursuant to section 257.8, subsection 2, for the budget year, multiplied by the amount calculated by the department of management under this subsection for the base year.

7. *Professional development supplement state cost per pupil.* For the budget year beginning July 1, 2009, for the professional development supplement state cost per pupil, the department of management shall add together the professional development allocation made to each district for the fiscal year beginning July 1, 2008, pursuant to section 284.13, subsection 1, paragraph "d", Code 2009, and divide that sum by the statewide total budget enrollment for the fiscal year beginning July 1, 2009. The professional development supplement state cost per pupil for the budget year beginning July 1, 2010, and succeeding budget years, shall be the amount calculated by the department of management under this subsection for the base year plus a supplemental state aid amount that is equal to the professional development supplement categorical state percent of growth, pursuant to section 257.8, subsection 2, for the budget year, multiplied by the amount calculated by the department of management under this subsection for the base year.

8. *Early intervention supplement state cost per pupil.* For the budget year beginning July 1, 2009, for the early intervention supplement state cost per pupil, the department of management shall add together the early intervention allocation made to each district for the fiscal year beginning July 1, 2008, pursuant to section 256D.4, Code 2009, and divide that sum by the statewide total budget enrollment for the fiscal year beginning July 1, 2009. The early intervention supplement state cost per pupil for the budget year beginning July 1, 2010, and succeeding budget years, shall be the amount calculated by the department of management under this subsection for the base year plus a supplemental state aid amount that is equal to the early intervention supplement categorical state percent of growth, pursuant to section 257.8, subsection 2, for the budget year, multiplied by the amount calculated by the department of management under this subsection for the base year.

9. *Area education agency teacher salary supplement state cost per pupil.* For the budget year beginning July 1, 2009, for the area education agency teacher salary supplement state cost per pupil, the department of management shall add together the teacher compensation allocation made to each area education agency for the fiscal year beginning July 1, 2008, pursuant to section 284.13, subsection 1, paragraph "i", Code 2009, and the phase II allocation made to each area education agency for the fiscal year beginning July 1, 2008, pursuant to section 294A.9, Code 2009, and divide that sum by the statewide special education support services weighted enrollment for the fiscal year beginning July 1, 2009. The area education agency teacher salary supplement state cost per pupil for the budget year beginning July

1, 2010, and succeeding budget years, shall be the amount calculated by the department of management under this subsection for the base year plus a supplemental state aid amount that is equal to the teacher salary supplement categorical state percent of growth, pursuant to section 257.8, subsection 2, for the budget year, multiplied by the amount calculated by the department of management under this subsection for the base year.

10. *Area education agency professional development supplement state cost per pupil.* For the budget year beginning July 1, 2009, for the area education agency professional development supplement state cost per pupil, the department of management shall add together the professional development allocation made to each area education agency for the fiscal year beginning July 1, 2008, pursuant to section 284.13, subsection 1, paragraph “d”, Code 2009, and divide that sum by the statewide special education support services weighted enrollment for the fiscal year beginning July 1, 2009. The area education agency professional development supplement state cost per pupil for the budget year beginning July 1, 2010, and succeeding budget years, shall be the amount calculated by the department of management under this subsection for the base year plus a supplemental state aid amount that is equal to the professional development supplement categorical state percent of growth, pursuant to section 257.8, subsection 2, for the budget year, multiplied by the amount calculated by the department of management under this subsection for the base year.

11. *Teacher leadership supplement state cost per pupil.* The teacher leadership supplement state cost per pupil amount for the budget year beginning July 1, 2014, shall be calculated by the department of management by dividing the allocation amount for the budget year beginning July 1, 2014, in section 284.13, subsection 1, paragraph “d”, subparagraph (4), by one-third of the statewide total budget enrollment for the fiscal year beginning July 1, 2014. The teacher leadership supplement state cost per pupil for the budget year beginning July 1, 2015, and succeeding budget years, shall be the teacher leadership supplement state cost per pupil for the base year plus a supplemental state aid amount that is equal to the teacher leadership supplement categorical state percent of growth, pursuant to section 257.8, subsection 2, for the budget year, multiplied by the teacher leadership supplement state cost per pupil for the base year.

89 Acts, ch 135, §9; 90 Acts, ch 1190, §3; 2008 Acts, ch 1181, §97; 2009 Acts, ch 68, §2; 2009 Acts, ch 177, §16; 2010 Acts, ch 1061, §43; 2013 Acts, ch 121, §17, 18, 42, 53; 2014 Acts, ch 1013, §3; 2018 Acts, ch 1007, §3, 6; 2019 Acts, ch 2, §3, 6; 2020 Acts, ch 1002, §1, 4

Referred to in §257.2, 257.8, 282.10, 282.18, 284.4
Subsection 2 amended

257.10 District cost per pupil — district cost.

1. *Regular program district cost per pupil for 1991-1992.* For the budget year beginning July 1, 1991, in order to determine the regular program district cost per pupil for a district, the department of management shall divide the product of the regular program district cost per pupil of the district for the base year, as regular program district cost per pupil would have been calculated under section 442.9, Code 1989, multiplied by its budget enrollment for the base year as budget enrollment would have been calculated under section 442.4, Code 1989, plus the amount added to district cost pursuant to section 442.21, Code 1989, for each school district, by the budget enrollment of the school district for the budget year beginning July 1, 1990, calculated under section 257.6, subsection 4, as if section 257.6, subsection 4, had been in effect for that budget year. The regular program district cost per pupil for the budget year beginning July 1, 1991, is the amount calculated by the department of management under this subsection plus the amount of supplemental state aid, as defined in section 257.2, Code 2014, calculated for regular program state cost per pupil, except that if the regular program district cost per pupil for the budget year calculated under this subsection in any school district exceeds one hundred ten percent of the regular program state cost per pupil for the budget year, the department of management shall reduce the regular program district cost per pupil of that district for the budget year to an amount equal to one hundred ten percent of the regular program state cost per pupil for the budget year, and if the regular program district cost per pupil for the budget year calculated under this subsection in any school district is less than the regular program state cost per pupil for the budget year, the

department of management shall increase the regular program district cost per pupil of that district to an amount equal to the regular program state cost per pupil for the budget year.

2. *Regular program district cost per pupil for 1992-1993 and succeeding years.*

a. For the budget year beginning July 1, 1992, and succeeding budget years, the regular program district cost per pupil for each school district for a budget year is the regular program district cost per pupil for the base year plus the regular program supplemental state aid for the budget year except as otherwise provided in this subsection.

b. If the regular program district cost per pupil of a school district for the budget year under paragraph "a" exceeds one hundred five percent of the regular program state cost per pupil for the budget year and the state percent of growth for the budget year is greater than two percent, the regular program district cost per pupil for the budget year for that district shall be reduced to one hundred five percent of the regular program state cost per pupil for the budget year. However, under such conditions, if the difference between the regular program district cost per pupil for the budget year and the regular program state cost per pupil for the budget year is greater than an amount equal to two percent multiplied by the regular program state cost per pupil for the base year, the regular program district cost per pupil for the budget year shall be reduced by the amount equal to two percent multiplied by the regular program state cost per pupil for the base year.

c. For the budget year beginning July 1, 2018, and succeeding budget years, if the regular program district cost per pupil for the budget year calculated under this subsection in any school district is less than the regular program state cost per pupil for the budget year, the department of management shall increase the regular program district cost per pupil of that district to an amount equal to the regular program state cost per pupil for the budget year.

3. *Special education support services district cost per pupil for 1991-1992.* For the budget year beginning July 1, 1991, for the special education support services district cost per pupil, the department of management shall divide the approved budget of each area education agency for special education support services for that year approved by the state board of education, under section 273.3, subsection 12, by the total of the weighted enrollment for special education support services in the area for that budget year. The special education support services district cost per pupil for each school district in an area for the budget year is the amount calculated by the department of management under this subsection.

4. *Special education support services district cost per pupil for 1992-1993 and succeeding years.*

a. For the budget year beginning July 1, 1992, and succeeding budget years, the special education support services district cost per pupil for the budget year is the special education support services district cost per pupil for the base year plus the special education support services supplemental state aid for the budget year.

b. Notwithstanding the special education support services district cost per pupil for the budget year beginning July 1, 1991, calculated under subsection 3, for area education agencies that have fewer than three and five-tenths public school pupils per square mile, the special education support services district cost per pupil for the budget year beginning July 1, 1991, is one hundred forty-seven dollars.

5. *Combined district cost per pupil.* The combined district cost per pupil for a school district is the sum of the regular program district cost per pupil and the special education support services district cost per pupil. Combined district cost per pupil does not include a modified supplemental amount added for school districts that have a negative balance of funds raised for special education instruction programs, a modified supplemental amount granted by the school budget review committee for a single school year, or a modified supplemental amount added for programs established pursuant to sections 257.38 through 257.41.

6. *Regular program district cost.* Regular program district cost for a school district for a budget year is equal to the regular program district cost per pupil for the budget year multiplied by the budget enrollment for the budget year.

7. *Special education support services district cost.* Special education support services district cost for a school district for a budget year is equal to the special education support services district cost per pupil for the budget year multiplied by the special education support

services weighted enrollment for the district for the budget year. If the special education support services district cost for a school district for a budget year is less than the special education support services district cost for that district for the base year, the department of management shall adjust the special education support services district cost for that district for the budget year to equal the special education support services district cost for the base year.

8. *Combined district cost.*

a. Combined district cost is the sum of the regular program district cost per pupil multiplied by the weighted enrollment, the special education support services district cost, the total teacher salary supplement district cost, the total professional development supplement district cost, the total early intervention supplement district cost, and the total teacher leadership supplement district cost, plus the sum of the additional district cost allocated to the district to fund media services and educational services provided through the area education agency, the area education agency total teacher salary supplement district cost and the area education agency total professional development supplement district cost.

b. A school district may increase its combined district cost for the budget year to the extent that an excess tax levy is authorized by the school budget review committee.

9. *Teacher salary supplement cost per pupil and district cost.*

a. For the budget year beginning July 1, 2009, the department of management shall add together the teacher compensation allocation made to each district for the fiscal year beginning July 1, 2008, pursuant to section 284.13, subsection 1, paragraph "h", Code 2009, and the phase II allocation made to each district for the fiscal year beginning July 1, 2008, pursuant to section 294A.9, Code 2009, and divide that sum by the district's budget enrollment in the fiscal year beginning July 1, 2009, to determine the teacher salary supplement district cost per pupil. For the budget year beginning July 1, 2010, and succeeding budget years, the teacher salary supplement district cost per pupil for each school district for a budget year is the teacher salary supplement program district cost per pupil for the base year plus the teacher salary supplement supplemental state aid amount for the budget year.

b. For the budget year beginning July 1, 2010, and succeeding budget years, if the department of management determines that the unadjusted teacher salary supplement district cost of a school district for a budget year is less than one hundred percent of the unadjusted teacher salary supplement district cost for the base year for the school district, the school district shall receive a budget adjustment for that budget year equal to the difference.

c. (1) The unadjusted teacher salary supplement district cost is the teacher salary supplement district cost per pupil for each school district for a budget year multiplied by the budget enrollment for that school district.

(2) The total teacher salary supplement district cost is the sum of the unadjusted teacher salary supplement district cost plus the budget adjustment for that budget year.

d. For the budget year beginning July 1, 2009, the use of the funds calculated under this subsection shall comply with the requirements of chapter 284 and shall be distributed to teachers pursuant to section 284.3A. For the budget year beginning July 1, 2010, and succeeding budget years, the use of the funds calculated under this subsection shall comply with the requirements of chapter 284 and shall be distributed to teachers pursuant to section 284.3A.

10. *Professional development supplement cost per pupil and district cost.*

a. For the budget year beginning July 1, 2009, the department of management shall divide the professional development allocation made to each district for the fiscal year beginning July 1, 2008, pursuant to section 284.13, subsection 1, paragraph "d", Code 2009, by the district's budget enrollment in the fiscal year beginning July 1, 2009, to determine the professional development supplement cost per pupil. For the budget year beginning July 1, 2010, and succeeding budget years, the professional development supplement district cost per pupil for each school district for a budget year is the professional development supplement district cost per pupil for the base year plus the professional development supplement supplemental state aid amount for the budget year.

b. For the budget year beginning July 1, 2010, and succeeding budget years, if the department of management determines that the unadjusted professional development supplement district cost of a school district for a budget year is less than one hundred percent of the unadjusted professional development supplement district cost for the base year for the school district, the school district shall receive a budget adjustment for that budget year equal to the difference.

c. (1) The unadjusted professional development supplement district cost is the professional development supplement district cost per pupil for each school district for a budget year multiplied by the budget enrollment for that school district.

(2) The total professional development supplement district cost is the sum of the unadjusted professional development supplement district cost plus the budget adjustment for that budget year.

d. The use of the funds calculated under this subsection and any amount designated for professional development purposes from the school district's flexibility account under section 298A.2, subsection 2, shall comply with the requirements of chapter 284. If all professional development requirements of chapter 284 are met and funds received under this subsection remain unexpended and unobligated at the end of a fiscal year beginning on or after July 1, 2017, the school district may transfer all or a portion of such unexpended and unobligated funds for deposit in the school district's flexibility account established under section 298A.2, subsection 2.

11. *Early intervention supplement cost per pupil and district cost.*

a. For the budget year beginning July 1, 2009, the department of management shall divide the early intervention allocation made to each district for the fiscal year beginning July 1, 2008, pursuant to section 256D.4, Code 2009, by the district's budget enrollment in the fiscal year beginning July 1, 2009, to determine the early intervention supplement cost per pupil. For the budget year beginning July 1, 2010, and succeeding budget years, the early intervention supplement district cost per pupil for each school district for a budget year is the early intervention supplement district cost per pupil for the base year plus the early development supplement supplemental state aid amount for the budget year.

b. For the budget year beginning July 1, 2010, and succeeding budget years, if the department of management determines that the unadjusted early intervention supplement district cost of a school district for a budget year is less than one hundred percent of the unadjusted early intervention supplement district cost for the base year for the school district, the school district shall receive a budget adjustment for that budget year equal to the difference.

c. (1) The unadjusted early intervention supplement district cost is the early intervention supplement district cost per pupil for each school district for a budget year multiplied by the budget enrollment for that school district.

(2) The total early intervention supplement district cost is the sum of the unadjusted early intervention supplement district cost plus the budget adjustment for that budget year.

d. The funds calculated under this subsection may be used for any school general fund purpose.

12. *Teacher leadership supplement cost per pupil and district cost.*

a. The teacher leadership supplement district cost per pupil amount for the budget year beginning July 1, 2014, shall be calculated by the department of management by dividing the allocation amount for the budget year beginning July 1, 2014, in section 284.13, subsection 1, paragraph "d", subparagraph (4), by one-third of the statewide total budget enrollment for the fiscal year beginning July 1, 2014. For the budget year beginning July 1, 2015, and succeeding budget years, the teacher leadership supplement district cost per pupil for each school district for a budget year is the teacher leadership supplement program district cost per pupil for the base year plus the teacher leadership supplement supplemental state aid amount for the budget year.

b. For the budget year beginning July 1, 2015, and succeeding budget years, if the department of management determines that the unadjusted teacher leadership supplement district cost of a school district for a budget year is less than one hundred percent of the unadjusted teacher leadership supplement district cost for the base year for the school

district, the school district shall receive a budget adjustment for that budget year equal to the difference.

c. (1) The unadjusted teacher leadership supplement district cost is the teacher leadership supplement district cost per pupil for each school district for a budget year multiplied by the budget enrollment for that school district.

(2) The total teacher leadership supplement district cost is the sum of the unadjusted teacher leadership supplement district cost plus the budget adjustment for that budget year.

d. For the budget year beginning July 1, 2014, and succeeding budget years, the use of the funds calculated under this subsection shall comply with the requirements of chapter 284 and shall be distributed to teachers pursuant to section 284.15. The funds shall be used only to increase the payment for a teacher assigned to a leadership role pursuant to a framework or comparable system approved pursuant to section 284.15; to increase the percentages of teachers assigned to leadership roles; to increase the minimum teacher starting salary to thirty-three thousand five hundred dollars; to cover the costs for the time mentor and lead teachers are not providing instruction to students in a classroom; for coverage of a classroom when an initial or career teacher is observing or co-teaching with a teacher assigned to a leadership role; for professional development time to learn best practices associated with the career pathways leadership process; and for other costs associated with a framework or comparable system approved by the department of education under section 284.15 with the goals of improving instruction and elevating the quality of teaching and student learning.

13. *Deference to school districts.*

a. When exercising authority to carry out an agency action, as defined in section 17A.2, or to perform an activity or make a decision specified in section 17A.2, subsection 11, paragraphs “a” through “l”, if applicable, related to the provisions of subsections 9, 10, and 11, including the expenditure of funds received by school districts under subsections 9, 10, and 11, the department of education, the director of the department of education, and the state board of education shall carry out, perform, or make such agency action, activity, or decision in a manner that gives deference to decisions of school districts’ boards of directors, promotes flexibility for school districts, and minimizes intrusions into school district operations and decision making by boards of directors.

b. (1) In addition to paragraph “a”, the department of education, the director of the department of education, and the state board of education shall not issue guidance related to the provisions of subsections 9, 10, and 11, including the expenditure of funds received by a school district under subsections 9, 10, and 11, that is inconsistent with any statute, rule, or other legal authority or that imposes any legally binding obligations or duties upon any person unless such legally binding obligations or duties are required or reasonably implied by any statute, rule, or other legal authority. Guidance issued in violation of this paragraph “b” shall not be deemed to be legally binding.

(2) For the purposes of this paragraph “b”, “guidance” means a document or statement issued by the department of education, the director of the department of education, or the state board of education that purports to interpret a law, a rule, or other legal authority and is designed to provide advice or direction to a person regarding the implementation of or compliance with the law, the rule, or the other legal authority being interpreted. “Guidance” does not include any action, activity, or decision governed by paragraph “a”, a document or statement required by federal law or a court, or a document or statement issued in the course of a contested case proceeding, an administrative proceeding, or a judicial proceeding to which the department, the state board, or the director is a party.

89 Acts, ch 135, §10; 90 Acts, ch 1190, §4 – 6; 90 Acts, ch 1272, §44; 99 Acts, ch 178, §3, 10; 2006 Acts, ch 1152, §24; 2008 Acts, ch 1181, §98, 99; 2009 Acts, ch 68, §3, 4; 2009 Acts, ch 177, §17, 18; 2010 Acts, ch 1061, §44; 2013 Acts, ch 121, §19 – 25, 42, 54, 55; 2014 Acts, ch 1013, §4; 2015 Acts, ch 140, §36, 58, 59; 2017 Acts, ch 153, §9 – 11; 2017 Acts, ch 154, §2; 2018 Acts, ch 1007, §4 – 6; 2018 Acts, ch 1112, §2, 16, 17

Referred to in §256F4, 257.2, 257.8, 257.16, 282.24, 284.3A, 284.4, 284.6, 284.15, 284.16, 284.17, 298A.2

2018 amendment to subsection 11, paragraph d, applies to school budget years beginning on or after July 1, 2018; 2018 Acts, ch 1112,

257.11 Supplementary weighting plan.

1. *Regular curriculum.* Pupils in a regular curriculum attending all their classes in the district in which they reside, taught by teachers employed by that district, and having administrators employed by that district, are assigned a weighting of one.

2. *District-to-district sharing.*

a. In order to provide additional funds for school districts which send their resident pupils to another school district, which jointly employ and share the services of teachers under section 280.15, or which use the services of a teacher employed by another school district, a supplementary weighting plan for determining enrollment is adopted.

b. If the school budget review committee certifies to the department of management that the shared classes or teachers would otherwise not be implemented without the assignment of additional weighting, pupils attending classes in another school district, attending classes taught by a teacher who is employed jointly under section 280.15, or attending classes taught by a teacher who is employed by another school district are assigned a weighting of forty-eight hundredths of the percentage of the pupil's school day during which the pupil attends classes in another district, attends classes taught by a teacher who is jointly employed under section 280.15, or attends classes taught by a teacher who is employed by another school district.

c. Pupils attending class for all or a substantial portion of a school day pursuant to a whole grade sharing agreement executed under sections 282.10 through 282.12 shall be eligible for supplementary weighting pursuant to this subsection. A school district which executes a whole grade sharing agreement and which adopts a resolution jointly with other affected boards to study the question of undergoing a reorganization or dissolution to take effect on or before July 1, 2024, shall receive a weighting of one-tenth of the percentage of the pupil's school day during which the pupil attends classes in another district, attends classes taught by a teacher who is jointly employed under section 280.15, or attends classes taught by a teacher who is employed by another school district. A district shall be eligible for supplementary weighting pursuant to this paragraph for a maximum of three years. Receipt of supplementary weighting for a second and third year shall be conditioned upon submission of information resulting from the study to the school budget review committee indicating progress toward the objective of reorganization on or before July 1, 2024.

d. A school district which hosts a regional academy shall be eligible to assign its resident students attending classes at the academy a weighting of one-tenth of the percentage of the student's school day during which the student attends classes at the regional academy. The maximum amount of additional weighting for which a school district hosting a regional academy shall be eligible is an amount corresponding to thirty additional students. The minimum amount of additional weighting for which a school district establishing a regional academy shall be eligible is an amount corresponding to fifteen additional students if the academy provides both advanced-level courses and career and technical courses.

3. *District-to-community college sharing and concurrent enrollment programs.*

a. In order to provide additional funds for school districts which send their resident high school pupils to a community college for college-level classes, a supplementary weighting plan for determining enrollment is adopted.

b. If the school budget review committee certifies to the department of management that the class would not otherwise be implemented without the assignment of additional weighting, pupils attending a community college-offered class or attending a class taught by a community college-employed instructor are assigned a weighting of the percentage of the pupil's school day during which the pupil attends class in the community college or attends a class taught by a community college-employed instructor times seventy hundredths for career and technical courses or fifty hundredths for liberal arts and sciences courses. The following requirements shall be met for the purposes of assigning an additional weighting for classes offered through a sharing agreement between a school district and community college. The class must be:

(1) Supplementing, not supplanting, high school courses required to be offered pursuant to section 256.11, subsection 5.

(2) Included in the community college catalog or an amendment or addendum to the catalog.

(3) Open to all registered community college students, not just high school students. The class may be offered in a high school attendance center.

(4) For college credit and the credit must apply toward an associate of arts or associate of science degree, or toward an associate of applied arts or associate of applied science degree, or toward completion of a college diploma program.

(5) Taught by an instructor employed or contracted by a community college who meets the requirements of section 261E.3, subsection 2.

(6) Taught utilizing the community college course syllabus.

(7) Taught in such a manner as to result in student work and student assessment which meet college-level expectations.

c. Notwithstanding paragraph “b”, subparagraph (1), a school district that otherwise meets the requirements of this subsection may enter into a sharing agreement with a community college under which the community college may offer, or provide a community college-employed instructor to teach, one of the science or one of the mathematics units in accordance with section 256.11, subsection 5, and one or more units in only one of the six career and technical education service areas in accordance with section 256.11, subsection 5, paragraph “h”. Pupils enrolled in a unit in accordance with this paragraph shall be assigned additional weighting in accordance with this subsection if the number of pupils enrolled in such a unit exceeds five and the school district’s total enrollment does not exceed six hundred pupils. A school district that enters into a sharing agreement with a community college under this paragraph to provide a unit of science or mathematics in accordance with section 256.11, subsection 5, paragraph “a”, “d”, or “e”, shall be deemed to have met the requirement that the school district offer and teach such a unit under the educational standards of section 256.11, subsection 5, paragraph “a”, “d”, or “e”. However, the provisions of this paragraph “c” relating to a sharing agreement for a unit of science or mathematics are applicable only if all of the following conditions are met:

(1) The school district has made every reasonable and good faith effort to employ a teacher licensed under chapter 272 for the science or mathematics unit, as applicable, and is unable to employ such a teacher. For purposes of this paragraph “c”, “good faith effort” means the same as defined in section 279.19A, subsection 9.

(2) Enrollment for the unit exceeds five pupils.

(3) The unit is offered during the regular school day.

(4) The unit is made accessible by the school district to all eligible pupils.

4. *At-risk programs and alternative schools.*

a. In order to provide additional funding to school districts for programs serving at-risk pupils, alternative program and alternative school pupils in secondary schools, and pupils identified as potential dropouts or returning dropouts as defined in section 257.39, a supplementary weighting plan for such pupils is adopted. A supplementary weighting of forty-eight ten-thousandths per pupil shall be assigned to the percentage of pupils in a school district enrolled in grades one through six, as reported by the school district on the basic educational data survey for the base year, who are eligible for free and reduced price meals under the federal National School Lunch Act and the federal Child Nutrition Act of 1966, 42 U.S.C. §1751-1785, multiplied by the budget enrollment in the school district; and a supplementary weighting of one hundred fifty-six one-hundred-thousandths per pupil shall be assigned to pupils included in the budget enrollment of the school district. Amounts received as supplementary weighting under this subsection shall be utilized by a school district to develop or maintain at-risk pupils’ programs, alternative programs and alternative school programs, and returning dropout and dropout prevention programs approved pursuant to section 257.40.

b. Notwithstanding paragraph “a”, a school district which received supplementary weighting for an alternative high school program for the school budget year beginning July 1, 1999, shall receive an amount of supplementary weighting for the next three school budget years as follows:

(1) For the budget year beginning July 1, 2000, the greater of the amount of supplementary weighting determined pursuant to paragraph “a”, or sixty-five percent of the amount received for the budget year beginning July 1, 1999.

(2) For the budget year beginning July 1, 2001, the greater of the amount of supplementary weighting determined pursuant to paragraph “a”, or forty percent of the amount received for the budget year beginning July 1, 1999.

(3) For the budget year beginning July 1, 2002, and succeeding budget years, the amount of supplementary weighting determined pursuant to paragraph “a”.

c. If a school district receives an amount pursuant to paragraph “b” which exceeds the amount the district would otherwise have received pursuant to paragraph “a”, the department of management shall annually determine the amount of the excess that would have been state aid and the amount that would have been property tax if the school district had generated that amount pursuant to paragraph “a”, and shall include the amounts in the state aid payments and property tax levies of school districts. The department of management shall recalculate the supplementary weighting amount received each year to reflect the amount of the reduction in funding from one budget year to the next pursuant to paragraph “b”, subparagraphs (1) through (3). It is the intent of the general assembly that when weights are recalculated under this subsection, the total amounts generated by each weight shall be approximately equal.

d. Amounts that a school district receives as supplementary weighting pursuant to this subsection or as a modified supplemental amount received under section 257.41 may be used in the budget year for purposes of providing district-wide, building-wide, or grade-specific at-risk and dropout prevention programming targeted to pupils who are not deemed at risk.

e. Notwithstanding paragraph “d” and section 282.24, if a pupil has been determined by the school district to be likely to inflict self-harm or likely to harm another pupil and all of the following apply, the school district may use amounts received pursuant to paragraph “a” to pay the instructional costs necessary to address the pupil’s behavior during instructional time when those services are not otherwise provided to pupils who do not require special education and the costs exceed the costs of instruction of pupils in a regular curriculum:

(1) The pupil does not require special education.

(2) The pupil is not in a court-ordered placement under chapter 232 under the care and custody of the department of human services or juvenile court services.

(3) The pupil is not in the state training school pursuant to a court order entered under chapter 232 under the care and custody of the department of human services.

(4) The pupil is not placed in a facility licensed under chapter 135B, 135C, or 135H.

5. *Shared operational functions — increased student opportunities — budget years beginning in 2014 through 2024.*

a. (1) In order to provide additional funding to increase student opportunities and redirect more resources to student programming for school districts that share operational functions, a district that shares with a political subdivision one or more operational functions of a curriculum director, master social worker, independent social worker, or school counselor, or one or more operational functions in the areas of superintendent management, business management, human resources, transportation, or operation and maintenance for at least twenty percent of the school year shall be assigned a supplementary weighting for each shared operational function. A school district that shares an operational function in the area of superintendent management shall be assigned a supplementary weighting of eight pupils for the function. A school district that shares an operational function in the area of business management, human resources, transportation, or operation and maintenance shall be assigned a supplementary weighting of five pupils for the function. A school district that shares the operational functions of a curriculum director, a master social worker or an independent social worker licensed under chapters 147 and 154C, or a school counselor shall be assigned a supplementary weighting of three pupils for the function. The additional weighting shall be assigned for each discrete operational function shared. However, a school district may receive the additional weighting under this subsection for sharing the services of an individual with a political subdivision even if the type of operational function performed by the individual for the school district and the type of operational function performed by the individual for the political subdivision are not the same operational function, so long as both operational functions are eligible for weighting under this subsection. In such case, the school district shall be assigned the additional weighting for the type of operational

function that the individual performs for the school district, and the school district shall not receive additional weighting for any other function performed by the individual. The operational function sharing arrangement does not need to be a newly implemented sharing arrangement to receive supplementary weighting under this subsection.

(2) For the purposes of this section, “*political subdivision*” means a city, township, county, school corporation, merged area, area education agency, institution governed by the state board of regents, or any other governmental subdivision.

b. School districts that share operational functions with other school districts are not required to be contiguous school districts. If two or more districts sharing operational functions are not contiguous to each other, the districts separating those districts are not required to be a party to the operational functions sharing arrangement.

c. Supplementary weighting pursuant to this subsection shall be available to a school district during the period commencing with the budget year beginning July 1, 2014, through the budget year beginning July 1, 2024. The maximum amount of additional weighting for which a school district shall be eligible in a budget year is twenty-one additional pupils. Criteria for determining the qualification of operational functions for supplementary weighting shall be determined by the department by rule, through consideration of increased student opportunities.

d. Supplementary weighting pursuant to this subsection shall be available to an area education agency during the period commencing with the budget year beginning July 1, 2014, through the budget year beginning July 1, 2024. The minimum amount of additional funding for which an area education agency shall be eligible in a budget year is thirty thousand dollars, and the maximum amount of additional funding for which an area education agency shall be eligible is two hundred thousand dollars. The department of management shall annually set a weighting for each area education agency to generate the approved operational sharing expense using the area education agency’s special education cost per pupil amount and foundation level. Criteria for determining the qualification of operational functions for supplementary weighting shall be determined by the department by rule, through consideration of increased student opportunities.

e. This subsection is repealed effective July 1, 2025.

6. *Shared classes delivered over the Iowa communications network.*

a. A school district that provides a virtual class to a pupil in another school district and the school district receiving that virtual class for a pupil shall each receive a supplemental weighting of one-twentieth of the percentage of the pupil’s school day during which the pupil attends the virtual class.

b. Fifty percent of the funding the school district providing the virtual class receives as a result of this subsection shall be reserved as additional pay for the virtual classroom instructor. If an instructor’s contract provides additional pay for teaching a virtual class, the instructor shall receive the greater amount of either the amount provided for in this paragraph or the amount provided for in the instructor’s contract.

c. A school district receiving a virtual class for a pupil from a community college, which class meets the sharing agreement requirements in subsection 3, shall receive a supplemental funding weighting of one-twentieth of the percentage of the pupil’s school day during which the pupil attends the virtual class.

d. For the purposes of this subsection, “*virtual class*” means either of the following:

(1) A class provided by a school district to a pupil in another school district via the Iowa communications network’s video services.

(2) A class provided by a community college to a pupil in a school district via the Iowa communications network’s video services.

7. *District to community college innovative sharing project.* A school district that collaborates with a community college to provide pupils enrolled in the school district’s high school with a class that uses an activities-based, project-based, and problem-based learning approach that is offered through a partnership with a nationally recognized provider of rigorous and innovative science, technology, engineering, and mathematics curriculum for schools, which provider is exempt from taxation under section 501(c)(3) of the Internal Revenue Code, is eligible to assign its resident pupils attending the class an additional

weighting of the percentage of the pupil's school day during which the pupil attends a class described in this subsection times seventy hundredths. To qualify for additional weighting, the class must supplement, not supplant, high school courses required to be offered pursuant to section 256.11, subsection 5.

8. *Pupils ineligible.* A pupil eligible for the weighting plan provided in section 256B.9 is not eligible for supplementary weighting pursuant to this section unless it is determined that the course generating the supplemental weighting has no relationship to the pupil's disability. A pupil attending an alternative program or an at-risk pupils' program, including alternative high school programs, is not eligible for supplementary weighting under subsection 2.

9. *Shared classes and curriculum standards.* A school district shall ensure that any course made available to a student through any sharing agreement between the school district and a community college or any other entity providing course programming pursuant to this section to students enrolled in the school district meets the expectations contained in the core curriculum adopted pursuant to section 256.7, subsection 26. The school district shall ensure that any course that has the capacity to generate college credit shall be equivalent to college-level work.

10. *School finance appropriations report.* The department of education shall annually prepare a report regarding school finance provisions or programs receiving a standing appropriation, including supplementary weighting programs. The report shall provide information regarding amounts received or accessed by school districts pursuant to the provisions or programs, whether the amounts received represent an increase or decrease over amounts received during the previous budget year and the percentage increase or decrease, conclusions regarding the adequacy of amounts received by school districts and whether the amounts received are equitable between school districts based upon input from the school districts and analysis by the department, and the rationale for current trends being observed by the department and projections regarding possible trends in the future. The report shall be submitted to the general assembly by January 1 each year, and copies of the report shall be forwarded to the chairpersons and members of the committee on education in the senate and in the house of representatives.

89 Acts, ch 135, §11; 90 Acts, ch 1190, §7; 93 Acts, ch 180, §96; 95 Acts, ch 111, §1; 95 Acts, ch 209, §13; 2000 Acts, ch 1198, §1, 6; 2001 Acts, ch 126, §5, 6; 2002 Acts, ch 1047, §3, 4, 20; 2002 Acts, ch 1140, §8; 2003 Acts, ch 179, §111; 2003 Acts, ch 180, §11; 2005 Acts, ch 19, §38; 2007 Acts, ch 130, §2 – 4; 2007 Acts, ch 214, §20, 44; 2008 Acts, ch 1032, §43; 2008 Acts, ch 1181, §48, 49; 2008 Acts, ch 1191, §157; 2009 Acts, ch 41, §247; 2009 Acts, ch 133, §100; 2010 Acts, ch 1016, §7; 2012 Acts, ch 1119, §37; 2013 Acts, ch 65, §1; 2013 Acts, ch 88, §5, 6; 2013 Acts, ch 140, §20; 2014 Acts, ch 1017, §2, 3; 2014 Acts, ch 1035, §1 – 3; 2015 Acts, ch 140, §37, 38, 58, 59; 2017 Acts, ch 153, §4, 7, 8; 2018 Acts, ch 1119, §12; 2018 Acts, ch 1166, §1 – 5; 2019 Acts, ch 100, §6; 2019 Acts, ch 101, §2; 2019 Acts, ch 164, §1, 2, 6; 2020 Acts, ch 1062, §94

Referred to in §11.6, 256.17, 257.6, 257.11A, 257.38, 257.40, 257.41, 261E.2, 261E.3, 261E.6, 261E.8, 261E.9, 261E.10, 261E.11, 279.50A, 280.13A, 282.7, 282.27, 423F.3, 709.15

2018 amendments to subsection 5 apply to school budget years beginning on or after July 1, 2018, subject to the school budget limitations of subsection 5; 2018 Acts, ch 1166, §5

2019 amendment to subsection 3, paragraph b, unnumbered paragraph 1, applies to certifications by the school budget review committee occurring before, on, or after July 1, 2019, for school budget years beginning on or after July 1, 2019; 2019 Acts, ch 164, §6

Code editor directive applied

257.11A Supplementary weighting and school reorganization.

1. In determining weighted enrollment under section 257.6, if the board of directors of a school district has approved a contract for sharing pursuant to section 257.11 and the school district has approved an action to bring about a reorganization to take effect on and after July 1, 2007, and on or before July 1, 2024, the reorganized school district shall include, for a period of three years following the effective date of the reorganization, additional pupils added by the application of the supplementary weighting plan, equal to the pupils added by the application of the supplementary weighting plan in the year preceding the reorganization. For the purposes of this subsection, the weighted enrollment for the period of three years following the effective date of reorganization shall include the supplementary weighting in the base year used for determining the combined district cost for the first

year of the reorganization. However, the weighting shall be reduced by the supplementary weighting added for a pupil whose residency is not within the reorganized district.

2. For purposes of this section, a reorganized district is one in which the reorganization was approved in an election pursuant to sections 275.18 and 275.20 and takes effect on or after July 1, 2007, and on or before July 1, 2024. Each district which initiates, by a vote of the board of directors or jointly by the affected boards, action to bring about a reorganization or dissolution to take effect on or after July 1, 2007, and on or before July 1, 2024, shall certify the date and the nature of the action taken to the department of education by January 1 of the year in which the reorganization or dissolution takes effect.

3. A school district shall be eligible for a combined maximum total of six years of supplementary weighting under the provisions of this section and section 257.11, subsection 2, paragraph "c".

2001 Acts, ch 126, §7; 2007 Acts, ch 130, §5; 2014 Acts, ch 1017, §4; 2019 Acts, ch 101, §3

257.12 Adjustment in state foundation aid.

1. If a school district is required to repay property taxes paid for school taxes levied on property originally assessed at five million dollars or more because the assessment was subsequently reduced by the action of the property assessment appeal board or judicial action and the amount of the reduction in the assessment equals at least one hundred thousand dollars or two percent of the assessed value of all taxable property in the district prior to the reduction, whichever is less, the school district is eligible for an adjustment in state foundation aid. To receive the adjustment in state foundation aid, the school district shall apply to the department of management prior to the beginning of the budget year following the budget year in which the repayment of the property taxes occurred. The department of management shall determine the amount of adjustment in state foundation aid pursuant to subsection 2.

2. The department of management shall determine the amount of state foundation aid which the school district would have received under section 257.1 if the amount of the school district's foundation property tax was determined using the reduced assessment of the applicable property. The difference between the amount of the state foundation aid using the reduced assessment and the amount of state foundation aid actually received under section 257.1 equals the amount of the adjustment in state foundation aid to be paid to the school district.

3. The adjustment in state foundation aid under this section shall be paid as provided in section 257.16. If the application to receive an adjustment in state aid was filed prior to April 15, the adjustment shall be paid in the budget year. If the application is made after April 15, the adjustment shall be paid in the following budget year.

2006 Acts, ch 1185, §78

257.13 On-time funding budget adjustment.

1. For the school budget year beginning July 1, 2001, and succeeding budget years, if a district's actual enrollment for the budget year, determined under section 257.6, is greater than its budget enrollment for the budget year, the district shall be eligible to receive an on-time funding budget adjustment. The adjustment shall be in an amount equal to the difference between the actual enrollment for the budget year and the budget enrollment for the budget year, multiplied by the district cost per pupil.

2. The board of directors of a school district that wishes to receive an on-time funding budget adjustment shall adopt a resolution to receive the adjustment and notify the school budget review committee annually, but not earlier than November 1, as determined by the department of education. The school budget review committee shall establish a modified supplemental amount pursuant to subsection 1.

3. If the board of directors of a school district determines that a need exists for additional funds exceeding the on-time funding budget adjustment pursuant to this section, a request

for a modified supplemental amount based upon increased enrollment may be submitted to the school budget review committee as provided in section 257.31.

99 Acts, ch 2, §2, 4; 2000 Acts, ch 1055, §1, 3; 2001 Acts, ch 126, §8; 2008 Acts, ch 1142, §1, 6; 2013 Acts, ch 121, §26, 42; 2014 Acts, ch 1013, §5

257.14 Budget adjustment.

1. For the budget year commencing July 1, 2016, and succeeding budget years, a school district shall be eligible for a budget adjustment in an amount equal to the difference between the regular program district cost for the budget year and one hundred one percent of the regular program district cost for the base year.

2. The board of directors of a school district that wishes to receive a budget adjustment for a budget year pursuant to this section shall adopt by May 15 of the base year for which the budget adjustment is sought, a resolution to receive the budget adjustment and shall notify the department of management of the adoption of the resolution and the amount of the budget adjustment to be received.

89 Acts, ch 135, §14; 90 Acts, ch 1190, §8; 92 Acts, ch 1230, §6; 93 Acts, ch 179, §17; 95 Acts, ch 130, §2; 97 Acts, ch 18, §1, 2; 99 Acts, ch 2, §3, 4; 2000 Acts, ch 1055, §2, 3; 2001 Acts, ch 126, §9 – 12; 2002 Acts, ch 1050, §59, 65; 2002 Acts, ch 1140, §9, 10, 47; 2004 Acts, ch 1175, §235, 287; 2005 Acts, ch 179, §58; 2008 Acts, ch 1142, §2, 3, 6; 2016 Acts, ch 1036, §4, 5

Referred to in §257.16C, 257.19

257.15 Property tax adjustment.

1. *Property tax adjustment for 1991-1992.*

a. For the budget year beginning July 1, 1991, the department of management shall calculate for each district the difference between the sum of the revenues generated by the foundation property tax and the additional property tax in the district calculated under this chapter and the revenues that would have been generated by the foundation property tax and the additional property tax in that district for that budget year calculated under chapter 442, Code 1989, if chapter 442, Code 1989, were in effect, except that the revenues that would have been generated by the additional property tax levy under chapter 442, Code 1989, shall not include revenues generated for the school improvement program. However in making the calculation of the difference in revenues under this subsection, the department shall not include the revenues generated under section 257.37 and under chapter 442, Code 1989, for funding media and educational services through the area education agencies. If the property tax revenues for a district calculated under this chapter exceed the property tax revenues for that district calculated under chapter 442, Code 1989, the department of management shall reduce the revenues raised by the additional property tax levy in that district under this chapter by that difference and the department of education shall pay property tax adjustment aid to the district equal to that difference from moneys appropriated for property tax adjustment aid.

b. For purposes of this subsection, in computing the amount of revenues generated by the foundation property tax and the additional property tax under chapter 442, Code 1989, the computation shall be based on a regular program foundation base per pupil of eighty-three percent of the regular program state cost per pupil except that for the portion of weighted enrollment that is additional enrollment because of special education the regular program foundation base per pupil shall be seventy-nine percent of the regular program state cost per pupil. The special education support services foundation base shall be seventy-nine percent of the special education support services state cost per pupil.

2. *Property tax adjustment aid for 1992-1993 and succeeding years.* For the budget year beginning July 1, 1992, and succeeding budget years, the department of education shall pay property tax adjustment aid to a school district equal to the amount paid to the district for the base year less an amount equal to the product of the percent by which the taxable valuation in the district increased, if the taxable valuation increased, from January 1 of the year prior to the base year to January 1 of the base year and the property tax adjustment aid. The department of management shall adjust the rate of the additional property tax accordingly

and notify the department of education of the amount of aid to be paid to each district from moneys appropriated for property tax adjustment aid.

3. *Property tax adjustment aid appropriation.* There is appropriated from the general fund of the state to the department of education, for each fiscal year, an amount necessary to pay property tax adjustment aid to school districts under this section. Property tax adjustment aid shall be paid to school districts in the manner provided in section 257.16.

4. *a. Allocations for maximum adjusted additional property tax levy rate calculation and adjusted additional property tax levy aid.* The department of management shall allocate from amounts appropriated pursuant to section 257.16, subsection 1, and from funds appropriated from the property tax equity and relief fund created in section 257.16A for the purpose of calculating the statewide maximum adjusted additional property tax levy rate and providing adjusted additional property tax levy aid as provided in section 257.4, subsection 1, paragraph “b”, an amount equal to the sum of subparagraphs (1) and (2) as follows:

(1) From the amount appropriated from the general fund of the state pursuant to section 257.16, subsection 1, equal to the following:

- (a) For the budget year beginning July 1, 2006, six million dollars.
- (b) For the budget year beginning July 1, 2007, twelve million dollars.
- (c) For the budget year beginning July 1, 2008, eighteen million dollars.
- (d) For the budget year beginning July 1, 2009, and succeeding budget years, twenty-four million dollars.

(2) From the amount appropriated from the property tax equity and relief fund created in section 257.16A.

b. After lowering all school district adjusted additional property tax levy rates to the statewide maximum adjusted additional property tax levy rate under paragraph “a”, the department of management shall use any remaining funds at the end of the calendar year to further lower additional property taxes by increasing for the budget year beginning the following July 1, the regular program foundation base per pupil percentage under section 257.1. Moneys used pursuant to this paragraph shall supplant an equal amount of the appropriation made from the general fund of the state pursuant to section 257.16 that represents the increase in state foundation aid.

89 Acts, ch 135, §15; 91 Acts, ch 6, §1; 91 Acts, ch 267, §519; 2006 Acts, ch 1182, §39, 53; 2008 Acts, ch 1134, §2; 2010 Acts, ch 1061, §45; 2013 Acts, ch 121, §5, 9; 2019 Acts, ch 166, §4

Referred to in §257.4, 257.16, 257.16A

257.16 Appropriations.

1. There is appropriated each year from the general fund of the state an amount necessary to pay the foundation aid under this chapter, the preschool foundation aid under chapter 256C, supplementary aid under section 257.4, subsection 2, and adjusted additional property tax levy aid under section 257.15, subsection 4.

2. All state aids paid under this chapter, unless otherwise stated, shall be paid in monthly installments beginning on September 15 of a budget year and ending on or about June 15 of the budget year as determined by the department of management, taking into consideration the relative budget and cash position of the state resources.

3. All moneys received by a school district from the state under this chapter shall be deposited in the general fund of the school district, and may be used for any school general fund purpose unless otherwise provided by law.

4. Notwithstanding any provision to the contrary, if the governor orders budget reductions in accordance with section 8.31, the teacher salary supplement district cost, the professional development supplement district cost, the early intervention supplement district cost, and the teacher leadership supplement district cost as calculated under section 257.10, subsections 9, 10, 11, and 12, and the area education agency teacher salary supplement district cost and the area education agency professional development supplement district cost as calculated under section 257.37A, subsections 1 and 2, shall be paid in full as calculated and the reductions in the appropriations provided in accordance with this section shall be reduced from the remaining moneys appropriated pursuant to this section and shall be distributed on a per

pupil basis calculated with the weighted enrollment determined in accordance with section 257.6, subsection 5.

89 Acts, ch 135, §16; 91 Acts, ch 178, §5; 92 Acts, ch 1208, §1; 92 Acts, ch 1232, §303; 94 Acts, ch 1023, §44; 94 Acts, ch 1181, §12, 18; 95 Acts, ch 214, §10, 11; 2002 Acts, ch 1140, §11; 2006 Acts, ch 1182, §40, 53; 2007 Acts, ch 148, §8; 2010 Acts, ch 1183, §21, 43; 2013 Acts, ch 121, §56

Referred to in §256.12, 256C.4, 256C.5, 257.4, 257.5, 257.12, 257.15, 257.16B, 257.16C, 257.17, 257.20, 275.31, 282.31, 282.33, 284.11, 284.13, 284.15

257.16A Property tax equity and relief fund.

1. A property tax equity and relief fund is created as a separate and distinct fund in the state treasury under the control of the department of management. Moneys in the fund include revenues credited to the fund, appropriations made to the fund, and other moneys deposited into the fund.

2. There is appropriated annually all moneys in the fund to the department of management for purposes of section 257.15, subsection 4.

3. Notwithstanding section 8.33, any moneys remaining in the property tax equity and relief fund at the end of a fiscal year shall not revert to any other fund but shall remain in the property tax equity and relief fund for use as provided in this section for the following fiscal year.

2008 Acts, ch 1134, §3

Referred to in §257.4, 257.15, 423F.2

257.16B School district property tax replacement payments.

1. For each fiscal year beginning on or after July 1, 2018, there is appropriated from the general fund of the state to the department of education an amount necessary to make all school district property tax replacement payments under this section, as calculated in subsection 2.

2. a. For the budget year beginning July 1, 2018, the department of management shall calculate for each school district all of the following:

(1) The regular program state cost per pupil for the budget year beginning July 1, 2012, multiplied by one hundred percent less the regular program foundation base per pupil percentage pursuant to section 257.1.

(2) The regular program state cost per pupil for the budget year beginning July 1, 2018, multiplied by one hundred percent less the regular program foundation base per pupil percentage pursuant to section 257.1.

(3) The amount of each school district's property tax replacement payment. Each school district's property tax replacement payment equals the school district's weighted enrollment for the budget year beginning July 1, 2018, multiplied by the remainder of the amount calculated for the school district under subparagraph (2) minus the amount calculated for the school district under subparagraph (1).

b. For the budget year beginning July 1, 2019, the department of management shall calculate for each school district all of the following:

(1) The regular program state cost per pupil for the budget year beginning July 1, 2012, multiplied by one hundred percent less the regular program foundation base per pupil percentage pursuant to section 257.1.

(2) The regular program state cost per pupil for the budget year beginning July 1, 2019, multiplied by one hundred percent less the regular program foundation base per pupil percentage pursuant to section 257.1.

(3) The amount of each school district's property tax replacement payment. Each school district's property tax replacement payment equals the school district's weighted enrollment for the budget year beginning July 1, 2019, multiplied by the remainder of the amount calculated for the school district under subparagraph (2) minus the amount calculated for the school district under subparagraph (1).

c. For each budget year beginning on or after July 1, 2020, the department of management shall calculate for each school district all of the following:

(1) The regular program state cost per pupil for the budget year beginning July 1, 2012,

multiplied by one hundred percent less the regular program foundation base per pupil percentage pursuant to section 257.1.

(2) The regular program state cost per pupil for the budget year beginning July 1, 2020, multiplied by one hundred percent less the regular program foundation base per pupil percentage pursuant to section 257.1.

(3) The amount of each school district's property tax replacement payment. Each school district's property tax replacement payment equals the school district's weighted enrollment for the budget year multiplied by the remainder of the amount calculated for the school district under subparagraph (2) minus the amount calculated for the school district under subparagraph (1).

3. School district property tax replacement payments shall be paid by the department of education at the same time and in the same manner as foundation aid is paid under section 257.16 and may be included in the monthly payment of state aid under section 257.16, subsection 2.

2013 Acts, ch 121, §6, 9; 2015 Acts, ch 3, §1 – 4; 2015 Acts, ch 121, §1 – 4; 2017 Acts, ch 1, §2 – 6; 2018 Acts, ch 1005, §2 – 5; 2019 Acts, ch 1, §2 – 7; 2020 Acts, ch 1012, §2, 5

Referred to in §257.2, 257.4, 257.16D
Subsections 1 and 2 amended

257.16C Transportation equity program — fund — appropriation.

1. A transportation equity program is established to provide prioritized additional funding for school districts with a transportation cost per pupil that exceeds the statewide adjusted transportation cost per pupil for the same budget year.

2. a. For the budget year beginning July 1, 2018, and each succeeding budget year, the department of management shall annually determine a statewide adjusted transportation cost per pupil that is not lower than the statewide average transportation cost per pupil. The statewide adjusted transportation cost per pupil shall be annually determined, by taking into account amounts appropriated to the transportation equity fund under subsection 3, for the purpose of providing transportation equity aid for those school districts with the highest transportation cost per pupil differential.

b. Each school district that satisfies the criteria of subsection 1 shall receive transportation equity aid in an amount equal to the school district's actual enrollment for the school year, excluding the shared-time enrollment for the school year, multiplied by the school district's transportation cost per pupil differential for the budget year.

c. For purposes of this section:

(1) "*Statewide average transportation cost per pupil*" means the total transportation cost for all school districts in the state used to calculate each school district's transportation cost per pupil under paragraph "d" divided by the total enrollment for all school districts used to calculate each school district's transportation cost per pupil under paragraph "d".

(2) "*Transportation cost per pupil differential*" means an amount equal to a school district's transportation cost per pupil minus the statewide adjusted transportation cost per pupil for the same budget year.

d. A school district's transportation cost per pupil shall be determined by dividing the school district's actual transportation cost for all children transported in all school buses for a school year pursuant to section 285.1, subsection 12, less the amount of transportation costs reimbursed under section 256.25A and the amount received for transporting nonpublic school pupils under section 285.1, by the district's actual enrollment for the school year, excluding the shared-time enrollment for the school year as defined in section 257.6.

3. a. A transportation equity fund is created as a separate and distinct fund in the state treasury under the control of the department of management. Moneys in the fund include revenues credited to the fund, appropriations made to the fund, and other moneys deposited in the fund. For each fiscal year beginning on or after July 1, 2018, there is appropriated all moneys in the fund to the department of management for purposes of making transportation equity aid payments under this section.

b. If the balance of the fund exceeds the amount necessary to make all transportation

equity aid payments under subsection 2, moneys remaining in the fund shall be used for transportation base funding payments under subsection 4.

c. If the balance of the fund exceeds the amount necessary to make all transportation equity aid payments and all transportation base funding payments, moneys remaining in the fund at the end of a fiscal year, notwithstanding section 8.33, shall remain in the fund and shall be available for expenditure for the purposes of this section in subsequent fiscal years.

d. (1) For the fiscal year beginning July 1, 2019, there is appropriated from the general fund of the state to the department of management for deposit in the transportation equity fund the sum of nineteen million dollars, or so much thereof as is necessary, to be used for the purposes of this section.

(2) For the fiscal year beginning July 1, 2020, there is appropriated from the general fund of the state to the department of management for deposit in the transportation equity fund the sum of the following, or so much thereof as is necessary, to be used for the purposes of this section:

(a) The amount appropriated to the transportation equity fund under this paragraph for the immediately preceding fiscal year.

(b) The product of the amount determined under subparagraph division (a) multiplied by the categorical percent of growth under section 257.8, subsection 2, for the budget year beginning on the same date of the fiscal year for which the appropriation is made.

(c) Seven million two hundred fifty-three thousand eighty-eight dollars.

(3) For each fiscal year beginning on or after July 1, 2021, there is appropriated from the general fund of the state to the department of management for deposit in the transportation equity fund the sum of the following, or so much thereof as is necessary, to be used for the purposes of this section:

(a) The amount appropriated to the transportation equity fund under this paragraph for the immediately preceding fiscal year.

(b) The product of the amount determined under subparagraph division (a) multiplied by the categorical percent of growth under section 257.8, subsection 2, for the budget year beginning on the same date of the fiscal year for which the appropriation is made.

4. For budget years beginning on or after July 1, 2018, if funding is available as provided in subsection 3, paragraph "b", each school district in the state shall receive a transportation base funding payment in an amount equal to the school district's enrollment used under subsection 2, paragraph "d", multiplied by the lesser of the statewide average transportation cost per pupil or the school district's transportation cost per pupil for the budget year. If an amount appropriated for a budget year is insufficient to pay all transportation base funding payments, the department of management shall prorate such payment amounts.

5. a. The sum of the transportation equity aid payment and the transportation base funding payment paid to a school district for a budget year shall not exceed the school district's actual transportation cost used to calculate the school district's transportation cost per pupil under subsection 2, paragraph "d", for the budget year.

b. Transportation equity aid payments and transportation base funding payments shall be paid at the same time and in the same manner as foundation aid is paid under section 257.16, and may be included in the monthly payment of state aid under section 257.16, subsection 2.

6. Transportation equity aid payments and transportation base funding payments received under this section are miscellaneous income and shall be deposited in the general fund of the school district. However, the transportation equity aid amount and the transportation base funding amount shall not be included in district cost. Transportation equity aid under this section shall not affect the receipt or amount of a budget adjustment received under section 257.14 or transportation assistance aid under section 257.31, subsection 17.

7. On or before December 1, 2020, and on or before December 1 every five years thereafter, the director of the department of education shall compile and review the data collected as a result of the transportation equity aid and transportation base funding payments provided

under this section and shall prepare a report to the general assembly containing analysis of the aid and the payments' efficacy and recommendations for changes.

2018 Acts, ch 1007, §7, 9; 2019 Acts, ch 2, §4 – 6; 2020 Acts, ch 1002, §2 – 4; 2020 Acts, ch 1108, §7

Referred to in §257.8

Subsection 2, paragraph d amended

Subsection 3, paragraph d, subparagraph (2) amended

Subsection 3, paragraph d, NEW subparagraph (3)

257.16D Foundation base supplement fund.

1. A foundation base supplement fund is created as a separate and distinct fund in the state treasury under the control of the department of management. Moneys in the fund include revenues credited to the fund, appropriations made to the fund, and other moneys deposited into the fund.

2. *a.* There is appropriated annually from the fund to the department of management an amount necessary to make all foundation base supplement payments under this section. The department of management shall calculate each school district's foundation base supplement payment based on the distribution methodology under paragraph "b".

b. The moneys available in a fiscal year in the foundation base supplement fund shall be distributed by the department of management to each school district on a per pupil basis calculated using each school district's weighted enrollment, as defined in section 257.6, for that fiscal year. However, the amount of a school district's foundation base supplement payment for a budget year shall not exceed an amount equal to the product of the school district's weighted enrollment for the budget year multiplied by the product of the regular program state cost per pupil for the budget year multiplied by one hundred percent less the regular program foundation base per pupil percentage pursuant to section 257.1, minus the amount of the school district's property tax replacement payment under section 257.16B for the budget year.

3. Notwithstanding section 8.33, any moneys remaining in the foundation base supplement fund at the end of a fiscal year shall not revert to any other fund but shall remain in the foundation base supplement fund for use as provided in this section for the following fiscal year.

2019 Acts, ch 166, §5; 2020 Acts, ch 1012, §3, 5

Referred to in §257.2, 257.4, 423F.2

Subsection 2, paragraph b amended

257.17 Aid reduction for early school starts.

1. State aid payments made pursuant to section 257.16 for a fiscal year shall be reduced by one one-hundred-eightieth for each day of that fiscal year for which the school district begins school before the earliest school start date specified in section 279.10, subsection 1.

2. This section does not apply to a school district attendance center that has received approval from the department of education under section 279.10, subsection 2, to maintain a year-round school calendar that commences classes in advance of the school start date established in section 279.10, subsection 1. The department of management shall prorate the reduction made pursuant to this section to account for an attendance center in a school district that is approved to maintain a year-round school calendar under section 279.10, subsection 2.

89 Acts, ch 135, §17; 2015 Acts, ch 31, §1, 5; 2016 Acts, ch 1011, §43

257.18 Instructional support program.

1. An instructional support program that provides additional funding for school districts is established. A board of directors that wishes to consider participating in the instructional support program shall hold a public hearing on the question of participation. The board shall set forth its proposal, including the method that will be used to fund the program, in a resolution and shall publish the notice of the time and place of a public hearing on the resolution. Notice of the time and place of the public hearing shall be published not less than ten nor more than twenty days before the public hearing in a newspaper which is a newspaper of general circulation in the school district. At the hearing, or no later than thirty days after

the date of the hearing, the board shall take action to adopt a resolution to participate in the instructional support program for a period not exceeding five years or to direct the county commissioner of elections to submit the question of participation in the program for a period not exceeding ten years to the registered voters of the school district at an election held on a date specified in section 39.2, subsection 4, paragraph “c”. If the board submits the question at an election and a majority of those voting on the question favors participation in the program, the board shall adopt a resolution to participate and certify the results of the election to the department of management.

2. a. If the board does not provide for an election and adopts a resolution to participate in the instructional support program, the district shall participate in the instructional support program unless within twenty-eight days following the action of the board, the secretary of the board receives a petition containing the required number of signatures, asking that the question to approve or disapprove the action of the board in adopting the instructional support program be submitted to the voters of the school district. The petition must be signed by eligible electors equal in number to not less than one hundred or thirty percent of the number of voters at the last preceding regular school election, whichever is greater. The board shall either rescind its action or direct the county commissioner of elections to submit the question to the registered voters of the school district at an election held on a date specified in section 39.2, subsection 4, paragraph “c”. If a majority of those voting on the question at the election favors disapproval of the action of the board, the district shall not participate in the instructional support program. If a majority of those voting on the question favors approval of the action, the board shall certify the results of the election to the department of management and the district shall participate in the program.

b. At the expiration of the twenty-eight day period, if no petition is filed, the board shall certify its action to the department of management and the district shall participate in the program.

3. Participation in an instructional support program is not affected by a change in the boundaries of the school district, except as otherwise provided in this section. If each school district involved in a school reorganization under chapter 275 has approved an instructional support program, and if the voters have not voted upon the question of participation in the program in the reorganized district, the instructional support program shall be in effect for the reorganized district that has been approved for the least amount and the shortest time in any of the districts.

89 Acts, ch 135, §18; 92 Acts, ch 1171, §1; 95 Acts, ch 67, §53; 96 Acts, ch 1112, §1, 2; 2008 Acts, ch 1115, §32, 33, 71

Referred to in §257.27, 257.29

257.19 Instructional support funding.

1. The additional funding for the instructional support program for a budget year is limited to an amount not exceeding ten percent of the total of regular program district cost for the budget year and moneys received under section 257.14 as a budget adjustment for the budget year. Moneys received by a district for the instructional support program are miscellaneous income and may be used for any general fund purpose. However, moneys received by a district for the instructional support program shall not be used as, or in a manner which has the effect of, supplanting funds authorized to be received under sections 257.41, 257.46, 298.2, and 298.4, or to cover any deficiencies in funding for special education instructional services resulting from the application of the special education weighting plan under section 256B.9.

2. Certification of a board’s intent to participate for a budget year, the method of funding, and the amount to be raised shall be made to the department of management not later than April 15 of the base year. Funding for the instructional support program shall be obtained from instructional support state aid and from local funding using either an instructional support property tax or a combination of an instructional support property tax and an instructional support income surtax.

3. The board of directors shall determine whether the instructional support property tax or the combination of the instructional support property tax and instructional support

income surtax shall be used for the local funding. Subject to the limitation specified in section 298.14, if the board elects to use the combination of the instructional support property tax and instructional support income surtax, for each budget year the board shall determine the percent of income surtax that will be imposed, expressed as full percentage points, not to exceed twenty percent.

89 Acts, ch 135, §19; 91 Acts, ch 126, §3; 93 Acts, ch 1, §4; 2017 Acts, ch 54, §76
Referred to in §257.21, 403.19

257.20 Instructional support state aid appropriation.

1. In order to determine the amount of instructional support state aid and the amount of local funding for the instructional support program for a district, the department of management shall divide the total assessed valuation in the state by the total budget enrollment for the budget year in the state to determine a state assessed valuation per pupil and shall divide the assessed valuation in each district by the district's budget enrollment for the budget year to determine the district assessed valuation per pupil. The department of management shall multiply the ratio of the state's valuation per pupil to the district's valuation per pupil by twenty-five hundredths and subtract that result from one to determine the portion of the instructional support program budget that is local funding. The remaining portion of the budget shall be funded by instructional support state aid. However, for the budget year beginning July 1, 1992, only, the amount of state aid is three and one-quarter percent less than the amount computed under this paragraph for that budget year.

2. There is appropriated for each fiscal year from the general fund of the state to the department of education, an amount necessary to pay instructional support state aid as determined under subsection 1.

a. However, moneys appropriated under this subsection shall not exceed the amount of moneys appropriated as instructional support state aid for the budget year which commenced on July 1, 1992.

b. If the amount appropriated under this subsection is insufficient to pay the amount of instructional support state aid determined under subsection 1, the department of education shall prorate the amount of the instructional support state aid provided to each district.

3. If the general assembly makes an appropriation for instructional support state aid in lieu of the standing appropriation provided under subsection 2, the appropriation for instructional support state aid shall include in the appropriation the allocation of the instructional support state aid to the school districts applicable for that appropriation and subsections 1 and 2 do not apply to the appropriation.

4. Instructional support state aid shall be paid at the same time and in the same manner as foundation aid is paid under section 257.16.

89 Acts, ch 135, §20; 92 Acts, ch 1227, §16; 92 Acts, ch 1230, §8

See Iowa Acts for provisions relating to appropriations for instructional support state aid in a given year

257.21 Computation of instructional support amount.

1. The department of management shall establish the amount of instructional support property tax to be levied and the amount of instructional support income surtax to be imposed by a district in accordance with the decision of the board under section 257.19 for each school year for which the instructional support program is authorized. The department of management shall determine these amounts based upon the most recent figures available for the district's valuation of taxable property, individual state income tax paid, and budget enrollment in the district, and shall certify to the district's county auditor the amount of instructional support property tax, and to the director of revenue the amount of instructional support income surtax to be imposed if an instructional support income surtax is to be imposed.

2. The instructional support income surtax shall be imposed on the state individual income tax for the calendar year during which the school's budget year begins, or for a taxpayer's fiscal year ending during the second half of that calendar year and after the date the board adopts a resolution to participate in the program or the first half of the succeeding calendar year, and shall be imposed on all individuals residing in the school district on the last day

of the applicable tax year. As used in this section, “state individual income tax” means the taxes computed under section 422.5, less the amounts of nonrefundable credits allowed under chapter 422, subchapter II.

89 Acts, ch 135, §21; 91 Acts, ch 159, §1; 97 Acts, ch 23, §25; 2003 Acts, ch 145, §286; 2006 Acts, ch 1158, §3; 2013 Acts, ch 123, §42, 45, 46; 2018 Acts, ch 1161, §50, 53, 54; 2020 Acts, ch 1062, §94

Referred to in §257.29, 298.2, 298.14

Limit on total surtax, §298.14

2018 amendment to subsection 2 applies retroactively to January 1, 2018, for tax years beginning on or after that date; 2018 Acts, ch 1161, §54

Code editor directive applied

257.22 Statutes applicable.

The director of revenue shall administer the instructional support income surtax imposed under this chapter, and sections 422.4, 422.20, sections 422.22 to 422.31, sections 422.68, 422.70, and sections 422.72 to 422.75 shall apply with respect to administration of the instructional support income surtax.

89 Acts, ch 135, §22; 2003 Acts, ch 145, §286; 2009 Acts, ch 60, §1

Referred to in §257.29, 298.2

257.23 Form and time of return.

The instructional support income surtax shall be made a part of the Iowa individual income tax return subject to the conditions and restrictions set forth in section 422.21.

89 Acts, ch 135, §23

Referred to in §257.29, 298.2

257.24 Deposit of instructional support income surtax.

1. The director of revenue shall deposit all moneys received as instructional support income surtax to the credit of each district from which the moneys are received, in the school district income surtax fund which is established in section 298.14.

2. *a.* The director of revenue shall deposit instructional support income surtax moneys received on or before November 1 of the year following the close of the school budget year for which the surtax is imposed to the credit of each district from which the moneys are received in the school district income surtax fund.

b. Instructional support income surtax moneys received or refunded after November 1 of the year following the close of the school budget year for which the surtax is imposed shall be deposited in or withdrawn from the general fund of the state and shall be considered part of the cost of administering the instructional support income surtax.

89 Acts, ch 135, §24; 2003 Acts, ch 145, §286; 2017 Acts, ch 54, §36

Referred to in §257.29, 298.2

257.25 Instructional support income surtax certification.

On or before October 20 each year, the director of revenue shall make an accounting of the instructional support income surtax collected under this chapter applicable to tax returns for the last preceding calendar year, or for a taxpayer’s fiscal year ending during the second half of that calendar year and after the date the board adopts a resolution to participate in the program, or the first half of the succeeding calendar year, from taxpayers in each school district in the state which has approved the instructional support program, and shall certify to the department of management and the department of education the amount of total instructional support income surtax credited from the taxpayers of each school district.

89 Acts, ch 135, §25; 2003 Acts, ch 145, §286

Referred to in §257.29, 298.2

257.26 Instructional support income surtax distribution.

The director of the department of administrative services shall draw warrants in payment of the amount of instructional support surtax in the manner provided in section 298.14.

89 Acts, ch 135, §26; 2003 Acts, ch 145, §286; 2004 Acts, ch 1101, §30

Referred to in §257.29, 298.2

257.27 Continuation of instructional support program.

1. At the expiration of the period for which the instructional support program was adopted, the program may be extended for a period of not exceeding five or ten years in the manner provided in section 257.18.

2. If the voters do not approve adoption of the instructional support program, the board shall wait at least one hundred twenty days following the election before taking action to adopt the program or resubmit the proposition.

89 Acts, ch 135, §27; 2018 Acts, ch 1041, §127

257.28 Enrichment levy.

If a school district has approved the use of the instructional support program for a budget year, the district shall not also collect moneys under the additional enrichment amount approved by the voters under chapter 442, Code 1991, for the budget year.

89 Acts, ch 135, §28; 92 Acts, ch 1163, §60; 2005 Acts, ch 179, §124

Referred to in §257.33

257.29 Educational improvement program.

1. An educational improvement program is established to provide additional funding for school districts in which the regular program district cost per pupil for a budget year is one hundred ten percent of the regular program state cost per pupil for the budget year and which have approved the use of the instructional support program established in section 257.18. A board of directors that wishes to consider participating in the educational improvement program shall hold a hearing on the question of participation and the maximum percent of the regular program district cost of the district that will be used. The hearing shall be held in the manner provided in section 257.18 for the instructional support program. Following the hearing, the board may direct the county commissioner of elections to submit the question to the registered voters of the school district at an election held on a date specified in section 39.2, subsection 4, paragraph "c". If a majority of those voting on the question favors participation in the program, the board shall adopt a resolution to participate and shall certify the results of the election to the department of management and the district shall participate in the program. If a majority of those voting on the question does not favor participation, the district shall not participate in the program.

2. The educational improvement program shall provide additional revenues each fiscal year equal to a specified percent of the regular program district cost of the district, as determined by the board but not more than the maximum percent authorized by the electors if an election has been held. Certification of a district's participation for a budget year, the method of funding, and the amount to be raised shall be made to the department of management not later than April 15 of the base year.

3. The educational improvement program shall be funded by either an educational improvement property tax or by a combination of an educational improvement property tax and an educational improvement income surtax. The method of raising the educational improvement moneys shall be determined by the board. Subject to the limitation in section 298.14, if the board uses a combination of an educational improvement property tax and an educational improvement income surtax, the board shall determine the percent of income surtax to be imposed, expressed as full percentage points, not to exceed twenty percent.

4. The department of management shall establish the amount of the educational improvement property tax to be levied or the amount of the combination of the educational improvement property tax to be levied and the amount of the school district income surtax to be imposed for each school year that the educational improvement amount is authorized. The educational improvement property tax and income surtax, if an income surtax is imposed, shall be levied and imposed, collected, and paid to the school district in the manner provided for the instructional support program in sections 257.21 through 257.26. Moneys received by a school district under the educational improvement program are miscellaneous income.

5. Once approved at an election, the authority of the board to use the educational improvement program shall continue until the board votes to rescind the educational

improvement program or the voters of the school district by majority vote order the discontinuance of the program. The board shall submit at an election held on a date specified in section 39.2, subsection 4, paragraph “c”, the proposition whether to discontinue the program upon the receipt of a petition signed by not less than one hundred eligible electors or thirty percent of the number of electors voting at the last preceding school election, whichever is greater.

6. Participation in an educational improvement program is not affected by a change in the boundaries of the school district, except as otherwise provided in this section. If each school district involved in school reorganization under chapter 275 has approved an educational improvement program, and if the voters have not voted upon the question of participation in the program in the reorganized district, the educational improvement program shall be in effect for the reorganized district that has been approved for the least amount and the shortest time in any of the districts.

7. Notwithstanding the requirement in subsection 1 that the regular program district cost per pupil for a budget year is one hundred ten percent of the regular state cost per pupil, the board of directors may participate in the educational improvement program as provided in this section if the school district had adopted an enrichment levy of fifteen percent of the state cost per pupil multiplied by the budget enrollment in the district prior to July 1, 1992, and upon expiration of the period for which the enrichment levy was adopted, adopts a resolution for the use of the instructional support program established in section 257.18. The maximum percent of the regular district cost of the district that may be used under this subsection shall not exceed five percent.

89 Acts, ch 135, §29; 90 Acts, ch 1190, §9; 92 Acts, ch 1171, §2; 92 Acts, ch 1187, §3; 93 Acts, ch 1, §5; 95 Acts, ch 67, §53; 2008 Acts, ch 1115, §34, 35, 71

Referred to in §298.14

Limit on total surtax, §298.14

257.30 School budget review committee.

1. A school budget review committee is established in the department of education and consists of the director of the department of education in an ex officio, nonvoting capacity, the director of the department of management, and four members who are knowledgeable in the areas of Iowa school finance or public finance issues appointed by the governor to represent the public. At least one of the public members shall possess a master’s or doctoral degree in which areas of school finance, economics, or statistics are an integral component, or shall have equivalent experience in an executive administrative or senior research position in the education or public administration field. The members appointed by the governor shall serve staggered three-year terms beginning and ending as provided in section 69.19 and are subject to senate confirmation as provided in section 2.32. The committee shall meet and hold hearings each year and shall continue in session until it has reviewed budgets of school districts, as provided in section 257.31. The committee may call in school board members and employees as necessary for the hearings. The committee’s scheduled hearing agendas and the minutes of such hearings shall be posted on the department of education’s internet site. Legislators shall be notified of hearings concerning school districts in their legislative districts.

2. The committee shall adopt its own rules of procedure under chapter 17A. The director of the department of education shall serve as chairperson, and the director of the department of management shall serve as secretary. The committee members representing the public are entitled to receive their necessary expenses while engaged in their official duties. Members shall be paid a per diem at the rate specified in section 7E.6. Per diem and expense payments shall be made from appropriations to the department of education.

3. The department of education shall employ a staff member to assist the school budget review committee.

89 Acts, ch 135, §30; 2009 Acts, ch 54, §5; 2010 Acts, ch 1004, §2, 10

Referred to in §257.32, 260C.18B, 292.1

257.31 Duties of the committee.

1. The school budget review committee may recommend the revision of any rules,

regulations, directives, or forms relating to school district budgeting and accounting, confer with local school boards or their representatives and make recommendations relating to any budgeting or accounting matters, and direct the director of the department of education or the director of the department of management to make studies and investigations of school costs in any school district.

2. The committee shall specify the number of hearings held annually, the reasons for the committee's recommendations, information about the amounts of property tax levied by school districts for a cash reserve, and other information the committee deems advisable on the department of education's internet site.

3. The committee shall review the proposed budget and certified budget of each school district, and may make recommendations. The committee may make decisions affecting budgets to the extent provided in this chapter. The costs and computations referred to in this section relate to the budget year unless otherwise expressly stated.

4. Not later than January 1, 1992, the committee shall adopt recommendations relating to the implementation by school districts and area education agencies of procedures pertaining to the preparation of financial reports in conformity with generally accepted accounting principles and submit those recommendations to the state board of education. The state board shall consider the recommendations and adopt rules under section 256.7 specifying procedures and requiring the school districts and area education agencies to conform to generally accepted accounting principles commencing with the school year beginning July 1, 1996.

5. If a district has unusual circumstances, creating an unusual need for additional funds, including but not limited to the circumstances enumerated in paragraphs "a" through "n", the committee may grant supplemental aid to the district from any funds appropriated to the department of education for the use of the school budget review committee for the purposes of this subsection. The school budget review committee shall review a school district's unexpended fund balance prior to any decision regarding unusual finance circumstances. Such aid shall be miscellaneous income and shall not be included in district cost. In addition to or as an alternative to granting supplemental aid the committee may establish a modified supplemental amount for the district. The school budget review committee shall review a school district's unspent balance prior to any decision to establish a modified supplemental amount under this subsection.

- a. Any unusual increase or decrease in enrollment.
- b. Unusual natural disasters.
- c. Unusual initial staffing problems.
- d. The closing of a nonpublic school, wholly or in part, or the opening or closing of a pilot charter school.
- e. Substantial reduction in miscellaneous income due to circumstances beyond the control of the district.
- f. Unusual necessity for additional funds to permit continuance of a course or program which provides substantial benefit to pupils.
- g. Unusual need for a new course or program which will provide substantial benefit to pupils, if the district establishes the need and the amount of necessary increased cost.
- h. Unusual need for additional funds for special education or compensatory education programs.
- i. Year-round or substantially year-round attendance programs which apply toward graduation requirements, including but not limited to trimester or four-quarter programs. Enrollment in such programs shall be adjusted to reflect equivalency to normal school year attendance.
- j. Unusual need to continue providing a program or other special assistance to non-English speaking pupils after the expiration of the five-year period specified in section 280.4.
- k. Circumstances caused by unusual demographic characteristics.
- l. Any unique problems of school districts.
- m. The addition of one or more teacher librarians pursuant to section 256.11, subsection

9, one or more guidance counselors pursuant to section 256.11, subsection 9A, or one or more school nurses pursuant to section 256.11, subsection 9B.

n. Unusual need for additional funds for the costs associated with providing competent private instruction pursuant to chapter 299A.

6. *a.* The committee shall establish a modified supplemental amount for a district when the district submits evidence that it requires additional funding for removal, management, or abatement of environmental hazards due to a state or federal requirement. Environmental hazards shall include but are not limited to the presence of asbestos, radon, or the presence of any other hazardous material dangerous to health and safety.

b. The district shall include a budget for the actual cost of the project that may include the costs of inspection, reinspection, sampling, analysis, assessment, response actions, operations and maintenance, training, periodic surveillance, developing of management plans, recordkeeping requirements, and encapsulation or removal of the hazardous material.

7. *a.* The committee may authorize a district to spend a reasonable and specified amount from its unexpended fund balance for the following purposes:

(1) Furnishing, equipping, and contributing to the construction of a new building or structure for which the voters of the district have approved a bond issue as provided by law or the tax levy provided in section 298.2.

(2) The costs associated with the demolition of an unused school building, or the conversion of an unused school building for community use, in a school district involved in a dissolution or reorganization under chapter 275, if the costs are incurred within three years of the dissolution or reorganization.

(3) The costs associated with the demolition or repair of a building or structure in a school district if such costs are necessitated by, and incurred within two years of, a disaster as defined in section 29C.2, subsection 4.

b. Other expenditures, including but not limited to expenditures for salaries or recurring costs, are not authorized under this subsection. Expenditures authorized under this subsection shall not be included in a modified supplemental amount or district cost, and the portion of the unexpended fund balance which is authorized to be spent shall be regarded as if it were miscellaneous income. Any part of the amount not actually spent for the authorized purpose shall revert to its former status as part of the unexpended fund balance.

8. The committee may approve or modify the initial base year district cost of any district which changes accounting procedures.

9. When the committee makes a decision under subsections 3 through 8, it shall make all necessary changes in the district cost, budget, and tax levy. It shall give written notice of its decision, including all such changes, to the school board through the department of education.

10. All decisions by the committee under this chapter shall be made in accordance with reasonable and uniform policies which shall be consistent with this chapter. All such policies of general application shall be stated in rules adopted in accordance with chapter 17A. The committee shall take into account the intent of this chapter to equalize educational opportunity, to provide a good education for all the children of Iowa, to provide property tax relief, to decrease the percentage of school costs paid from property taxes, and to provide reasonable control of school costs. The committee shall also take into account the amount of funds available.

11. Failure by any school district to provide information or appear before the committee as requested for the accomplishment of review or hearing is justification for the committee to instruct the director of the department of management to withhold any state aid to that district until the committee's inquiries are satisfied completely.

12. The committee shall review the recommendations of the director of the department of education relating to the special education weighting plan, and shall establish a weighting plan for each school year pursuant to section 256B.9, and report the plan to the director of the department of education.

13. The committee may recommend that two or more school districts jointly employ and share the services of any school personnel, or acquire and share the use of classrooms, laboratories, equipment, and facilities as specified in section 280.15.

14. As soon as possible following June 30 of the base year, the school budget review committee shall determine for each school district the balance of funds, whether positive or negative, raised for special education instruction programs under the special education weighting plan established in section 256B.9. The committee shall certify the balance of funds for each school district to the director of the department of management.

a. If the amount certified for a school district to the director of the department of management under this subsection for the base year is positive, the director of the department of management shall subtract the amount of the positive balance exceeding ten percent of the additional funds generated for special education, not to include any previous carryover, from the amount of state aid remaining to be paid to the district during the budget year. If the positive amount exceeding the ten percent amount exceeds the amount of state aid that remains to be paid to the district, not including any previous carryover, the school district shall pay the excess on a quarterly basis prior to June 30 of the budget year to the director of the department of management from other funds received by the district. The director of the department of management shall determine the amount of the positive balance that exceeds the ten percent amount that came from local property tax revenues and shall increase the district's total state school aids available under this chapter for the next following budget year by the amount so determined and shall reduce the district's tax levy computed under section 257.4 for the next following budget year by the amount necessary to compensate for the increased state aid.

b. (1) If the amount certified for a school district to the director of the department of management under this subsection for the base year is negative, the director of the department of management shall determine the amount of the deficit that would have been state aid and the amount that would have been property taxes for each eligible school district.

(2) There is appropriated from the general fund of the state to the school budget review committee for each fiscal year an amount equal to the state aid portion of five percent of the receipts for special education instruction programs in all districts that have a positive balance determined under paragraph "a" for the base year, or the state aid portion of all of the positive balances determined under paragraph "a" for the base year, whichever is less, to be used for supplemental aid payments to school districts. Except as otherwise provided in this paragraph "b", supplemental aid paid to a district is equal to the state aid portion of the district's negative balance. The school budget review committee shall direct the director of the department of management to make the payments to school districts under this paragraph "b".

(3) A school district is only eligible to receive supplemental aid payments during the budget year if the school district certifies to the school budget review committee that for the year following the budget year it will notify the school budget review committee to instruct the director of the department of management to increase the district's modified supplemental amount and will fund the modified supplemental amount increase either by using moneys from its unexpended fund balance to reduce the district's property tax levy or by using cash reserve moneys to equal the amount of the deficit that would have been property taxes and any part of the state aid portion of the deficit not received as supplemental aid under this subsection. The director of the department of management shall make the necessary adjustments to the school district's budget to provide the modified supplemental amount and shall make the supplemental aid payments.

(4) If the amount appropriated under this lettered paragraph is insufficient to make the supplemental aid payments under this subsection, the director of the department of management shall prorate the payments on the basis of the amount appropriated.

15. Annually the school budget review committee shall review the amount of property tax levied by each school district for the cash reserve authorized in section 298.10. If in the committee's judgment, the amount of a district's cash reserve levy is unreasonably high, the committee shall instruct the director of the department of management to reduce that district's tax levy computed under section 257.4 for the following budget year by the amount the cash reserve levy is deemed excessive. A reduction in a district's property tax levy for a budget year under this subsection does not affect the district's authorized budget.

16. The committee shall perform the duties assigned to it under sections 257.32, 257.40, and 260C.18B.

17. *a.* If a district's average transportation costs per pupil exceed the state average transportation costs per pupil determined under paragraph "c" by one hundred fifty percent, the committee may grant transportation assistance aid to the district. Such aid shall be miscellaneous income and shall not be included in district cost.

b. To be eligible for transportation assistance aid, a school district shall annually certify its actual cost for all children transported in all school buses not later than July 31 after each school year on forms prescribed by the committee.

c. A district's average transportation costs per pupil shall be determined by dividing the district's actual cost for all children transported in all school buses for a school year pursuant to section 285.1, subsection 12, less the amount received for transporting nonpublic school pupils under section 285.1, by the district's actual enrollment for the school year excluding the shared-time enrollment for the school year as defined in section 257.6. The state average transportation costs per pupil shall be determined by dividing the total actual costs for all children transported in all districts for a school year, by the total of all districts' actual enrollments for the school year.

d. Funds transferred to the committee in accordance with section 321.34, subsection 22, are appropriated to and may be expended for the purposes of the committee, as described in this section. However, highest priority shall be given to districts that meet the conditions described in this subsection. Notwithstanding any other provision of the Code, unencumbered or unobligated funds transferred to the committee pursuant to section 321.34, subsection 22, remaining on June 30 of the fiscal year for which the funds were transferred, shall not revert but shall be available for expenditure for the purposes of this subsection in subsequent fiscal years.

18. If a school district exceeds its authorized budget or carries a negative unspent balance for two or more consecutive years, the committee may recommend that the department implement a phase II on-site visit to conduct a fiscal review pursuant to section 256.11, subsection 10, paragraph "b", subparagraph (1), subparagraph division (e).

89 Acts, ch 135, §31; 91 Acts, ch 267, §520; 93 Acts, ch 101, §202; 94 Acts, ch 1175, §3; 96 Acts, ch 1088, §1; 96 Acts, ch 1215, §22; 97 Acts, ch 23, §26; 2003 Acts, ch 79, §4, 7, 8; 2006 Acts, ch 1152, §25; 2006 Acts, ch 1182, §41, 54; 2007 Acts, ch 42, §2; 2007 Acts, ch 108, §8; 2008 Acts, ch 1191, §109; 2009 Acts, ch 41, §263; 2009 Acts, ch 54, §6; 2009 Acts, ch 65, §4; 2009 Acts, ch 133, §190, 250; 2010 Acts, ch 1004, §3 – 6, 10; 2013 Acts, ch 90, §257; 2013 Acts, ch 121, §27 – 30, 42; 2013 Acts, ch 140, §89; 2014 Acts, ch 1013, §6 – 9; 2014 Acts, ch 1026, §63; 2014 Acts, ch 1135, §12; 2018 Acts, ch 1112, §3, 18

Referred to in §256.11, 256C.4, 257.6, 257.8, 257.13, 257.16C, 257.30, 257.32, 284.13, 321.34

2018 amendment to subsection 16 applies to school budget years beginning on or after July 1, 2019; 2018 Acts, ch 1112, §18

257.32 Area education budget review.

1. *a.* An area education agency budget review procedure is established for the school budget review committee created in section 257.30. The school budget review committee, in addition to its duties under section 257.31, shall meet and hold hearings each year to review unusual circumstances of area education agencies, either upon the committee's motion or upon the request of an area education agency. The committee may grant supplemental aid to the area education agency from funds appropriated to the department of education for area education agency budget review purposes, or an amount may be added to the area education agency special education support services modified supplemental amount for districts in an area or an additional amount may be added to district cost for media services or educational services for all districts in an area for the budget year either on a temporary or permanent basis, or both.

b. Unusual circumstances shall include but are not limited to the following:

(1) An unusual increase or decrease in enrollment of children requiring special education or unusual need for additional moneys for special education support services.

(2) Unusual need for additional moneys for media services.

(3) Unusual need for additional moneys for educational services.

(4) Unusual costs for building repair, building maintenance, or removal of environmental hazards.

(5) Participation by the area education agency in telecommunications, electronic, and technological development with school districts, and related staff development programs.

2. When the school budget review committee makes a decision under subsection 1, it shall provide written notice of its decision, including all changes, to the board of directors of the area education agency, and to the department of management and the department of education.

3. All decisions by the school budget review committee under this section shall be made in accordance with reasonable and uniform policies which shall be consistent with this chapter.

4. Failure by an area education agency to provide information or appear before the school budget review committee as requested for the accomplishment of review or hearing constitutes justification for the committee to instruct the department of administrative services to withhold payments for the area education agency until the committee's inquiries are satisfied completely.

89 Acts, ch 135, §32; 2003 Acts, ch 145, §286; 2010 Acts, ch 1061, §180; 2013 Acts, ch 121, §31, 42; 2014 Acts, ch 1013, §10

Referred to in §257.31

257.33 Prior enrichment approval.

1. If the electors of a school district approved the use of the additional enrichment amount prior to July 1, 1991, under chapter 442, Code 1991, or section 279.43, Code 1991, the approval for use of the enrichment amount shall continue in effect until the expiration of the period for which it was approved and districts may use the additional enrichment amount during that period. However, section 257.28 applies to the use of the additional enrichment amount.

2. Use of the additional enrichment amounts approved under chapter 442, Code 1991, is not affected by a change in the boundaries of the school district, except as otherwise provided in this section. If each school district involved in a school reorganization under chapter 275 has approved the use of the additional enrichment amount, and if the voters have not voted upon the question of participation in the instructional support program in the reorganized district, the use of the additional enrichment amount shall be in effect for the reorganized district that has been approved for the least amount and the shortest time in any of the districts.

89 Acts, ch 135, §33; 92 Acts, ch 1163, §61; 93 Acts, ch 8, §1; 2006 Acts, ch 1010, §78; 2018 Acts, ch 1041, §127

257.34 Cash reserve information.

If a school district receives less state school foundation aid under section 257.1 than is due under that section for a base year and the school district uses funds from its cash reserve during the base year to make up for the amount of state aid not paid, the board of directors of the school district shall include in its general fund budget document information about the amount of the cash reserve used to replace state school foundation aid not paid.

89 Acts, ch 135, §34

257.35 Area education agency payments.

1. The department of management shall deduct the amounts calculated for special education support services, media services, area education agency teacher salary supplement district cost, area education agency professional development supplement district cost, and educational services for each school district from the state aid due to the district pursuant to this chapter and shall pay the amounts to the respective area education agencies on a monthly basis from September 15 through June 15 during each school year. The department of management shall notify each school district of the amount of state aid deducted for these purposes and the balance of state aid shall be paid to the district. If a district does not qualify for state aid under this chapter in an amount sufficient to cover its amount due to the area education agency as calculated by the department of management, the school district shall

pay the deficiency to the area education agency from other moneys received by the district, on a quarterly basis during each school year.

2. Notwithstanding subsection 1, the state aid for area education agencies and the portion of the combined district cost calculated for these agencies for the fiscal year beginning July 1, 2002, and each succeeding fiscal year, shall be reduced by the department of management by seven million five hundred thousand dollars. The reduction for each area education agency shall be equal to the reduction that the agency received in the fiscal year beginning July 1, 2001.

3. Notwithstanding subsection 1, and in addition to the reduction applicable pursuant to subsection 2, the state aid for area education agencies and the portion of the combined district cost calculated for these agencies for the fiscal year beginning July 1, 2003, and ending June 30, 2004, shall be reduced by the department of management by ten million dollars. The department shall calculate a reduction such that each area education agency shall receive a reduction proportionate to the amount that it would otherwise have received under this section if the reduction imposed pursuant to this subsection did not apply.

4. Notwithstanding subsection 1, and in addition to the reduction applicable pursuant to subsection 2, the state aid for area education agencies and the portion of the combined district cost calculated for these agencies for the fiscal year beginning July 1, 2007, shall be reduced by the department of management by five million two hundred fifty thousand dollars. The reduction for each area education agency shall be prorated based on the reduction that the agency received in the fiscal year beginning July 1, 2003.

5. Notwithstanding subsection 1, and in addition to the reduction applicable pursuant to subsection 2, the state aid for area education agencies and the portion of the combined district cost calculated for these agencies for each fiscal year of the fiscal period beginning July 1, 2008, and ending June 30, 2011, shall be reduced by the department of management by two million five hundred thousand dollars. The reduction for each area education agency for each fiscal year of the fiscal period beginning July 1, 2008, and ending June 30, 2011, shall be prorated based on the reduction that the agency received in the fiscal year beginning July 1, 2003.

6. Notwithstanding subsection 1, and in addition to the reduction applicable pursuant to subsection 2, the state aid for area education agencies and the portion of the combined district cost calculated for these agencies for the fiscal year beginning July 1, 2011, and ending June 30, 2012, shall be reduced by the department of management by twenty million dollars. The reduction for each area education agency shall be prorated based on the reduction that the agency received in the fiscal year beginning July 1, 2003.

7. Notwithstanding subsection 1, and in addition to the reduction applicable pursuant to subsection 2, the state aid for area education agencies and the portion of the combined district cost calculated for these agencies for the fiscal year beginning July 1, 2012, and ending June 30, 2013, shall be reduced by the department of management by twenty million dollars. The reduction for each area education agency shall be prorated based on the reduction that the agency received in the fiscal year beginning July 1, 2003.

8. Notwithstanding subsection 1, and in addition to the reduction applicable pursuant to subsection 2, the state aid for area education agencies and the portion of the combined district cost calculated for these agencies for the fiscal year beginning July 1, 2013, and ending June 30, 2014, shall be reduced by the department of management by fifteen million dollars. The reduction for each area education agency shall be prorated based on the reduction that the agency received in the fiscal year beginning July 1, 2003.

9. Notwithstanding subsection 1, and in addition to the reduction applicable pursuant to subsection 2, the state aid for area education agencies and the portion of the combined district cost calculated for these agencies for the fiscal year beginning July 1, 2014, and ending June 30, 2015, shall be reduced by the department of management by fifteen million dollars. The reduction for each area education agency shall be prorated based on the reduction that the agency received in the fiscal year beginning July 1, 2003.

10. Notwithstanding subsection 1, and in addition to the reduction applicable pursuant to subsection 2, the state aid for area education agencies and the portion of the combined district cost calculated for these agencies for the fiscal year beginning July 1, 2015, and ending June

30, 2016, shall be reduced by the department of management by fifteen million dollars. The reduction for each area education agency shall be prorated based on the reduction that the agency received in the fiscal year beginning July 1, 2003.

11. Notwithstanding subsection 1, and in addition to the reduction applicable pursuant to subsection 2, the state aid for area education agencies and the portion of the combined district cost calculated for these agencies for the fiscal year beginning July 1, 2016, and ending June 30, 2017, shall be reduced by the department of management by eighteen million seven hundred fifty thousand dollars. The reduction for each area education agency shall be prorated based on the reduction that the agency received in the fiscal year beginning July 1, 2003.

12. Notwithstanding subsection 1, and in addition to the reduction applicable pursuant to subsection 2, the state aid for area education agencies and the portion of the combined district cost calculated for these agencies for the fiscal year beginning July 1, 2017, and ending June 30, 2018, shall be reduced by the department of management by fifteen million dollars. The reduction for each area education agency shall be prorated based on the reduction that the agency received in the fiscal year beginning July 1, 2003.

13. Notwithstanding subsection 1, and in addition to the reduction applicable pursuant to subsection 2, the state aid for area education agencies and the portion of the combined district cost calculated for these agencies for the fiscal year beginning July 1, 2018, and ending June 30, 2019, shall be reduced by the department of management by fifteen million dollars. The reduction for each area education agency shall be prorated based on the reduction that the agency received in the fiscal year beginning July 1, 2003.

14. Notwithstanding subsection 1, and in addition to the reduction applicable pursuant to subsection 2, the state aid for area education agencies and the portion of the combined district cost calculated for these agencies for the fiscal year beginning July 1, 2019, and ending June 30, 2020, shall be reduced by the department of management by fifteen million dollars. The reduction for each area education agency shall be prorated based on the reduction that the agency received in the fiscal year beginning July 1, 2003.

15. Notwithstanding subsection 1, and in addition to the reduction applicable pursuant to subsection 2, the state aid for area education agencies and the portion of the combined district cost calculated for these agencies for the fiscal year beginning July 1, 2020, and ending June 30, 2021, shall be reduced by the department of management by fifteen million dollars. The reduction for each area education agency shall be prorated based on the reduction that the agency received in the fiscal year beginning July 1, 2003.

16. Notwithstanding section 257.37, an area education agency may use the funds determined to be available under this section in a manner which the area education agency determines is appropriate to best maintain the level of required area education agency special education services. An area education agency may also use unreserved fund balances for media services or education services in a manner which the area education agency determines is appropriate to best maintain the level of required area education agency special education services.

89 Acts, ch 135, §35; 2002 Acts, ch 1167, §2, 6; 2003 Acts, ch 178, §40, 41, 43; 2004 Acts, ch 1175, §236, 287; 2005 Acts, ch 179, §6; 2006 Acts, ch 1185, §6; 2007 Acts, ch 215, §9; 2008 Acts, ch 1181, §100; 2008 Acts, ch 1191, §8; 2009 Acts, ch 183, §69, 74; 2010 Acts, ch 1193, §13; 2011 Acts, ch 131, §5, 44, 158; 2012 Acts, ch 1138, §24; 2013 Acts, ch 140, §8; 2014 Acts, ch 1141, §4; 2015 Acts, ch 138, §7, 161, 162; 2016 Acts, ch 1138, §3; 2017 Acts, ch 170, §11; 2018 Acts, ch 1172, §4; 2019 Acts, ch 89, §3; 2020 Acts, ch 1019, §6

Referred to in §257.37

NEW subsection 15 and former subsection 15 renumbered as 16

257.36 Special education support services balances.

1. Notwithstanding chapters 256B and 273 and sections of this chapter relating to the moneys available to area education agencies for special education support services, for each school year, the department of education may direct the department of management to deduct amounts from the portions of school district budgets that fund special education support services in an area education agency. The total amount deducted in an area shall be

based upon excess special education support services unreserved and undesignated fund balances in that area education agency for a school year as determined by the department of education. The department of management shall determine the amount deducted from each school district in an area education agency on a proportional basis. The department of management shall determine from the amounts deducted from the portions of school district budgets that fund area education agency special education support services the amount that would have been local property taxes and the amount that would have been state aid and for the next following budget year shall increase the district's total state school aid available under this chapter for area education agency special education support services and reduce the district's property tax levy for area education agency special education support services by the amount necessary for the property tax portion of the deductions made under this section during the budget year.

2. The amount deducted from a school district's budget shall not affect the calculation of the state cost per pupil or its district cost per pupil in that school year or a subsequent year.

89 Acts, ch 135, §36; 2018 Acts, ch 1041, §127

Referred to in §257.5, 257.8

257.37 Funding media and educational services.

Media services and educational services provided through the area education agencies shall be funded, to the extent provided, by an addition to the combined district cost of each school district, determined as follows:

1. For the budget year beginning July 1, 1991, and succeeding budget years, the total amount funded in each area for media services shall be computed as provided in this subsection. For the budget year beginning July 1, 1991, the total amount funded in each area for media services in the base year shall be divided by the enrollment served in the base year to provide an area media services cost per pupil in the base year, and the department of management shall compute the state media services cost per pupil in the base year which is equal to the average of the area media services costs per pupil in the base year. For the budget year beginning July 1, 1991, and succeeding budget years, the department of management shall compute the supplemental state aid for media services in the budget year by multiplying the state media services cost per pupil in the base year times the state percent of growth for the budget year, and the total amount funded in each area for media services cost in the budget year equals the area media services cost per pupil in the base year plus the supplemental state aid for media services in the budget year times the enrollment served in the budget year. Funds shall be paid to area education agencies as provided in section 257.35.

2. Up to thirty percent of the budget of an area for media services may be expended for media resource material including the purchase or replacement of material required in section 273.6, subsection 1. Funds shall be paid to area education agencies as provided in section 257.35.

3. For the budget year beginning July 1, 1991, and succeeding budget years, the total amount funded in each area for educational services shall be computed as provided in this subsection. For the budget year beginning July 1, 1991, the total amount funded in each area for educational services in the base year shall be divided by the enrollment served in the area in the base year to provide an area educational services cost per pupil in the base year, and the department of management shall compute the state educational services cost per pupil in the base year, which is equal to the average of the area educational services costs per pupil in the base year. For the budget year beginning July 1, 1991, and succeeding budget years, the department of management shall compute the supplemental state aid for educational services by multiplying the state educational services cost per pupil in the base year times the state percent of growth for the budget year, and the total amount funded in each area for educational services for the budget year equals the area educational services cost per pupil for the base year plus the supplemental state aid for educational services in the budget year times the enrollment served in the area in the budget year. Funds shall be paid to area education agencies as provided in section 257.35.

4. "Enrollment served" means the basic enrollment plus the number of nonpublic school pupils served with media services or educational services, as applicable, except that if a

nonpublic school pupil or a pupil attending another district under a whole grade sharing agreement or open enrollment receives services through an area other than the area of the pupil's residence, the pupil shall be deemed to be served by the area of the pupil's residence, which shall by contractual arrangement reimburse the area through which the pupil actually receives services. Each school district shall include in the enrollment report submitted pursuant to section 257.6, subsection 1, the number of nonpublic school pupils within each school district for media and educational services served by the area. However, the school district shall not include in the enrollment report nonpublic school pupils receiving classes or services funded entirely by federal grants or allocations.

5. *a.* If an area education agency does not serve nonpublic school pupils in a manner comparable to services provided public school pupils for media and educational services, as determined by the state board of education, the state board shall instruct the department of management to reduce the funds for media services and educational services one time by an amount to compensate for such reduced services. The media services budget shall be reduced by an amount equal to the product of the cost per pupil in basic enrollment for the budget year for media services times the difference between the enrollment served and the basic enrollment recorded for the area. The educational services budget shall be reduced by an amount equal to the product of the cost per pupil in basic enrollment for the budget year for educational services times the difference between the enrollment served and the basic enrollment recorded for the area.

b. This subsection applies only to media and educational services which cannot be diverted for religious purposes.

c. Notwithstanding this subsection, an area education agency shall distribute to nonpublic schools media materials purchased wholly or partially with federal funds in a manner comparable to the distribution of such media materials to public schools as determined by the director of the department of education.

6. For the budget year beginning July 1, 2002, and each succeeding budget year, notwithstanding the requirements of this section for determining the budgets and funding of media services and education services, an area education agency may, within the limits of the total of the funds provided for the budget years pursuant to section 257.35, expend for special education support services an amount that exceeds the payment for special education support services pursuant to section 257.35 in order to maintain the level of required special education support services in the area education agency.

91 Acts, ch 6, §2; 91 Acts, ch 267, §228; 2002 Acts, ch 1167, §3, 6; 2003 Acts, ch 178, §42, 43; 2006 Acts, ch 1152, §26; 2010 Acts, ch 1061, §180; 2012 Acts, ch 1138, §25; 2013 Acts, ch 88, §7; 2013 Acts, ch 121, §32, 42

Referred to in §257.15, 257.35, 273.23

257.37A Area education agency salary supplement funding.

1. *Area education agency teacher salary supplement cost per pupil and district cost.*

a. For the budget year beginning July 1, 2009, the department of management shall add together the teacher compensation allocation made to each area education agency for the fiscal year beginning July 1, 2008, pursuant to section 284.13, subsection 1, paragraph "i", Code 2009, and the phase II allocation made to each area education agency for the fiscal year beginning July 1, 2008, pursuant to section 294A.9, Code 2009, and divide that sum by the special education support services weighted enrollment in the fiscal year beginning July 1, 2009, to determine the area education agency teacher salary supplement cost per pupil. For the budget year beginning July 1, 2010, and succeeding budget years, the area education agency teacher salary supplement district cost per pupil for each area education agency for a budget year is the area education agency teacher salary supplement district cost per pupil for the base year plus the area education agency teacher salary supplement supplemental state aid amount for the budget year.

b. For the budget year beginning July 1, 2010, and succeeding budget years, if the department of management determines that the unadjusted area education agency teacher salary supplement district cost of an area education agency for a budget year is less than one hundred percent of the unadjusted area education agency teacher salary supplement

district cost for the base year for the area education agency, the area education agency shall receive a budget adjustment for that budget year equal to the difference.

c. (1) The unadjusted area education agency teacher salary supplement district cost is the area education agency teacher salary supplement district cost per pupil for each area education agency for a budget year multiplied by the special education support services weighted enrollment for that area education agency.

(2) The total area education agency teacher salary supplement district cost is the sum of the unadjusted area education agency teacher salary supplement district cost plus the budget adjustment for that budget year.

d. For the budget year beginning July 1, 2009, the use of the funds calculated under this subsection shall comply with requirements of chapter 284 and shall be distributed to teachers pursuant to section 284.3A. For the budget year beginning July 1, 2010, and succeeding budget years, the use of the funds calculated under this subsection shall comply with the requirements of chapter 284 and shall be distributed to teachers pursuant to section 284.3A.

2. *Area education agency professional development supplement cost per pupil and district cost.*

a. For the budget year beginning July 1, 2009, the department of management shall divide the area education agency professional development supplement made to each area education agency for the fiscal year beginning July 1, 2008, pursuant to section 284.13, subsection 1, paragraph “d”, Code 2009, by the special education support services weighted enrollment in the fiscal year beginning July 1, 2009, to determine the professional development supplement cost per pupil. For the budget year beginning July 1, 2010, and succeeding budget years, the area education agency professional development supplement district cost per pupil for each area education agency for a budget year is the area education agency professional development supplement district cost per pupil for the base year plus the area education agency professional development supplement supplemental state aid amount for the budget year.

b. For the budget year beginning July 1, 2010, and succeeding budget years, if the department of management determines that the unadjusted area education agency professional development supplement district cost of an area education agency for a budget year is less than one hundred percent of the unadjusted area education agency professional development supplement district cost for the base year for the area education agency, the area education agency shall receive a budget adjustment for that budget year equal to the difference.

c. (1) The unadjusted area education agency professional development supplement district cost is the area education agency professional development supplement district cost per pupil for each area education agency for a budget year multiplied by the special education support services weighted enrollment for that area education agency.

(2) The total area education agency professional development supplement district cost is the sum of the unadjusted area education agency professional development supplement district cost plus the budget adjustment for that budget year.

d. The use of the funds calculated under this subsection shall comply with requirements of chapter 284.

2008 Acts, ch 1181, §101; 2009 Acts, ch 68, §5, 6; 2009 Acts, ch 177, §19, 20; 2013 Acts, ch 121, §33, 34, 42

Referred to in §256F.4, 257.16, 284.3A, 284.6

257.38 Funding for at-risk, alternative school, and returning dropouts and dropout prevention programs — plan.

1. Boards of school districts, individually or jointly with boards of other school districts, requesting to use a modified supplemental amount for costs in excess of the amount received under section 257.11, subsection 4, for programs for at-risk students, secondary students who attend alternative programs and alternative schools, and returning dropouts and dropout prevention, shall approve, by resolution, comprehensive program plans for the programs and budget costs, including annual requests for a modified supplemental amount for funding the programs. The program plans shall include:

a. Program goals, objectives, and activities to meet the needs of students identified as at risk, secondary students who attend alternative programs and alternative schools, or potential dropouts or returning dropouts.

- b. Student identification criteria and procedures.
- c. Staff in-service education design.
- d. Staff utilization plans.
- e. Evaluation criteria and procedures and performance measures.
- f. Program budget.
- g. Qualifications required of personnel delivering the program.
- h. A program for at-risk students.
- i. A provision for identifying at-risk students.

2. Program plans shall identify the parts of the plan that will be implemented first upon adoption of the program plan. If a district is requesting to use a modified supplemental amount to finance the program, the school district shall include in the request the number of students in its budget enrollment for the budget year identified as returning dropouts and potential dropouts.

89 Acts, ch 135, §38; 2001 Acts, ch 159, §9; 2006 Acts, ch 1152, §27; 2013 Acts, ch 121, §35, 36, 42; 2015 Acts, ch 140, §39, 58, 59; 2018 Acts, ch 1112, §4 – 6, 18

Referred to in §257.10, 257.41

2018 amendments apply to school budget years beginning on or after July 1, 2019; 2018 Acts, ch 1112, §18

257.39 Definitions — potential dropouts and returning dropouts.

As used in this chapter:

1. “*Potential dropouts*” are resident pupils who are enrolled in a public or nonpublic school who demonstrate poor school adjustment as indicated by two or more of the following:

- a. High rate of absenteeism, truancy, or frequent tardiness.
- b. Limited or no extracurricular participation or lack of identification with school, including but not limited to expressed feelings of not belonging.
- c. Poor grades, including but not limited to failing in one or more school subjects or grade levels.

d. Low achievement scores in reading or mathematics which reflect achievement at two years or more below grade level.

e. Children in grades kindergarten through three who meet the definition of at-risk children adopted by the department of education.

2. “*Returning dropouts*” are resident pupils who have been enrolled in a public or nonpublic school in any of grades seven through twelve who withdrew from school for a reason other than transfer to another school or school district and who subsequently enrolled in a public school in the district.

89 Acts, ch 135, §39; 2020 Acts, ch 1062, §38

Referred to in §257.10, 257.11, 282.27

Section amended

257.40 Approval of requests for modified supplement amounts for adopted program plans.

1. The board of directors of a school district requesting to use a modified supplemental amount for costs in excess of the funding received under section 257.11, subsection 4, for programs for at-risk students, secondary students who attend alternative programs and alternative schools, or returning dropouts and dropout prevention shall submit requests for a modified supplemental amount, including budget costs, to the school budget review committee not later than January 15 of the budget year preceding the budget year during which the program will be offered. The school budget review committee shall review the request and shall grant approval for the request if the amount requested does not exceed an amount equal to the limitation of section 257.41, subsection 3, minus any funds for the adopted program carried forward from the year prior to the base year. The board of directors shall certify by resolution that the request complies with the school district’s adopted program plan. If the amount requested exceeds an amount equal to the limitation of section 257.41, subsection 3, minus any funds for the adopted program carried forward from

the year prior to the base year, the amount approved by the school budget review committee shall equal the limitation amount minus any funds for the adopted program carried forward from the year prior to the base year. Not later than March 15, the school budget review committee shall notify the department of management of the names of the school districts for which programs using a modified supplemental amount for funding have been approved and the approved budget of each program listed separately for each school district having an approved request. If requested, the board of directors shall provide the adopted program plan for any audit performed under chapter 11 or other provision of law.

2. If a school district submits a request after January 15 but before March 1 of the budget year preceding the budget year during which the program will be offered, the school budget review committee may grant the modified supplemental amount request based on the specifications under subsection 1.

89 Acts, ch 135, §40; 2006 Acts, ch 1152, §28; 2007 Acts, ch 22, §60; 2013 Acts, ch 121, §37, 42; 2015 Acts, ch 140, §40, 58, 59; 2018 Acts, ch 1112, §7, 18; 2020 Acts, ch 1093, §2, 4, 5

Referred to in §257.10, 257.11, 257.31, 298A.2

2018 amendment applies to school budget years beginning on or after July 1, 2019; 2018 Acts, ch 1112, §18

2020 amendment applies retroactively to January 1, 2020, for requests for modified supplemental amounts filed on or after that date; 2020 Acts, ch 1093, §5

Section amended

257.41 Funding for programs for returning dropouts and dropout prevention.

1. *Budget.* The budget of an adopted program for at-risk students, secondary students who attend alternative programs or alternative schools, or returning dropouts and dropout prevention for a school district, after subtracting funds received under section 257.11, subsection 4, paragraphs “a” through “c”, and from other sources for that purpose, including any previous carryover or amount designated from the school district’s flexibility account under section 298A.2, subsection 2, shall be funded annually on a basis of one-fourth or more from the district cost of the school district and up to three-fourths through establishment of a modified supplemental amount. Annually, the department of management shall establish a modified supplemental amount for each such school district equal to the difference between the approved budget for the program for that district and the sum of the amount funded from the district cost of the school district plus funds received under section 257.11, subsection 4, and from other sources for that purpose, including any previous carryover or amount designated from the school district’s flexibility account under section 298A.2, subsection 2.

2. *Appropriate uses of funding.* Appropriate uses of the funding for an adopted program include but are not limited to the following:

a. Salary and benefits for staff including but not limited to instructional staff, instructional support staff, administrative staff, and guidance counselors, salary and benefits or contract payments for psychologists licensed under chapter 154B, licensed independent social workers or master social workers under chapter 154C, licensed mental health counselors under chapter 154D, and salary and benefits for school-based youth services staff who are working with at-risk or dropout prevention programs, alternative programs, and alternative schools, in a traditional or alternative setting, or who are working with students who are participating in such programs or schools, if such person’s time is dedicated to working with the program or with such students in order to provide services beyond those which are provided by the school district to students who are not participating in such programs or alternative schools. However, if such person works part-time with students who are participating in a program or alternative school and the person has another unrelated assignment, only the portion of the person’s time that is related to the program or alternative school may be charged to the program or school. For each such person who works part time or on a contract basis with the program or with students who are participating in a program or alternative school, the school district shall have the authority to designate the portion of the person’s time and the corresponding amount of salary and benefits or contract payment amount that is related to the program or alternative school and shall include such designation as part of the program plan under section 257.38, if applicable. For purposes of this paragraph, if an alternative setting is necessary to provide for a program which is offered at a location off school grounds and which is intended to serve student needs

by improving relationships and connections to school, decreasing truancy and tardiness, providing opportunities for course credit recovery, or helping students identified as at risk to accelerate through multiple grade levels of achievement within a shortened time frame, the tuition costs for a student identified as at risk shall be considered an appropriate use of the program funding under this section.

b. Professional development for all teachers, counselors, and staff identified in paragraph “a” who are working with at-risk students under a program or an alternative school setting.

c. Research-based resources, materials, software, supplies, and purchased services that meet all of the following criteria:

(1) Meets the needs of kindergarten through grade twelve students identified as at risk.

(2) Are beyond those provided by the regular school program.

(3) Are necessary to provide the services listed in the school district’s plan submitted pursuant to section 257.38.

(4) Will remain with the kindergarten through grade twelve at-risk program, alternative program or alternative school, or returning dropout and dropout prevention program.

d. Costs incurred for a program intended to address high rates of absenteeism, truancy, or frequent tardiness.

e. Costs incurred for programs authorized under section 257.11, subsection 4, paragraph “d”.

f. Any purpose determined by the board of directors that directly benefits students participating in the adopted program.

g. School security personnel costs.

3. *Limitation.* For the fiscal year beginning July 1, 2013, and each succeeding fiscal year, the ratio of the amount of the modified supplemental amount established by the department of management compared to the school district’s total regular program district cost shall not exceed two and one-half percent. However, if the school district’s highest such ratio so determined for any fiscal year beginning on or after July 1, 2009, but before July 1, 2013, exceeded two and one-half percent, the ratio may exceed two and one-half percent but shall not exceed the highest such ratio established during that period.

4. *Other uses.* Notwithstanding subsection 2 and section 282.24, if a student has been determined by the school district to be likely to inflict self-harm or likely to harm another student and all of the following apply, the school district may use the modified supplemental amount established under subsection 1 to pay the instructional costs necessary to address the student’s behavior during instructional time when those services are not otherwise provided to students who do not require special education and the costs exceed the costs of instruction of students in a regular curriculum:

a. The student does not require special education.

b. The student is not in a court-ordered placement under chapter 232 under the care and custody of the department of human services or juvenile court services.

c. The student is not in the state training school pursuant to a court order entered under chapter 232 under the care and custody of the department of human services.

d. The pupil is not placed in a facility licensed under chapter 135B, 135C, or 135H.

89 Acts, ch 135, §41; 2012 Acts, ch 1102, §1, 2; 2013 Acts, ch 121, §38, 42; 2014 Acts, ch 1013, §11; 2014 Acts, ch 1135, §13; 2015 Acts, ch 140, §41, 42, 58, 59; 2017 Acts, ch 153, §5 – 8; 2017 Acts, ch 154, §3; 2018 Acts, ch 1112, §8 – 11, 18; 2019 Acts, ch 100, §7

Referred to in §257.10, 257.11, 257.19, 257.40, 282.27

2018 amendments apply to school budget years beginning on or after July 1, 2019; 2018 Acts, ch 1112, §18

257.42 Gifted and talented children.

1. Boards of school districts, individually or jointly with the boards of other school districts, shall annually submit program plans for gifted and talented children programs and budget costs to the department of education and to the applicable gifted and talented children advisory council, if an advisory council has been established, as provided in this chapter.

2. The parent or guardian of a pupil may request that a gifted and talented children

program be established for pupils who qualify as gifted and talented children under section 257.44, including demonstrated achievement or potential ability in a single subject area.

3. The department of education shall employ one full-time qualified staff member or consultant for gifted and talented children programs.

4. The department of education shall adopt rules under chapter 17A relating to the administration of this section and sections 257.43 through 257.49. The rules shall prescribe the format of program plans submitted under section 257.43 and shall require that programs fulfill specified objectives. The department shall encourage and assist school districts to provide programs for gifted and talented children.

5. The department of education may request that the staff of the auditor of state conduct an independent program audit to verify that the gifted and talented programs conform to a district's program plans.

89 Acts, ch 135, §42; 94 Acts, ch 1088, §1; 99 Acts, ch 178, §5, 10; 2015 Acts, ch 140, §43, 58, 59; 2016 Acts, ch 1073, §86

257.43 Program plans.

The program plans submitted by school districts shall be part of the school improvement plan submitted pursuant to section 256.7, subsection 21, paragraph "a", and shall include all of the following:

1. Program goals, objectives, and activities to meet the needs of gifted and talented children.

2. Student identification criteria and procedures.

3. Staff in-service education design.

4. Staff utilization plans.

5. Evaluation criteria and procedures and performance measures.

6. Program budget.

7. Qualifications required of personnel administering the program.

8. Other factors the department requires.

89 Acts, ch 135, §43; 99 Acts, ch 178, §6, 10

Referred to in §257.42, 261E.6

257.44 Gifted and talented children defined.

1. "*Gifted and talented children*" are those children who are identified as possessing outstanding abilities and who are capable of high performance. Gifted and talented children are children who require appropriate instruction and educational services commensurate with their abilities and needs beyond those provided by the regular school program.

2. Gifted and talented children include those children with demonstrated achievement or potential ability, or both, in any of the following areas or in combination:

a. General intellectual ability.

b. Creative thinking.

c. Leadership ability.

d. Visual and performing arts ability.

e. Specific ability aptitude.

89 Acts, ch 135, §44; 2010 Acts, ch 1069, §72

Referred to in §257.42

257.45 Submission of program plans.

1. The board of directors of a school district shall submit applications for approval for the programs to the department not later than November 1 preceding the fiscal year during which the program will be offered. The board shall also submit a copy of the program plans to the gifted and talented children advisory council, if an advisory council has been established. The department shall review the program plans and shall prior to January 15 either grant approval for the program or return the request for approval with comments of the department included. Any unapproved request for a program may be resubmitted with modifications to the department not later than a date established by the department. Not later than February 15 the department shall notify the department of management and the school budget review committee of the names of the school districts for which gifted and talented children programs

have been approved and the approved budget of each program listed separately for each school district having an approved program.

2. The department of education may waive the November 1 deadline, if the department finds that the school district applying for approval of gifted and talented programs missed the deadline for good cause. The department shall adopt rules defining good cause for purposes of this section.

89 Acts, ch 135, §45; 94 Acts, ch 1088, §2; 99 Acts, ch 178, §7, 10
Referred to in §257.42

257.46 Funding.

1. The budget of an approved gifted and talented children program for a school district, after subtracting funds received from other sources for that purpose, including any amount designated from the school district's flexibility account under section 298A.2, subsection 2, shall be funded annually on a basis of one-fourth or more from the district cost of the school district.

2. The remaining portion of the budget shall be funded by the thirty-eight dollar increase in supplemental state aid, as defined in section 257.2, Code 2014, for the school budget year beginning July 1, 1999, multiplied by a district's budget enrollment. The thirty-eight dollar increase for the school budget year beginning July 1, 1999, shall increase in subsequent years by each year's state percent of growth. School districts shall annually report the amount expended for a gifted and talented program to the department of education. The proportion of a school district's budget which corresponds to the thirty-eight dollar increase in supplemental state aid, as defined in section 257.2, Code 2014, for the school budget year beginning July 1, 1999, added to the amount in subsection 1, shall be utilized exclusively for a school district's gifted and talented program.

3. If any portion of the gifted and talented program budget remains unexpended at the end of the budget year, the remainder shall be carried over to the subsequent budget year and added to the gifted and talented program budget for that year.

89 Acts, ch 135, §46; 94 Acts, ch 1088, §3; 99 Acts, ch 178, §8, 10; 2000 Acts, ch 1058, §29; 2000 Acts, ch 1151, §1, 2; 2013 Acts, ch 121, §39, 42; 2017 Acts, ch 154, §4
Referred to in §257.19, 257.42, 298A.2

257.47 Cooperation by area education agencies.

The area education agencies in which the school districts having approved gifted and talented children programs are located shall cooperate with the school district in the identification and placement of gifted and talented children and may assist school districts in the establishment of such programs.

89 Acts, ch 135, §47
Referred to in §257.42

257.48 Advisory council.

1. At the written request of one or more boards of school districts, in an area education agency, the area education agency board shall establish one or more gifted and talented children advisory councils and shall appoint members for four-year staggered terms. The terms of office of advisory council members shall commence on July 1 of each year. An advisory council shall consist of seven members including teachers, parents, school administrators, and other persons interested in education in the area. Except as otherwise provided in this section, members shall be eligible electors residing in the merged area. Members shall serve without compensation but shall be reimbursed for actual and necessary expenses and mileage incurred in the performance of their duties from funds available to the area education agency.

2. If an area education agency has a weighted enrollment of more than thirty-five thousand, the board may appoint additional advisory councils for each thirty-five thousand weighted enrollment or fraction of thirty-five thousand. If more than one advisory council is appointed by the board, the board shall divide the merged area along school district

boundary lines for jurisdiction of the advisory councils, and membership of these advisory councils shall be appointed from the designated portion of the merged area.

89 Acts, ch 135, §48; 2018 Acts, ch 1041, §127

Referred to in §257.42

257.49 Duties of advisory council.

The gifted and talented children advisory council shall:

1. Elect a chairperson and vice chairperson from the membership of the advisory council.
2. Meet as often as deemed necessary by the advisory council.
3. Advise and assist a local board of directors in the establishment of gifted and talented children programs, when requested by the local board.
4. Review program plans and proposed budgets for a gifted and talented children program, in consultation with a gifted and talented children consultant employed by the area education agency, when requested by a local board.

5. When requested by a local board, evaluate the results of a gifted and talented children program and file a written report together with recommendations for improvement or change with the board of directors of the applicable school district, the area education agency and the department of education. The evaluation shall be conducted by three or more members of the advisory council.

89 Acts, ch 135, §49

Referred to in §257.42

257.50 Federal assistance — school district responsibilities.

The director of the department of education, in accepting and administering federal funds in accordance with section 256.9, subsection 7, shall upon receiving federal grant moneys under the federal 21st Century Community Learning Center Grant, Tit. IV, pt. B of the federal Elementary and Secondary Education Act of 1965, as amended by the federal Every Student Succeeds Act, as amended, 20 U.S.C. §7171–7176, designate that a school district be the fiscal agent for an eligible local grant. Whenever possible, the grant applicant school district shall collaborate with a community-based organization, a public or private entity, or a consortium of two or more of such organizations or entities in establishing a community learning center. The department shall give priority to applications for programs serving students determined through research-based methods to be in the greatest need of eligible services. Notwithstanding the provisions of this section, if federal rules or regulations relating to the 21st Century Community Learning Center Grant are adopted that are inconsistent with the provisions of this section, the department of education shall comply with the requirements of the federal rules or regulations.

2002 Acts, ch 1140, §12; 2010 Acts, ch 1061, §180; 2018 Acts, ch 1057, §8

257.51 Career academy fund — grant program.

1. A career academy fund is created and established as a separate and distinct fund in the state treasury under the control of the department of education.

2. *a.* In addition to moneys deposited in the career academy fund pursuant to section 423F.2, the department of education may accept gifts, grants, bequests, and other private contributions, as well as state or federal funds, and shall deposit the moneys in the fund to be used for purposes of this section. Moneys in the fund are appropriated to the department of education and shall be used for the purposes of this section.

b. Notwithstanding section 8.33, moneys in the fund that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes of this section in succeeding fiscal years. Notwithstanding section 12C.7, subsection 2, interest earned on moneys in the career academy fund shall be credited to the fund.

3. The department of education shall adopt rules to establish and administer a career academy grant program to provide for the allocation of money in the fund in the form of competitive grants, not to exceed one million dollars per grant, to school corporations for career academy infrastructure, career academy equipment, or both, in accordance with the goals of this section and to further the goals of the establishment and operation of career

academies under section 258.15. The rules adopted by the department of education shall specify the eligibility of applicants and eligible items for grant funding. Priority for grants shall first be given to applications to establish new career academies that are organized as regional centers pursuant to chapter 258. Subsequent priority shall be given to applications for expanding existing career academies.

2019 Acts, ch 166, §6
 Referred to in §423F.2

CHAPTER 257A

FIRST IN THE NATION IN EDUCATION

Repealed effective December 31, 1998,
 by 98 Acts, ch 1215, §57, 63

CHAPTER 257B

SCHOOL FUNDS

Referred to in §274.3, 331.502

257B.1	Definitions.	257B.19	Loans.
257B.1A	Permanent fund.	257B.20	Investment of permanent fund.
257B.1B	Interest for Iowa schools fund — transfer of interest.	257B.21	through 257B.27 Reserved.
257B.2	Lands and escheats.	257B.28	Statute of limitation.
257B.3	Reserved.	257B.29	Payments.
257B.4	Division and appraisalment.	257B.30	Release of mortgage.
257B.5	Notice — sale.	257B.31	School fund account — settlement.
257B.6	Sale without appraisalment.	257B.32	Notice of default.
257B.7	Sale on credit — taxation — waste.	257B.33	Suit — attorney fee.
257B.8	Sale of lands bid in.	257B.34	Bid at execution sale.
257B.9	Cash or collateral security.	257B.35	Sheriff’s deed to state.
257B.10	Uniform interest date.	257B.36	Resale by state.
257B.11	School fund accounts — audit of losses.	257B.37	Proceeds on resale.
257B.12	Bonds to cover losses.	257B.38	Excess — loss borne by county.
257B.13	and 257B.14 Reserved.	257B.39	Report as to sales — interest.
257B.15	Management.	257B.40	Interest charged to counties.
257B.16	Actions.	257B.41	Uncollected interest.
257B.17	Liability of county.	257B.42	Report as to rents.
257B.18	Exemption of county.	257B.43	Reserved.
		257B.44	Penalty against county auditor.

257B.1 Definitions.

As used in this chapter, unless the context otherwise requires, “book”, “list”, “record”, or “schedule” kept by a county auditor, assessor, treasurer, recorder, sheriff, or other county officer means the county system as defined in section 445.1.

2000 Acts, ch 1148, §1

257B.1A Permanent fund.

The permanent school fund, the interest of which only can be appropriated for school purposes, shall consist of:

1. Five percent of the net proceeds of the public lands of the state.
2. The proceeds of the sale of the five hundred thousand acres of land granted the state under the eighth section of an Act of Congress passed September 4, 1841, entitled: “An Act to appropriate the proceeds of all sales of public lands, and to grant pre-emption rights”.
3. The proceeds of all intestate estates escheated to the state.

4. The proceeds of the sales of the sixteenth section in each township, or lands selected in lieu thereof.

5. All other moneys by law credited to the permanent school fund.

[R60, §1962, 1964; C73, §1837, 1839; C97, §2838; C24, 27, 31, 35, 39, §4469; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §302.1]

86 Acts, ch 1246, §139, 140; 87 Acts, ch 115, §46; 88 Acts, ch 1278, §24

C93, §257B.1

95 Acts, ch 218, §16

C2001, §257B.1A

Referred to in §257B.6, 257B.9

257B.1B Interest for Iowa schools fund — transfer of interest.

An interest for Iowa schools fund is established in the office of treasurer of state. The department of administrative services shall deposit interest earned on the permanent school fund in the interest for Iowa schools fund. The treasurer shall transfer moneys in the interest for Iowa schools fund on a quarterly basis as follows:

1. For the fiscal year beginning July 1, 2008, and each succeeding fiscal year, fifty-five percent of the moneys deposited in the fund to the university of northern Iowa to assist school districts in developing reading recovery and literacy programs.

2. Forty-five percent of the moneys deposited in the fund to the credit of the international center endowment fund of the international center for gifted and talented education established in section 263.8A.

86 Acts, ch 1246, §141

C87, §302.1A

88 Acts, ch 1012, §2; 88 Acts, ch 1284, §51; 89 Acts, ch 319, §77, 78

C93, §257B.1A

95 Acts, ch 218, §17; 96 Acts, ch 1184, §1, 2; 98 Acts, ch 1215, §30

C2001, §257B.1B

2003 Acts, ch 145, §286; 2004 Acts, ch 1175, §92; 2005 Acts, ch 169, §22, 35; 2008 Acts, ch 1181, §24

257B.2 Lands and escheats.

The proceeds of all lands sold, and all sums due from escheats, shall be payable to the treasurer of the county in which the lands or escheated estates are situated or found, and the county treasurer shall pay the proceeds to the state treasurer once each month.

[R60, §1965; C73, §1840; C97, §2838; C24, 27, 31, 35, 39, §4470; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §302.2]

C93, §257B.2

Referred to in §331.552

257B.3 Reserved.

257B.4 Division and appraisalment.

The board of supervisors may, as preliminary to a sale, authorize the trustees of a township, where the sixteenth section or land selected in lieu of the sixteenth section has not been sold, to lay out the section into tracts as in their judgment will be for the best interests of the permanent school fund, conforming, as far as the interests of the fund will permit, to the legal subdivisions of the United States surveys, and appraise each tract at what they believe to be its true value, and certify to the board the divisions and appraisements made by them. The division and appraisalment shall be approved or disapproved by the board at its first meeting after the report, and in case it disapproves, it may at once order another division and appraisalment. If the board of supervisors approves, the county auditor shall make and keep a record of the division, appraisalment, and approval; but school lands shall not be sold for less than the appraised value per acre, except as provided. A member of the board of supervisors, county auditor, township trustee, or a person who was engaged in the division

and appraisal of the land, shall not be directly or indirectly interested in the purchase of the land; and any sale made, where the parties have an interest in the land, shall be void.

[R60, §1970, 1971; C73, §1845 – 1847; C97, §2840; C24, 27, 31, 35, 39, §4472; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §302.4]

83 Acts, ch 185, §9, 62

C93, §257B.4

257B.5 Notice — sale.

When the board of supervisors shall offer for sale the sixteenth section or lands selected in lieu thereof, or any portion of the same, or any part of the five-hundred-thousand-acre grant, the county auditor shall give at least forty days' notice, by written or printed notices posted in five public places in the county, two of which shall be in the township in which the land to be sold is situated, and also publish a notice of said sale once each week for two weeks preceding the same in a newspaper published in the county, describing the land to be sold and the time and place of such sale. At such time and place, or at such other time and place as the sale may be adjourned to, the county auditor shall offer to the highest bidder, subject to the provisions of this chapter, and sell, either for cash or one-third cash and the balance on a credit not exceeding ten years, with interest on the same at the rate of not less than three and one-half percent per annum, to be paid at the office of the county treasurer of said county on the first day of January in each year, delinquent interest to bear the same rate as the principal. Such county treasurer shall pay to the state treasurer on the first day of February all interest collected.

[R60, §1971; C73, §1846; C97, §2841; S13, §2841; C24, 27, 31, 35, 39, §4473; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §302.5]

C93, §257B.5

Referred to in §331.552

257B.6 Sale without appraisal.

When the county board of supervisors has once offered for sale school lands held under section 257B.1A in compliance with the requirements of this chapter, and they remain unsold, and it is unable to obtain the appraised value of the lands and, in the opinion of the board, it is for the best interests of the permanent school fund that the lands be sold for a less price, it may instruct the auditor to transmit to the secretary of state a certified copy of its proceedings in relation to the order of sale of the land and subsequent proceedings in relation to the sale, including the action of the township trustees, and the price per acre at which the land had been appraised. The secretary of state shall submit the transcript of the proceedings to the executive council; and if it approves of a sale at a less sum, it shall certify the approval to the auditor of the county from which the transcript came. The certificate shall be recorded in the minute book of the board of supervisors, and the land may again be offered and sold to the highest bidder without again being appraised, after notice given as in case of sales in the first instance.

[C73, §1849; C97, §2842; C24, 27, 31, 35, 39, §4474; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §302.6]

83 Acts, ch 185, §10, 62

C93, §257B.6

257B.7 Sale on credit — taxation — waste.

When lands are sold upon a partial credit, the contract therefor shall be at once reduced to writing, signed by the proper parties, recorded in the county where the land is situated, and immediately thereafter filed in the office of the county auditor. Any purchaser or the purchaser's assigns may at any time pay the full amount for lands with accrued interest, and receive from the county auditor a certificate of purchase, which shall be at once transmitted to the secretary of state and will entitle the holder to a patent for the lands, to be issued by the secretary of state and the governor. All school lands sold in pursuance of law shall be subject to taxation from and after the execution and delivery of a contract of purchase. All sales made, where the full price is not paid, shall be subject to the law relative to the prevention

or punishment of waste, and in all such cases the township trustees in each township are charged with the duty of preventing the commission of waste upon any school lands lying in their township, and, if attempted, they shall apply by petition for an injunction to stay the same, and if granted the writ shall issue without bond, and the court issuing it may make such order in the premises as shall be equitable and best calculated to prevent threatened injury, and may adjudge damages for any injury done, the costs to abide the event of the action, and the damages adjudged shall be paid to the county treasurer and the county treasurer shall forthwith pay the same to the state treasurer which shall become a part of the permanent school fund.

[R60, §1972, 1973, 1976 – 1978; C73, §1851, 1852, 1856 – 1858; C97, §2843; C24, 27, 31, 35, 39, §4475; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §302.7]
C93, §257B.7

257B.8 Sale of lands bid in.

When lands have been sold and bid in by the state in behalf of the permanent school fund upon a judgment in favor of the fund, the land may be sold in the same manner as other school lands, and when lands have been conveyed to the counties in which they are situated for the use of the permanent school fund, instead of to the state, the conveyance is valid and binding, and upon proper certificates of sales patents shall issue in the same manner as if the conveyances had been properly made to the state.

[C73, §1850; C97, §2844; C24, 27, 31, 35, 39, §4476; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §302.8]
83 Acts, ch 185, §11, 62
C93, §257B.8

257B.9 Cash or collateral security.

When, in the judgment of the board of supervisors, school lands held under section 257B.1A are of such a character that a sale upon partial credit would be unsafe or incompatible with the interest of the permanent school fund, and especially in the case of timbered lands, the board of supervisors may require the entire purchase money in advance; or if the board sells the land upon a partial credit, it shall require good collateral security for the payment of the part upon which credit is given.

[R60, §1974; C73, §1853; C97, §2845; C24, 27, 31, 35, 39, §4477; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §302.9]
83 Acts, ch 185, §12, 62
C93, §257B.9

257B.10 Uniform interest date.

If money is due to the permanent school fund, either for loans or deferred payments of the purchase price of land sold, the interest shall be made payable on the first day of January each year, and if the debtor fails to pay the interest within six months of the date it is due, the entire amount of both principal and interest shall become due, and the county auditor shall report the nonpayment to the school board, which may immediately commence action for the collection of the amount reported as due. This section is a part of a contract made by virtue of this chapter, whether expressed in the contract or not.

[R60, §1975, 1979; C73, §1854, 1855; C97, §2846; C24, 27, 31, 35, 39, §4478; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §302.10]
83 Acts, ch 185, §13, 62
C93, §257B.10
2011 Acts, ch 43, §1

257B.11 School fund accounts — audit of losses.

The director of the department of administrative services shall keep the permanent school fund accounts in books provided for that purpose, separate and distinct from the revenue books. The auditor of state shall audit losses to the permanent school or university fund

caused by defalcation, mismanagement, or fraud. The auditor of state shall adopt rules pursuant to chapter 17A as necessary to ascertain the losses.

[R60, §1969; C73, §1842; C97, §2847; C24, 27, 31, 35, 39, §4479; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §302.11]

83 Acts, ch 185, §14, 62; 92 Acts, ch 1156, §12

C93, §257B.11

94 Acts, ch 1023, §45; 2003 Acts, ch 145, §286

257B.12 Bonds to cover losses.

When any sum not less than one thousand dollars shall be so audited and so become a debt of the state to the fund, as provided by the Constitution of the State of Iowa, the auditor of state shall issue the bond or bonds of the state in favor of the fund, bearing interest at a rate not exceeding that permitted by chapter 74A, payable semiannually on the first day of January and July after issuance, and the amount to pay the interest as it becomes due is appropriated out of any funds in the state treasury.

[C73, §1843; C97, §2847; C24, 27, 31, 35, 39, §4480; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §302.12]

C93, §257B.12

2006 Acts, ch 1010, §79

Iowa Constitution, Art. VII, §3

257B.13 and 257B.14 Reserved.

257B.15 Management.

Property and money accrued to the permanent school fund shall be managed and controlled by the treasurer of state, and the treasurer of state is responsible for the safekeeping, investment, reinvestment and disbursement of the property and money.

[R60, §1980; C73, §1859, 1860; C97, §2848; C24, 27, 31, 35, 39, §4483; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §302.15]

83 Acts, ch 185, §15, 62

C93, §257B.15

257B.16 Actions.

Actions for and in behalf of the fund may be brought in the name of the state for the use of the permanent school fund, by the attorney general.

[C73, §1860; C97, §2848; C24, 27, 31, 35, 39, §4484; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §302.16]

83 Acts, ch 185, §16, 62

C93, §257B.16

257B.17 Liability of county.

Each county is liable for losses upon loans of the permanent school fund, principal or interest, made in the county, unless the loss was not occasioned by reason of a default of its officers or by taking insufficient or imperfect securities, or from a failure to bid at an execution sale the full amount of the judgment and costs.

[C73, §1860; C97, §2848; C24, 27, 31, 35, 39, §4485; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §302.17]

83 Acts, ch 185, §17, 62

C93, §257B.17

257B.18 Exemption of county.

All claims for exemption from liability on account of losses shall be examined into and adjusted by the director of the department of administrative services, upon proof submitted to the director in writing in behalf of the county within three months after the county auditor shall be advised by the director of the director's readiness to receive the proof. In the absence of evidence, or if that submitted is insufficient, the loss may be charged against the county

and be conclusive, but if found sufficient, the director of the department of administrative services shall present the facts in the report to the next general assembly.

[C73, §1860; C97, §2848; C24, 27, 31, 35, 39, §4486; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §302.18]

C93, §257B.18

2003 Acts, ch 145, §286

257B.19 Loans.

The permanent school fund shall be loaned out or invested by the treasurer of state as it comes into the treasurer's hands.

[R60, §1981; C73, §1861; C97, §2849; S13, §2849; C24, 27, 31, 35, 39, §4487; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §302.19]

83 Acts, ch 185, §18, 62

C93, §257B.19

257B.20 Investment of permanent fund.

The permanent school fund which is, at any time, in the custody of the treasurer of state, shall be invested as follows:

1. In bonds or other evidences of indebtedness issued, assumed, or guaranteed by the United States of America, or by any agency or instrumentality thereof.

2. In bonds, or other evidences of indebtedness of the state of Iowa, or of any school district, county, township, city or other political subdivision of the state of Iowa which are issued pursuant to law.

3. In savings accounts or in time deposits in Iowa banks approved as depositories by the executive council.

4. In any investments authorized for the Iowa public employees' retirement system in section 97B.7A, except that investment in common stocks shall not be permitted.

[C39, §4487.1; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §302.20]

C93, §257B.20

2001 Acts, ch 68, §16, 24

257B.21 through 257B.27 Reserved.

257B.28 Statute of limitation.

Lapse of time is not a bar to action to recover a part of the permanent school fund, and it does not prevent the introduction of evidence in an action, except as provided in sections 614.29 to 614.38.

[C73, §1880, 2542; C97, §2852; C24, 27, 31, 35, 39, §4495; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §302.28]

83 Acts, ch 185, §19, 62

C93, §257B.28

257B.29 Payments.

Payments to the permanent school fund upon contracts, or loans of another nature, shall be made to the treasurer of the county upon a certificate from the auditor showing the amount due.

[R60, §1986; C73, §1867; C97, §2853; C24, 27, 31, 35, 39, §4496; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §302.29]

83 Acts, ch 185, §20, 62

C93, §257B.29

257B.30 Release of mortgage.

The auditor shall, when the debt is paid, release any mortgage or issue a certificate of purchase, as the case may be, and report the same to the board of supervisors at its next meeting, which report shall be carried into the records of the board.

[R60, §1986; C73, §1867; C97, §2853; C24, 27, 31, 35, 39, §4497; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §302.30]

C93, §257B.30

257B.31 School fund account — settlement.

The auditor shall also keep, in books to be provided for that purpose, an account to be known as the permanent school fund account, in which a memorandum of the notes, mortgages, bonds, money, and assets which may come into the auditor's hands and those of the treasurer shall be entered, and separate accounts of principal and interest be kept. The county treasurer shall also keep an account and record of all school funds coming into the county treasurer's hands. Settlements of the account shall be made with the board of supervisors at its January and June sessions, and the settlements shall be recorded with the proceedings of the board.

[R60, §1990, 1991; C73, §1876, 1877; C97, §2853; C24, 27, 31, 35, 39, §4498; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §302.31]

83 Acts, ch 185, §21, 62

C93, §257B.31

Referred to in §331.552

257B.32 Notice of default.

When outstanding contracts for the sale of school lands or notes for money of the permanent school fund loaned, or interest on the permanent school fund, are due, the auditor shall by mail at once notify the debtor to make payment within three months.

[C73, §1872, 1873; C97, §2854; C24, 27, 31, 35, 39, §4499; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §302.32]

83 Acts, ch 185, §22, 62

C93, §257B.32

257B.33 Suit — attorney fee.

If the debtor does not comply with the notice, the auditor shall report the noncompliance to the school board, which may bring an action to recover the debt, and an injunction may issue for cause, without bond when so petitioned, and there shall be allowed in the judgment, entered and taxed as a part of the costs in the case, a reasonable sum as compensation to plaintiff's attorney, not exceeding the amount provided by law for attorney fees.

[C73, §1873; C97, §2854; C24, 27, 31, 35, 39, §4500; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §302.33]

90 Acts, ch 1168, §42

C93, §257B.33

2011 Acts, ch 43, §2

Attorney fees, §625.22

257B.34 Bid at execution sale.

Upon a sale of lands under an execution founded upon a permanent school fund claim or right, the auditor shall bid a sum required by the interests of the fund, and, if struck off to the state, it shall be thereafter treated the same as other lands belonging to the fund.

[C73, §1874; C97, §2854; C24, 27, 31, 35, 39, §4501; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §302.34]

83 Acts, ch 185, §23, 62

C93, §257B.34

257B.35 Sheriff's deed to state.

When lands have been bid in by the county for the state under foreclosure of permanent school fund mortgages and the time for redemption has expired, a sheriff's deed shall be

issued to the state for the use and benefit of the permanent school fund. The county auditor shall file the deed for record in the office of the county recorder who shall record the deed without fee and return it when recorded to the county auditor who shall then forward it to the secretary of state. The secretary of state shall record the deed and then file it with the director of the department of administrative services.

[C73, §1881; C97, §2855; S13, §2855; C24, 27, 31, 35, 39, §4502; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §302.35]
 83 Acts, ch 185, §24, 62
 C93, §257B.35
 2003 Acts, ch 145, §286
 Referred to in §331.602

257B.36 Resale by state.

All lands now acquired under permanent school fund foreclosure proceedings shall be resold within ten years from January 1, 1939, and lands acquired after such date shall be resold within six years from date of foreclosure. Such land shall be appraised, advertised, and sold in the manner provided for the appraisal, advertisement, sale and conveyance of the sixteenth section or lands selected in lieu thereof.

[S13, §2855; C24, 27, 31, 35, 39, §4503; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §302.36]
 C93, §257B.36
 Appraisal, §257B.4

257B.37 Proceeds on resale.

When a resale is made, the county auditor shall notify the director of the department of administrative services, who shall thereupon charge the county with the full amount of the resale, except that when the lands are sold for more than the unpaid portion of the principal, the excess shall be applied to reimburse the county for the costs of foreclosure and the interest paid by the county to the state by reason of default of payment of same by the makers of the notes, previous to the time when the right of redemption has expired, not to exceed three years.

[C73, §1881, 1882; C97, §2855; S13, §2855; C24, 27, 31, 35, 39, §4504; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §302.37]
 C93, §257B.37
 2003 Acts, ch 145, §286

257B.38 Excess — loss borne by county.

An excess over the amount of the unpaid portion of the principal, costs of foreclosure, and interest on the principal, shall inure to the county and be credited to the general county fund. If the lands are sold for a less amount than the unpaid portion of the principal, the loss shall be sustained by the county, and the board of supervisors shall at once order the amount of the loss transferred from the general fund of the county to the permanent school fund account.

[C73, §1881; C97, §2855; S13, §2855; C24, 27, 31, 35, 39, §4505; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §302.38]
 83 Acts, ch 185, §25, 62
 C93, §257B.38

257B.39 Report as to sales — interest.

County auditors shall report, on or before January 1 of each year, to the director of the department of administrative services the amount of the sales and resales made during the previous year, of the sixteenth section, five-hundred-thousand-acre grant, and escheat estates, and the director of the department of administrative services shall charge them to the counties with interest from the date of the sale or resale to January 1, at the rate of three percent per annum.

[C73, §1881; C97, §2855; S13, §2855; C24, 27, 31, 35, 39, §4506; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §302.39]
 83 Acts, ch 185, §26, 62

C93, §257B.39

94 Acts, ch 1173, §11; 2003 Acts, ch 145, §286

257B.40 Interest charged to counties.

The director of the department of administrative services shall also, on the first day of January, charge to each county having permanent school funds under its control, interest thereon at the rate of three percent per annum for the preceding year, or such part thereof as such funds shall have been in the control of the county, which shall be taken as the whole amount of interest due from such county. All interest collected above the three percent charged by the state shall be transferred to the general county fund.

[C73, §1882; C97, §2855; S13, §2855; C24, 27, 31, 35, 39, §4507; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §302.40]

C93, §257B.40

2003 Acts, ch 145, §286

257B.41 Uncollected interest.

If any county fails or refuses to collect the amount of interest due the state, the deficiency shall be paid to the state from the general county fund. Any county delinquent in the payment of interest due the state shall be charged one percent per month on the amount delinquent until paid.

[C73, §1882; C97, §2855; S13, §2855; C24, 27, 31, 35, 39, §4508; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §302.41]

C93, §257B.41

257B.42 Report as to rents.

By January 1 of each year, county auditors shall report to the director of the department of administrative services the amount of rents collected during the preceding year on unsold school lands and the director shall include the amount reported in the semiannual apportionment of interest.

[C73, §1884; C97, §2855; S13, §2855; C24, 27, 31, 35, 39, §4509; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §302.42]

83 Acts, ch 185, §27, 62

C93, §257B.42

94 Acts, ch 1173, §12; 2003 Acts, ch 145, §286

257B.43 Reserved.

257B.44 Penalty against county auditor.

A county auditor failing or neglecting to perform required duties under this chapter, is liable to a penalty of not less than one hundred nor more than five hundred dollars, to be recovered in an action brought in the district court by the board of supervisors. The judgment shall be entered against the party and the party's sureties, and the proceeds shall be paid to the treasurer of state for deposit in the general fund of the state.

[R60, §1992; C73, §1878; C97, §2857; C24, 27, 31, 35, 39, §4511; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §302.44]

83 Acts, ch 185, §28, 62; 83 Acts, ch 186, §10066, 10201, 10204

C93, §257B.44

CHAPTER 257C

ADVANCE FUNDING AUTHORITY

Referred to in §12.28, 12.30

Iowa advance funding authority is included in the
department of education; §7E.7, chapter 256
This chapter not enacted as a part of this title; transferred
from chapter 442A in Code 1993
See §421.7 pertaining to interest rates

<p>257C.1 Title.</p> <p>257C.2 Legislative findings.</p> <p>257C.3 Definitions.</p> <p>257C.4 Iowa advance funding authority.</p> <p>257C.5 Governing board.</p> <p>257C.6 General powers.</p> <p>257C.7 Staff.</p> <p>257C.8 Advance funding program.</p> <p>257C.9 Moneys of the authority.</p> <p>257C.10 Powers not restricted — law complete in itself.</p>	<p>257C.11 Limitation of liability.</p> <p>257C.12 Conflicts of interest.</p> <p>257C.13 Exemption from competitive bid laws.</p> <p>257C.14 Annual report.</p> <p>257C.15 Assistance by state officers, agencies and departments.</p> <p>257C.16 Authority of schools.</p> <p>257C.17 Liberal interpretation.</p>
--	--

257C.1 Title.

This chapter may be cited as the “*Iowa Advance Funding Authority Act*”.

85 Acts, ch 34, §1
CS85, §442A.1
C93, §257C.1

257C.2 Legislative findings.

The general assembly finds as follows:

1. The establishment of the authority is in all respects for the benefit of the people of the state of Iowa and the improvement of the financing procedures for Iowa’s schools.
2. The authority will be performing an essential governmental function in the exercise of the powers and duties conferred upon it by this chapter.
3. Iowa schools face a serious and increasing problem with cash flow difficulties caused, among other factors, by increasing reliance on state school foundation aid, delays in the payment of state school foundation aid, and the periodic payment of property taxes for school purposes.
4. As a result of their increasing cash flow difficulties, Iowa schools have had to borrow on a short-term basis larger amounts of funds more often, thus increasing their borrowing costs significantly.
5. The short-term borrowing costs of Iowa schools are a direct burden on the taxpayers of the state.
6. It is necessary to create the authority to provide a means for Iowa schools to reduce substantially or eliminate their short-term borrowing costs and thus reduce costs to the taxpayers.
7. All of the purposes stated in this section are public purposes and uses for which public moneys may be borrowed, expended, advanced, loaned or granted.

85 Acts, ch 34, §2
CS85, §442A.2
C93, §257C.2

257C.3 Definitions.

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

1. “*Authority*” means the Iowa advance funding authority created by this chapter.
2. “*Board*” means the governing board of the authority created in section 257C.5.
3. “*Bonds*” means bonds, notes and other obligations issued by the authority pursuant to this chapter.
4. “*Notes*” means notes, warrants, loan agreements, and all other forms of evidence of

indebtedness now or hereafter authorized for schools. “Purchase of notes” includes lending money to schools or any other forms of financing of schools by the authority.

5. “School” includes each public school district as defined in chapter 274, area education agency as defined in chapter 273 and community college as defined in chapter 260C.

85 Acts, ch 34, §3

CS85, §442A.3

90 Acts, ch 1253, §121

C93, §257C.3

257C.4 Iowa advance funding authority.

The Iowa advance funding authority is created. It is a public instrumentality and agency of the state exercising public and essential governmental functions, established for the purposes of reducing the cash flow difficulties faced by Iowa schools, improving the financial procedures of Iowa schools, and reducing the short-term borrowing costs of Iowa schools.

85 Acts, ch 34, §4

CS85, §442A.4

C93, §257C.4

257C.5 Governing board.

1. The powers of the authority are vested in and exercised by a board consisting of five members, including the treasurer of state, the director of the department of education, and the director of the department of management, and two members appointed by the governor, subject to confirmation by the senate. The state officials may designate representatives to serve on the board for them. As far as possible, the governor shall appoint members who are knowledgeable or experienced in the school systems of this state or in finance.

2. The governor shall appoint the members of the authority for terms of six years, beginning and ending as provided in section 69.19. An appointed member of the authority may be removed from office by the governor for misfeasance, malfeasance, or willful neglect of duty or other just cause, after notice and hearing, unless the notice and hearing are expressly waived in writing by the member.

3. Three members of the board constitute a quorum.

4. The appointed members of the authority receive a per diem as specified in section 7E.6 for each day spent in performance of duties as members, and shall be reimbursed for all actual and necessary expenses incurred in the performance of duties as members.

5. The appointed members of the authority shall give bond as required for public officers in chapter 64.

6. Meetings of the authority shall be held at the call of the chairperson or when a majority of the members so request.

7. The members shall elect a chairperson, vice chairperson and secretary annually, and other officers as they determine necessary.

85 Acts, ch 34, §5

CS85, §442A.5

88 Acts, ch 1134, §83; 90 Acts, ch 1256, §47

C93, §257C.5

Referred to in §257C.3

Confirmation, see §2.32

257C.6 General powers.

The board has all of the general powers needed to carry out its purposes and duties and exercise its specific powers, including but not limited to the power to:

1. Issue its negotiable bonds as provided in this chapter in order to finance its programs.
2. Have perpetual succession as a public authority.
3. Sue and be sued in its own name.
4. Make and execute agreements, contracts, and other instruments, with any public or private entity.
5. Hire and compensate legal counsel, notwithstanding chapter 13.

6. Invest or deposit moneys of the authority, subject to any agreement with bondholders, in any manner determined by the authority, notwithstanding chapters 12B and 12C.

7. Procure insurance and other credit enhancement arrangements including but not limited to municipal bond insurance and letters of credit.

8. Fix and collect fees and charges for its services.

9. Accept appropriations, gifts, grants, loans, or other aid from public or private entities.

10. Adopt rules consistent with this chapter, and subject to chapter 17A.

11. The authority is exempt from chapter 8A, subchapter III.

85 Acts, ch 34, §6

CS85, §442A.6

C93, §257C.6

2003 Acts, ch 145, §226

Referred to in §257C.13

257C.7 Staff.

The executive director and staff of the Iowa finance authority, pursuant to chapter 16, shall also serve as executive director and staff of the advance funding authority, respectively. The executive director shall not, directly or indirectly, exert influence to induce any other officers or employees of the state to adopt a political view, or to favor a political candidate for office.

85 Acts, ch 34, §7; 85 Acts, ch 252, §56

CS85, §442A.7

C93, §257C.7

257C.8 Advance funding program.

1. The authority shall establish a statewide advance funding program for the purchase from schools of notes issued in anticipation of the receipt of moneys for school purposes or for making loans to schools to alleviate cash flow difficulties and to otherwise improve the financial well-being of the schools.

2. The authority may issue its bonds and use the proceeds from the bonds for the purpose of making loans to or purchasing the notes of any school for the use of the various funds of the school for any lawful school purpose excluding debt service. Bonds issued pursuant to this section may be secured by a pledge of payments made to the authority by the school, to be derived from the receipt of anticipated funds evidenced by the notes of the school, including a pooling of payments of notes from two or more participating schools. The authority may also issue refunding bonds, including advance refunding bonds, for the purpose of refunding previously issued bonds.

3. The authority may issue its bonds in principal amounts which, in the opinion of the authority, are necessary to provide sufficient funds for achievement of its corporate purposes, the payment of interest on its bonds, the establishment of reserves to secure its bonds, the costs of issuance of its bonds, and all other expenditures of the authority incident to and necessary or convenient to carry out its purposes and powers. The bonds are investment securities and negotiable instruments within the meaning of and for purposes of the uniform commercial code, chapter 554.

4. Bonds issued under this section are payable solely and only out of the moneys, assets, or revenues of the authority and are not an indebtedness of this state, and this state is not liable on the bonds. Bonds issued under this chapter shall contain on their face a statement that the state is not liable.

5. The proceeds of bonds issued by the authority and not required for immediate disbursement may be invested in any investment approved by the board and specified in the trust indenture or resolution pursuant to which the bonds are issued without regard to any limitation otherwise provided by law.

6. The bonds of the authority shall be:

a. In a form, issued in denominations, executed in a manner, and payable over terms and with rights of redemption, as the board prescribes in the resolution authorizing their issuance.

b. Negotiable instruments under the laws of the state and may be sold at prices, at public

or private sale, and in a manner, as prescribed by the board. Chapters 73A, 74, 74A, and 75 do not apply to their sale or issuance.

c. Subject to the terms, conditions, and covenants providing for the payment of the principal, redemption premiums, if any, interest, and other terms, conditions, covenants, and protective provisions safeguarding payment, not inconsistent with this chapter and as determined by resolution of the board.

7. The bonds of the authority are securities in which public officers and bodies of this state; political subdivisions of this state; insurance companies and associations and other persons carrying on an insurance business; banks, trust companies, savings associations, and investment companies; administrators, guardians, executors, trustees, and other fiduciaries; and other persons authorized to invest in bonds or other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them.

8. Bonds must be authorized by a resolution of the board. However, a resolution authorizing the issuance of bonds may delegate to an officer of the authority the power to negotiate and fix the details of an issue of bonds by an appropriate certificate of the authorized officer.

85 Acts, ch 34, §8

CS85, §442A.8

C93, §257C.8

2005 Acts, ch 3, §56; 2012 Acts, ch 1017, §63

Referred to in §257C.13

257C.9 Moneys of the authority.

1. Moneys of the authority, except as otherwise provided in this chapter, shall be paid to the authority and shall be deposited in a bank or other financial institution designated by the authority. The moneys shall be withdrawn on the order of the person authorized by the authority. Deposits shall be secured in the manner determined by the authority. The auditor of state or the auditor's legally authorized representatives may periodically examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments, and any other records and papers relating to its financial standing, and the authority is not required to pay a fee for the examination.

2. The authority may contract with the holders of its bonds as to the custody, collection, security, investment, and payment of moneys of the authority, of moneys held in trust or otherwise for the payment of bonds, and to carry out the contract. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of the moneys may be secured in the same manner as moneys of the authority, and banks and trust companies may give security for the deposits.

3. Subject to a contract with bondholders, and to the approval of the director of the department of administrative services, the authority shall prescribe a system of accounts.

4. The authority shall submit to the governor, the auditor of state, the department of management, and the department of administrative services, within thirty days of its receipt, a copy of the report of every external examination of the books and accounts of the authority other than copies of the reports of examinations made by the auditor of state.

85 Acts, ch 34, §9

CS85, §442A.9

C93, §257C.9

94 Acts, ch 1023, §46; 2003 Acts, ch 145, §286

257C.10 Powers not restricted — law complete in itself.

This chapter is not a restriction or limitation on powers which the authority or a school has under the laws of this state, but is cumulative to any such powers. No proceedings, referendum, notice, or approval is required for the creation of the authority or the issuance of obligations or an instrument as security except as provided in this chapter.

85 Acts, ch 34, §10

CS85, §442A.10

C93, §257C.10

257C.11 Limitation of liability.

Members of the board and persons acting in the authority's behalf, while acting within the scope of their employment or agency, are not subject to personal liability resulting from carrying out the powers and duties given in this chapter.

85 Acts, ch 34, §11

CS85, §442A.11

C93, §257C.11

257C.12 Conflicts of interest.

1. If a member or employee other than the executive director of the authority has an interest, either direct or indirect, in a contract to which the authority is or is to be a party, the interest shall be disclosed to the authority in writing and shall be set forth in the minutes of a meeting of the authority. The member having the interest shall not participate in action by the board with respect to that contract.

2. This section does not limit the right of a member of the board to acquire an interest in bonds, or limit the right of a member to have an interest in a bank or other financial institution in which the funds of the authority are deposited or which is acting as trustee or paying agent under a trust indenture to which the authority is a party.

3. The executive director shall not have an interest in a bank or other financial institution in which the funds of the authority are deposited or which is acting as trustee or paying agent under a trust indenture to which the authority is a party. The executive director shall not receive, in addition to fixed salary or compensation, any money or valuable thing, either directly or indirectly, or through any substantial interest in any other corporation or business unit, for negotiating, procuring, recommending, or aiding in any loan made by the authority, nor shall the executive director be pecuniarily interested, either as principal, co-principal, agent, or beneficiary, either directly or indirectly or through any substantial interest in any other corporation or business unit, in any loan.

85 Acts, ch 34, §12

CS85, §442A.12

C93, §257C.12

257C.13 Exemption from competitive bid laws.

The authority and contracts made by it in carrying out its public and essential governmental functions under sections 257C.6 and 257C.8 are exempt from the laws of the state which provide for competitive bids and hearings in connection with contracts.

85 Acts, ch 34, §13

CS85, §442A.13

C93, §257C.13

257C.14 Annual report.

1. The authority shall submit to the governor and the general assembly, not later than December 31 of each year, a report setting forth:

- a. Its operations and accomplishments.
- b. Its receipts and expenditures during the previous fiscal year, in accordance with the classifications it establishes for its operating and capital accounts.
- c. Its assets and liabilities at the end of the previous fiscal year and the status of reserve, special, and other funds.
- d. A schedule of its bonds outstanding at the end of the previous fiscal year, together with a statement of the amounts redeemed and issued during the fiscal year.
- e. A statement of its proposed and projected activities.
- f. Recommendations to the governor and general assembly, as it deems necessary.

2. The annual report shall identify performance goals of the authority, and clearly indicate the extent of progress during the reporting period, in attaining the goals.

85 Acts, ch 34, §14

CS85, §442A.14

C93, §257C.14

257C.15 Assistance by state officers, agencies and departments.

State officers and state departments and agencies may render services to the authority within their respective functions as requested by the authority.

85 Acts, ch 34, §15
 CS85, §442A.15
 C93, §257C.15

257C.16 Authority of schools.

A school may issue and sell or pledge its notes to the authority or the authority’s designated agent or trustee. Schools may enter into contracts and agreements with the authority to effectuate the purposes of this chapter. In acting pursuant to this section, schools are exempt from all laws of the state which provide for competitive bids and hearings in connection with such sales, pledges, contracts and agreements.

85 Acts, ch 34, §16
 CS85, §442A.16
 C93, §257C.16

257C.17 Liberal interpretation.

This chapter, being necessary for the welfare of this state and its people, shall be liberally construed to effect its purpose.

85 Acts, ch 34, §17
 CS85, §442A.17
 C93, §257C.17

CHAPTER 258

CAREER AND TECHNICAL EDUCATION

Referred to in §256.7, 256.11, 257.51, 260C.14, 598.21B

258.1	Federal Act accepted.	258.13	Biennial report. Repealed by
258.2	State board for career and technical education.	258.14	2009 Acts, ch 54, §14.
258.3	Personnel.		Regional career and technical education planning partnerships.
258.3A	Duties of state board.	258.15	Career academy.
258.4	Duties of director.	258.16	Regional vocational education planning boards established — duties. Repealed by 2016 Acts, ch 1108, §75.
258.5	Reimbursement from federal and state moneys.	258.17	Community-based workplace learning program — workstart. Repealed by 2016 Acts, ch 1108, §75.
258.6	Definitions.	258.18	School-to-work transition system. Repealed by 95 Acts, ch 196, §3.
258.7	and 258.8 Repealed by 2001 Acts, ch 159, §18.		
258.9	Local advisory council.		
258.10	Powers of district boards.		
258.11	Salary and expenses for administration.		
258.12	Custodian of funds.		

258.1 Federal Act accepted.

The provisions of the Act of Congress known as the Carl D. Perkins Career and Technical Education Improvement Act of 2006, codified at 20 U.S.C. §2301 et seq., as amended, and the benefit of all funds appropriated under said Act and all other Acts pertaining to career and technical education, are accepted.

[C24, 27, 31, 35, 39, §3837; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §258.1]
 2006 Acts, ch 1030, §33; 2016 Acts, ch 1108, §36

258.2 State board for career and technical education.

The state board of education shall constitute the state board for career and technical education.

[C24, 27, 31, 35, 39, §3838; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §258.2]
2016 Acts, ch 1108, §37; 2017 Acts, ch 29, §65
Referred to in §258.6

258.3 Personnel.

The director of the department of education shall appoint and direct the work of personnel as necessary to carry out this chapter.

[C24, 27, 31, 35, 39, §3839; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §258.3]
85 Acts, ch 212, §21; 86 Acts, ch 1245, §1425

258.3A Duties of state board.

The state board shall do all of the following:

1. Approve the multiyear state plan developed in accordance with applicable federal laws and regulations governing career and technical education.

2. Adopt rules prescribing standards for teachers in the six career and technical education service areas specified in section 256.11, subsection 5, paragraph “h”, in approved programs.

3. Adopt rules prescribing standards for approval of school district career and technical education programs; and community colleges with career and technical education programs; and practitioner preparation schools, departments, and classes, applying for federal and state moneys under this chapter.

4. Adopt rules prescribing standards for the career and technical education service areas specified in section 256.11, subsection 5, paragraph “h”.

5. Adopt rules prescribing standards for approval of career and technical education planning partnerships, collaborations, and regional centers in accordance with section 258.14. The rules shall establish a process for the establishment of no fewer than twelve and no greater than fifteen regions in which regional career and technical education planning partnerships may operate. The rules shall establish standards to ensure regional centers have appropriate educational programs, adequate participation, and are located within an appropriate distance of participating high schools and in a manner compatible with development of a statewide network of regional centers.

86 Acts, ch 1245, §1426; 89 Acts, ch 265, §30; 90 Acts, ch 1253, §8; 2016 Acts, ch 1108, §38; 2017 Acts, ch 29, §66

Referred to in §258.4, 258.5, 258.6, 258.14

258.4 Duties of director.

The director of the department of education shall do all of the following:

1. Develop and submit to the state board for approval the multiyear state plan developed in accordance with federal laws and regulations governing career and technical education.

2. Provide for making studies and investigations relating to career and technical education.

3. Promote and aid in the establishment of career and technical education programs in local communities, school districts, and community colleges.

4. Cooperate with local communities, school districts, and community colleges in the maintenance of career and technical education programs.

5. Make recommendations to the board of educational examiners relating to the enforcement of rules prescribing standards for teachers of career and technical education service areas.

6. Cooperate in the maintenance of practitioner preparation schools, departments, and classes, supported and controlled by the public, for the training of career and technical education teachers and supervisors.

7. Review and approve career and technical education programs to ensure that the programs meet standards adopted by the state board pursuant to section 258.3A. The director shall annually review at least twenty percent of the approved career and technical programs as a basis for continuing approval to ensure that the programs meet board

standards and are compatible with educational reform efforts, are capable of responding to technological change and innovation, and meet the educational needs of students and the employment community. The review shall include an assessment of the extent to which the competencies in the program are being mastered by the students enrolled, the costs are proportionate to educational benefits received, the career and technical education curriculum is articulated and integrated with other curricular offerings required of all students, the programs would permit students with career and technical education backgrounds to pursue other educational interests in a postsecondary institutional setting, and the programs remove barriers for both traditional and nontraditional students to access educational and employment opportunities.

8. Facilitate the process established by the state board for the implementation of a statewide system of regional career and technical education planning partnerships that utilize the services of local school districts, community colleges, sector partnerships, and other resources to assist local school districts in meeting career and technical education standards while avoiding unnecessary duplication of services. The director shall also review and approve regional planning partnerships and regional centers to ensure that the partnerships and centers meet the standards adopted by the state board pursuant to section 258.3A, subsection 5.

9. Enforce rules adopted by the state board pursuant to section 258.3A.

10. Notwithstanding the accreditation process contained in section 256.11, permit school districts that provide a program which does not meet the standards for accreditation for career and technical education to cooperate with the regional career and technical education planning partnership and contract for an approved program under this chapter without losing accreditation. A school district that fails to cooperate with the regional career and technical education planning partnership and contract for an approved program shall, however, be subject to section 256.11.

11. Prescribe standards and procedures for the approval of career academies as defined in section 258.6.

[C24, 27, 31, 35, 39, §3840; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §258.4]

86 Acts, ch 1245, §1427; 89 Acts, ch 265, §31; 89 Acts, ch 278, §3, 4; 90 Acts, ch 1253, §9; 92 Acts, ch 1198, §2; 2016 Acts, ch 1108, §39; 2017 Acts, ch 29, §67

Referred to in §258.9, 258.15

258.5 Reimbursement from federal and state moneys.

1. An approved regional career and technical education planning partnership is eligible to receive state funds for purposes allowed under section 258.14, subsection 6.

2. Federal funds received as a reimbursement for allowable expenditures shall be received pursuant to the multiyear state plan adopted pursuant to section 258.3A, subsection 1.

3. The director may use federal funds to reimburse approved practitioner preparation schools, departments, or classes for the training of teachers of agriculture, food, and natural resources; arts, communications, and information systems; applied sciences, technology, engineering, and manufacturing; health sciences; human services; and business, finance, marketing, and management. The director may also use such funds to reimburse approved practitioner preparation schools, departments, or classes for the training of guidance counselors.

[C24, 27, 31, 35, 39, §3841, 3844; C46, 50, §258.5, 258.8; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §258.5]

86 Acts, ch 1245, §1428; 89 Acts, ch 265, §32; 2016 Acts, ch 1108, §40; 2018 Acts, ch 1130, §2, 4

258.6 Definitions.

As used in this chapter:

1. “*Approved career and technical education program*” means a career and technical education program offered by a school district or community college and approved by the department which meets the standards for career and technical education programs adopted by the state board under this chapter.

2. “*Approved practitioner preparation school, department, or class*” means a school, department, or class approved by the state board as entitled under this chapter to federal moneys for the training of teachers of career and technical education subjects.

3. “*Approved regional career and technical education planning partnership*” means a regional entity that meets the standards for regional career and technical education planning partnerships adopted by the state board pursuant to section 258.3A and section 258.14.

4. “*Career academy*” means a career academy established under section 258.15.

5. “*Career and technical education service area*” means any one of the service areas specified in section 256.11, subsection 5, paragraph “h”.

6. “*Department*” means the department of education.

7. “*Director*” means the director of the department of education.

8. “*Sector partnership*” means a regional industry sector partnership established pursuant to section 260H.7B.

9. “*State board*” means the state board for career and technical education as provided in section 258.2.

10. “*Work-based learning*” means opportunities and experiences that include but are not limited to tours, job shadowing, rotations, mentoring, entrepreneurship, service learning, internships, and apprenticeships.

11. “*Work-based learning intermediary network*” means the statewide work-based learning intermediary network established pursuant to section 256.40.

[C24, 27, 31, 35, 39, §3842; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §258.6]

89 Acts, ch 265, §33; 2014 Acts, ch 1092, §58; 2016 Acts, ch 1108, §41; 2017 Acts, ch 29, §68

– 70

Referred to in §258.4, 260C.18A, 261E.10

258.7 and 258.8 Repealed by 2001 Acts, ch 159, §18.

258.9 Local advisory council.

1. The board of directors of a school district or community college that maintains a career and technical education program receiving federal or state funds under this chapter shall, as a condition of approval by the state board, appoint a local advisory council for each career and technical education program offered by the school district or community college. However, a school district and a community college that maintain a career and technical education program receiving federal or state funds may create a joint local advisory council. The membership of each local advisory council shall consist of public members with expertise in the occupation or occupational field related to the career and technical education program. The local advisory council shall give advice and assistance to the board of directors, administrators, and instructors in the establishment and maintenance of the career and technical education program.

2. Notwithstanding subsection 1, a regional advisory council established by a regional career and technical education planning partnership approved by the department pursuant to section 258.4 may serve in place of a local advisory council.

3. Local advisory councils are not subject to the requirements of section 69.16.

4. Members of an advisory council shall serve without compensation.

[C24, 27, 31, 35, 39, §3845; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §258.9]

86 Acts, ch 1245, §1431; 2016 Acts, ch 1108, §42; 2017 Acts, ch 29, §71

258.10 Powers of district boards.

1. The board of directors of a school district shall offer career and technical instruction in service areas as provided in section 256.11, subsection 5, paragraph “h”, and pay the expense of such instruction in the same way as the expenses for other subjects in the school district are paid.

2. The board of directors of a school district may establish and maintain work-based learning programs in collaboration with a regional work-based learning intermediary network established pursuant to section 256.40.

3. The board of directors of a school district may provide workers’ compensation

coverage by insuring, or self-insuring as provided in section 87.4, students participating in unpaid work-based learning opportunities offered in accordance with section 256.40. A school district's liability to students injured while participating in an unpaid work-based learning opportunity is as provided in section 85.20.

[C24, 27, 31, 35, 39, §3846; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §258.10]
97 Acts, ch 37, §6; 2016 Acts, ch 1108, §43

258.11 Salary and expenses for administration.

The director may make expenditures for salaries and other expenses as necessary to the proper administration of this chapter.

[C24, 27, 31, 35, 39, §3847; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §258.11]
86 Acts, ch 1245, §1432; 88 Acts, ch 1134, §60; 2016 Acts, ch 1108, §44

258.12 Custodian of funds.

The treasurer of state shall be custodian of the funds paid to the state from the appropriations made under the federal Carl D. Perkins Career and Technical Education Improvement Act of 2006, 20 U.S.C. §2301 et seq., as amended, and shall disburse the same on vouchers audited as provided by law.

[C24, 27, 31, 35, 39, §3848; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §258.12]
2013 Acts, ch 88, §8; 2014 Acts, ch 1092, §59; 2016 Acts, ch 1108, §45; 2017 Acts, ch 29, §72

258.13 Biennial report. Repealed by 2009 Acts, ch 54, §14.

258.14 Regional career and technical education planning partnerships.

1. Regional career and technical education planning partnerships are established to assist school districts in providing an effective, efficient, and economical means of delivering high-quality secondary career and technical education programs. Regional career and technical education planning partnerships shall do all of the following:

a. Provide for the active participation of local school districts and community colleges in the delivery of career and technical education in the region.

b. Provide for the participation of representatives of business and industry and representatives of sector partnerships and community stakeholders.

c. Promote career and college readiness through thoughtful career guidance and purposeful academic and technical planning practices.

d. Promote high-quality, integrated career and technical education programming, including career academies, comprised of secondary exploratory and transitory coursework to prepare students for higher-level, specialized academic and technical training aligned with labor market needs.

e. Afford students the opportunity to access a spectrum of high-quality work-based learning experiences through collaboration with a work-based learning intermediary network.

f. Provide for increased and equitable access to high-quality career and technical education programs through the planning and development of a system of regional centers.

2. Regional career and technical education planning partnerships shall be established in accordance with section 258.3A, subsection 5, to serve each community college and all of the school districts in the state no later than June 30, 2017.

3. A regional career and technical education planning partnership shall be responsible for the following activities:

a. Ensuring compliance with standards adopted by the state board under section 258.3A, subsection 5, for regional career and technical education planning partnerships.

b. Developing a multiyear plan addressing the delivery of quality career and technical education programs by school districts in fulfillment of the requirements of section 256.11, subsection 4, and section 256.11, subsection 5, paragraph "h". The plan shall be updated annually.

c. Securing collaboration with secondary schools, postsecondary educational institutions, and employers to ensure the creation of high-quality career and technical education

programming, including career academies, for students that aligns career guidance, twenty-first century career and technical education and academic curricula, and work-based learning opportunities that empower students to be successful learners and practitioners.

d. Reviewing career and technical education programs of school districts within the region based on standards adopted by the state board, and recommending to the department career and technical education programs for approval.

e. Coordinating and facilitating local advisory councils for career and technical education programs. As necessary, establishing regional advisory councils to serve in the same capacity as local advisory councils.

f. Planning for regional centers with the purpose of achieving equitable access to high-quality career and technical education programming and concurrent enrollment opportunities for all students. As a condition for approval, a regional center shall comply with standards adopted by the state board and shall consist of a minimum of four career academies. A regional center shall be compatible with development of a statewide system of regional centers serving all students. A regional center shall serve either of the following:

(1) A combined minimum of one hundred twenty students from no fewer than two school districts.

(2) A minimum of four school districts.

g. Meeting regularly.

4. The membership of each regional career and technical education planning partnership shall consist of stakeholders in a position to contribute to the development and successful implementation of high-quality career and technical education programs and shall include but not be limited to the following:

a. The superintendent of a school district within the regional planning partnership, or the superintendent's designee.

b. The president of a community college within the regional planning partnership, or the president's designee.

c. The chief administrator of an area education agency within the regional planning partnership, or the chief administrator's designee.

d. Representatives of a regional work-based learning intermediary network.

e. Representatives of regional economic and workforce entities including local workforce development boards established under section 84A.4.

f. Representatives of business and industry, including representatives of regional industry sector partnerships established pursuant to section 260H.7B.

g. Career and technical education teachers and faculty.

5. Convening the regional career and technical education planning partnership shall be the joint responsibility of the area education agency and community college located within the region. In convening the regional career and technical education planning partnership, the area education agency and the community college shall include stakeholders from each member district of the partnership.

6. A regional career and technical education partnership may use funds received from state and federal sources on behalf of school districts and community colleges participating in the regional career and technical education planning partnership to convene, lead, and staff the regional career and technical education planning partnership; to offer regional career and technical education professional development opportunities; to coordinate and maintain a career guidance system pursuant to section 279.61; to purchase career and technical education equipment; and to purchase standard classroom consumable supplies other than consumable supplies that will be made into products to be sold or used personally by students, teachers, and other persons.

2016 Acts, ch 1108, §46; 2017 Acts, ch 29, §73 – 75; 2018 Acts, ch 1130, §3, 4

Referred to in §258.3A, 258.5, 258.6, 258.15, 282.7

258.15 Career academy.

1. A career academy may be established under an agreement between a single school district and a community college, or by multiple school districts and a community college organized into a regional career and technical education planning partnership pursuant to

section 258.14. A career academy established under this section shall be a career-oriented or occupation-oriented program of study that includes a minimum of two years of secondary education, which may fulfill the sequential unit requirement in one of the four service areas required under section 256.11, subsection 5, paragraph “h”, is articulated with a postsecondary education program, and is approved by the director under section 258.4. A career academy shall do all of the following:

a. Utilize regional career and technical education planning partnerships outlined in section 258.14 in an advisory capacity to inform the selection and design of the career academy and establishment of industry standards.

b. Establish a program of study that meets all of the following criteria:

(1) Is designed to meet industry standards and prepare students for success in postsecondary education and the workforce.

(2) Integrates academic coursework, includes work-based learning, and utilizes the individual career and academic planning process established under section 279.61.

(3) Allows students enrolled in the academy an opportunity to continue on to an associate degree and, if applicable, a postsecondary baccalaureate degree program.

2. The state board, in consultation with the division of community colleges of the department, shall adopt rules setting minimum standards for the development and implementation of career academies under this section and ensuring compliance with the federal Carl D. Perkins Career and Technical Education Improvement Act of 2006, 20 U.S.C. §2301 et seq., as amended.

2016 Acts, ch 1108, §47; 2017 Acts, ch 29, §76

Referred to in §257.51, 258.6

258.16 Regional vocational education planning boards established — duties. Repealed by 2016 Acts, ch 1108, §75.

258.17 Community-based workplace learning program — workstart. Repealed by 2016 Acts, ch 1108, §75.

258.18 School-to-work transition system. Repealed by 95 Acts, ch 196, §3.

CHAPTER 258A

RESERVED

CHAPTER 259

VOCATIONAL REHABILITATION

259.1	Acceptance of federal Act.	259.6	Gifts and donations.
259.2	Custodian of funds.	259.7	Fund.
259.3	Board and division.	259.8	Report of gifts.
259.4	Duties of division.	259.9	Agreement continued.
259.5	Report to governor.		

259.1 Acceptance of federal Act.

The state of Iowa, through its legislative authority, accepts the provisions and benefits of the federal Rehabilitation Act of 1973, as amended and codified in 29 U.S.C. §701 et seq.

[C24, 27, 31, 35, 39, §3850; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §259.1]

85 Acts, ch 23, §1; 89 Acts, ch 1, §1; 94 Acts, ch 1109, §4

Referred to in §259.3, 259.4

259.2 Custodian of funds.

1. The treasurer of state is custodian of moneys received by the state from appropriations made by the Congress of the United States for the vocational rehabilitation of individuals with disabilities, and may receive and provide for the proper custody of the moneys and make disbursement of them upon the requisition of the director of the department of education.

2. The treasurer of state is appointed custodian of moneys paid by the federal government to the state for the purpose of carrying out the agreement relative to making determinations of disability under Tit. II and Tit. XVI of the federal Social Security Act as amended, 42 U.S.C. ch. 7, and may receive the moneys and make disbursements of them upon the requisition of the director of the department of education.

[C24, 27, 31, 35, 39, §3851; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §259.2]

86 Acts, ch 1245, §1434; 94 Acts, ch 1109, §5; 2010 Acts, ch 1061, §180

Referred to in §259.3

259.3 Board and division.

The division of vocational rehabilitation services is established in the department of education. The director of the department of education shall cooperate with the United States secretary of education in carrying out the federal law cited in sections 259.1 and 259.2 providing for the vocational rehabilitation of individuals with disabilities. The state board of education shall adopt rules under chapter 17A for the administration of this chapter.

[C24, 27, 31, 35, 39, §3852; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §259.3]

86 Acts, ch 1237, §14; 86 Acts, ch 1245, §1435; 94 Acts, ch 1109, §6; 96 Acts, ch 1127, §3

259.4 Duties of division.

The division of vocational rehabilitation services shall:

1. Cooperate with the secretary of education in the administration of the federal law cited in section 259.1.

2. Administer legislation pursuant to the federal law cited in section 259.1, and direct the disbursement and administer the use of funds provided by the federal government and this state for the vocational rehabilitation of individuals with disabilities.

3. Utilize in the rehabilitation of individuals with disabilities existing educational and other facilities as are advisable and practicable, including public and private educational institutions, community rehabilitation programs, public or private establishments, plants, factories, and the services of individuals specially qualified for the instruction and vocational rehabilitation of individuals with disabilities.

4. Promote the establishment and assist in the development of training agencies for the vocational rehabilitation of individuals with disabilities.

5. Cooperate with an agency of the federal government or of the state, or of a county or other municipal authority within the state, or any other agency, public or private, in carrying out the purposes of this chapter.

6. Do those things necessary to secure the rehabilitation of those individuals entitled to the benefits of this chapter, including those individuals with significant disabilities.

7. Provide rehabilitation services to individuals with significant disabilities who are homebound, and other individuals with significant disabilities, who can wholly or substantially achieve an ability to live independently.

8. Provide financial and other necessary assistance to public or private agencies in the development or expansion of community rehabilitation programs, or programs in other public agencies, needed for the rehabilitation of individuals with disabilities.

9. Administer the entrepreneurs with disabilities program.

[C24, 27, 31, 35, 39, §3853; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §259.4]

83 Acts, ch 101, §59; 86 Acts, ch 1237, §15; 86 Acts, ch 1245, §1436; 87 Acts, ch 115, §37; 94 Acts, ch 1109, §7; 96 Acts, ch 1127, §4 – 7; 99 Acts, ch 28, §1; 2008 Acts, ch 1007, §1

259.5 Report to governor.

The division shall report biennially to the governor the condition of vocational rehabilitation within the state, designating the educational institutions, establishments, plants, factories,

and other agencies in which training is being given, and include a detailed statement of expenditures of the state and federal funds in the rehabilitation of individuals with disabilities.

[C24, 27, 31, 35, 39, §3854; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §259.5]
86 Acts, ch 1237, §16; 86 Acts, ch 1245, §1437; 94 Acts, ch 1109, §8; 96 Acts, ch 1127, §8

259.6 Gifts and donations.

The division may receive gifts and donations from either public or private sources offered unconditionally or under conditions related to the vocational rehabilitation of individuals with disabilities that are consistent with this chapter.

[C24, 27, 31, 35, 39, §3855; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §259.6]
86 Acts, ch 1245, §1438; 94 Acts, ch 1109, §9

259.7 Fund.

All the moneys received as gifts or donations shall be deposited in the state treasury and shall constitute a permanent fund to be called the special fund for the vocational rehabilitation of individuals with disabilities, to be used by the director of the department of education in carrying out the provisions of this chapter or for related purposes.

[C24, 27, 31, 35, 39, §3856; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §259.7]
94 Acts, ch 1109, §10; 96 Acts, ch 1127, §9

259.8 Report of gifts.

A full report of gifts and donations offered and accepted, together with the names of the donors and the respective amounts contributed by each, and disbursements from the fund shall be submitted at call or biennially to the governor of the state by the division.

[C24, 27, 31, 35, 39, §3857; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §259.8]
86 Acts, ch 1245, §1439

259.9 Agreement continued.

The agreement between the director of the department of education and the commissioner of the United States social security administration relating to making determinations of disability under Tit. II and Tit. XVI of the federal Social Security Act as amended, 42 U.S.C. ch. 7, completed prior to July 1, 1986, remains in effect.

86 Acts, ch 1245, §1440; 96 Acts, ch 1127, §10; 2010 Acts, ch 1061, §180

CHAPTER 259A

HIGH SCHOOL EQUIVALENCY DIPLOMAS

Referred to in §260C.50, 261.87, 299.2, 904.516, 906.4

259A.1	Assessment of competency.	259A.4	Use of fees.
259A.2	Application requirements.	259A.5	Rules — duties.
259A.3	Notice and fee.	259A.6	Residents of juvenile institutions and juvenile probationers.

259A.1 Assessment of competency.

The department of education shall cause to be made available for qualified individuals a high school equivalency diploma. The diploma shall be issued on the basis of demonstrated competence in all of the following core areas: reading, language arts, literacy, mathematics, science, and social studies.

[C66, 71, 73, 75, 77, 79, 81, §259A.1]
2006 Acts, ch 1152, §29; 2013 Acts, ch 88, §9; 2017 Acts, ch 85, §1, 5
Referred to in §259A.2

259A.2 Application requirements.

1. Every applicant shall have attained the age of eighteen years, have not graduated from high school, and not be currently enrolled in a secondary school.

2. An applicant is not eligible for a high school equivalency diploma until after the class in which the applicant was enrolled has graduated from high school.

3. Application shall be made to a high school equivalency program or testing center approved by the department of education, accompanied by an application fee in an amount prescribed by the department.

4. Test scores shall be forwarded by the scorer of the test to the department of education.

5. Evidence that an applicant demonstrates competence as required under section 259A.1 shall be made available to the department of education by the high school equivalency program for verification purposes.

[C66, 71, 73, 75, 77, 79, 81, §259A.2]

2013 Acts, ch 88, §10; 2017 Acts, ch 85, §2, 5

Referred to in §259A.6

259A.3 Notice and fee.

Any applicant who has demonstrated competence in the core areas under standards adopted by the state board of education pursuant to section 259A.5 shall be issued a high school equivalency diploma by the department of education upon payment of an additional amount determined in rules adopted by the state board of education to cover the actual costs of the production and distribution of the diploma. The state board of education may also by rule establish a fee for the issuance or verification of a transcript which shall be based on the actual costs of the production or verification of a transcript.

[C66, 71, 73, 75, 77, 79, 81, §259A.3]

2011 Acts, ch 20, §7; 2017 Acts, ch 85, §3, 5

259A.4 Use of fees.

The fees collected under the provisions of this chapter shall be used for the expenses incurred in administering, providing test materials, scoring of examinations and issuance of high school equivalency diplomas, and shall be disbursed on the authorization of the director of the department of education. The treasurer of state shall be custodian of the funds paid to the department and shall disburse the same on vouchers audited as provided by law. The unobligated balance in such funds at the close of each biennium shall be placed in the general fund of the state.

[C66, 71, 73, 75, 77, 79, 81, §259A.4]

85 Acts, ch 212, §21

259A.5 Rules — duties.

1. The director of the department of education shall prescribe assessments, definitions of terms, and forms and resources as necessary for the administration of this chapter.

2. The state board of education shall adopt rules under chapter 17A to carry out this chapter. Any rules adopted relating to demonstrations of competence for purposes of this chapter shall require such demonstrations to be equivalent to or of greater rigor than those required for high school graduation, and such demonstrations shall include but are not limited to a test battery, credit-based measures, and attainment of other academic credentials.

[C66, 71, 73, 75, 77, 79, 81, §259A.5]

85 Acts, ch 212, §21; 86 Acts, ch 1245, §1441; 2017 Acts, ch 85, §4, 5

Referred to in §259A.3

259A.6 Residents of juvenile institutions and juvenile probationers.

Notwithstanding the provisions of section 259A.2 a minor who is a resident of a state training school or a minor who is placed under the supervision of a juvenile probation office may make application for a high school equivalency diploma and upon successful completion of the program receive a high school equivalency diploma.

[C77, 79, 81, §259A.6]

2019 Acts, ch 100, §8

CHAPTER 259B
RESERVED

SUBTITLE 2
COMMUNITY COLLEGES

CHAPTER 260
RESERVED

CHAPTER 260A
COMMUNITY COLLEGE VOCATIONAL-TECHNICAL
TECHNOLOGY IMPROVEMENT

Repealed by 2002 Acts, 2nd Ex, ch 1003, §94, 95

CHAPTER 260B
RESERVED

CHAPTER 260C
COMMUNITY COLLEGES

Referred to in §7C.4A, 12.30, 16.162, 22.7(52)(a), 103.22, 256.82, 257C.3, 260E.2, 260F.2, 260G.2, 261.7, 261.87, 261E.2, 261E.8, 261H.1, 262.9, 273.2, 282.6, 321.187, 423.3, 423F.3, 459.318, 459A.102, 594A.7, 594A.9, 724.8A

Appropriations, property taxes certified, contracts, agreements, and other obligations of area school deemed those of successor community college effective July 1, 1990; 90 Acts, ch 1253, §125

	SUBCHAPTER I		260C.16	Status of merged area.
	GENERAL PROVISIONS		260C.17	Preparation and approval of budget — tax.
260C.1	Statement of policy.		260C.18	Other funds received.
260C.2	Definitions.		260C.18A	Workforce training and economic development funds.
260C.3	State board for community colleges. Repealed by 2011 Acts, ch 20, §19.		260C.18B	Community college budget review.
260C.4	Duties of state board.		260C.18C	State aid distribution formula.
260C.5	Duties of director.		260C.18D	Instructor salary distribution formula.
260C.6	Community colleges division in department.		260C.19	Acquisition of sites and buildings.
260C.7	through 260C.10 Reserved.		260C.19A	Motor vehicles required to operate on alternative fuels.
			260C.19B	Purchase of biobased hydraulic fluids, greases, and other industrial lubricants.
	SUBCHAPTER II		260C.19C	Purchase of designated biobased products.
	GOVERNANCE, FINANCING, AND PROGRAMS		260C.20	Payment of bonds.
260C.11	Governing board.		260C.21	Election to incur indebtedness.
260C.12	Directors of merged area.		260C.22	Facilities levy by vote — borrowing — temporary cash reserve levy.
260C.13	Director districts.		260C.23	Reserved.
260C.14	Authority of directors.		260C.24	Payment of appropriations.
260C.14A	Limitation on authority — nonprojectile high-voltage pulse weapons designed to immobilize.		260C.25	through 260C.27 Reserved.
260C.15	Conduct of elections.			

260C.28	Tax for equipment replacement and program sharing.	260C.51	through 260C.55 Reserved.
260C.29	Academic incentives for minorities program — mission.		
260C.30	Reserved.		
260C.31	Auxiliary enterprises.		
260C.32	Trusts.		
260C.33	Joint action with board of regents. Repealed by 93 Acts, ch 82, §10 – 12.	260C.56	Definitions.
260C.34	Uses of funds.	260C.57	Authorization — contracts — title.
260C.35	Limitation on land.	260C.58	Bonds or notes.
260C.36	Quality faculty plan.	260C.59	Rates and terms of bonds or notes.
260C.37	Membership in association of school boards.	260C.60	Issuance resolution.
260C.38	Lease agreements for space.	260C.61	Rates, fees, and rentals — pledge.
260C.39	Combining merged areas — election.	260C.62	Accounts.
260C.40	Prohibition of controlled substances.	260C.63	No obligation against state.
260C.41	Reserved.	260C.64	Who may invest.
260C.42	Payment of expenses.	260C.65	Federal or other aid accepted.
260C.43	Claims.	260C.66	Reports to general assembly.
260C.44	Apprenticeship programs.	260C.67	Alternative method.
260C.45	Quality instructional centers. Repealed by 2006 Acts, ch 1152, §56.	260C.68	Prior action legalized.
260C.46	Program and administrative sharing.	260C.69	Dormitory space priority.
260C.47	Accreditation of community college programs.	260C.70	Ten-year program and two-year bonding estimate submitted each year. Repealed by 2002 Acts, ch 1140, §44.
260C.48	Standards for accrediting community college programs.		
260C.49	Rules.		
260C.50	Adult education and literacy programs.		

SUBCHAPTER III

RESIDENCE HALLS AND DORMITORIES — FINANCING

SUBCHAPTER IV

FINANCING THROUGH IOWA FINANCE AUTHORITY

SUBCHAPTER I

GENERAL PROVISIONS

260C.1 Statement of policy.

It is hereby declared to be the policy of the state of Iowa and the purpose of this chapter to provide for the establishment of not more than fifteen areas which shall include all of the area of the state and which may operate community colleges offering to the greatest extent possible, educational opportunities and services in each of the following, when applicable, but not necessarily limited to:

1. The first two years of college work including preprofessional education.
2. Career and technical training.
3. Programs for in-service training and retraining of workers.
4. Programs for high school completion for students of post-high school age.
5. Programs for all students of high school age who may best serve themselves by enrolling for career and technical training while also enrolled in a local high school, public or private.
6. Programs for students of high school age to provide advanced college placement courses not taught at a student's high school while the student is also enrolled in the high school.
7. Student personnel services.
8. Community services.
9. Career and technical education for persons who have academic, socioeconomic, or other disabilities which prevent succeeding in regular career and technical education programs.

10. Training, retraining, and all necessary preparation for productive employment of all citizens.

11. Career and technical training for persons who are not enrolled in a high school and who have not completed high school.

12. Developmental education for persons who are academically or personally underprepared to succeed in their program of study.

[C66, 71, 73, 75, 77, 79, 81, §280A.1]

85 Acts, ch 212, §11; 90 Acts, ch 1253, §26

C93, §260C.1

93 Acts, ch 101, §203; 96 Acts, ch 1129, §113; 2016 Acts, ch 1108, §48

Referred to in §260C.18A

260C.2 Definitions.

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

1. “*Community college*” means a publicly supported school which may offer programs of adult and continuing education, lifelong learning, community education, and up to two years of liberal arts, preprofessional, or occupational instruction partially fulfilling the requirements for a baccalaureate degree but confers no more than an associate degree; or which offers as the whole or as part of the curriculum up to two years of career and technical education, training, or retraining to persons who are preparing to enter the labor market.

2. “*Department*” means the department of education.

3. “*Director*” means the director of the department of education.

4. “*Instructional cost center*” means one of the following areas of course offerings of the community colleges:

a. Arts and sciences cost center.

b. Career and technical education preparatory cost center.

c. Career and technical education supplementary cost center.

d. Adult basic education and high school completion cost center.

e. Continuing and general education cost center.

5. “*Merged area*” means an area where two or more school systems or parts of school systems merge resources to operate a community college in the manner provided in this chapter.

6. “*State board*” means the state board of education.

[C66, 71, 73, 75, 77, 79, 81, §280A.2]

85 Acts, ch 212, §21, 22; 90 Acts, ch 1253, §27

C93, §260C.2

96 Acts, ch 1215, §24; 2005 Acts, ch 169, §23; 2016 Acts, ch 1108, §49, 50

Referred to in §84B.3, 85.61, 87.4, 261.86, 261.131, 261G.2, 307.24, 321J.22, 322.7A, 515A.15

260C.3 State board for community colleges. Repealed by 2011 Acts, ch 20, §19.

260C.4 Duties of state board.

The state board shall:

1. Adopt and establish policies for programs and services of the department which relate to community colleges.

2. Prescribe standards and procedures for the approval of practitioner preparation programs and professional development programs under section 256.7, subsection 3.

3. Review and make recommendations that relate to community colleges in the five-year plan for the achievement of educational goals.

90 Acts, ch 1253, §34

C91, §280A.22B

C93, §260C.22B

93 Acts, ch 82, §2

C95, §260C.4

96 Acts, ch 1215, §25; 2011 Acts, ch 20, §8

260C.5 Duties of director.

The director shall:

1. Designate a community college as an “area career and technical education school” within the meaning of, and for the purpose of administering, the federal Carl D. Perkins Career and Technical Education Improvement Act of 2006. A community college shall not be so designated by the director for the expenditure of funds under 20 U.S.C. §2301 et seq., as amended, which has not been designated and classified as a community college by the state board.
2. Change boundaries of director districts in a merged area when the board fails to change boundaries as required by law.
3. Make changes in boundaries of merged areas with the approval of the board of directors of each merged area affected by the change. When the boundaries of a merged area are changed, the director of the department of education may authorize the board of directors of the merged area to levy additional taxes upon the property within the merged area, or any part of the merged area, and distribute the taxes so that all parts of the merged area are paying their share toward the support of the college.
4. Administer, allocate, and disburse federal or state funds made available to pay a portion of the cost of acquiring sites for and constructing, acquiring, or remodeling facilities for community colleges, and establish priorities for the use of such funds.
5. Administer, allocate, and disburse federal or state funds available to pay a portion of the operating costs of community colleges.
6. Propose administrative rules to carry out this chapter subject to approval of the state board.
7. Enter into contracts with local school boards within the area that have and maintain a career and technical education program and with private schools or colleges in the cooperative or merged areas to provide courses or programs of study in addition to or as a part of the curriculum made available in the community college.
8. Make arrangements with boards of merged areas and local school districts to permit students attending high school to participate in career and technical education programs and advanced college placement courses and obtain credit for such participation for application toward the completion of a high school diploma. The granting of credit is subject to the approval of the director of the department of education.
9. Prescribe a uniform system of accounting for community colleges.
10. Ensure that community colleges that provide intercollegiate athletics as a part of their program comply with section 216.9.

[C66, 71, 73, 75, 77, 79, 81, §280A.25; 82 Acts, ch 1136, §11]

85 Acts, ch 212, §12; 86 Acts, ch 1245, §1470; 87 Acts, ch 115, §41; 87 Acts, ch 224, §57, 58; 90 Acts, ch 1253, §36

C93, §260C.25

93 Acts, ch 82, §4

C95, §260C.5

2002 Acts, ch 1140, §13; 2016 Acts, ch 1108, §51; 2017 Acts, ch 29, §77

Referred to in §260C.43

260C.6 Community colleges division in department.

A community colleges division shall be established within the department of education. The division shall exercise the powers and perform the duties conferred by law upon the department with respect to community colleges.

[C66, 71, 73, 75, 77, 79, 81, §280A.27]

90 Acts, ch 1253, §37

C93, §260C.27

C95, §260C.6

260C.7 through 260C.10 Reserved.

SUBCHAPTER II
GOVERNANCE, FINANCING, AND PROGRAMS

260C.11 Governing board.

1. The governing board of a merged area is a board of directors composed of one member elected from each director district in the area by the electors of the respective district. Members of the board shall be residents of the district from which elected. Successors shall be chosen at the regular school elections for members whose terms expire. The term of a member of the board of directors is four years and commences at the organizational meeting. Vacancies on the board shall be filled at the next regular meeting of the board by appointment by the remaining members of the board. A member so chosen shall be a resident of the district in which the vacancy occurred and shall serve until a member is elected at the next school election or intervening special election held for the merged area, in accordance with section 69.12. A vacancy is defined in section 277.29. A member shall not serve on the board of directors who is a member of a board of directors of a local school district or a member of an area education agency board.

2. Commencing with the regular school election in 1981, the governing board of a merged area shall consist of not less than five nor more than nine members.

3. Director districts shall be of approximately equal population within each merged area. [C66, 71, 73, 75, §280A.12; C77, §280A.12, 280A.23(2); C79, 81, §280A.12, 280A.28; 82 Acts, ch 1136, §7]

C83, §280A.11

84 Acts, ch 1219, §15; 89 Acts, ch 136, §66

C93, §260C.11

2008 Acts, ch 1115, §2, 21; 2009 Acts, ch 41, §101; 2017 Acts, ch 120, §9, 11, 12

Referred to in §39.24, 260C.15

2017 amendment to subsection 1 takes effect May 10, 2017, and applies retroactively to July 1, 2016; 2017 Acts, ch 120, §11, 12

For transition provisions changing the terms of office for a seat on a board of directors, see 2017 Acts, ch 155, §45; 2019 Acts, ch 148, §61

260C.12 Directors of merged area.

1. The board of directors of the merged area shall organize at the first regular meeting following the regular school election or at a special meeting called by the secretary of the board to organize the board in advance of the first regular meeting after the canvass for the regular school election. Organization of the board shall be effected by the election of a president and other officers from the board membership as board members determine. The board of directors shall appoint a secretary and a treasurer who shall each give bond as prescribed in section 291.2 and who shall each receive the salary determined by the board. The secretary and treasurer shall perform duties under chapter 291 and additional duties the board of directors deems necessary. However, the board may appoint one person to serve as the secretary and treasurer. If one person serves as the secretary and treasurer, only one bond is necessary for that person. The frequency of meetings other than organizational meetings shall be as determined by the board of directors but the president or a majority of the members may call a special meeting at any time.

2. Members of the board, other than the secretary and the treasurer, shall be allowed their actual expenses incurred in the performance of their duties and may be eligible to receive per diem compensation.

[C66, 71, 73, 75, 77, 79, 81, §280A.13; 82 Acts, ch 1039, §1, ch 1086, §1]

C83, §280A.12

90 Acts, ch 1253, §28

C93, §260C.12

2008 Acts, ch 1115, §3, 21; 2017 Acts, ch 155, §2, 9, 10; 2019 Acts, ch 148, §53

Referred to in §273.8, 291.2

260C.13 Director districts.

1. The board of a merged area may change the number of directors on the board and shall make corresponding changes in the boundaries of director districts. Changes shall be

completed not later than August 1 of the year of the regular school election. As soon as possible after adoption of the boundary changes, notice of changes in the director district boundaries shall be submitted by the merged area to the county commissioner of elections in all counties included in whole or in part in the merged area.

2. The board of the merged area shall redraw boundary lines of director districts in the merged area after each federal decennial census.

3. Boundary lines of director districts shall be drawn according to the following standards:

a. All boundaries shall follow precinct boundaries or school director district boundaries unless a merged area director district boundary follows the boundary of a school district which divides one or more election precincts.

b. To the extent possible in order to comply with paragraph “a”, all districts shall be as nearly equal as practicable to the ideal population for the districts as determined by dividing the number of districts to be established into the population of the merged area.

c. All districts shall be composed of contiguous territory as compact as practicable.

d. Consideration shall not be given to the addresses of incumbent officeholders, political affiliations of registered voters, previous election results, or demographic information other than population head counts, except as required by the Constitution and the laws of the United States.

e. A city shall not be divided into two or more director districts unless the population of that portion of the city that is within the merged area is greater than the ideal size of a director district. Cities shall be divided into the smallest number of director districts possible.

4. If more than one incumbent officeholder resides in a district redrawn during reprecincting, their terms of office expire after the next regular school election.

[C66, 71, 73, 75, 77, §280A.23(2); C79, §280A.28, 280A.30; C81, §280A.28, 280A.29; 82 Acts, ch 1136, §9]

C83, §280A.13

C93, §260C.13

94 Acts, ch 1179, §14, 15; 2008 Acts, ch 1115, §4, 21; 2010 Acts, ch 1033, §33, 34; 2017 Acts, ch 155, §3, 9, 10

Referred to in §39.24

260C.14 Authority of directors.

The board of directors of each community college shall:

1. Determine the curriculum to be offered in such school or college subject to approval of the director and ensure that all career and technical education offerings are competency-based, provide any minimum competencies required by the department of education, comply with any applicable requirements in chapter 258, and are articulated with local school district career and technical education programs. If an existing private educational institution or an existing vocational institution offering a career and technical education program within the merged area has facilities and curriculum of adequate size and quality which would duplicate the functions of the area school, the board of directors shall discuss with the institution the possibility of entering into contracts to have the existing institution offer facilities and curriculum to students of the merged area. The board of directors shall consider any proposals submitted by the private institution for providing such facilities and curriculum. The board of directors may enter into such contracts. In approving curriculum, the director shall ascertain that all courses and programs submitted for approval are needed and that the curriculum being offered by an area school does not duplicate programs provided by existing public or private facilities in the area. In determining whether duplication would actually exist, the director shall consider the needs of the area and consider whether the proposed programs are competitive as to size, quality, tuition, purposes, and area coverage with existing public and private educational or vocational institutions within the merged area. If the board of directors of the merged area chooses not to enter into contracts with private institutions under this subsection, the board shall submit a list of reasons why contracts to avoid duplication were not entered into and an economic impact statement relating to the board’s decision.

2. Have authority to determine tuition rates for instruction. Tuition for residents of

Iowa shall not exceed the lowest tuition rate per semester, or the equivalent, charged by an institution of higher education under the state board of regents for a full-time resident student. However, except for students enrolled under section 261E.6, if a local school district pays tuition for a resident pupil of high school age, the limitation on tuition for residents of Iowa shall not apply, the amount of tuition shall be determined by the board of directors of the community college with the consent of the local school board, and the pupil shall not be included in the full-time equivalent enrollment of the community college for the purpose of computing general aid to the community college. Tuition for nonresidents of Iowa shall not be less than the marginal cost of instruction of a student attending the college. A lower tuition for nonresidents may be permitted under a reciprocal tuition agreement between a merged area and an educational institution in another state, if the agreement is approved by the director. The board may designate that a portion of the tuition moneys collected from students be used for student aid purposes.

3. Have the powers and duties with respect to community colleges, not otherwise provided in this chapter, which are prescribed for boards of directors of local school districts by chapter 279 except that the board of directors is not required to prohibit the use of tobacco and the use or possession of alcoholic liquor or beer by any student of legal age under the provisions of section 279.9.

4. Have the power to enter into contracts and take other necessary action to insure a sufficient curriculum and efficient operation and management of the college and maintain and protect the physical plant, equipment, and other property of the college.

5. Establish policy and make rules, not inconsistent with law and administrative rules, regulations, and policies of the state board, for its own government and that of the administrative, teaching, and other personnel, and the students of the college, and aid in the enforcement of such laws, rules, and regulations.

6. Have authority to sell a student-constructed building and the property on which the student-constructed building is located or any article resulting from any career and technical education program or course offered at a community college by any procedure which may be adopted by the board. Governmental agencies and governmental subdivisions of the state within the merged areas shall be given preference in the purchase of such articles. All revenue received from the sale of any article shall be credited to the funds of the board of the merged area.

7. With the consent of the inventor, and in the discretion of the board, secure letters patent or copyright on inventions of students, instructors, and officials of any community college of the merged area, or take assignment of such letters patent or copyright and make all necessary expenditures in regard thereto. Letters patent or copyright on inventions when so secured shall be the property of the board of the merged area and the royalties and earnings thereon shall be credited to the funds of the board.

8. Set the salary of the area superintendent. In setting the salary, the board shall consider the salaries of administrators of educational institutions in the merged area and the enrollment of the community college.

9. *a.* The board may establish a plan, in accordance with section 403(b) of the Internal Revenue Code, as defined in section 422.3, for employees, which plan shall consist of one or more investment contracts, on a group or individual basis, acquired from a company, or a salesperson for that company, that is authorized to do business in this state.

b. The selection of investment contracts to be included within the plan established by the board shall be made either pursuant to a competitive bidding process conducted by the board, in coordination with employee organizations representing employees eligible to participate in the plan, or pursuant to an agreement with the department of administrative services to make available investment contracts included in a deferred compensation or similar plan established by the department pursuant to section 8A.438, which plan meets the requirements of this subsection. The determination of whether to select investment contracts for the plan pursuant to a competitive bidding process or by agreement with the department of administrative services shall be made by agreement between the board and the employee organizations representing employees eligible to participate in the plan.

c. The board may make elective deferrals in accordance with the plan as authorized by an

eligible employee for the purpose of making contributions to an investment contract in the plan on behalf of the employee. The deferrals shall be made in the manner which will qualify contributions to the investment contract for the benefits under section 403(b) of the Internal Revenue Code, as defined in section 422.3. In addition, the board may make nonelective employer contributions to the plan.

d. As used in this subsection, unless the context otherwise requires, “*investment contract*” shall mean a custodial account utilizing mutual funds or an annuity contract which meets the requirements of section 403(b) of the Internal Revenue Code, as defined in section 422.3.

10. Make necessary rules to provide for the policing, control, and regulation of traffic and parking of vehicles and bicycles on the property of the community college.

a. The rules may provide for the use of institutional roads, driveways, and grounds; registration of vehicles and bicycles; the designation of parking areas; the erection and maintenance of signs designating prohibitions or restrictions; the installation and maintenance of parking control devices except parking meters; and assessment, enforcement, and collection of reasonable penalties for the violation of the rules.

b. Rules made under this subsection may be enforced under procedures adopted by the board of directors. Penalties may be imposed upon students, faculty, and staff for violation of the rules, including but not limited to a reasonable monetary penalty which may be deducted from student deposits and faculty or staff salaries or other funds in possession of the community college or added to student tuition bills. The rules made under this subsection may also be enforced by the impoundment of vehicles and bicycles parked in violation of the rules, and a reasonable fee may be charged for the cost of impoundment and storage prior to the release of the vehicle or bicycle to the owner. Each community college shall establish procedures for the determination of controversies in connection with the imposition of penalties. The procedures shall require giving notice of the violation and the penalty prescribed and providing the opportunity for an administrative hearing.

11. Be authorized to issue to employees of community colleges school credit cards to use for payment of authorized expenditures incurred in the performance of work-related duties.

12. During the second week of August of each year, publish by one insertion in at least one newspaper published in the merged area a summarized statement verified by affidavit of the secretary of the board showing the receipts and disbursements of all funds of the community college for the preceding fiscal year. The statement of disbursements shall show the names of the persons, firms, or corporations, and the total amount paid to each during the fiscal year. The board is not required to make the publications and notices required under sections 279.35 and 279.36.

13. Adopt policies and procedures for the use of telecommunications as an instructional tool at the community college. The policies and procedures shall include but not be limited to policies and procedures relating to programs, educational policy, practices, staff development, use of pilot projects, and the instructional application of the technology.

14. a. In its discretion, adopt rules relating to the classification of students enrolled in the community college who are residents of Iowa’s sister states as residents or nonresidents for tuition and fee purposes.

b. (1) Adopt rules to classify as residents for purposes of tuition and mandatory fees, qualified veterans and qualified military persons and their spouses and dependent children who are domiciled in this state while enrolled in a community college. A spouse or dependent child of a military person or veteran shall not be deemed a resident under this paragraph “b” unless the qualified military person or qualified veteran meets the requirements of subparagraph (2), subparagraph division (b) or (c), as appropriate.

(2) For purposes of this paragraph “b”, unless the context otherwise requires:

(a) “*Dependent child*” means a student who was claimed by a qualified military person or qualified veteran as a dependent on the qualified military person’s or qualified veteran’s internal revenue service tax filing for the previous tax year.

(b) “*Qualified military person*” means a person on active duty in the military service of the United States who is stationed in this state or at the Rock Island arsenal. If the qualified military person is transferred, deployed, or restationed while the person’s spouse or dependent child is enrolled in the community college, the spouse or dependent child shall

continue to be classified as a resident provided the spouse or dependent child maintains continuous enrollment.

(c) “*Qualified veteran*” means a person who meets the following requirements:

(i) Is eligible for benefits, or has exhausted the benefits, under the federal Post-9/11 Veterans Educational Assistance Act of 2008.

(ii) Is domiciled in this state, or has resided in this state for at least one year or sufficient time to have filed an Iowa tax return in the preceding twelve months.

15. By July 1, 1991, develop a policy which requires oral communication competence of persons who provide instruction to students attending institutions under the control of the board. The policy shall include a student evaluation mechanism which requires student evaluation of persons providing instruction on at least an annual basis.

16. By July 1, 1991, develop a policy relating to the teaching proficiency of teaching assistants which provides a teaching proficiency standard, instructional assistance to, and evaluation of persons who provide instruction to students at the higher education institutions under the control of the board.

17. *a.* Provide for eligible alternative retirement benefits systems which shall be limited to the following:

(1) An alternative retirement benefits system which is issued by or through a nonprofit corporation issuing retirement annuities exclusively to educational institutions and their employees for persons newly employed after July 1, 1990, and for persons employed by the community college who are members of the Iowa public employees’ retirement system on July 1, 1994, and who elect coverage under that system pursuant to section 97B.42, in lieu of coverage under the Iowa public employees’ retirement system.

(2) An alternative retirement benefits system which is issued by or through an insurance company authorized to issue annuity contracts in this state, for persons newly employed on or after July 1, 1997, who are already members of the alternative retirement benefits system and who elect coverage under that system pursuant to section 97B.42, in lieu of coverage under the Iowa public employees’ retirement system.

(3) An alternative retirement benefits system offered through the community college, at the discretion of the board of directors of the community college, pursuant to this subparagraph which is issued by or through an insurance company authorized to issue annuity contracts in this state, for persons newly employed by that community college on or after July 1, 1998, who are not members of the alternative retirement benefits system and who elect coverage under that system pursuant to section 97B.42, in lieu of coverage under the Iowa public employees’ retirement system. The board of directors of a community college may limit the number of providers of alternative retirement benefits systems offered pursuant to this subparagraph to no more than six. The selection by the board of directors of a community college of a provider of an alternative retirement benefits system pursuant to this subparagraph shall not constitute an endorsement of that provider by the community college.

b. However, the employer’s annual contribution in dollars under an eligible alternative retirement benefits system described in this subsection shall not exceed the annual contribution in dollars which the employer would contribute if the employee had elected to remain an active member pursuant to the Iowa public employees’ retirement system, as set forth in section 97B.11.

c. For purposes of this subsection, “*alternative retirement benefits system*” means an employer-sponsored primary pension plan requiring mandatory employer contributions that meets the requirements of section 401(a), 403(a), or 403(b) of the Internal Revenue Code.

18. Develop and implement a written policy, which is disseminated during student registration or orientation, addressing the following four areas relating to sexual abuse:

a. Counseling.

b. Campus security.

c. Education, including prevention, protection, and the rights and duties of students and employees of the community college.

d. Facilitating the accurate and prompt reporting of sexual abuse to the duly constituted law enforcement authorities.

19. Provide, within a reasonable time, information as requested by the departments of management and education.

20. Adopt a policy to offer not less than the following options to a student who is a member, or the spouse of a member if the member has a dependent child as defined in subsection 14, paragraph “b”, subparagraph (2), subparagraph division (a), of the Iowa national guard or reserve forces of the United States and who is ordered to national guard duty or federal active duty:

a. Withdraw from the student’s entire registration and receive a full refund of tuition and mandatory fees.

b. Make arrangements with the student’s instructors for course grades, or for incompletes that shall be completed by the student at a later date. If such arrangements are made, the student’s registration shall remain intact and tuition and mandatory fees shall be assessed for the courses in full.

c. Make arrangements with only some of the student’s instructors for course grades, or for incompletes that shall be completed by the student at a later date. If such arrangements are made, the registration for those courses shall remain intact and tuition and mandatory fees shall be assessed for those courses. Any course for which arrangements cannot be made for grades or incompletes shall be considered dropped and the tuition and mandatory fees for the course refunded.

21. a. Annually, by October 1, submit to the department of education through the management information system, at a minimum, in the manner prescribed by the department the following information for the previous fiscal year:

(1) Total revenue received from each local school district as a result of high school students enrolled in community college courses under the postsecondary enrollment options program.

(2) Total revenue received from each local school district as a result of high school students enrolled in community college courses through shared supplementary weighting plans.

(3) Unduplicated headcount of high school students enrolled in community college courses under the postsecondary enrollment options program.

(4) Unduplicated headcount of high school students enrolled in community college courses through shared supplementary weighting plans.

(5) Total credits earned by high school students enrolled in community college courses under the postsecondary enrollment options program, broken down by career and technical education program and arts and sciences program.

(6) Number of courses in which high school students are enrolled under shared supplementary weighting plans and the portions of those courses that are taught by an instructor who is employed by the local school district for a portion of the school day.

(7) The contracted salary and benefits for the trustees of the community college.

(8) The contracted salary and benefits and any other expenses related to support for governmental affairs efforts, including expenditures for lobbyists and lobbying activities for the community college.

(9) The contracted salaries, including but not limited to bonus wages and benefits, including but not limited to annuity payments or any other benefit covered using state funds of any kind for administrators of the community college.

b. The department of education shall define the annual supplemental financial reporting required of all community colleges regarding revenues received through the delivery of college credit courses to high school students. The board of directors of each community college shall incorporate into their student management information systems the unique student identifier used by school districts as provided by the department of education to school districts.

c. The department shall submit a report to the general assembly summarizing the data submitted in paragraph “a” by January 15 annually.

22. Enter into a collective statewide articulation agreement with the state board of regents pursuant to section 262.9, subsection 32, which shall provide for the seamless transfer of academic credits from a completed associate of arts or associate of science degree program

offered by a community college to a baccalaureate degree program offered by an institution of higher education governed by the state board of regents. The board shall also do the following:

a. Identify a transfer and articulation contact office or person, publicize transfer and articulation information and the contact office or person, and submit the contact information to the state board of regents, which shall publish the contact information on its articulation internet site.

b. Collaborate with the state board of regents to meet the requirements specified in section 262.9, subsection 32, including but not limited to developing a systematic process for expanding academic discipline and meetings between the community college faculty and faculty of the institutions of higher education governed by the state board of regents, developing criteria to prioritize core curriculum areas, promoting greater awareness of articulation-related activities, facilitating additional opportunities for individual institutions to pursue program articulation agreements for career and technical educational programs, and developing and implementing a process to examine a minimum of eight new associate of applied science degree programs for which articulation agreements would serve students' continued academic success in those degree programs.

23. Develop and implement a consistent written policy for an employee who in the scope of the person's employment responsibilities examines, attends, counsels, or treats a child to report suspected physical or sexual abuse. The policy shall include an employee's reporting responsibilities. The reporting responsibilities shall designate the time, circumstances, and method for reporting suspected child abuse to the community college's administration and reporting to law enforcement. Nothing in the policy shall prohibit an employee from reporting suspected child abuse in good faith to law enforcement.

24. a. Beginning December 15, 2015, annually file a report with the governor and the general assembly providing information and statistics for the previous five academic years on the number of students who are veterans per year who received education credit for military education, training, and service, that number as a percentage of veterans known to be enrolled at the college, the average number of credits received by students, and the average number of credits applied towards the award of a certificate, competency-based credential, postsecondary diploma, or associate degree.

b. For purposes of this subsection, "veteran" means a veteran as defined in section 35.1 or a member of the reserve forces of the United States or the national guard as defined in section 29A.1 who has served at least one year of the member's commitment and is eligible for or has exhausted federal veterans education benefits under 38 U.S.C. ch. 30, 32, 33, or 36 or 10 U.S.C. ch. 1606 or 1607, respectively.

[C66, 71, 73, 75, 77, 79, 81, §280A.23]

84 Acts, ch 1315, §36; 86 Acts, ch 1213, §6; 86 Acts, ch 1246, §134; 87 Acts, ch 207, §7; 87 Acts, ch 233, §478; 88 Acts, ch 1284, §47; 89 Acts, ch 278, §6; 90 Acts, ch 1240, §46; 90 Acts, ch 1253, §35; 92 Acts, ch 1106, §3, 4

C93, §260C.23

93 Acts, ch 82, §3; 94 Acts, ch 1183, §60, 61

C95, §260C.14

96 Acts, ch 1215, §26; 97 Acts, ch 14, §2, 3; 98 Acts, ch 1077, §2, 3; 2001 Acts, ch 39, §1; 2002 Acts, ch 1140, §14; 2003 Acts, ch 108, §46; 2003 Acts, ch 179, §112; 2004 Acts, ch 1086, §54; 2006 Acts, ch 1152, §8, 30; 2006 Acts, ch 1180, §17, 24; 2008 Acts, ch 1171, §63, 68; 2008 Acts, ch 1181, §50; 2009 Acts, ch 54, §7; 2009 Acts, ch 133, §101; 2009 Acts, ch 158, §1; 2009 Acts, ch 168, §2; 2009 Acts, ch 177, §21, 22; 2010 Acts, ch 1061, §90; 2010 Acts, ch 1169, §1 – 3; 2012 Acts, ch 1040, §3; 2012 Acts, ch 1072, §34; 2013 Acts, ch 90, §257; 2014 Acts, ch 1116, §30; 2015 Acts, ch 8, §1; 2016 Acts, ch 1108, §52, 53

Referred to in §15.108, 97B.42, 260C.18, 261.9, 261E.8

Section not amended; internal reference change applied

260C.14A Limitation on authority — nonprojectile high-voltage pulse weapons designed to immobilize.

The board of directors of a community college shall comply with the requirements of section 724.8A regarding policies and rules relating to the carrying, transportation, or possession of a dangerous weapon that directs an electric current, impulse, wave, or beam that produces a high-voltage pulse designed to immobilize a person in the buildings or on the grounds of the community college, as long as such a dangerous weapon does not generate a projectile that directs an electric current, impulse, wave, or beam that produces a high-voltage pulse designed to immobilize a person, and such a dangerous weapon is not used in the commission of a public offense.

2019 Acts, ch 94, §1

260C.15 Conduct of elections.

1. Regular elections held by the merged area for the election of members of the board of directors as required by section 260C.11 or for any other matter authorized by law and designated for election by the board of directors of the merged area shall be held on the date of the school election as fixed by section 277.1. However, elections held for the imposition, rate increase, or discontinuance of the twenty and one-fourth cents per thousand dollars of assessed valuation levy authorized in section 260C.22 shall be held either on the date of the school election as fixed by section 277.1 or at a special election held on the second Tuesday in September of the even-numbered year. The election notice shall be made a part of the local school election notice published as provided in section 49.53 in each local school district where voting is to occur in the merged area election and the election shall be conducted by the county commissioner of elections pursuant to chapters 39 through 53 and section 277.20.

2. A candidate for member of the board of directors of a merged area shall be nominated by a petition signed by not less than fifty eligible electors of the director district from which the member is to be elected. The petition shall state the number of the director district from which the candidate seeks election, and the candidate's name and status as an eligible elector of the director district. Signers of the petition, in addition to signing their names, shall show their residence, including street and number if any, the school district in which they reside, and the date they signed the petition. A person may sign nomination petitions for more than one candidate for the same office, and the signature is not invalid solely because the person signed nomination petitions for one or more other candidates for the office. The petition shall include the affidavit of the candidate being nominated, stating the candidate's name and residence, and that the individual is a candidate, is eligible for the office sought, and if elected will qualify for the office.

3. Nomination papers on behalf of candidates for member of the board of directors of a merged area shall be filed with the secretary of the board not earlier than seventy-one days nor later than 5:00 p.m. on the forty-seventh day prior to the election at which members of the board are to be elected. On the day following the last day on which nomination petitions can be filed, and no later than 5:00 p.m. on that day, the secretary shall deliver all nomination petitions so filed, together with the text of any public measure being submitted by the board of directors to the electorate, to the merged area's controlling county commissioner of elections under section 47.2. That controlling commissioner shall certify the names of candidates, and the text and summary of any public measure being submitted to the electorate, to all county commissioners of elections in the merged area by the forty-second day prior to the election.

4. *a.* Objections to the legal sufficiency of a nomination petition or to the eligibility of a candidate may be filed by any person who would have the right to vote for a candidate for the office in question.

b. The objection must be filed with the secretary of the board at least forty-two days before the day of the election at which members of the board are elected. When objections are filed, notice shall immediately be given to the candidate affected, addressed to the candidate's place of residence as given on the candidate's affidavit, stating that objections have been made to the legal sufficiency of the petition or to the eligibility of the candidate, and also stating the time and place the objections will be considered. The board secretary shall also attempt

to notify the candidate by telephone if the candidate provided a telephone number on the candidate's affidavit.

c. Objections shall be considered not later than two working days following the receipt of the objections by the president of the board of directors, the secretary of the board, and one additional director of the board chosen by ballot. If objections have been filed to the nominations of either of the directors, that director shall not pass on the objection. The director's place shall be filled by a member of the board of directors against whom no objection exists. The replacement shall be chosen by ballot.

5. The votes cast in the election shall be canvassed and abstracts of the votes cast shall be certified as required by section 277.20. In each county whose commissioner of elections is the controlling commissioner for a merged area under section 47.2, the county board of supervisors shall convene on the second Monday or Tuesday after the day of the election to canvass the abstracts of votes cast from each county in the merged area, and declare the results of the voting. The commissioner shall at once issue certificates of election to each person declared elected, and shall certify to the merged area board in substantially the manner prescribed by section 50.27 the result of the voting on any public question submitted to the voters of the merged area. Members elected to the board of directors of a merged area shall qualify by taking the oath of office prescribed in section 277.28.

[C66, 71, 73, 75, 77, 79, 81, §280A.15]

88 Acts, ch 1119, §34; 88 Acts, ch 1158, §57; 89 Acts, ch 136, §67

C93, §260C.15

93 Acts, ch 35, §1; 2008 Acts, ch 1115, §5, 21; 2009 Acts, ch 57, §75; 2010 Acts, ch 1026, §15; 2010 Acts, ch 1033, §35; 2015 Acts, ch 106, §1, 6, 7; 2017 Acts, ch 155, §4, 9, 10, 32 – 34, 44; 2019 Acts, ch 148, §54

Referred to in §49.31, 50.24

260C.16 Status of merged area.

1. A merged area formed under the provisions of this chapter shall be a body politic as a school corporation for the purpose of exercising powers granted under this chapter, and as such may sue and be sued, hold property, and exercise all the powers granted by law and such other powers as are incident to public corporations of like character and are not inconsistent with the laws of the state.

2. The boundary lines of a merged area may divide a school district.

[C66, 71, 73, 75, 77, 79, 81, §280A.4, 280A.16; 82 Acts, ch 1136, §8]

C93, §260C.16

260C.17 Preparation and approval of budget — tax.

1. The board of directors of each merged area shall prepare an annual budget designating the proposed expenditures for operation of the community college. The board shall further designate the amounts which are to be raised by local taxation and the amounts which are to be raised by other sources of revenue for the operation. The budget of each merged area shall be submitted to the state board no later than May 1 preceding the next fiscal year for approval. The state board shall review the proposed budget and shall, prior to June 1, either grant its approval or return the budget without approval with the comments of the state board attached to it. Any unapproved budget shall be resubmitted to the state board for final approval. Upon approval of the budget by the state board, the board of directors shall certify the amount to the respective county auditors and the boards of supervisors annually shall levy a tax of twenty and one-fourth cents per thousand dollars of assessed value on taxable property in a merged area for the operation of a community college. Taxes collected pursuant to the levy shall be paid by the respective county treasurers to the treasurer of the merged area as provided in section 331.552, subsection 29.

2. It is the policy of this state that the property tax for the operation of community colleges shall not in any event exceed twenty and one-fourth cents per thousand dollars of assessed

value, and that the present and future costs of such operation in excess of the funds raised by such levy shall be the responsibility of the state and shall not be paid from property tax.

[C66, 71, 73, 75, 77, 79, 81, §280A.17]

84 Acts, ch 1003, §2; 90 Acts, ch 1253, §29

C93, §260C.17

Referred to in §260C.22, 260C.34, 260C.38, 331.512

260C.18 Other funds received.

In addition to revenue derived by tax levy, a board of directors of a merged area shall be authorized to receive and expend:

1. Federal funds made available and administered by the director of the department of education, for purposes provided by federal laws, rules, and regulations.

2. Other federal funds for such purposes as provided by federal law, subject to the approval of the director.

3. Tuition in accordance with section 260C.14, subsection 2.

4. State aid and supplemental state aid to be paid in accordance with the statutes which provide such aid.

5. State funds for sites and facilities made available and administered by the director.

6. Donations and gifts which may be accepted by the governing board and expended in accordance with the terms of the gift without compliance with the local budget law, chapter 24.

7. Student fees collected from students for activities, laboratory breakage, instructional materials, and other objects and purposes for which student fees other than tuition are customarily charged by colleges and universities, as provided in a schedule of fees adopted by the area board of directors. The expenditure of funds collected from students for activities shall be determined by the student government unit with administrative and board approval. Any increases in student fees for activities shall be determined by the student government unit with administrative and board approval.

[C66, 71, 73, 75, 77, 79, 81, §280A.18]

86 Acts, ch 1245, §1469

C93, §260C.18

96 Acts, ch 1215, §27; 2004 Acts, ch 1086, §55

Referred to in §260C.34, 260C.38

260C.18A Workforce training and economic development funds.

1. *a.* A workforce training and economic development fund is created for each community college. Moneys shall be deposited and expended from a fund as provided under this section.

b. Moneys in the funds shall consist of any moneys appropriated by the general assembly and any other moneys available to and obtained or accepted by the department from federal sources or private sources for placement in the funds. Notwithstanding section 8.33, moneys in the funds at the end of each fiscal year shall not revert to any other fund but shall remain in the funds for expenditure in subsequent fiscal years.

2. Moneys deposited in the funds and disbursed to community colleges for a fiscal year shall be expended for the following purposes, provided seventy percent of the moneys shall be used on projects in the areas of advanced manufacturing, information technology and insurance, alternative and renewable energy including the alternative and renewable energy sectors listed in section 476.42, subsection 1, paragraph "a", subparagraph (1), and life sciences which include the areas of biotechnology, health care technology, and nursing care technology:

a. Projects in which an agreement between a community college and an employer located within the community college's merged area meet all of the requirements of the accelerated career education program under chapter 260G.

b. Projects in which an agreement between a community college and a business meet all the requirements of the Iowa jobs training Act under chapter 260F.

c. For the development and implementation of career academies designed to provide new career preparation opportunities for high school students that are formally linked

with postsecondary career and technical education programs. For purposes of this section, “*career academy*” means the same as defined in section 258.6.

d. Programs and courses that provide career and technical training, and programs for in-service training and retraining under section 260C.1, subsections 2 and 3.

e. Development and implementation of pathways for academic career and employment programs under chapter 260H.

f. Development and implementation of programs for the gap tuition assistance program under chapter 260I.

g. Entrepreneurial education, small business assistance, and business incubators.

h. Development and implementation of the national career readiness certificate and the skills certification system endorsed by the national association of manufacturers.

3. The department shall allocate the moneys appropriated pursuant to this section to the community college workforce training and economic development funds utilizing the same distribution formula used for the allocation of state general aid to the community colleges.

4. Each community college shall do all of the following:

a. Adopt a two-year workforce training and economic development fund plan outlining the community college’s proposed use of moneys appropriated under subsection 2.

b. Update the two-year plan annually.

c. Prepare an annual progress report on the two-year plan’s implementation.

d. Annually submit the two-year plan and progress report to the department in a manner prescribed by rules adopted by the department pursuant to chapter 17A.

2003 Acts, 1st Ex, ch 2, §76, 209; 2004 Acts, ch 1175, §330, 331, 345, 370, 400; 2004 Acts, 1st Ex, ch 1002, §8 – 13; 2005 Acts, ch 150, §35 – 37; 2006 Acts, ch 1142, §20; 2010 Acts, ch 1061, §180; 2011 Acts, ch 25, §130; 2011 Acts, ch 118, §85, 89; 2011 Acts, ch 132, §70, 106; 2012 Acts, ch 1021, §58; 2012 Acts, ch 1132, §17; 2013 Acts, ch 141, §35 – 39; 2014 Acts, ch 1026, §65; 2014 Acts, ch 1132, §22; 2016 Acts, ch 1108, §54

Referred to in §256.9, 261E.10

260C.18B Community college budget review.

1. a. A community college budget review procedure is established for the school budget review committee created in section 257.30. The school budget review committee, in addition to its duties under chapter 257, shall meet and hold hearings each year under this chapter to review unusual circumstances of community colleges, either upon the committee’s motion or upon the request of a community college. The committee may grant supplemental state aid to the community college from funds appropriated to the department of education for community college budget review purposes.

b. Unusual circumstances shall include but not be limited to the following:

(1) An unusual increase or decrease in enrollment or contact hours.

(2) Natural disasters.

(3) Unusual staffing problems.

(4) Unusual necessity for additional funds to permit continuance of a course or program in an instructional cost center which provides substantial benefit to students.

(5) Unusual need for a new course or program in an instructional cost center which will provide substantial benefit to students, if the community college establishes the need and the amount of necessary increased cost.

(6) Unique problems of community colleges to include vandalism, civil disobedience, and other costs incurred by community colleges.

2. When the school budget review committee makes a decision under subsection 1, it shall provide written notice of its decision, including the amount of supplemental state aid approved, to the board of directors of the community college and to the department of education.

3. All decisions by the school budget review committee under this chapter shall be made in accordance with reasonable and uniform policies which shall be consistent with this chapter.

4. Failure by a community college to provide information or appear before the school budget review committee as requested for the accomplishment of review or hearing constitutes justification for the committee to instruct the department of administrative

services to withhold supplemental state aid to that community college until the committee's inquiries are satisfied completely.

96 Acts, ch 1215, §29; 2003 Acts, ch 145, §286; 2010 Acts, ch 1061, §180
 Referred to in §257.31, 260C.34, 260C.49

260C.18C State aid distribution formula.

1. *Purpose.* A distribution plan for general state financial aid to Iowa's community colleges is established for the fiscal year commencing July 1, 2005, and succeeding fiscal years. Funds appropriated by the general assembly to the department for general financial aid to community colleges shall be allocated to each community college in the manner provided under this section.

2. *Definitions.* As used in this section and section 260C.18D, unless the context otherwise requires:

a. "*Base funding allocation*" means the amount of general state financial aid all community colleges received in the base year.

b. "*Base year*" means the fiscal year immediately preceding the budget year.

c. "*Below-average support per FTEE*" for a community college means the state-average combined support per FTEE minus the combined support per FTEE for the community college if the community college's combined support per FTEE is less than the state-average combined support per FTEE.

d. "*Budget year*" means the fiscal year for which moneys are appropriated by the general assembly.

e. "*Combined support*" for a community college means the total amount of moneys the community college received in general state financial aid in the base year plus the community college's general fund property tax revenue, including utility replacement, for the base year.

f. "*Combined support per FTEE*" for a community college means the community college's combined support divided by its three-year rolling average full-time equivalent enrollment for the three years prior to the base year.

g. "*Contact hour*" for a noncredit course equals fifty minutes of contact between an instructor and students in a scheduled course offering for which students are registered.

h. "*Credit hour*", for purposes of community college funding distribution, shall be as defined by the department by rule.

i. "*Eligible credit courses*" means all credit courses that are eligible for general state financial aid which are part of a department-approved program of study. The department shall review and provide a determination should a question of eligibility occur.

j. "*Eligible growth support*" for a community college is the community college's below-average support per FTEE multiplied times its three-year rolling average full-time equivalent enrollment.

k. "*Eligible noncredit courses*" means all noncredit courses eligible for general state financial aid which fall under one of the eligible categories for noncredit courses as defined by rule of the department. The department shall review and provide a determination should a question of eligibility occur.

l. "*Eligible student*" means a student enrolled in eligible credit or eligible noncredit courses. The department shall review and provide a determination should a question of eligibility occur.

m. "*Fiscal year*" means the period of twelve months beginning on July 1 and ending on June 30.

n. One "*full-time equivalent enrollment (FTEE)*" equals twenty-four credit hours for credit courses or six hundred contact hours for noncredit courses generated by all eligible students enrolled in eligible courses.

o. "*General fund property tax revenue*" means the amount of moneys a community college raised or could have raised from a property tax of twenty and one-fourth cents per thousand dollars of assessed valuation on all taxable property in its merged area collected for the base year.

p. "*General state financial aid*" means the amount of general state financial aid the community college received from the general fund.

q. “*Inflation adjustment amount*” means the inflation rate minus two percentage points multiplied times the base funding allocation. The inflation adjustment amount shall not be less than zero.

r. “*Inflation rate*” means the average of the preceding twelve-month percentage change, which shall be computed on a monthly basis, in the consumer price index for all urban consumers, not seasonally adjusted, published by the United States department of labor, bureau of labor statistics, calculated for the calendar year ending six months after the beginning of the base year.

s. “*State-average combined support per FTEE*” means the average of the combined support per FTEE for all community colleges in the state in the base year.

t. “*Three-year rolling average full-time equivalent enrollment*” means the average of the audited full-time equivalent enrollment for a community college over the three fiscal years prior to the base year as determined by the department.

u. “*Total growth support amount*” means the sum of the eligible growth support for all the community colleges.

3. *Distribution formula.* Moneys appropriated by the general assembly from the general fund to the department for community college purposes for general state financial aid for a budget year shall be allocated to each community college by the department as follows:

a. If the inflation rate is equal to two percent or less:

(1) *Base funding allocation.* The moneys shall first be allocated in the amount of general state financial aid each community college received in the base year. If the appropriation is less than the total of the amount of general state financial aid each community college received in the base year, the moneys shall be allocated in the same proportion as the allocation of general state financial aid each community college received in the base year.

(2) *Marginal cost adjustment.* After the base funding has been allocated, each community college shall be allocated up to an additional two percent of its base funding allocation. The community college’s allocation shall be in the same proportion as the allocation of general state financial aid each community college received in the base year.

(3) *Three-year rolling average of full-time equivalent enrollment.* If the increase in the total state general aid exceeds two percent over the base funding allocation, an amount up to an additional one percent of the base funding allocation shall be distributed based upon each community college’s proportional share of the three-year rolling average full-time equivalent enrollments for all community colleges.

(4) *Extraordinary growth adjustment.* If the increase in total state general aid exceeds three percent over the base funding allocation, an amount up to an additional one percent of the base funding allocation shall be distributed as follows:

(a) Forty percent of the moneys shall be allocated based upon each community college’s proportional share of the three-year rolling average full-time equivalent enrollments for all community colleges.

(b) Sixty percent of the moneys shall be allocated to community colleges that have eligible growth support. The allocation shall be based upon the proportional share that each community college’s eligible growth support bears to the total growth support amount. Once the moneys allocated under this subparagraph division equal the total growth support amount, the remaining moneys allocated under this subparagraph shall be allocated as provided in subparagraph division (a).

(5) *Additional three-year rolling average FTEE allocation.* If the increase in total state general aid exceeds four percent over the base funding allocation, all remaining moneys shall be distributed based upon each college’s proportional share of the three-year rolling average full-time equivalent enrollments for all community colleges.

b. If the inflation rate is greater than two percent but less than four percent:

(1) *Base funding allocation.* The moneys shall first be allocated in the amount of general state financial aid each community college received in the base year. If the appropriation is less than the total of the amount of general state financial aid each community college received in the base year, the moneys shall be allocated in the same proportion as the allocation of general state financial aid each community college received in the base year.

(2) *Marginal cost adjustment.* After the base funding has been allocated, each

community college shall be allocated up to an additional two percent of its base funding allocation. The community college's allocation shall be in the same proportion as the allocation of general state financial aid each community college received in the base year.

(3) *Three-year rolling average of full-time equivalent enrollment.* If the increase in the total state general aid exceeds two percent over the base funding allocation, an amount up to an additional one percent of the base funding allocation shall be distributed based upon each community college's proportional share of the three-year rolling average full-time equivalent enrollments for all community colleges.

(4) *Extraordinary growth adjustment.* If the increase in total state general aid exceeds three percent over the base funding allocation, an amount up to an additional one percent of the base funding allocation shall be based as follows:

(a) Forty percent of the moneys shall be allocated based upon each community college's proportional share of the three-year rolling average full-time equivalent enrollments for all community colleges.

(b) Sixty percent of the moneys shall be allocated to community colleges that have eligible growth support. The allocation shall be based upon the proportional share that each community college's eligible growth support bears to the total growth support amount. Once the moneys allocated under this subparagraph division equal the total growth support amount, the remaining moneys allocated under this subparagraph shall be allocated as provided in subparagraph division (a).

(5) *Inflation adjustment.* If the increase in total state general aid exceeds four percent over the base funding allocation, an amount up to the inflation adjustment amount shall be distributed to each community college in the same proportion as the allocation of general state financial aid each community college received in the base year.

(6) *Additional three-year rolling average FTEE allocation.* If there are remaining moneys to be distributed under this paragraph after distributing moneys under subparagraph (5), all remaining moneys shall be distributed based upon each community college's proportional share of the three-year rolling average full-time equivalent enrollments for all community colleges.

c. If the inflation rate equals or exceeds four percent:

(1) *Base funding allocation.* The moneys shall first be allocated in the amount of general state financial aid each community college received in the base year. If the appropriation is less than the total of the amount of general state financial aid each community college received in the base year, the moneys shall be allocated in the same proportion as the allocation of general state financial aid each community college received in the base year.

(2) *Marginal cost adjustment.* After the base funding has been allocated, each community college shall be allocated up to an additional two percent of its base funding allocation. The community college's allocation shall be in the same proportion as the allocation of general state financial aid each community college received in the base year.

(3) *Three-year rolling average of full-time equivalent enrollment.* If the increase in the total state general aid exceeds two percent over the base funding allocation, an amount up to an additional one percent of the base funding allocation shall be distributed based upon each community college's proportional share of the three-year rolling average full-time equivalent enrollments for all community colleges.

(4) *Inflation adjustment.* If the increase in total state general aid exceeds three percent over the base funding allocation, an amount up to the inflation adjustment amount shall be distributed to each community college in the same proportion as the allocation of general state financial aid each community college received in the base year.

(5) *Extraordinary growth adjustment.* If there are remaining moneys to be distributed under this paragraph after distributing moneys under subparagraph (4), an amount up to an additional one percent of the base funding allocation shall be based as follows:

(a) Forty percent of the moneys shall be allocated based upon each community college's proportional share of the three-year rolling average full-time equivalent enrollments for all community colleges.

(b) Sixty percent of the moneys shall be allocated to community colleges that have eligible growth support. The allocation shall be based upon the proportional share that

each community college's eligible growth support bears to the total growth support amount. Once the moneys allocated under this subparagraph division equal the total growth support amount, the remaining moneys allocated under this subparagraph shall be allocated as provided in subparagraph division (a).

(6) *Additional three-year rolling average FTEE allocation.* If there are remaining moneys to be distributed under this paragraph after distributing moneys under subparagraph (5), all remaining moneys shall be distributed based upon each community college's proportional share of the three-year rolling average full-time equivalent enrollments for all community colleges.

4. *Information supplied by colleges and adoption of rules.*

a. Each community college shall provide information in the manner and form as determined by the department. If a community college fails to provide the information as requested, the department shall estimate the full-time equivalent enrollment of that college.

b. Each community college shall complete and submit an annual student enrollment audit to the department. Adjustments to community college state general aid allocations shall be made based on student enrollment audit outcomes.

c. The department shall adopt rules under chapter 17A as necessary for the allocation of general state financial aid.

2005 Acts, ch 169, §24; 2008 Acts, ch 1181, §25; 2009 Acts, ch 41, §263

Referred to in §256.40, 260H.2, 260I.2

260C.18D Instructor salary distribution formula.

1. *Distribution formula.* Moneys appropriated by the general assembly to the department for community college instructor salaries shall be distributed among each community college based on the proportion that the number of full-time equivalent instructors employed by a community college bears to the sum of the number of full-time equivalent eligible instructors who are employed by all community colleges in the state for the base year. The state board shall define "eligible full-time equivalent instructor" by rule.

2. *Base funding allocation.* Moneys distributed to each community college under subsection 1 shall be included in the base funding allocation for all future years. The use of the funds shall remain as described in this section for all future years.

3. *Purposes supplemental.* Moneys appropriated and distributed to community colleges under this section shall be used to supplement and not supplant any approved faculty salary increases or negotiated agreements, excluding the distribution of the funds in this section.

4. *Eligible instructors.* Moneys distributed to a community college under this section shall be allocated to all full-time, nonadministrative instructors and part-time instructors covered by a collective bargaining agreement. The moneys shall be allocated by negotiated agreements according to chapter 20. If no language exists, the moneys shall be allocated equally to all full-time, nonadministrative instructors with part-time instructors covered by a collective bargaining agreement receiving a prorated share of the fund.

5. *Evenly divided payments.* A community college receiving funds distributed pursuant to this section shall determine the amount to be paid to instructors in accordance with subsection 4 and the amount determined to be paid to an individual instructor shall be divided evenly and paid in each pay period of the fiscal year.

6. *Reductions.* Moneys appropriated by the general assembly to the department for community college instructor salaries are not subject to a uniform reduction in accordance with section 8.31.

2008 Acts, ch 1181, §26; 2009 Acts, ch 177, §23; 2010 Acts, ch 1183, §22, 43

Referred to in §260C.18C

Definitions applicable, see §260C.18C

260C.19 Acquisition of sites and buildings.

Boards of directors of merged areas may acquire sites and erect and equip buildings for use by community colleges and may contract indebtedness and issue bonds to raise funds for such purposes.

[C66, 71, 73, 75, 77, 79, 81, §280A.19]

90 Acts, ch 1253, §30

C93, §260C.19

Referred to in §260C.20, 260C.21, 260C.34, 260C.57

260C.19A Motor vehicles required to operate on alternative fuels.

1. A motor vehicle purchased by or used under the direction of the board of directors to provide services to a merged area shall not operate on gasoline other than ethanol blended gasoline as defined in section 214A.1. The motor vehicle shall also be affixed with a brightly visible sticker which notifies the traveling public that the motor vehicle is being operated on ethanol blended gasoline. However, the sticker is not required to be affixed to an unmarked vehicle used for purposes of providing law enforcement or security.

2. a. Of all new passenger vehicles and light pickup trucks purchased by or under the direction of the board of directors to provide services to a merged area, a minimum of ten percent of all such vehicles and trucks purchased shall be equipped with engines which utilize alternative methods of propulsion, including but not limited to any of the following:

(1) A flexible fuel which is any of the following:

(a) E-85 gasoline as provided in section 214A.2.

(b) B-20 biodiesel blended fuel as provided in section 214A.2.

(c) A renewable fuel approved by the office of renewable fuels and coproducts pursuant to section 159A.3.

(2) Compressed or liquefied natural gas.

(3) Propane gas.

(4) Solar energy.

(5) Electricity.

b. The provisions of this subsection do not apply to vehicles and trucks purchased and directly used for law enforcement or off-road maintenance work.

91 Acts, ch 254, §17

CS91, §280A.19A

C93, §260C.19A

93 Acts, ch 26, §3; 94 Acts, ch 1119, §25; 2006 Acts, ch 1142, §61, 62; 2007 Acts, ch 22, §61

260C.19B Purchase of biobased hydraulic fluids, greases, and other industrial lubricants.

Hydraulic fluids, greases, and other industrial lubricants purchased by or used under the direction of the board of directors to provide services to a merged area shall be purchased in compliance with the preference requirements for purchasing biobased hydraulic fluids, greases, and other industrial lubricants as provided pursuant to section 8A.316.

98 Acts, ch 1082, §4; 2000 Acts, ch 1109, §4; 2003 Acts, ch 145, §227; 2011 Acts, ch 25, §21

260C.19C Purchase of designated biobased products.

The board of directors providing services to a merged area shall give preference to purchasing designated biobased products in the same manner as provided in section 8A.317.

2008 Acts, ch 1104, §4

260C.20 Payment of bonds.

Taxes for the payment of bonds issued under section 260C.19 shall be levied in accordance with chapter 76. The bonds shall be payable from a fund created from the proceeds of the taxes in not more than twenty years and bear interest at a rate not exceeding the rate permitted by chapter 74A, and shall be of the form as the board issuing the bonds shall by

resolution provide. Any indebtedness incurred shall not be considered an indebtedness incurred for general and ordinary purposes.

[C66, 71, 73, 75, 77, 79, 81, §280A.20]

83 Acts, ch 188, §2

C93, §260C.20

260C.21 Election to incur indebtedness.

No indebtedness shall be incurred under section 260C.19 until authorized by an election. A proposition to incur indebtedness and issue bonds for community college purposes shall be deemed carried in a merged area if approved by a sixty percent majority of all voters voting on the proposition in the area. However, if the costs of utilities are paid by a community college with funds derived from the levy authorized under section 260C.22, the community college may use the general fund moneys that would have been used to pay the costs of utilities for capital expenditures, may invest the funds, or may incur indebtedness without an election, provided that the payments on the indebtedness incurred, and any interest on the indebtedness, can be made using general funds of the community college and the total payments on the principal and interest on the indebtedness do not exceed the amount of the costs of the utilities.

[C66, 71, 73, 75, 77, 79, 81, §280A.21]

90 Acts, ch 1253, §31

C93, §260C.21

260C.22 Facilities levy by vote — borrowing — temporary cash reserve levy.

1. *a.* In addition to the tax authorized under section 260C.17 and upon resolution of the board of directors, the voters in a merged area may at the regular school election or at a special election held on the second Tuesday in September of the even-numbered year vote a tax not exceeding twenty and one-fourth cents per thousand dollars of assessed value in any one year for a period not to exceed ten years, unless otherwise provided under subsection 2, for the purchase of grounds, construction of buildings, payment of debts contracted for the construction of buildings, purchase of buildings and equipment for buildings, and the acquisition of libraries, for the purpose of paying costs of utilities, and for the purpose of maintaining, remodeling, improving, or expanding the community college of the merged area. If the tax levy is approved under this section, the costs of utilities shall be paid from the proceeds of the levy. The tax shall be collected by the county treasurers and remitted to the treasurer of the merged area as provided in section 331.552, subsection 29. The proceeds of the tax shall be deposited in a separate and distinct fund to be known as the voted tax fund, to be paid out upon warrants drawn by the president and secretary of the board of directors of the merged area district for the payment of costs incurred in providing the school facilities for which the tax was authorized.

b. In order to make immediately available to the merged area the proceeds of the voted tax authorized to be levied under this section, the board of directors of any such merged area is hereby authorized, without the necessity for any further election, to borrow money and enter into loan agreements in anticipation of the collection of such tax, and such board shall, by resolution, provide for the levy of an annual tax, within the limits of the special voted tax authorized under this section, sufficient to pay the amount of any such loan and the interest thereon to maturity as the same becomes due. A certified copy of this resolution shall be filed with the county auditors of the counties in which such merged area is located, and the filing thereof shall make it a duty of such auditors to enter annually this levy for collection until funds are realized to repay the loan and interest thereon in full. Said loan shall bear interest at a rate or rates not exceeding that permitted by chapter 74A. Any loan agreement entered into pursuant to authority contained in this section shall be in such form as the board of directors shall by resolution provide and the loan shall be payable as to both principal and interest from the proceeds of the annual levy of the voted tax authorized under this section, or so much thereof as will be sufficient to pay the loan and interest thereon. In furtherance of the foregoing the board of directors of such merged area may, with or without notice, negotiate and enter into a loan agreement or agreements with any bank, investment

banker, trust company, insurance company or group thereof, whereunder the borrowing of the necessary funds may be assured and consummated. The proceeds of such loan shall be deposited in a special fund, to be kept separate and apart from all other funds of the merged area, and shall be paid out upon warrants drawn by the president and secretary of the board of directors to pay the cost of acquiring the school facilities for which the tax was authorized.

c. If the boundary lines of a merged area are changed, the levy of the annual tax provided in this section sufficient to pay the amount due for a loan agreement and the interest on the loan agreement to maturity shall continue in any territory severed from the merged area until the loan with interest on the loan has been paid in full.

d. Nothing contained in this section shall be construed to limit the authority of the board of directors to levy the full amount of the voted tax, but if and to whatever extent said tax is levied in any year in excess of the amount of principal and interest falling due in such year under any loan agreement, the first available proceeds thereof, to an amount sufficient to meet maturing installments of principal and interest under the loan agreement, shall be paid into the sinking fund for such loan before any of such taxes are otherwise made available to the merged area for other school purposes, and the amount required to be annually set aside to pay the principal of and interest on the money borrowed under such loan agreement shall constitute a first charge upon all of the proceeds of such annual special voted tax, which tax shall be pledged to pay said loan and the interest thereon.

e. This subsection shall be construed as supplemental and in addition to existing statutory authority and as providing an independent method of financing the cost of acquiring school facilities for which a tax has been voted under this section and for the borrowing of money and execution of loan agreements in connection therewith and shall not be construed as subject to the provisions of any other law. The fact that a merged area may have previously borrowed money and entered into loan agreements under the authority contained in this section shall not prevent such merged area from borrowing additional money and entering into further loan agreements provided that the aggregate of the amount payable under all of such loan agreements does not exceed the proceeds of the voted tax. All acts and proceedings heretofore taken by the board of directors or by any official of any merged area for the exercise of any of the powers granted by this section are hereby legalized and validated in all respects.

2. Following approval of the tax at two consecutive elections under subsection 1 where the question of imposing the tax appeared on the ballot, if the tax has been imposed for a period of at least twenty consecutive years, the board of directors of the merged area may, by resolution adopted at any time before the end of the most recently authorized period of time for imposing the tax, continue to impose the voted tax each year for an additional period not to exceed ten years at a rate not to exceed the maximum rate approved at election until the tax is discontinued or the maximum rate is increased following an election pursuant to subsection 3. An increase in the maximum rate of the voted tax, not to exceed the maximum rate specified in subsection 1, shall be approved at election pursuant to the requirements of subsection 3.

3. A voted tax imposed under this section may be discontinued, or its maximum rate increased, by petition and election. Upon receipt of a petition containing the required number of signatures, the board of directors of a merged area shall direct each county commissioner of elections responsible under section 47.2 for conducting elections in the merged area to submit to the voters of the merged area the question of whether to discontinue the authority of the board of directors to impose the voted tax under this section or to increase the maximum rate of the voted tax, whichever is applicable. The petition must be signed by eligible electors equal in number to not less than twenty-five percent of the votes cast at the last preceding election in the merged area where the question of the imposition of the tax appeared on the ballot and received by the board of directors by June 1 of the year in which the election is to be held. The question shall be submitted at an election held on a date authorized for an election under subsection 1, paragraph "a". If a majority of those voting on the question of discontinuance of the board of directors' authority to impose the tax favors discontinuance, the board shall not impose the tax for any fiscal year beginning after expiration of the period of time for imposing the tax approved at the last election under subsection 1 or the period of

time for imposing the tax established by resolution of the board under subsection 2 that is in effect on the date the petition for the election is filed with the board, whichever is applicable, unless following discontinuance the voted tax is again authorized at election under subsection 1. If the question of whether to discontinue the authority of the board of directors to impose the tax fails to gain approval at election, the question shall not be submitted to the voters of the merged area for a period of ten years following the date of the election. If a majority of those voting on the question to increase the maximum rate of the voted tax favors the proposed increase, the new maximum rate shall apply to fiscal years beginning after the date of the election.

[C66, 71, 73, 75, 77, 79, 81, §280A.22; 81 Acts, ch 88, §1; 82 Acts, ch 1136, §10]

84 Acts, ch 1003, §3; 87 Acts, ch 233, §476, 477; 90 Acts, ch 1253, §32

C93, §260C.22

96 Acts, ch 1215, §30; 2008 Acts, ch 1115, §6, 21; 2009 Acts, ch 41, §263; 2009 Acts, ch 57, §76; 2015 Acts, ch 106, §2 – 4, 6, 7; 2017 Acts, ch 155, §35, 44; 2018 Acts, ch 1026, §79; 2019 Acts, ch 59, §74

Referred to in §260C.15, 260C.21, 260C.34, 260C.35, 260C.38, 331.512, 331.559

260C.23 Reserved.

260C.24 Payment of appropriations.

Payment of appropriations for distribution under this chapter, or of appropriations made in lieu of such appropriations, shall be made by the department of administrative services in monthly installments due on or about the fifteenth of each month of a budget year, and installments shall be as nearly equal as possible, as determined by the department of administrative services, taking into consideration the relative budget and cash position of the state resources.

95 Acts, ch 218, §18; 2003 Acts, ch 145, §286

260C.25 through 260C.27 Reserved.

260C.28 Tax for equipment replacement and program sharing.

1. Annually, the board of directors may certify for levy a tax on taxable property in the merged area at a rate not exceeding three cents per thousand dollars of assessed valuation for equipment replacement for the community college.

2. However, the board of directors may annually certify for levy a tax on taxable property in the merged area at a rate in excess of the three cents per thousand dollars of assessed valuation specified under subsection 1 if the excess tax levied does not cause the total rate certified to exceed a rate of nine cents per thousand dollars of assessed valuation, and the excess revenue generated is used for purposes of program sharing between community colleges or for the purchase of instructional equipment. Programs that are shared shall be designed to increase student access to community college programs and to achieve efficiencies in program delivery at the community colleges, including, but not limited to, the programs described under section 260C.46. Prior to expenditure of the excess revenues generated under this subsection, the board of directors shall obtain the approval of the director of the department of education.

3. *a.* If the board of directors wishes to certify for a levy under subsection 2, the board shall direct the county commissioner of elections to submit the question of such authorization for the board at an election held on a date specified in section 39.2, subsection 4, paragraph “c”. If a majority of those voting on the question at the election favors authorization of the board to make such a levy, the board may certify for a levy as provided under subsection 2 during each of the ten years following the election, unless otherwise authorized under paragraph “b”. If a majority of those voting on the question at the election does not favor authorization of the board to make a levy under subsection 2, the board may submit the question to the voters again at an election held on a date specified in section 39.2, subsection 4, paragraph “c”.

b. Following approval of the additional tax authorized under subsection 2 at two

consecutive elections under paragraph “a” where the question of imposing the additional tax appeared on the ballot, if the additional tax has been imposed for a period of at least twenty consecutive years and either the period of time for imposing the additional tax approved at the last election under paragraph “a” or the period of time for imposing the tax established previously by resolution under this paragraph “b” is due to expire, the board of directors of the merged area may, by resolution, continue to impose the additional tax each year for an additional period not to exceed ten years at a rate not to exceed the maximum rate authorized under subsection 2, until the tax is discontinued following an election pursuant to paragraph “c”.

c. The additional tax authorized under subsection 2 may be discontinued by petition and election. Upon receipt of a petition containing the required number of signatures, the board of directors of a merged area shall direct each county commissioner of elections responsible under section 47.2 for conducting elections in the merged area to submit to the voters of the merged area the question of whether to discontinue the authority of the board of directors to impose the additional tax under subsection 2. The petition must be signed by eligible electors equal in number to not less than twenty-five percent of the votes cast at the last preceding election in the merged area where the question of the imposition of the additional tax appeared on the ballot. The question shall be submitted at an election held on a date specified in section 39.2, subsection 4, paragraph “c”. If a majority of those voting on the question of discontinuance of the board of directors’ authority to impose the additional tax favors discontinuance, the board shall not impose the additional tax for any fiscal year beginning after the expiration of the period of time for imposing the tax approved at the last election under paragraph “a” or the period of time for imposing the additional tax established by resolution of the board under paragraph “b” that is in effect on the date the petition for the election is filed with the board, whichever is applicable, unless following discontinuance the additional tax is again authorized at election under paragraph “a”. If the question of whether to discontinue the authority of the board of directors to impose the additional tax fails to gain approval at election, the question shall not be submitted to the voters of the merged area for a period of ten years following the date of the election.

83 Acts, ch 180, §1, 2

CS83, §280A.28

87 Acts, ch 187, §1; 90 Acts, ch 1253, §38; 92 Acts, ch 1246, §46

C93, §260C.28

94 Acts, ch 1175, §4; 98 Acts, ch 1215, §31; 2006 Acts, ch 1152, §31; 2008 Acts, ch 1115, §36, 71; 2015 Acts, ch 106, §5 – 7; 2017 Acts, ch 155, §36, 44

260C.29 Academic incentives for minorities program — mission.

1. The mission of the academic incentives for minorities program established in this section is to encourage collaborative efforts by community colleges, the institutions of higher learning under the control of the state board of regents, and business and industry to enhance educational opportunities and provide for job creation and career advancement for Iowa’s minorities by providing assistance to minorities who major in fields or subject areas where minorities are currently underrepresented or underutilized.

2. An academic incentives for minorities program is established to be administered by a community college located in a county with a population in excess of three hundred thousand. The community college shall provide office space for the efficient operation of the program. The community college shall employ a director for the program. The director of the program shall employ necessary support staff. The director and staff shall be employees of the community college.

3. The director of the program shall do the following:

a. Direct the coordination of the program between the community college and the institutions of higher education under the control of the state board of regents.

b. Propose rules to the state board of education as necessary to implement the program.

c. Recruit minority persons into the program.

d. Enlist the assistance and cooperation of leaders from business and industry to provide job placement services for students who are successfully completing the program.

e. Prepare and submit an annual report to the governor and the general assembly by January 15.

f. Contract with other community colleges to expand the availability of program services and increase the number of students served by the program.

g. Establish a separate account, which shall consist of all appropriations, grants, contributions, bequests, endowments, or other moneys or gifts received specifically for purposes of the program by the community college administering the program as provided in subsection 2. Not less than eighty percent of the funds received from state appropriations for purposes of the program shall be used for purposes of assistance to students as provided in subsection 5.

4. To be eligible for the program, a minority person shall be a resident of Iowa who is accepted for admission at or attends a community college or an institution of higher education under the control of the state board of regents. In addition, the person shall major in or achieve credit toward an associate degree, a bachelor's degree, or a master's degree in a field or subject area where minorities are underrepresented or underutilized.

5. The amount of assistance provided to a student under this section shall not exceed the cost of tuition, fees, and books required for the program in which the student is enrolled and attends. As used in this section, "books" may include book substitutes, including reusable workbooks, loose-leaf or bound manuals, and computer software materials used as book substitutes. A student who meets the qualifications of this section shall receive assistance under this section for not more than the equivalent of two full years of study.

6. For purposes of this section, "minority person" means a person who is African American, Hispanic, Asian, or a Pacific Islander, American Indian, or an Alaskan Native American.

95 Acts, ch 218, §19; 96 Acts, ch 1215, §31; 97 Acts, ch 212, §24; 2009 Acts, ch 41, §102

260C.30 Reserved.

260C.31 Auxiliary enterprises.

1. The board of directors may expend profits from auxiliary enterprises of community colleges for services and equipment which includes but is not limited to tutoring services, scholarships, grants, furniture, fixtures and equipment for noninstructional student use, and support of intramural and intercollegiate athletics.

2. For the purpose of this section:

a. "Auxiliary enterprises" means self-supporting services provided at the community college for which fees or charges are paid, and includes but is not limited to food services, college stores, student unions, institutionally operated vending services, recreational activities, faculty clubs, laundries, parking facilities, and intercollegiate athletics.

b. "Profits from auxiliary enterprises" means the difference between the total fees or charges collected for auxiliary enterprises and the expenditures by the community college for the auxiliary enterprises.

[C81, §280A.31]

90 Acts, ch 1253, §39

C93, §260C.31

2010 Acts, ch 1061, §180

260C.32 Trusts.

The board of a merged area may accept and administer trusts and may authorize nonprofit foundations acting solely for the support of the community college to accept and administer trusts deemed by the board to be beneficial to the operation of the community college. Notwithstanding section 633.63, the board and the nonprofit foundations may act as trustees in these instances. The board shall require that moneys belonging to a nonprofit foundation are audited annually.

[82 Acts, ch 1121, §1]

C83, §280A.32

90 Acts, ch 1253, §40

C93, §260C.32

260C.33 Joint action with board of regents. Repealed by 93 Acts, ch 82, §10 – 12. See §260C.4.

260C.34 Uses of funds.

Funds obtained pursuant to section 260C.17; section 260C.18, subsections 3, 4, and 5; and sections 260C.18B, 260C.19, and 260C.22 shall not be used for the construction or maintenance of athletic buildings or grounds but may be used for a project under section 260C.56.

[C71, 73, 75, 77, 79, 81, §280A.34]

91 Acts, ch 267, §241

C93, §260C.34

96 Acts, ch 1215, §32; 96 Acts, ch 1215, §58

260C.35 Limitation on land.

1. A merged area shall not purchase land which will increase the aggregate of land owned by the merged area, excluding land acquired by donation or gift, to more than three hundred twenty acres without the approval of the director of the department of education. The limitation does not apply to a merged area owning more than three hundred twenty acres, excluding land acquired by donation or gift, prior to January 1, 1969.

2. With the approval of the director of the department of education, the board of directors of a merged area at any time may sell any land in excess of one hundred sixty acres owned by the merged area, and an election is not necessary in connection with the sale. The proceeds of the sale may be used for any of the purposes stated in section 260C.22. This subsection is in addition to any authority under other provisions of law.

[C71, 73, 75, 77, 79, 81, §280A.35]

83 Acts, ch 25, §1; 86 Acts, ch 1245, §1473; 92 Acts, ch 1037, §1

C93, §260C.35

2018 Acts, ch 1041, §66

260C.36 Quality faculty plan.

1. The community college administration shall establish a committee consisting of instructors and administrators, equally representative of the arts and sciences faculty and the career and technical faculty, which has no more than a simple majority of members of the same gender. The faculty members shall be appointed by the certified employee organization if one exists and if not, by the college administration. The administrators shall be appointed by the college administration. The committee shall develop and maintain a plan for hiring and developing quality faculty that includes all of the following:

- a. An implementation schedule for the plan.
- b. Orientation for new faculty.
- c. Continuing professional development for faculty.
- d. Procedures for accurate recordkeeping and documentation for plan monitoring.
- e. Consortium arrangements when appropriate, cost-effective, and mutually beneficial.
- f. Specific activities that ensure faculty attain and demonstrate instructional competencies and knowledge in their subject or technical areas.
- g. Procedures for collection and maintenance of records demonstrating that each faculty member has attained or documented progress toward attaining minimal competencies.
- h. Compliance with the faculty accreditation standards of the higher learning commission, and compliance with faculty standards required under specific programs offered by the community college that are accredited by other accrediting agencies.
- i. Determination of the faculty that will be included in the plan including but not limited to all instructors, counselors, and media specialists. The plan requirements may be differentiated for each type of employee.

2. The committee shall submit the plan to the board of directors, which shall consider the plan and, once approved, submit the plan to the department of education and implement the plan not later than July 1, 2003.

3. The administration of the college shall encourage the continued development of faculty potential by doing all of the following:

a. Regularly stimulating department chairpersons or heads to meet their responsibilities for the continued development of faculty potential.

b. Reducing the instructional loads of first-year instructors whose course preparation and in-service training demand a reduction.

c. Stimulating curricular evaluation.

d. Encouraging the development of an atmosphere in which the faculty brings a wide range of ideas and experiences to the students, each other, and the community.

4. The department of education shall establish the following committees:

a. An ad hoc accreditation quality faculty plan protocol committee to advise the department in the development of protocols related to the quality faculty planning process to be used by the accreditation teams during site visits. The committee shall, at a minimum, determine what types of evidence need to be provided, develop interview procedures and visit goals, and propose accreditation protocol revisions.

b. An ongoing quality faculty plan professional development committee. The committee shall, at a minimum, do the following:

(1) Develop systemic, ongoing, and sustainable statewide professional development opportunities that support institutional development as well as individual development and support of the quality faculty plans. The opportunities may include internet-based systems to share promising practices.

(2) Determine future professional development needs.

(3) Develop or identify training and assistance relating to the quality faculty plan process and requirements.

(4) Assist the department and community colleges in developing professional development consortia.

(5) Review and identify best practices in each community college quality faculty plan, including best practices regarding adjunct faculty.

c. A community college faculty advisory committee consisting of one member and one alternate from each community college, appointed by the committee established pursuant to subsection 1. The committee membership shall be equally represented by individuals from the liberal arts and sciences faculty and the career and technical faculty. The committee shall, at a minimum, keep faculty informed of higher education issues, facilitate communication between the faculty and the department on an ongoing basis, and serve as an advisory committee to the department and community colleges on faculty issues.

[C71, 73, 75, 77, 79, 81, §280A.36]

C93, §260C.36

2002 Acts, ch 1047, §5; 2007 Acts, ch 214, §21, 22; 2008 Acts, ch 1181, §27, 28; 2013 Acts, ch 90, §257; 2014 Acts, ch 1013, §12; 2016 Acts, ch 1108, §55

Referred to in §260C.47

260C.37 Membership in association of school boards.

1. Boards of directors of community colleges may pay, out of funds available to them, reasonable annual dues to an Iowa association of school boards.

2. Membership in such an Iowa association of school boards shall be limited to those duly elected members of boards of directors of community colleges.

[C71, 73, 75, 77, 79, 81, §280A.37]

90 Acts, ch 1253, §42

C93, §260C.37

260C.38 Lease agreements for space.

1. The board of directors may enter into lease agreements, with or without purchase options, not to exceed twenty years in duration, for the leasing or rental of buildings for use basically as classrooms, laboratories, shops, libraries, and study halls for community college purposes, and pay for the leasing or rental with funds acquired pursuant to section 260C.17, section 260C.18, and section 260C.22.

2. The agreements may include the leasing of existing buildings on public or private property, buildings to be constructed upon real estate owned by the community college, or buildings to be placed upon real estate owned by the community college.

3. Subject to subsection 4, before entering into a lease agreement with a purchase option for a building to be constructed, or placed, upon real estate owned by the community college, the board shall first adopt plans and specifications for the proposed building which it considers suitable for the intended use, and the board shall also adopt the proposed terms of the lease agreement and purchase option. The board shall invite bids, by advertisement published once each week for two consecutive weeks in the county where the building is to be located. The lease agreement shall be awarded to the lowest responsible bidder, or the board may reject all bids and readvertise for new bids.

4. A contract for construction by a private party of property to be lease-purchased by a community college is a contract for a public improvement as defined in section 26.2. If the estimated cost of the property to be lease-purchased that is renovated, repaired, or involves new construction exceeds the competitive bid threshold in section 26.3, the board shall comply with the competitive bidding requirements of section 26.3.

[C71, 73, 75, 77, 79, 81, §280A.38; 82 Acts, ch 1230, §1]

86 Acts, ch 1245, §1474; 90 Acts, ch 1253, §43

C93, §260C.38

2002 Acts, ch 1140, §15; 2017 Acts, ch 54, §76; 2018 Acts, ch 1075, §4, 5, 12, 13; 2018 Acts, ch 1172, §71, 72

Referred to in §260C.56

2018 amendments apply to lease-purchase contracts entered into on or after April 4, 2018; 2018 Acts, ch 1075, §12, 13; 2018 Acts, ch 1172, §71, 72

260C.39 Combining merged areas — election.

1. Any merged area may combine with any adjacent merged area after a favorable vote by the electors of each of the areas involved. If the boards of directors of two or more merged areas agree to a combination, the question shall be submitted to the electors of each area at an election held on a date specified in section 39.2, subsection 4, paragraph “c”, and held on the same day in each area. Prior to the election, the board of each merged area shall notify the county commissioner of elections of the county in which the greatest proportion of the merged area’s taxable base is located, who shall publish notice of the election according to section 49.53. The two respective county commissioners of elections shall conduct the election pursuant to the provisions of chapters 39 to 53. The votes cast in the election shall be canvassed by the county board of supervisors, and the county commissioner of elections of each county in the merged areas shall certify the results to the board of directors of each merged area.

2. If the vote is favorable in each merged area, the boards of each area shall proceed to transfer the assets, liabilities, and facilities of the areas to the combined merged area, and shall serve as the acting board of the combined merged area until a new board of directors is elected. The acting board shall submit to the director of the department of education a plan for redistricting the combined merged area, and upon receiving approval from the director, shall provide for the election of a director from each new district at the next regular school election. The directors elected from each new district shall determine their terms by lot so that the terms of one-third of the members, as nearly as may be, expire each year. Election of directors for the combined merged area shall follow the procedures established for election of directors of a merged area. A combined merged area is subject to all provisions of law and rules governing merged areas.

3. The terms of employment of personnel, for the academic year following the effective date of the agreement to combine the merged areas shall not be affected by the combination of the merged areas, except in accordance with the procedures under sections 279.15 to 279.18 and section 279.24, to the extent those procedures are applicable, or under the terms of the base bargaining agreement. The authority and responsibility to offer new contracts or to continue, modify, or terminate existing contracts pursuant to any applicable procedures under chapter 279, shall be transferred to the acting, and then to the new, board of the combined merged area upon certification of a favorable vote to each of the merged

areas affected by the agreement. The collective bargaining agreement of the merged area receiving the greatest amount of general state aid shall serve as the base agreement for the combined merged area and the employees of the merged areas which combined to form the new combined merged area shall automatically be accreted to the bargaining unit from that former merged area for purposes of negotiating the contracts for the following years without further action by the public employment relations board. If only one collective bargaining agreement is in effect among the merged areas which are combining under this section, then that agreement shall serve as the base agreement, and the employees of the merged areas which are combining to form the new combined merged area shall automatically be accreted to the bargaining unit of that former merged area for purposes of negotiating the contracts for the following years without further action by the public employment relations board. The board of the combined merged area, using the base agreement as its existing contract, shall bargain with the combined employees of the merged areas that have agreed to combine for the academic year beginning with the effective date of the agreement to combine merged areas. The bargaining shall be completed by March 15 prior to the academic year in which the agreement to combine merged areas becomes effective or within one hundred eighty days after the organization of the acting board of the new combined merged area, whichever is later. If a bargaining agreement was already concluded in the former merged area which has the collective bargaining agreement that is serving as the base agreement for the new combined merged area, between the former merged area board and the employees of the former merged area, that agreement is void, unless the agreement contained multiyear provisions affecting academic years subsequent to the effective date of the agreement to form a combined merged area. If the base collective bargaining agreement contains multiyear provisions, the duration and effect of the agreement shall be controlled by the terms of the agreement. The provisions of the base agreement shall apply to the offering of new contracts, or the continuation, modification, or termination of existing contracts between the acting or new board of the combined merged area and the combined employees of the new combined merged area.

[C71, 73, 75, 77, 79, 81, §280A.39]

86 Acts, ch 1245, §1475; 90 Acts, ch 1168, §40; 90 Acts, ch 1253, §44; 91 Acts, ch 117, §2 C93, §260C.39

96 Acts, ch 1215, §33; 97 Acts, ch 23, §27; 2008 Acts, ch 1115, §37, 71

Referred to in §331.383

260C.40 Prohibition of controlled substances.

Each community college shall adopt a policy that prohibits unlawful possession, use, or distribution of controlled substances by students and employees on property owned or leased by the community college or in conjunction with activities sponsored by a community college. Each community college shall provide information about the policy to all students and employees. The policy shall include a clear statement of sanctions for violation of the policy and information about available drug or alcohol counseling and rehabilitation programs. In carrying out this policy, the community college shall provide substance abuse prevention programs for students and employees.

91 Acts, ch 267, §242

CS91, §280A.40

C93, §260C.40

2008 Acts, ch 1032, §108

260C.41 Reserved.

260C.42 Payment of expenses.

The board of directors of a merged area shall audit and allow all just claims against the community college and an order shall not be drawn upon the treasury until the claim has been audited and allowed. However, the board of directors, by resolution, may authorize the secretary of the board, when the board is not in session, to issue payments for salaries pursuant to the terms of a written contract and to issue payments upon the receipt of

verification filed with the secretary for all other general fund and plant fund expenses within limits established by resolution of the board; expenses involving auxiliary, agency, and scholarship and loan accounts; and refunds to students for tuition and fees. The secretary shall either deliver in person or mail the payments to the payees. A payment shall be made payable only to the person performing the service or furnishing the supplies for which the payment is issued. Payments issued prior to audit and allowance by the board shall be allowed by the board at the first meeting held after the issuance and shall be entered in the minutes of the meeting.

[82 Acts, ch 1058, §1]

C83, §280A.42

87 Acts, ch 233, §479; 88 Acts, ch 1061, §1; 90 Acts, ch 1253, §45

C93, §260C.42

260C.43 Claims.

The board of directors of each merged area shall audit claims against the merged area to ensure proper and just payment of all claims. Each payment shall be made payable to the vendor entitled to receive the payment with appropriate justification to ensure that the payment is in accordance with generally accepted accounting principles and procedures and in accordance with the system prescribed under section 260C.5, subsection 9. The board may designate one or more members of the board or may employ a certified public accountant to perform and certify the audit to the board to comply with this section.

[82 Acts, ch 1059, §1]

C83, §280A.43

C93, §260C.43

260C.44 Apprenticeship programs.

1. Each community college is authorized to establish or contract for the establishment of apprenticeship programs for apprenticeable occupations. Any apprenticeship program established under this section shall comply with requirements established by the United States department of labor, office of apprenticeship. Participation in an apprenticeship program or apprenticeship agreement by an apprenticeship sponsor shall be on a voluntary basis.

2. For purposes of this section:

a. “*Apprentice*” means a person who is at least sixteen years of age, except where a higher minimum age is required by law, who is employed in an apprenticeable occupation, and is registered with the United States department of labor, office of apprenticeship.

b. “*Apprenticeable occupation*” means an occupation approved for apprenticeship by the United States department of labor, office of apprenticeship.

c. “*Apprenticeship program*” means a plan, registered with the United States office of apprenticeship which contains the terms and conditions for the qualification, recruitment, selection, employment, and training of apprentices, including the requirement for a written apprenticeship agreement.

d. “*Apprenticeship sponsor*” means a person operating an apprenticeship program or in whose name an apprenticeship program is being operated, registered, or approved.

90 Acts, ch 1253, §46

C91, §280A.44

C93, §260C.44

2010 Acts, ch 1069, §35; 2010 Acts, ch 1193, §47

Referred to in §15.343, 260F6B

260C.45 Quality instructional centers. Repealed by 2006 Acts, ch 1152, §56.

260C.46 Program and administrative sharing.

By September 1, 1990, the department shall establish guidelines and an approval process for program sharing agreements and for administrative sharing agreements entered into by two or more community colleges or by a community college and a higher education institution

under the control of the board of regents. Guidelines established shall be designed to increase student access to programs, enhance educational program offerings throughout the state, and enhance interinstitutional cooperation in program offerings.

90 Acts, ch 1253, §48

C91, §280A.46

C93, §260C.46

97 Acts, ch 23, §29

Referred to in §256.9, 260C.28

260C.47 Accreditation of community college programs.

1. The state board of education shall establish an accreditation process for community college programs. The process shall be jointly developed and agreed upon by the department of education and the community colleges. The state accreditation process shall be integrated with the accreditation process of the higher learning commission, including the evaluation cycle, the self-study process, and the criteria for evaluation, which shall incorporate the standards for community colleges developed under section 260C.48; and shall identify and make provision for the needs of the state that are not met by the commission's accreditation process. The department of education shall use a two-component process for the continued accreditation of community college programs.

a. The first component consists of submission of required data by the community colleges and annual monitoring by the department of education of all community colleges for compliance with state program evaluation requirements adopted by the state board.

b. The second component consists of the use of an accreditation team appointed by the director of the department of education, to conduct an evaluation, including an on-site visit of each community college, with a comprehensive evaluation occurring once every ten years, and an interim evaluation midway between comprehensive evaluations. The number and composition of the accreditation team shall be determined by the director, but the team shall include members of the department of education staff and community college staff members from community colleges other than the community college that conducts the programs being evaluated for accreditation. The accreditation team shall monitor the quality faculty plan implemented by each community college pursuant to section 260C.36.

c. Rules adopted by the state board shall include provisions for coordination of the accreditation process under this section with activities of accreditation agencies, which are designed to avoid duplication in the accreditation process.

2. Prior to a visit to a community college, members of the accreditation team shall have access to the program audit report filed with the department for that community college. After a visit to a community college, the accreditation team shall determine whether the accreditation standards for a program have been met and shall make a report to the director and the state board, together with a recommendation as to whether the program of the community college should remain accredited. The accreditation team shall report strengths and weaknesses, if any, for each program standard and shall advise the community college of available resources and technical assistance to further enhance strengths and improve areas of weakness. A community college may respond to the accreditation team's report.

3. The state board shall determine whether a program of a community college shall remain accredited. If the state board determines that a program of a community college does not meet accreditation standards, the director of the department of education, in cooperation with the board of directors of the community college, shall establish a plan prescribing the procedures that must be taken to correct deficiencies in meeting the program standards, and shall establish a deadline date for correction of the deficiencies. The deadline for correction of deficiencies under a plan shall be no later than June 30 of the year following the on-site visit of the accreditation team. The plan is subject to approval of the state board. Plans shall include components which address meeting program deficiencies, sharing or merger options, discontinuance of specific programs or courses of study, and any other options proposed by the state board or the accreditation team to allow the college to meet the program standards.

4. During the time specified in the plan for its implementation, the community college program remains accredited. The accreditation team shall revisit the community college and

shall determine whether the deficiencies in the standards for the program have been corrected and shall make a report and recommendation to the director and the state board. The state board shall review the report and recommendation, may request additional information, and shall determine whether the deficiencies in the program have been corrected.

5. If the deficiencies have not been corrected in a program of a community college, the community college board shall take one of the following actions within sixty days from removal of accreditation:

a. Merge the deficient program or programs with a program or programs from another accredited community college.

b. Contract with another educational institution for purposes of program delivery at the community college.

c. Discontinue the program or programs which have been identified as deficient.

6. The director of the department of education shall give a community college which has a program which fails to meet accreditation standards at least one year's notice prior to removal of accreditation of the program. The notice shall be given by certified mail or restricted certified mail addressed to the superintendent of the community college and shall specify the reasons for removal of accreditation of the program. The notice shall also be sent by ordinary mail to each member of the board of directors of the community college. Any good faith error or failure to comply with the notice requirements shall not affect the validity of any action by the director. If, during the year, the community college remedies the reasons for removal of accreditation of the program and satisfies the director that the community college will comply with the accreditation standards for that program in the future, the director shall continue the accreditation of the program of the community college and shall transmit notice of the action to the community college by certified mail or restricted certified mail.

7. The action of the director to remove a community college's accreditation of the program may be appealed to the state board. At the hearing, the community college may be represented by counsel and may present evidence. The state board may provide for the hearing to be recorded or reported. If requested by the community college at least ten days before the hearing, the state board shall provide for the hearing to be recorded or reported at the expense of the community college, using any reasonable method specified by the community college. Within ten days after the hearing, the state board shall render a written decision, and shall affirm, modify, or vacate the action or proposed action to remove the college's accreditation of the program. Action by the state board is final agency action for purposes of chapter 17A.

90 Acts, ch 1253, §49; 90 Acts, ch 1254, §2

C91, §280A.47

92 Acts, ch 1040, §1

C93, §260C.47

93 Acts, ch 82, §5, 6, 11; 96 Acts, ch 1215, §34; 99 Acts, ch 114, §15; 2002 Acts, ch 1047, §6, 7, 20; 2010 Acts, ch 1069, §36; 2014 Acts, ch 1013, §13, 14; 2017 Acts, ch 29, §78, 79

260C.48 Standards for accrediting community college programs.

1. The state board shall develop standards and rules for the accreditation of community college programs. Except as provided in this subsection and subsection 4, standards developed shall be general in nature so as to apply to more than one specific program of instruction. With regard to community college-employed instructors, the standards adopted shall at a minimum require that community college instructors who are under contract for at least half-time or more, and by July 1, 2011, all instructors, meet the following requirements:

a. (1) Instructors in the subject area of career and technical education shall be registered, certified, or licensed in the occupational area in which the state requires registration, certification, or licensure, and shall hold the appropriate registration, certificate, or license for the occupational area in which the instructor is teaching, and shall meet at least one of the following qualifications:

(a) Possess a baccalaureate or graduate degree in the area or a related area of study or occupational area in which the instructor teaches classes, or possesses a baccalaureate degree

in any area of study if at least eighteen of the credit hours completed were in the career and technical field of instruction in which the instructor teaches classes.

(b) Possess an associate degree in the career and technical education field of instruction in which the instructor is teaching, if such degree is considered terminal for that field of instruction, and have at least three thousand hours of recent and relevant work experience in the occupational area or related occupational area in which the instructor teaches classes.

(c) Have special training and at least six thousand hours of recent and relevant work experience in the occupational area or related occupational area in which the instructor teaches classes if the instructor possesses less than a baccalaureate degree in the area or related area of study or occupational area in which the instructor is teaching classes and the instructor does not meet the requirements of subparagraph (2).

(2) For purposes of subparagraph (1), subparagraph divisions (b) and (c), if the instructor is a licensed practitioner who holds a career and technical endorsement under chapter 272, relevant work experience in the occupational area includes but is not limited to classroom instruction in a career and technical education subject area offered by a school district or accredited nonpublic school.

b. Instructors in the subject area of arts and sciences shall meet either of the following qualifications:

(1) Possess a master's degree from a regionally accredited graduate school, and has successfully completed a minimum of twelve credit hours of graduate level courses in each field of instruction in which the instructor is teaching classes.

(2) Have two or more years of successful experience in a professional field or area in which the instructor is teaching classes and in which postbaccalaureate recognition or professional licensure is necessary for practice, including but not limited to the fields or areas of accounting, engineering, law, law enforcement, and medicine.

2. Standards developed shall include a provision that the full-time teaching load for an instructor in arts and sciences courses shall be fifteen credit hours per semester, or the equivalent, and the maximum academic workload shall be sixteen credit hours per semester, or the equivalent. An instructor may also have an additional teaching assignment if the instructor and the community college administration mutually consent to the additional assignment and the total teaching load does not exceed twenty-two hours of credit per semester, or the equivalent.

3. Standards developed shall include provisions requiring equal access in recruitment, enrollment, and placement activities for students with special education needs. The provisions shall include a requirement that students with special education needs shall receive instruction in the least restrictive environment with access to the full range of program offerings at a college, through, but not limited to, adaptation of curriculum, instruction, equipment, facilities, career guidance, and counseling services.

4. Standards relating to quality assurance of faculty and ongoing quality professional development shall be the accreditation standards of the higher learning commission and the faculty standards required under specific programs offered by the community college that are accredited by other accrediting agencies.

90 Acts, ch 1253, §50; 90 Acts, ch 1254, §3

C91, §280A.48

C93, §260C.48

93 Acts, ch 82, §7, 8; 2002 Acts, ch 1047, §8, 9, 20; 2007 Acts, ch 214, §23; 2008 Acts, ch 1181, §29, 30; 2011 Acts, ch 20, §9; 2014 Acts, ch 1013, §15; 2015 Acts, ch 29, §39; 2015 Acts, ch 48, §1; 2020 Acts, ch 1031, §1; 2020 Acts, ch 1121, §64, 70

Referred to in §260C.47

Subsection 1, paragraph a amended

260C.49 Rules.

The department of education shall adopt rules and definitions of terms necessary for the administration of this chapter. The school budget review committee shall adopt rules under chapter 17A to carry out section 260C.18B.

96 Acts, ch 1215, §35

260C.50 Adult education and literacy programs.

1. For purposes of this section, “*adult education and literacy programs*” means adult basic education, adult education leading to a high school equivalency diploma under chapter 259A, English as a second language instruction, workplace and family literacy instruction, or integrated basic education and technical skills instruction.

2. The department and the community colleges shall jointly implement adult education and literacy programs to assist adults and youths sixteen years of age and older who are not in school in obtaining the knowledge and skills necessary for further education, work, and community involvement.

3. The state board, in consultation with the community colleges, shall prescribe standards for adult education and literacy programs including but not limited to contextualized and integrated instruction, assessments, instructor qualification and professional development, data collection and reporting, and performance benchmarks.

4. The state board, in consultation with the community colleges, shall adopt rules pursuant to chapter 17A to administer this section.

2013 Acts, ch 141, §40

260C.51 through 260C.55 Reserved.

SUBCHAPTER III

RESIDENCE HALLS AND DORMITORIES — FINANCING

260C.56 Definitions.

As used in this subchapter:

1. “*Board*” means a board of directors of a community college.

2. “*Bonds or notes*” means revenue bonds or revenue notes which are payable solely from net rents, profits, and other income derived from the operation of residence halls, dormitories, incidental facilities, and additions.

3. “*Institution*” means a community college organized under this chapter.

4. “*Project*” means the acquisition by purchase, lease in accordance with section 260C.38, or construction of buildings for use as student residence halls and dormitories, including dining and other incidental facilities therefor, and additions to such buildings, the reconstruction, completion, equipment, improvement, repair or remodeling of residence halls, dormitories, or additions or incidental facilities, and the acquisition of property of every kind and description, whether real, personal, or mixed, by gift, purchase, lease, condemnation, or otherwise and the improvement of the property.

90 Acts, ch 1253, §58; 90 Acts, ch 1254, §4

C91, §280A.56

91 Acts, ch 267, §243, 244

C93, §260C.56

2014 Acts, ch 1026, §143

Referred to in §260C.34, 260C.69

260C.57 Authorization — contracts — title.

Subject to and in accordance with the provisions of this subchapter, the board of directors of each community college is hereby authorized to undertake and carry out any project at a community college under the board’s control and to operate, control, maintain, and manage student residence halls and dormitories, including dining and other incidental facilities, and additions to such buildings at each of said institutions. All contracts for the construction, reconstruction, completion, equipment, improvement, repair or remodeling of any buildings, additions or facilities shall be let in accordance with the provisions of section 260C.19. The title to all real estate acquired under the provisions of this subchapter and the improvements erected on the real estate shall be taken and held in the name of the merged area. The board is authorized to rent the rooms in such residence halls and dormitories to the students,

officers, guests and employees of the institutions at such rates, fees or rentals as will provide a reasonable return upon the investment, but which will in any event produce net rents, profits and income sufficient to insure the payment of the principal of and interest on all bonds or notes issued to pay any part of the cost of any project and refunding bonds or notes issued pursuant to the provisions of this subchapter and to insure that no property tax revenues will be needed to retire the bonds or notes.

90 Acts, ch 1253, §59

C91, §280A.57

C93, §260C.57

94 Acts, ch 1023, §94; 2014 Acts, ch 1026, §143

260C.58 Bonds or notes.

1. To pay all or any part of the cost of carrying out any project at any institution the board is authorized to borrow money and to issue and sell negotiable bonds or notes and to refund and refinance bonds or notes issued for any project or for refunding purposes at a lower rate, the same rate, or a higher rate or rates of interest and from time to time as often as the board shall find it to be advisable and necessary so to do. Bonds or notes issued by the board for residence hall or dormitory purposes at any institution, including dining or other facilities and additions, or issued for refunding purposes, may either be sold in the manner specified for the selling of certificates under section 260E.6 and the proceeds applied to the payment of the obligations being refunded, or the refunding bonds or notes may be exchanged for and in payment and discharge of the obligations being refunded. A finding by the board in the resolution authorizing the issuance of the refunding bonds or notes, that the bonds or notes being refunded were issued for a purpose specified in this subchapter and constitute binding obligations of the board, shall be conclusive and may be relied upon by any holder of any refunding bond or note issued under the provisions of this subchapter. The refunding bonds or notes may be sold or exchanged in installments at different times or an entire issue or series may be sold or exchanged at one time. Any issue or series of refunding bonds or notes may be exchanged in part or sold in parts in installments at different times or at one time. The refunding bonds or notes may be sold or exchanged at any time on, before, or after the maturity of any of the outstanding notes, bonds, or other obligations to be refinanced thereby and may be issued for the purpose of refunding a like or greater principal amount of bonds or notes, except that the principal amount of the refunding bonds or notes may exceed the principal amount of the bonds or notes to be refunded to the extent necessary to pay any premium due on the call of the bonds or notes to be refunded, to fund interest in arrears or about to become due, or to allow for sufficient funding of the escrow account on the bonds to be refunded.

2. *a.* All bonds or notes issued under the provisions of this subchapter shall be payable from and shall be secured by an irrevocable first lien pledge of a sufficient portion of any of the following:

(1) The net rents, profits, and income derived from the operation of residence halls, dormitories, dining or other incidental facilities and additions, including necessary real and personal property, acquired or improved in whole or in part with the proceeds of such bonds or notes, regardless of the manner of such acquisition or improvement.

(2) The net rents, profits, and income not pledged for other purposes derived from the operation of any other residence halls or dormitories, including dining or other incidental facilities and additions, at the particular institution.

b. In addition, the board may secure any bonds or notes issued by borrowing money, by mortgaging any real estate or improvements erected on real estate, or by pledging rents, profits, and income received from property for the discharge of mortgages. All bonds or notes issued under the provisions of this subchapter shall have all the qualities of negotiable instruments under the laws of this state.

90 Acts, ch 1253, §60

C91, §280A.58

91 Acts, ch 267, §245

C93, §260C.58
2014 Acts, ch 1026, §66; 2015 Acts, ch 30, §90

260C.59 Rates and terms of bonds or notes.

The bonds or notes may bear a date or dates, may bear interest at such rate or rates, may mature at such time or times, may be in such form, carry such registration privileges, may be payable at such place or places, may be subject to such terms of redemption prior to maturity with or without premium, if so stated on the face of the bonds, and may contain any terms and covenants as may be provided by the resolution of the board authorizing the issuance of the bonds or notes. In addition to the estimated cost of construction, the cost of the project shall be deemed to include interest upon the bonds or notes during construction and for six months after the estimated completion date, the compensation of a fiscal agent or adviser, any underwriter discount, and engineering, administrative and legal expenses. The bonds or notes shall be executed by the president of the board of directors and attested by the secretary. Any bonds or notes bearing the signatures of officers in office on the date of the signing shall be valid and binding for all purposes, notwithstanding that before delivery of the bonds or notes any or all persons whose signatures appear on the bonds or notes shall have ceased to be officers. Each bond or note shall state upon its face the name of the institution on behalf of which it is issued, that it is payable solely and only from the net rents, profits and income derived from the operation of residence halls or dormitories, including dining and other incidental facilities, at the institution named, and that it does not constitute a charge against the state of Iowa within the meaning or application of any constitutional or statutory limitation or provision. The issuance of bonds or notes shall be recorded in the office of the treasurer of the institution on behalf of which the bonds or notes are issued, and a certificate by such treasurer to this effect shall be printed on the back of each such bond or note.

90 Acts, ch 1253, §61
C91, §280A.59
91 Acts, ch 267, §246
C93, §260C.59
94 Acts, ch 1023, §95

260C.60 Issuance resolution.

Upon the determination by the board to undertake and carry out any project or to refund outstanding bonds or notes, the board shall adopt a resolution generally describing the contemplated project and setting forth the estimated cost, or describing the obligations to be refunded, fixing the amount of bonds or notes to be issued, the maturity or maturities, the interest rate or rates and all details of the project. The resolution shall contain any covenants as may be determined by the board as to the issuance of additional bonds or notes that may be issued payable from the net rents, profits and income of the residence halls or dormitories, the amendment or modification of the resolution authorizing the issuance of any bonds or notes, the manner, terms and conditions and the amount or percentage of assenting bonds or notes necessary to effectuate the amendment or modification, and any other covenants as may be deemed necessary or desirable. In the discretion of the board any bonds or notes issued under the terms of this subchapter may be secured by a trust indenture by and between the board and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the boundaries of the state of Iowa. The provisions of this subchapter and of any resolution or other proceedings authorizing the issuance of bonds or notes and providing for the establishment and maintenance of adequate rates, fees or rentals and the application of the proceeds thereof shall constitute a contract with the holders of the bonds or notes.

90 Acts, ch 1253, §62
C91, §280A.60
91 Acts, ch 267, §247
C93, §260C.60

260C.61 Rates, fees, and rentals — pledge.

If bonds or notes are issued by a board, the board shall establish, impose, and collect rates, fees or rentals for the use of and services provided by the residence halls and dormitories, including dining and other incidental facilities therefor, at the institution on behalf of which the bonds or notes are issued, shall adjust the rates, fees, or rentals from time to time, in order to always provide net amounts sufficient to pay the principal of and interest on the bonds or notes as they become due, and shall maintain a reserve. The board may pledge a sufficient amount of the net rents, profits and income derived from the operation of residence halls and dormitories, including dining and other facilities, at the institution for this purpose. Rates, fees, or rentals collected at one institution shall not be used to discharge bonds or notes issued for or on account of another institution. All bonds or notes issued under the terms of this subchapter shall be exempt from taxation by the state of Iowa and the interest on the bonds or notes is exempt from the state income tax.

90 Acts, ch 1253, §63

C91, §280A.61

C93, §260C.61

2014 Acts, ch 1026, §143

Referred to in §422.7(2)(k)

260C.62 Accounts.

1. A certified copy of each resolution providing for the issuance of bonds or notes under this subchapter shall be filed with the treasurer of the institution on behalf of which the bonds or notes are issued and the treasurer shall keep and maintain separate accounts for each issue of bonds or notes in accordance with the covenants and directions set out in the resolution providing for the issuance of the bonds or notes. All rates, fees, or rentals collected for the use of and services provided by the residence halls and dormitories, including dining and other incidental facilities, at each institution shall be held in trust by the treasurer, separate and apart from all other funds, to be used only for the purposes specified in this subchapter and as may be required and provided for by the proceedings of the board authorizing the issuance of bonds or notes. The treasurer of each institution shall disburse funds from the proper account for the payment of the principal of and interest on the bonds or notes in accordance with the directions and covenants of the resolution authorizing the issuance of the bonds or notes.

2. If the amount of bonds or notes issued under this chapter exceeds the actual costs of the projects for which the bonds or notes were issued, the amount of the difference shall be used to pay the principal and interest due on bonds or notes issued under this chapter.

90 Acts, ch 1253, §64

C91, §280A.62

C93, §260C.62

2014 Acts, ch 1026, §67

260C.63 No obligation against state.

Under no circumstances shall any bonds or notes issued under the terms of this subchapter be or become or be construed to constitute a charge against the state of Iowa within the purview of any constitutional or statutory limitation or provision. Taxes, appropriations, or other funds of the state of Iowa shall not be pledged for or used to pay for the bonds or notes or for the interest on the bonds or notes. Any principal and interest on bonds or notes issued under this subchapter shall be payable only from the net rents, profits, and income derived from the operation of residence halls and dormitories, including dining and other incidental facilities, at the institutions of higher learning under the control of the board, and the sole remedy for any breach or default of the terms of any bonds or notes or proceedings for their issuance shall be a proceeding either in law or in equity by suit, action, or mandamus to enforce and compel performance of the duties required by this subchapter and the terms of the resolution under which the bonds or notes are issued.

90 Acts, ch 1253, §65

C91, §280A.63

C93, §260C.63
2014 Acts, ch 1026, §143

260C.64 Who may invest.

All banks, trust companies, building and loan associations, savings associations, investment companies, and other persons carrying on an investment business, all insurance companies, insurance associations, and other persons carrying on an insurance business, and all executors, administrators, guardians, trustees, and other fiduciaries may legally invest any sinking funds, moneys or other funds belonging to them or within their control in any bonds or notes issued pursuant to this subchapter. However, this section shall not be construed as relieving any persons from any duty of exercising reasonable care in selecting securities for purchase or investment.

90 Acts, ch 1253, §66
C91, §280A.64
C93, §260C.64
2012 Acts, ch 1017, §64; 2014 Acts, ch 1026, §143

260C.65 Federal or other aid accepted.

The board of directors of each community college may apply for and accept federal aid or nonfederal gifts or grants of funds, and may use the aid, gifts, or funds to pay all or any part of the cost of carrying out any project at any institution under the terms of this subchapter or to pay any bonds and interest on the bonds issued for any of the purposes specified in this subchapter.

90 Acts, ch 1253, §67
C91, §280A.65
C93, §260C.65
94 Acts, ch 1023, §96; 2014 Acts, ch 1026, §143

260C.66 Reports to general assembly.

1. The board of directors of each community college shall determine, in consultation with the legislative services agency, the financial information to be included in line item budget information for projects funded by the issuance of bonds or notes under this chapter and shall submit the line item budget information to the general assembly as requested. The board of directors of each community college shall submit quarterly reports to the general assembly concerning the projects funded by the issuance of bonds or notes under this chapter as follows:

- a. Identification of both undercharges and overcharges for line items of projects.
 - b. Identification of contracts in which any line item for a project exceeds the adopted budget for that line item by ten percent or more.
 - c. Identification of complaints received by an institution regarding the construction of a project.
2. If the board of directors of a community college approves a change in the amount of the line item of a budget for a project, the change shall be transmitted to the appropriations committees of the house of representatives and senate, while the general assembly is in session, and to the legislative council, when the general assembly is not in session, for review.

90 Acts, ch 1253, §68
C91, §280A.66
C93, §260C.66
94 Acts, ch 1023, §97; 2003 Acts, ch 35, §45, 49; 2010 Acts, ch 1061, §180

260C.67 Alternative method.

This subchapter shall be construed as providing an alternative and independent method for carrying out any project at any institution under the control of a community college board of directors, for the issuance and sale or exchange of bonds or notes in connection with a project and for refunding bonds or notes pertinent to the project, without reference to any

other statute, and shall not be construed as an amendment of or subject to the provisions of any other law, and no publication of any notice, whether under section 73A.12 or otherwise, and no other or further proceeding in respect to the issuance or sale or exchange of bonds or notes under this subchapter, shall be required except as prescribed by this subchapter, any provisions of other statutes of the state to the contrary notwithstanding.

90 Acts, ch 1253, §69

C91, §280A.67

C93, §260C.67

94 Acts, ch 1023, §98; 2014 Acts, ch 1026, §143

260C.68 Prior action legalized.

All rights previously acquired in connection with the financing of any project at any institution are preserved and all acts and proceedings taken by the board preliminary to and in connection with the authorization and issuance of any previously issued and outstanding notes or other obligations for any project are hereby legalized, validated, and confirmed and the notes or obligations are hereby declared to be legal and to constitute valid and binding obligations of the board according to their terms and payable solely and only from the sources referred to in the notes or obligations.

90 Acts, ch 1253, §70

C91, §280A.68

C93, §260C.68

260C.69 Dormitory space priority.

1. Each community college which completes a project, as defined under section 260C.56, subsection 4, shall set aside a percentage of available dormitory space for the purposes of meeting the needs of the following:

a. Students, with families, who are participating in specialized or intensive programs.

b. Students who are participating in specialized or intensive programs.

c. Child care arrangements for students, faculty, or staff.

d. Students whose residence is located too far from the community college to permit commuting to and from school, as determined by the board of directors of the merged area.

e. Students whose disabilities require special housing adaptations.

2. Once all priorities have been met, students shall be allotted rooms on a first come, first served basis.

90 Acts, ch 1253, §71

C91, §280A.69

C93, §260C.69

99 Acts, ch 192, §33; 2010 Acts, ch 1061, §180; 2011 Acts, ch 34, §67

260C.70 Ten-year program and two-year bonding estimate submitted each year. Repealed by 2002 Acts, ch 1140, §44.

SUBCHAPTER IV

FINANCING THROUGH IOWA FINANCE AUTHORITY

260C.71 Community college bond program — definitions — funding — bonds and notes.

1. As used in this section and section 260C.72, unless the context otherwise requires:

a. “*Authority*” means the Iowa finance authority.

b. “*Bonds*” means revenue bonds which are payable solely as provided in this section and section 260C.72.

2. The authority shall cooperate with the state board, individual community colleges, and private developers, acting in conjunction with a community college to build housing facilities in connection with the community college, in the creation, administration, and funding of a

community college dormitory bond program to finance housing facilities, such as dormitories, in connection with a community college.

3. The authority may issue its bonds and notes for the purpose of funding the nonrecurring cost of acquiring, constructing, and equipping a community college related facility, such as a dormitory.

4. The authority may issue its bonds and notes for the purposes of this chapter and may enter into one or more lending agreements or purchase agreements with one or more bondholders or noteholders containing the terms and conditions of the repayment of and the security for the bonds or notes. The authority and the bondholders or noteholders or a trustee agent designated by the authority may enter into agreements to provide for any of the following:

a. That the proceeds of the bonds and notes and the investments of the proceeds may be received, held, and disbursed by the authority or by a trustee or agent designated by the authority.

b. That the bondholders or noteholders or a trustee or agent designated by the authority may collect, invest, and apply the amount payable under the loan agreements or any other instruments securing the debt obligations under the loan agreements.

c. That the bondholders or noteholders may enforce the remedies provided in the loan agreements or other instruments on their own behalf without the appointment or designation of a trustee. If there is a default in the principal of or interest on the bonds or notes or in the performance of any agreement contained in the loan agreements or other instruments, the payment or performance may be enforced in accordance with the loan agreement or other instrument.

d. Other terms and conditions as deemed necessary or appropriate by the authority.

5. The powers granted the authority under this section are in addition to other powers contained in chapter 16. All other provisions of chapter 16, except section 16.28, subsection 4, apply to bonds or notes issued and powers granted to the authority under this section, except to the extent they are inconsistent with this section.

6. All bonds or notes issued by the authority in connection with the program are exempt from taxation by this state and the interest on the bonds or notes is exempt from state income tax, both personal and corporate.

90 Acts, ch 1253, §76; 90 Acts, ch 1254, §6

C91, §280A.71

C93, §260C.71

2011 Acts, ch 20, §10

Referred to in §16.162, 260C.72, 260C.73, 422.7(2)(l)

260C.72 Security — reserve funds — pledges — nonliability.

1. a. The authority may provide in the resolution, trust agreement, or other instrument authorizing the issuance of its bonds or notes pursuant to section 260C.71 that the principal of, premium, and interest on the bonds or notes are payable from any of the following and may pledge the same to its bonds and notes:

(1) From the net rents, profits, and income arising from the project or property pledged or mortgaged.

(2) From the net rents, profits, and income which has not been pledged for other purposes arising from any similar housing facility under the control and management of the community college or state board.

(3) From the fees or charges established by the community college or state board for students attending the institution who are living in the housing facility for which the obligation was incurred.

(4) From the income derived from gifts and bequests made to the institutions under the control of the community college or state board for such purposes.

(5) From the amounts on deposit in the name of a community college or a private developer or operator of a community college facility, including but not limited to revenues from a purchase, rental, or lease agreement, loan agreement, or dormitory charges.

(6) From the amounts payable to the authority, the community college board of directors,

the state board, or a private developer or operator, pursuant to a loan agreement, lease agreement, or sale agreement.

(7) From the other funds or accounts established by the authority in connection with the program or the sale and issuance of its bonds or notes.

b. No obligation created hereunder shall ever be or become a charge against the state of Iowa but all such obligations, including principal and interest, shall be payable solely as provided in this section and section 260C.71.

2. The authority may establish reserve funds to secure one or more issues of its bonds or notes. The authority may deposit in a reserve fund established under this subsection, the proceeds of the sale of its bonds or notes and other money which is made available from any other source.

3. A pledge made in respect of bonds or notes is valid and binding from the time the pledge is made. The money or property so pledged and received after the pledge by the authority is immediately subject to the lien of the pledge without physical delivery or further act. The lien of the pledge is valid and binding as against all persons having claims of any kind in tort, contract, or otherwise against the authority whether or not the parties have notice of the lien. Neither the resolution, trust agreement, or any other instrument by which a pledge is created needs to be recorded, filed, or perfected under chapter 554, to be valid, binding, or effective against all persons.

4. The members of the authority or persons executing the bonds or notes are not personally liable on the bonds or notes and are not subject to personal liability or accountability by reason of the issuance of the bonds or notes.

5. The bonds or notes issued by the authority are not an indebtedness or other liability of the state or of a political subdivision of the state within the meaning of any constitutional or statutory debt limitations, but are special obligations of the authority and are payable solely from the income and receipts or other funds or property of the community college or private developer, and the amounts on deposit in a community college bond fund, and the amounts payable to the authority under its loan agreements with a community college or private developer to the extent that the amounts are designated in the resolution, trust agreement, or other instrument of the authority authorizing the issuance of the bonds or notes as being available as security for the bonds or notes. The authority shall not pledge the faith or credit of the state or of a political subdivision of the state to the payment of any bonds or notes. The issuance of any bonds or notes by the authority does not directly, indirectly, or contingently obligate the state or a political subdivision of the state to apply money from, or levy, or pledge any form of taxation whatever to the payment of the bonds or notes.

90 Acts, ch 1253, §77; 90 Acts, ch 1254, §7, 8

C91, §280A.72

C93, §260C.72

2010 Acts, ch 1061, §180; 2011 Acts, ch 20, §11

Referred to in §16.162, 260C.71, 260C.73

260C.73 Rules.

The authority shall adopt rules pursuant to chapter 17A to implement sections 260C.71 and 260C.72.

90 Acts, ch 1253, §78

C91, §280A.73

C93, §260C.73

CHAPTER 260D

RESERVED

CHAPTER 260E

INDUSTRIAL NEW JOBS TRAINING

Referred to in §7C.4A, 15.108, 15.251, 15A.7, 15A.8, 260F.2, 403.21, 422.11A, 422.16A, 422.33, 427B.19, 558.1, 558.41

Legislative intent that chapter 260F complement
this chapter; 85 Acts, ch 235, §9
New jobs tax credit; §422.11A, 422.33
Supplemental new jobs credit from withholding; see §15A.7

260E.1	Title.	260E.5	New jobs credit from withholding.
260E.2	Definitions.	260E.6	Certificates.
260E.3	Agreement.	260E.7	Program review by economic development authority.
260E.4	Incremental property taxes.		

260E.1 Title.

This chapter shall be known and may be cited as the “*Iowa Industrial New Jobs Training Act*”.

83 Acts, ch 171, §1, 8
CS83, §280B.1
C93, §260E.1

260E.2 Definitions.

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

1. “*Agreement*” is the agreement between an employer and a community college concerning a project.
2. “*Board of directors*” means the board of directors of a community college.
3. “*Certificate*” means industrial new jobs training certificates issued pursuant to section 260E.6.
4. “*Community college*” means a community college established under chapter 260C.
5. “*Date of commencement of the project*” means the date of the agreement.
6. “*Employee*” means the person employed in a new job. “*Employee*” does not include a person not subject to the withholding of Iowa income pursuant to a reciprocal agreement under section 422.8, subsection 5.
7. “*Employer*” means the person providing new jobs in the merged area served by the community college and entering into an agreement.
8. “*Incremental property taxes*” means the taxes as provided in sections 403.19 and 260E.4.
9. “*Industry*” means a business engaged in interstate or intrastate commerce for the purpose of manufacturing, processing, or assembling products, conducting research and development, or providing services in interstate commerce, but excludes retail, health, or professional services. “*Industry*” does not include a business which closes or substantially reduces its operation in one area of the state of Iowa and relocates substantially the same operation in another area of the state of Iowa. This subsection does not prohibit a business from expanding its operations in another area of the state provided that existing operations of a similar nature are not closed or substantially reduced.
10. “*New job*” means a job in a new or expanding industry but does not include jobs of recalled workers, or replacement jobs or other jobs that formerly existed in the industry in the state of Iowa.
11. “*New jobs credit from withholding*” means the credit as provided in section 260E.5.
12. “*New jobs training program*” or “*program*” means the project or projects established by a community college for the creation of jobs by providing education and training of workers for new jobs for new or expanding industry in the merged area served by the community college.
13. “*Program costs*” means all necessary and incidental costs of providing program services.
14. “*Program services*” includes but is not limited to the following:
 - a. New jobs training.

- b. Adult basic education and job-related instruction.
 - c. Career and technical skill-assessment services and testing.
 - d. Training facilities, equipment, materials, and supplies.
 - e. On-the-job training.
 - f. Administrative expenses for the new jobs training program.
 - g. Subcontracted services with institutions governed by the board of regents, private colleges or universities, or other federal, state, or local agencies.
 - h. Contracted or professional services.
 - i. Issuance of certificates.
15. “*Project*” means a training arrangement which is the subject of an agreement entered into between the community college and an employer to provide program services.

83 Acts, ch 171, §2, 8

CS83, §280B.2

85 Acts, ch 240, §2; 90 Acts, ch 1253, §73

C93, §260E.2

2012 Acts, ch 1018, §10; 2016 Acts, ch 1108, §56

Referred to in §422.11A, 422.33

260E.3 Agreement.

1. A community college may enter into an agreement to establish a project. If an agreement is entered into, the community college and the employer shall notify the department of revenue as soon as possible. An agreement shall provide for program costs, including deferred costs, which may be paid from one or a combination of the following sources:

- a. Incremental property taxes to be received or derived from an employer’s business property where new jobs are created as a result of the project.
 - b. New jobs credit from withholding to be received or derived from new employment resulting from the project.
 - c. Tuition, student fees, or special charges fixed by the board of directors to defray program costs in whole or in part.
 - d. Guarantee of payments to be received under paragraph “a”, “b”, or “c”.
2. Payment of program costs shall not be deferred for a period longer than ten years from the date of commencement of the project.

3. Costs of on-the-job training for employees shall not exceed fifty percent of the annual gross payroll costs for up to one year of the new jobs. For purposes of this subsection, “*gross payroll*” can be the gross wages, salaries, and benefits for the jobs in training in the project.

4. An agreement shall include a provision which fixes the minimum amount of incremental property taxes, new jobs credit from withholding, or tuition and fee payments which shall be paid for program costs.

5. Any payments required to be made by an employer are a lien upon the employer’s business property until paid and have equal precedence with ordinary taxes and shall not be divested by a judicial sale. Property subject to the lien may be sold for sums due and delinquent at a tax sale, with the same forfeitures, penalties, and consequences as for the nonpayment of ordinary taxes. The purchaser at tax sale obtains the property subject to the remaining payments.

83 Acts, ch 171, §3, 8

CS83, §280B.3

90 Acts, ch 1253, §74

C93, §260E.3

94 Acts, ch 1182, §1, 2; 95 Acts, ch 195, §11, 44; 95 Acts, ch 201, §1, 3; 2003 Acts, ch 145, §286

Referred to in §15A.7, 403.21

260E.4 Incremental property taxes.

If an agreement provides that all or part of program costs are to be paid for by incremental property taxes, the board of directors shall provide by resolution that taxes levied on the

employer's taxable business property, where new jobs are created as a result of a project, each year by or for the benefit of the state, city, county, school district, or other taxing district after the effective date of the resolution shall be divided as provided in section 403.19, subsections 1 and 2, in the same manner as if the employer's business property, where new jobs are created as a result of a project, was taxable property in an urban renewal project and the resolution was an ordinance within the meaning of those subsections. The taxes received by the board of directors shall be allocated to and when collected be paid into a special fund of the community college and may be irrevocably pledged by the community college to pay the principal of and interest on the certificates issued by the community college to finance or refinance, in whole or in part, the project. However, with respect to any urban renewal project as to which an ordinance is in effect under section 403.19, the collection of incremental property taxes authorized by this chapter are suspended in favor of collection of incremental taxes under section 403.19. As used in this section, "taxes" includes, but is not limited to, all levies on an ad valorem basis upon land or real property of the employer's business, where new jobs are created as a result of a project.

83 Acts, ch 171, §4, 8

CS83, §280B.4

90 Acts, ch 1253, §79

C93, §260E.4

Referred to in §260E.2, 403.19, 427B.17

260E.5 New jobs credit from withholding.

If an agreement provides that all or part of program costs are to be met by receipt of new jobs credit from withholding, it shall be done as follows:

1. New jobs credit from withholding shall be based upon the wages paid to the employees in the new jobs.

2. An amount equal to one and one-half percent of the gross wages paid by the employer to each employee participating in a project shall be credited from the payment made by an employer pursuant to section 422.16. If the amount of the withholding by the employer is less than one and one-half percent of the gross wages paid to the employees covered by the agreement, then the employer shall receive a credit against other withholding taxes due by the employer. The employer shall remit the amount of the credit quarterly in the same manner as withholding payments are reported to the department of revenue, to the community college to be allocated to and when collected paid into a special fund of the community college to pay the principal of and interest on certificates issued by the community college to finance or refinance, in whole or in part, the project. When the principal and interest on the certificates have been paid, the employer credits shall cease and any money received after the certificates have been paid shall be remitted to the treasurer of state to be deposited in the general fund of the state.

3. The new jobs credit from withholding and the special fund into which it is paid, may be irrevocably pledged by a community college for the payment of the principal of and interest on the certificate issued by a community college to finance or refinance, in whole or in part, the project.

4. The employer shall certify to the department of revenue that the credit in withholding is in accordance with an agreement and shall provide other information the department may require.

5. A community college shall certify to the department of revenue the amount of new jobs credit from withholding an employer has remitted to the special fund and shall provide other information the department may require.

6. An employee participating in a project will receive full credit for the amount withheld as provided in section 422.16.

83 Acts, ch 171, §5, 8

CS83, §280B.5

90 Acts, ch 1253, §80

C93, §260E.5

2003 Acts, ch 145, §286

Referred to in §15A.7, 260E.2, 403.19A

260E.6 Certificates.

To provide funds for the present payment of the costs of new jobs training programs, a community college may borrow money and issue and sell certificates payable from a sufficient portion of the future receipts of payments authorized by the agreement. The receipts shall be pledged to the payment of principal of and interest on the certificates.

1. Certificates may be sold at public sale or at private sale at par, premium, or discount at the discretion of the board of directors. Chapter 75 does not apply to the issuance of these certificates.

2. Certificates may be issued with respect to a single project or multiple projects and may contain terms or conditions as the board of directors may provide by resolution authorizing the issuance of the certificates.

3. Certificates issued to refund other certificates may be sold at public sale or at private sale as provided in this section with the proceeds from the sale to be used for the payment of the certificates being refunded. The refunding certificates may be exchanged in payment and discharge of the certificates being refunded, in installments at different times or an entire issue or series at one time. Refunding certificates may be sold or exchanged at any time on, before, or after the maturity of the outstanding certificates to be refunded, may be issued for the purpose of refunding a like, greater, or lesser principal amount of certificates and may bear a higher, lower, or equivalent rate of interest than the certificates being renewed or refunded.

4. To further secure the payment of the certificates, the board of directors shall, by resolution, provide for the assessment of an annual levy of a standby tax upon all taxable property within the merged area. A copy of the resolution shall be sent to the county auditor of each county in which the merged area is located. The revenues from the standby tax shall be deposited in a special fund and shall be expended only for the payment of principal of and interest on the certificates issued as provided in this section, when the receipt of payment for program costs as provided in the agreement is insufficient. If payments are necessary and made from the special fund, the amount of the payments shall be promptly repaid into the special fund from the first available payments received for program costs as provided in the agreement which are not required for the payment of principal of or interest on certificates due. No reserves may be built up in this fund in anticipation of a projected default. The board of directors shall adjust the annual standby tax levy for each year to reflect the amount of revenues in the special fund and the amount of principal and interest which is due in that year.

5. Before certificates are issued, the board of directors shall publish once a notice of its intention to issue the certificates, stating the amount, the purpose, and the project or projects for which the certificates are to be issued. A person may, within fifteen days after the publication of the notice by action in the district court of a county in the area within which the community college is located, appeal the decision of the board of directors in proposing to issue the certificates. The action of the board of directors in determining to issue the certificates is final and conclusive unless the district court finds that the board of directors has exceeded its legal authority. An action shall not be brought which questions the legality of the certificates, the power of the board of directors to issue the certificates, the effectiveness of any proceedings relating to the authorization of the project, or the authorization and issuance of the certificates from and after fifteen days from the publication of the notice of intention to issue.

6. The board of directors shall determine if revenues are sufficient to secure the faithful performance of obligations in the agreement.

83 Acts, ch 171, §6, 8

CS83, §280B.6

88 Acts, ch 1158, §58; 90 Acts, ch 1253, §81
 C93, §260E.6
 Referred to in §15A.7, 15A.8, 260C.58, 260E.2

260E.7 Program review by economic development authority.

1. The economic development authority, in consultation with the department of education, the department of revenue, and the department of workforce development, shall coordinate and review the new jobs training program. The economic development authority shall adopt, amend, and repeal rules under chapter 17A that the community college will use in developing projects with new and expanding industrial new jobs training proposals and that the economic development authority shall use to review and report on the new jobs training program as required in this section.

2. a. The authority, in consultation with the community colleges participating in the new jobs training program pursuant to this chapter, shall identify the information necessary to effectively coordinate and review the program, and the community colleges shall provide such information to the authority. Using the information provided, the authority, in consultation with the community colleges, shall issue a report on the effectiveness of the program.

b. In coordinating and reviewing the program, due regard shall be given to the confidentiality of certain information provided by the community colleges, and the authority shall comply with the provisions of section 15.118 to the extent that such provisions are applicable to the new jobs training program.

3. The authority is authorized to make any rule that is adopted, amended, or repealed effective immediately upon filing with the administrative rules coordinator or at a subsequent stated date prior to indexing and publication, or at a stated date less than thirty-five days after filing, indexing, and publication.

83 Acts, ch 171, §7, 8
 CS83, §280B.7
 90 Acts, ch 1253, §82
 C93, §260E.7
 2006 Acts, ch 1100, §5; 2011 Acts, ch 118, §88, 89

**CHAPTER 260F
 JOBS TRAINING**

Referred to in §7C.4A, 15.108, 15.342A, 15.343, 260C.18A, 427B.19, 558.41

Legislative intent that chapter complement chapter 260E;
 85 Acts, ch 235, §9

260F.1	Title.	260F.6B	High technology apprenticeship program.
260F.2	Definitions.	260F.7	Authority to coordinate.
260F.3	Agreement.	260F.8	Allocation.
260F.4	and 260F.5 Repealed by 96 Acts, ch 1180, §21.	260F.9	Job retention program. Repealed by 2003 Acts, 1st Ex, ch 2, §93.
260F.6	Job training fund.	260F.10	Reporting. Repealed by 2007 Acts, ch 126, §115.
260F.6A	Business network training.		

260F.1 Title.

This chapter shall be known and may be cited as the “Iowa Jobs Training Act”.
 85 Acts, ch 235, §1
 CS85, §280C.1
 C93, §260F.1
 96 Acts, ch 1180, §9

260F.2 Definitions.

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

1. “*Agreement*” is the agreement between a business and a community college concerning a project.
2. “*Authority*” means the economic development authority created in section 15.105.
3. “*Community college*” means a community college established under chapter 260C.
4. “*Date of commencement of the project*” means the date of the preliminary agreement or the date an application for assistance is received by the authority.
5. “*Eligible business*” or “*business*” means a business training employees which is engaged in interstate or intrastate commerce for the purpose of manufacturing, processing, or assembling products, conducting research and development, or providing services in interstate commerce, but excludes retail, health, or professional services and which meets the other criteria established by the authority. “*Eligible business*” does not include a business whose training costs can be economically funded under chapter 260E, a business which closes or substantially reduces its employment base in order to relocate substantially the same operation to another area of the state, or a business which is involved in a strike, lockout, or other labor dispute in Iowa.
6. “*Employee*” means a person currently employed by a business who is to be trained. However, “*employee*” does not include a person with executive responsibilities or replacement workers who are hired as a result of a strike, lockout, or other labor dispute in Iowa.
7. “*Jobs training program*” or “*program*” means the project or projects established by a community college for the training of employees.
8. “*Participating business*” means a business training employees which enters into an agreement with the community college.
9. “*Program costs*” means all necessary and incidental costs of providing program services.
10. “*Program services*” includes but is not limited to the following:
 - a. Training of employees.
 - b. Adult basic education and job-related instruction.
 - c. Career and technical skill-assessment services and testing.
 - d. Training facilities, equipment, materials, and supplies.
 - e. Administrative expenses for the jobs training program.
 - f. Subcontracted services with institutions governed by the state board of regents, private colleges or universities, or other federal, state, or local agencies.
 - g. Contracted or professional services.
11. “*Project*” means a training arrangement which is the subject of an agreement entered into between the community college and a business to provide program services. “*Project*” also means a training arrangement which is sponsored by the authority and administered under sections 260F.6A and 260F.6B.

85 Acts, ch 235, §2

CS85, §280C.2

90 Acts, ch 1253, §83; 92 Acts, ch 1042, §1, 2

C93, §260F.2

96 Acts, ch 1180, §10; 97 Acts, ch 201, §20; 2011 Acts, ch 118, §77, 78, 87, 89; 2012 Acts, ch 1018, §11; 2016 Acts, ch 1108, §57; 2018 Acts, ch 1041, §67

260F.3 Agreement.

A community college may enter into an agreement to establish a project. An agreement shall provide for, but is not limited to, the following:

1. Date of agreement.
2. Anticipated number of employees to be trained.
3. Estimated cost of training.
4. Anticipated dates of commencement and termination of training.
5. Other criteria established by the department.

85 Acts, ch 235, §3

CS85, §280C.3

90 Acts, ch 1253, §84; 92 Acts, ch 1042, §3, 4
 C93, §260F.3
 94 Acts, ch 1182, §3, 4; 96 Acts, ch 1180, §11; 96 Acts, ch 1186, §23

260F.4 and 260F.5 Repealed by 96 Acts, ch 1180, §21.

260F.6 Job training fund.

1. There is established for the community colleges a job training fund in the economic development authority in the workforce development fund. The job training fund consists of moneys appropriated for the purposes of this chapter plus the interest and principal from repayment of advances made to businesses for program costs, plus the repayments, including interest, of loans made from that retraining fund, and interest earned from moneys in the job training fund.

2. To provide funds for the present payment of the costs of a training program by the business, the community college may provide to the business an advance of the moneys to be used to pay for the program costs as provided in the agreement. To receive the funds for this advance from the job training fund established in subsection 1, the community college shall submit an application to the authority. The amount of the advance shall not exceed fifty thousand dollars for any business site, or one hundred thousand dollars within a three-fiscal-year period for any business site. If the project involves a consortium of businesses, the maximum award per project shall not exceed one hundred thousand dollars. Participation in a consortium does not affect a business site's eligibility for individual project assistance. Prior to approval a business shall agree to match program amounts in accordance with criteria established by the authority.

3. Notwithstanding the requirements of this section, moneys in the job training fund may be used by a community college to conduct entrepreneur development and support activities.

85 Acts, ch 235, §6

CS85, §280C.6

88 Acts, ch 1131, §1; 90 Acts, ch 1253, §86; 90 Acts, ch 1255, §16; 91 Acts, ch 2, §1, 2; 92 Acts, ch 1042, §7

C93, §260F.6

93 Acts, ch 180, §44; 95 Acts, ch 184, §8; 96 Acts, ch 1180, §12; 2001 Acts, ch 188, §24; 2011 Acts, ch 118, §85, 89; 2013 Acts, ch 141, §41; 2014 Acts, ch 1026, §68

Referred to in §15.342A, 15.343, 260F.6B

Workforce development fund, see §15.341 and 15.343

260F.6A Business network training.

The community colleges and the authority are authorized to fund business network training projects which include five or more businesses and are located in two or more community college districts. A business network training project must have a designated organization or lead business to serve as the administrative entity that will coordinate the training program. The businesses must have common training needs and develop a plan to meet those needs. The authority shall adopt rules governing this section's operation and participant eligibility.

96 Acts, ch 1180, §13; 2011 Acts, ch 118, §87, 89

Referred to in §260F.2

260F.6B High technology apprenticeship program.

The community colleges and the authority are authorized to fund high technology apprenticeship programs which comply with the requirements specified in section 260C.44 and which may include both new and statewide apprenticeship programs. Notwithstanding the provisions of section 260F.6, subsection 2, relating to maximum award amounts, moneys allocated to the community colleges with high technology apprenticeship programs shall be distributed to the community colleges based upon contact hours under the programs administered during the prior fiscal year as determined by the department of education. The authority shall adopt rules governing this section's operation and participant eligibility.

97 Acts, ch 201, §21; 2011 Acts, ch 118, §85, 89; 2014 Acts, ch 1026, §69

Referred to in §15.343, 260F.2

260F.7 Authority to coordinate.

The authority, in consultation with the department of education and the department of workforce development, shall coordinate the jobs training program. A project shall not be funded under this chapter unless the authority approves the project. The authority shall adopt rules pursuant to chapter 17A governing the program’s operation and eligibility for participation in the program. The authority shall establish by rule criteria for determining what constitutes an eligible business.

85 Acts, ch 235, §7

CS85, §280C.7

88 Acts, ch 1131, §2; 90 Acts, ch 1253, §87; 92 Acts, ch 1042, §8

C93, §260F.7

96 Acts, ch 1180, §14; 96 Acts, ch 1186, §23; 2011 Acts, ch 118, §85, 89; 2014 Acts, ch 1026, §70

260F.8 Allocation.

1. For each fiscal year, the authority shall make funds available to the community colleges. The authority shall allocate by formula from the moneys in the fund an amount for each community college to be used to provide the financial assistance for proposals of businesses whose applications have been approved by the authority. The financial assistance shall be provided by the authority from the amount set aside for that community college. If any portion of the moneys set aside for a community college have not been used or committed by May 1 of the fiscal year, that portion is available for use by the authority to provide financial assistance to businesses applying to other community colleges. The authority shall adopt by rule a formula for this set-aside.

2. Moneys available to the community colleges for this program may be used to provide forgivable loans to train employees.

92 Acts, ch 1042, §9; 93 Acts, ch 180, §45; 96 Acts, ch 1180, §15; 97 Acts, ch 23, §30; 2011 Acts, ch 118, §87, 89

260F.9 Job retention program. Repealed by 2003 Acts, 1st Ex, ch 2, §93.

260F.10 Reporting. Repealed by 2007 Acts, ch 126, §115.

CHAPTER 260G

ACCELERATED CAREER EDUCATION PROGRAM

Referred to in §260C.18A

260G.1	Title.	260G.5	Customer tracking system.
260G.2	Definitions.	260G.6	Fund established — allocation of moneys.
260G.3	Program agreements.		
260G.4	Program eligibility and designation.	260G.7	Future program discontinuance. Repealed by 2014 Acts, ch 1092, §152.
260G.4A	Program job credits from withholding.		
260G.4B	Maximum statewide program job credit.	260G.8	and 260G.9 Reserved.
260G.4C	Facilitator.	260G.10	Reporting. Repealed by 2007 Acts, ch 126, §115.

260G.1 Title.

This chapter shall be known and may be cited as the “*Accelerated Career Education Program Act*”.

99 Acts, ch 179, §1, 12

260G.2 Definitions.

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

1. “*Accelerated career education program*” means a program established pursuant to section 260G.3.

2. “*Agreement*” means a program agreement referred to in section 260G.3 between an employer and a community college.

3. “*Board of directors*” means the board of directors of a community college.

4. “*Community college*” means a community college established under chapter 260C or a consortium of two or more community colleges.

5. “*Employee*” means a person employed in a program job.

6. “*Employer*” means a business or consortium of businesses engaged in interstate or intrastate commerce for the purpose of manufacturing, processing, or assembling products, construction, conducting research and development, or providing services in interstate or intrastate commerce, but excludes retail services.

7. “*Highly skilled job*” means a job with a broadly based, high performance skill profile including advanced computation and communication skills, technology skills, and workplace behavior skills, and for which an applied technical education is required.

8. “*Participant*” means an individual who is enrolled in an accelerated career education program at a community college.

9. “*Participant position*” means the individual student enrollment position available in an accelerated career education program.

10. “*Program capital costs*” includes, but is not limited to, costs related to any or all of the following:

- a. Classroom and laboratory renovation.
- b. New classroom and laboratory construction.
- c. Site acquisition or preparation.
- d. Instructional equipment and technology.

11. “*Program costs*” means all necessary and incidental costs of providing program services.

12. “*Program job*” means a highly skilled job available from an employer pursuant to a program agreement.

13. “*Program job credit*” means the credit as provided in section 260G.4A.

14. “*Program job position*” means a job position which is planned or available for an employee by the employer pursuant to a program agreement.

15. “*Program services*” includes, but is not limited to, all of the following provided they are pursuant to a program agreement:

- a. Program needs assessment and development.
- b. Job task analysis.
- c. Curriculum development and revision.
- d. Instruction.
- e. Instructional materials and supplies.
- f. Computer software and upgrades.
- g. Instructional support.
- h. Administrative and student services.
- i. Related school-to-career training programs.
- j. Skill or career interest assessment services and testing.
- k. Contracted services.

99 Acts, ch 179, §2, 12; 2000 Acts, ch 1196, §2, 10

260G.3 Program agreements.

1. A community college may enter into an agreement with an employer in the community college’s merged area to establish an accelerated career education program. The program shall be developed by an employer, a community college, and any employee of an employer who represents a program job. If a bargaining agreement is in place, a representative of the employee bargaining unit shall also take part in the development of the program.

2. An agreement may include reasonable and necessary provisions to implement the accelerated career education program. If an agreement is entered into, the community college and the employer shall notify the department of revenue as soon as possible. The

community college shall also file a copy of the agreement with the economic development authority as required in section 260G.4B. The agreement shall provide for program costs, including deferred costs, which may be paid from any of the following sources:

- a. Program job credits which the employer receives based on the number of program job positions agreed to by the employer to be available under the agreement.
 - b. Cash or in-kind contributions by the employer toward the program cost. At a minimum, the employer contribution shall be twenty percent of the program costs.
 - c. Tuition, student fees, or special charges fixed by the board of directors to defray program costs.
 - d. Guarantee by the employer of payments to be received under paragraphs “a” and “b”.
3. An agreement shall include a provision which specifies the type and amount of funding sources which shall be used to pay for program costs.
 4. An agreement shall describe program services and schedules for implementation.
 5. The term of an agreement shall not exceed five years from the date of the agreement. However, the agreement may be renewed.
 6. As part of the agreement, the employer shall agree to interview graduating participants for full-time positions with the employer and to provide future hiring preferences to graduates of the accelerated career education program provided for in the agreement.
 7. As part of an agreement, if an employer has more than four sponsored participants in the program, the employer shall agree to offer a program job position of full-time employment to at least twenty-five percent of those participants who successfully complete the program.
 8. An agreement shall provide for a wage level of no less than two hundred percent of the federal poverty level for a family of two as defined by the most recently revised poverty income guidelines as published by the United States department of health and human services at the time the agreement is entered into. The wage level shall be recertified for each year provided in the agreement on the anniversary of the effective date of the agreement.
 9. An agreement shall allow an employer to decline to satisfy any provisions in the agreement relating to subsections 6 and 7 if an employer experiences an economic downturn. For purposes of this subsection, “*economic downturn*” may include a layoff of existing employees, reduced employment levels, increased inventories, or reduced sales, if specified in the agreement.
 10. Participants shall agree to interview with the employer following completion of the accelerated career education program.
 11. An agreement shall provide for employer default procedures.

99 Acts, ch 179, §3, 12; 2000 Acts, ch 1196, §3, 10; 2003 Acts, ch 145, §286; 2003 Acts, 1st Ex, ch 2, §79, 93, 209; 2011 Acts, ch 118, §85, 89

Referred to in §260G.2, 260G.4A

260G.4 Program eligibility and designation.

1. Any of the following community college programs are eligible for designation and approval as an accelerated career education program by the board of directors:

- a. A credit career and technical education program resulting in the conferring of a certificate, diploma, associate of science degree, or associate of applied science degree, which increases program capacity to enroll added participants.
- b. A credit equivalent career and technical education program consisting of not less than five hundred forty contact hours of classroom and laboratory instruction and resulting in the conferring of a certificate or other recognized, competency-based credential, which increases program capacity to enroll added participants.

2. Program costs shall be calculated or recalculated on an annual basis based on the required program services and for a specific number of participant positions.

99 Acts, ch 179, §4, 12; 2016 Acts, ch 1108, §58

260G.4A Program job credits from withholding.

In order to develop and retain program jobs within the state, an agreement entered into under section 260G.3 may include a provision for program job credits based on program jobs

identified in the agreement. If a program provides that part of the program costs are to be met by receipt of program job credits, the method to be used shall be as follows:

1. Program job credits shall be based upon the program job positions identified and agreed to in the agreement.

2. Eligibility for program job credits shall be based on certification of program job positions and program job wages by the employer at the time established in the agreement. An amount up to ten percent of the gross program job wage as certified by the employer in the agreement shall be credited from the total payment made by an employer pursuant to section 422.16. The employer shall receive a credit against all withholding taxes due by the employer regardless of whether or not the withholding from the employer of current program job wages is less than ten percent. The employer shall remit the amount of the credit quarterly in the same manner as withholding payments are reported to the department of revenue, to the community college to be allocated to and when collected paid into a special fund of the community college to pay, in part, the program costs. When the program costs have been paid, the employer credits shall cease and any moneys received after the program costs have been paid shall be remitted to the treasurer of state to be deposited in the general fund of the state.

3. The employer shall certify to the department of revenue that the program job credit is in accordance with the agreement and shall provide other information the department may require.

4. A community college shall certify to the department of revenue that the amount of the program job credit is in accordance with an agreement and shall provide other information the department may require.

5. Employees from an employer participating in an agreement shall receive full credit for the amount withheld as provided in section 422.16.

6. Pursuant to an agreement or a statement of intent to enter into an agreement dated on or after July 1, 2000, program job credits may be allocated retroactively to program costs incurred on or after July 1, 2000.

2000 Acts, ch 1196, §4, 10; 2001 Acts, ch 99, §1, 2; 2003 Acts, ch 145, §286

Referred to in §260G.2

260G.4B Maximum statewide program job credit.

1. The total amount of program job credits from all employers which shall be allocated for all accelerated career education programs in the state in any one fiscal year shall not exceed five million four hundred thousand dollars. A community college shall file a copy of each agreement with the economic development authority. The authority shall maintain an annual record of the proposed program job credits under each agreement for each fiscal year. Upon receiving a copy of an agreement, the authority shall allocate any available amount of program job credits to the community college according to the agreement sufficient for the fiscal year and for the term of the agreement. When the total available program job credits are allocated for a fiscal year, the authority shall notify all community colleges that the maximum amount has been allocated and that further program job credits will not be available for the remainder of the fiscal year. Once program job credits have been allocated to a community college, the full allocation shall be received by the community college throughout the fiscal year and for the term of the agreement even if the statewide program job credit maximum amount is subsequently allocated and used.

2. For the fiscal years beginning July 1, 2000, and July 1, 2001, the department of economic development shall allocate eighty thousand dollars of the first one million two hundred thousand dollars of program job credits authorized and available for that fiscal year to each community college. This allocation shall be used by each community college to provide funding for approved programs. For the fiscal year beginning July 1, 2002, and for every fiscal year thereafter, the economic development authority shall divide equally among the community colleges thirty percent of the program job credits available for that fiscal year for allocation to each community college to be used to provide funding for approved programs. If any portion of the allocation to a community college under this subsection has not been committed by April 1 of the fiscal year for which the allocation is made, the

uncommitted portion is available for use by other community colleges. Once a community college has committed its allocation for any fiscal year under this subsection, the community college may receive additional program job credit allocations from those program job credits authorized and still available for that fiscal year.

2000 Acts, ch 1196, §5, 10; 2001 Acts, ch 176, §35; 2002 Acts, ch 1175, §30; 2003 Acts, ch 179, §35; 2004 Acts, ch 1101, §31; 2010 Acts, ch 1138, §9; 2011 Acts, ch 118, §85, 89
Referred to in §260G.3

260G.4C Facilitator.

The economic development authority shall administer the statewide allocations of program job credits to accelerated career education programs. The authority shall provide information about the accelerated career education programs in accordance with its annual reporting requirements in section 15.107B.

2000 Acts, ch 1196, §6, 10; 2008 Acts, ch 1122, §14; 2011 Acts, ch 118, §79, 85, 89

260G.5 Customer tracking system.

All participants in an accelerated career education program shall be included in the customer tracking system implemented by the department of workforce development pursuant to section 84A.5 following program completion.

99 Acts, ch 179, §8, 12

260G.6 Fund established — allocation of moneys.

1. An accelerated career education fund is established in the state treasury consisting of moneys appropriated to the fund for purposes of funding the cost of accelerated career education program capital projects.

2. Projects funded pursuant to this section shall be for vertical infrastructure as defined in section 8.57, subsection 5, paragraph “c”.

3. If moneys are appropriated by the general assembly to support program capital costs, the moneys shall be allocated equally to each community college.

99 Acts, ch 179, §9, 12; 2000 Acts, ch 1154, §19; 2009 Acts, ch 123, §7; 2011 Acts, ch 34, §68; 2011 Acts, ch 118, §80, 85, 89; 2012 Acts, ch 1018, §2; 2012 Acts, ch 1021, §137

260G.7 Future program discontinuance. Repealed by 2014 Acts, ch 1092, §152.

260G.8 and 260G.9 Reserved.

260G.10 Reporting. Repealed by 2007 Acts, ch 126, §115.

CHAPTER 260H

PATHWAYS FOR ACADEMIC CAREER AND EMPLOYMENT ACT

Referred to in §260C.18A

260H.1	Title.	260H.6	Pipeline program.
260H.2	Pathways for academic career and employment program — fund.	260H.7	Career pathways and bridge curriculum development program.
260H.3	Eligibility criteria.	260H.7A	Pathway navigators.
260H.4	Program outcomes.	260H.7B	Regional industry sector partnerships.
260H.5	Program component requirements.	260H.8	Rules.

260H.1 Title.

This chapter shall be known and may be cited as the “*Pathways for Academic Career and Employment Act*”.

2011 Acts, ch 132, §71, 106

260H.2 Pathways for academic career and employment program — fund.

1. A pathways for academic career and employment program is established to provide funding to community colleges for the development of projects in coordination with the economic development authority, the department of education, the department of workforce development, local workforce development boards established pursuant to section 84A.4, and community partners to implement a simplified, streamlined, and comprehensive process, along with customized support services, to enable eligible participants to acquire effective academic and employment training to secure gainful, quality, in-state employment.

2. a. A pathways for academic career and employment fund is created for the community colleges in the state treasury to be administered by the department of education. The moneys in the pathways for academic career and employment fund are appropriated to the department of education for the pathways for academic career and employment program.

b. The aggregate total of grants awarded from the pathways for academic career and employment fund during a fiscal year shall not be more than five million dollars.

c. Moneys in the fund shall be allocated pursuant to the formula established in section 260C.18C. Notwithstanding section 8.33, moneys in the fund at the close of the fiscal year shall not revert to the general fund of the state but shall remain available for expenditure for the purpose designated for subsequent fiscal years. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the fund shall be credited to the fund.

2011 Acts, ch 118, §87, 89; 2011 Acts, ch 132, §72, 106; 2012 Acts, ch 1023, §36; 2013 Acts, ch 141, §42; 2016 Acts, ch 1118, §16, 21

260H.3 Eligibility criteria.

1. Projects eligible for funding for the pathways for academic career and employment program shall be projects that further the ability of members of target populations to secure gainful, quality employment. For the purposes of this chapter, “*target population*” includes:

a. Persons deemed low skilled for the purposes of attaining gainful, quality, in-state employment.

b. Persons earning incomes at or below two hundred fifty percent of the federal poverty level as defined by the most recently revised poverty income guidelines published by the United States department of health and human services.

c. Unemployed persons.

d. Underemployed persons.

e. Dislocated workers, including workers eligible for services and benefits under the federal Trade Adjustment Act of 2002, Pub. L. No. 107-210, as determined by the department of workforce development and the federal internal revenue service.

2. Projects eligible for funding for the pathways for academic career and employment program shall be projects that further partnerships that link the community colleges to industry and nonprofit organizations and projects that further program outcomes as provided in section 260H.4.

2011 Acts, ch 132, §73, 106; 2013 Acts, ch 141, §43

260H.4 Program outcomes.

Projects eligible for funding for the pathways for academic career and employment program shall be programs which further the following program outcomes:

1. Enabling the target populations to:

a. Acquire and demonstrate competency in basic skills.

b. Acquire and demonstrate competency in a specified technical field.

c. Complete a specified level of postsecondary education.

d. Earn a national career readiness certificate.

e. Obtain employer-validated credentials.

f. Secure gainful employment in high-quality, local jobs.

2. Satisfaction of economic and employment goals including but not limited to:

a. Economic and workforce development requirements in each region served by the community colleges as defined by local workforce development boards established pursuant to section 84A.4.

b. Needs of industry partners in areas including but not limited to:

- (1) Information technology.
- (2) Health care.
- (3) Advanced manufacturing.
- (4) Transportation and logistics.
- (5) Any other industry designated as in-demand by a local workforce development board

established pursuant to section 84A.4.

2011 Acts, ch 132, §74, 106; 2013 Acts, ch 141, §44, 45; 2016 Acts, ch 1118, §17, 18, 21

Referred to in §260H.3

260H.5 Program component requirements.

Program components of a pathways for academic career and employment project implemented at a community college shall:

1. Include measurable and effective recruitment, assessment, and referral activities designed for the target populations.
2. Integrate basics skills and work-readiness training with occupational skills training.
3. Combine customized supportive and case management services with training services to help participants overcome barriers to employment.
4. Provide training services at times, locations, and through multiple, flexible modalities that are easily understood and readily accessible to the target populations. Such modalities shall support timeless entry, individualized learning, and flexible scheduling, and may include online remediation, learning lab and cohort learning communities, tutoring, and modularization.

2011 Acts, ch 132, §75, 106

260H.6 Pipeline program.

Each community college receiving funding for the pathways for academic career and employment program shall develop a pipeline program in order to better serve the academic, training, and employment needs of the target populations. A pipeline program shall have the following goals:

1. To strengthen partnerships with community-based organizations and industry representatives.
2. To improve and simplify the identification, recruitment, and assessment of qualified participants.
3. To conduct and manage an outreach, recruitment, and intake process, along with accompanying support services, reflecting sensitivity to the time and financial constraints and remediation needs of the target populations.
4. To conduct orientations for qualified participants to describe regional labor market opportunities, employer partners, and program requirements and expectations.
5. To describe the concepts of the project implemented with funds from the pathways for academic career and employment program and the embedded educational and support resources available through such project.
6. To outline the basic skills participants will learn and describe the credentials participants will earn.
7. To describe success milestones and ways in which temporal and instructional barriers have been minimized or eliminated.
8. To review how individualized and customized service strategies for participants will be developed and provided.

2011 Acts, ch 132, §76, 106

260H.7 Career pathways and bridge curriculum development program.

Each community college receiving funding for the pathways for academic career and employment program shall develop a career pathways and bridge curriculum development program in order to better serve the academic, training, and employment needs of the target populations. A career pathways and bridge curriculum development program shall have the following goals:

1. The articulation of courses and modules, the mapping of programs within career pathways, and establishment of bridges between credit and noncredit programs.

2. The integration and contextualization of basic skills education and skills training. This process shall provide for seamless progressions between adult basic education and general education development programs and continuing education and credit certificate, diploma, and degree programs.

3. The development of career pathways that support the attainment of industry-recognized credentials, diplomas, and degrees through stackable, modularized program delivery.

2011 Acts, ch 132, §77, 106

260H.7A Pathway navigators.

1. A community college may use moneys for the pathways for academic career and employment program to employ pathway navigators to assist students applying for or enrolled in eligible pathways for academic career and employment projects.

2. Pathway navigators shall provide services and support to aid students in selecting pathways for academic career and employment projects that will result in gainful, quality, in-state employment and to ensuring students are successful once enrolled in pathways for academic career and employment projects. Services the pathway navigators may provide include but are not limited to the following:

a. Interviewing and selecting students for enrollment in pathways for academic career and employment projects.

b. Assessing students' skills, interests, and previous academic and work experience for purposes of placement in pathways for academic career and employment projects.

c. Working with students to develop academic and career plans and to adjust such plans as needed.

d. Assisting students in applying for and receiving resources for financial aid and other forms of tuition assistance.

e. Assisting students with the admissions process, remedial education, academic credit transfer, meeting assessment requirements, course registration, and other procedures necessary for successful completion of pathways for academic career and employment projects.

f. Assisting in identifying and resolving obstacles to students' successful completion of pathways for academic career and employment projects.

g. Connecting students with useful college resources or outside support services such as access to child care, transportation, and tutorial assistance, as needed.

h. Maintaining ongoing contact with students enrolled in pathways for academic career and employment projects and ensuring students are making satisfactory progress toward the successful completion of projects.

i. Providing support to students transitioning from remedial education, short-term training, and classroom experience to employment.

j. Coordinating activities with community-based organizations that serve as key recruiters for pathways for academic career and employment projects and assisting students throughout the recruitment process.

k. Coordinating adult basic education services.

2013 Acts, ch 141, §46

260H.7B Regional industry sector partnerships.

1. A community college may use moneys for the pathways for academic career and employment program to provide staff and support for the development and implementation of regional industry sector partnerships within the region served by the community college.

2. Regional, industry sector partnerships may include but are not limited to the following activities:

a. Bringing together representatives from industry sectors, government, education, local workforce boards, community-based organizations, labor, economic development organizations, and other stakeholders within the regional labor market to determine how

pathways for academic career and employment projects should address workforce skills gaps, occupational shortages, and wage gaps.

b. Integrating pathways for academic career and employment projects and other existing supply-side strategies with workforce needs within the region served by the community college.

c. Developing pathways for academic career and employment projects that focus on the workforce skills, from entry level to advanced, required by industry sectors within the region served by the community college.

d. Structuring pathways so that instruction and learning of workforce skills are aligned with industry-recognized standards where such standards exist.

2013 Acts, ch 141, §47

Referred to in §258.6, 258.14

260H.8 Rules.

The department of education, in consultation with the community colleges, the economic development authority, and the department of workforce development, shall adopt rules pursuant to chapter 17A and this chapter to implement the provisions of this chapter. Local workforce development boards established pursuant to section 84A.4 shall be consulted in the development and implementation of rules to be adopted pursuant to this chapter.

2011 Acts, ch 118, §87, 89; 2011 Acts, ch 132, §78, 106; 2012 Acts, ch 1023, §37; 2016 Acts, ch 1118, §19, 21

CHAPTER 260I

GAP TUITION ASSISTANCE ACT

Referred to in §260C.18A

260I.1	Title.	260I.5	Eligible costs.
260I.2	Gap tuition assistance program	260I.6	Eligible certificate programs.
	— fund.	260I.7	Initial assessment.
260I.3	Applicants for tuition assistance	260I.8	Program interview.
	— eligibility criteria.	260I.9	Participation requirements.
260I.4	Applicants for tuition assistance	260I.10	Oversight.
	— additional provisions.	260I.11	Rules.

260I.1 Title.

This chapter shall be known and may be cited as the “*Gap Tuition Assistance Act*”.

2011 Acts, ch 132, §79, 106

260I.2 Gap tuition assistance program — fund.

1. A gap tuition assistance program is established to provide funding to community colleges for need-based tuition assistance to applicants to enable completion of continuing education certificate training programs for in-demand occupations.

2. a. There is established for the community colleges a gap tuition assistance fund in the state treasury to be administered by the department of education. The funds in the gap tuition assistance fund are appropriated to the department of education for the gap tuition assistance program.

b. The aggregate total of grants awarded from the gap tuition assistance fund during a fiscal year shall not be more than two million dollars.

c. Except as provided in section 260I.10, subsection 4, moneys in the fund shall be allocated pursuant to the formula established in section 260C.18C. Notwithstanding section 8.33, moneys in the fund at the close of the fiscal year shall not revert to the general fund of the state but shall remain available for expenditure for the purpose designated for

subsequent fiscal years. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the fund shall be credited to the fund.

2011 Acts, ch 132, §80, 106; 2012 Acts, ch 1132, §18; 2019 Acts, ch 135, §21
Referred to in §2601.10

2601.3 Applicants for tuition assistance — eligibility criteria.

1. The state board of education shall adopt rules pursuant to chapter 17A defining eligibility criteria for persons applying to receive tuition assistance under this chapter.

2. Eligibility for tuition assistance under this chapter shall be based on financial need. Criteria to be assessed in determining financial need shall include but is not limited to:

a. The applicant's family income for the three months prior to the date of application or documentation of a life-changing event.

b. The applicant's family size.

c. The applicant's county of residence.

3. a. An applicant for tuition assistance under this chapter must have a demonstrated capacity to achieve the following outcomes:

(1) The ability to complete an eligible certificate program.

(2) The ability to enter a postsecondary certificate, diploma, or degree program for credit.

(3) The ability to gain full-time employment.

(4) The ability to maintain full-time employment over time.

b. The community college receiving the application shall only approve an applicant for tuition assistance under this chapter if the community college determines the applicant has a strong likelihood of achieving the outcomes described in paragraph "a" after considering factors including but not limited to:

(1) Barriers that may prevent an applicant from completing the certificate program.

(2) Barriers that may prevent an applicant from gaining employment in an in-demand occupation.

4. Applicants may be found eligible for partial or total tuition assistance.

5. Tuition assistance shall not be approved when the community college receiving the application determines that funding for an applicant's participation in an eligible certificate program is available from any other public or private funding source.

6. The community college receiving the application may limit an applicant to one eligible certificate program or to eligible programs within one career pathway, based on the funding available to the community college for purposes of this program.

2011 Acts, ch 118, §87, 89; 2011 Acts, ch 132, §81, 106; 2015 Acts, ch 140, §44, 58, 59; 2019 Acts, ch 135, §22 – 24; 2020 Acts, ch 1063, §101

Subsection 1 amended

2601.4 Applicants for tuition assistance — additional provisions.

1. An applicant for tuition assistance under this chapter shall provide to the community college receiving the application documentation of all sources of income.

2. Only an applicant eligible to work in the United States shall be approved for tuition assistance under this chapter.

3. An application shall be valid for six months from the date of signature on the application.

4. Eligibility for tuition assistance under this chapter shall not be construed to guarantee enrollment in any community college certificate program.

5. Eligibility for tuition assistance under this chapter shall be limited to persons earning incomes at or below two hundred fifty percent of the federal poverty level as defined by the most recently revised poverty income guidelines published by the United States department of health and human services.

6. Persons earning incomes between one hundred fifty percent and two hundred fifty percent, both percentages inclusive, of the federal poverty level as defined by the most recently revised poverty income guidelines published by the United States department of health and human services shall be given first priority for tuition assistance under this

chapter. Persons earning incomes below one hundred fifty percent of the federal poverty level shall be given second priority for tuition assistance under this chapter.

7. A person who is eligible for financial assistance pursuant to the federal Workforce Investment Act of 1998, Pub. L. No. 105-220, or the federal Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, shall be ineligible for tuition assistance under this chapter unless such funds budgeted for training assistance for the adult, dislocated worker, or youth programs have been fully expended by a workforce region.

2011 Acts, ch 132, §82, 106; 2013 Acts, ch 141, §48; 2015 Acts, ch 140, §45, 58, 59; 2019 Acts, ch 135, §25

260I.5 Eligible costs.

Costs of a certificate program eligible for coverage by tuition assistance shall include but are not limited to:

1. Tuition.
2. Direct training costs.
3. Required books and equipment.
4. Fees including but not limited to fees for industry testing services and background check testing services.
5. Costs of providing direct staff support services including but not limited to marketing, outreach, application, interview, and assessment processes. Eligible costs for this purpose shall be limited to twenty percent of any allocation of moneys to the two smallest community colleges, ten percent of any allocation of moneys to the two largest community colleges, and fifteen percent of any allocation of moneys to the remaining eleven community colleges. Community college size shall be determined based on the most recent three-year rolling average full-time equivalent enrollment.

2011 Acts, ch 132, §83, 106; 2013 Acts, ch 141, §49

260I.6 Eligible certificate programs.

For the purposes of this chapter, “*eligible certificate program*” means a program meeting all of the following criteria:

1. The program is not offered for credit, but is aligned with a certificate, diploma, or degree for credit, and does any of the following:
 - a. Offers a state, national, or locally recognized certificate.
 - b. Offers preparation for a professional examination or licensure.
 - c. Provides endorsement for an existing credential or license.
 - d. Represents recognized skill standards defined by an industrial sector.
 - e. Offers a similar credential or training.
2. The program offers training or a credential in an in-demand occupation. For the purposes of this chapter, “*in-demand occupation*” includes occupations in the following industries:
 - a. Information technology.
 - b. Health care.
 - c. Advanced manufacturing.
 - d. Transportation and logistics.
 - e. Any other industry designated as in-demand by a local workforce development board established pursuant to section 84A.4.

2011 Acts, ch 132, §84, 106; 2016 Acts, ch 1118, §20, 21

260I.7 Initial assessment.

An applicant for tuition assistance under this chapter shall complete an initial assessment administered by the community college receiving the application to determine the applicant’s readiness to complete an eligible certificate program. The assessment shall include the areas of reading and mathematics. An applicant shall complete any additional assessments and occupational research required by an eligible certificate program.

2011 Acts, ch 132, §85, 106; 2012 Acts, ch 1132, §19; 2019 Acts, ch 135, §26

260I.8 Program interview.

An applicant for tuition assistance under this chapter shall meet with a member of the staff for an eligible certificate program offered by the community college receiving the application. The staff member shall discuss the relevant industry, any applicable occupational research, and any applicable training relating to the eligible certificate program. The discussion shall include an evaluation of the applicant's capabilities, needs, family situation, work history, educational background, attitude and motivation, employment skills, vocational and technical potential, and employment barriers. The discussion shall also include potential start dates, support needs, and other requirements for an eligible certificate program.

2011 Acts, ch 132, §86, 106; 2016 Acts, ch 1108, §59

260I.9 Participation requirements.

1. A participant in an eligible certificate program who receives tuition assistance pursuant to this chapter shall do all of the following:

a. Maintain regular contact with staff members for the certificate program to document the applicant's progress in the program.

b. Sign a release form to provide relevant information to community college faculty or case managers.

c. Discuss with staff members for the certificate program any issues that may impact the participant's ability to complete the certificate program, obtain employment, and maintain employment over time.

d. Attend all required courses regularly.

e. Meet with staff members for the certificate program to develop a job search plan.

2. A community college may terminate tuition assistance for a participant who fails to meet the requirements of this section.

2011 Acts, ch 132, §87, 106

260I.10 Oversight.

1. The department of education, in coordination with the community colleges, shall establish a steering committee. The steering committee shall determine if the performance measures of the gap tuition assistance program are being met and shall take necessary steps to correct any deficiencies. The steering committee shall meet at least quarterly to evaluate and monitor the performance of the gap tuition assistance program.

2. The department of education, in coordination with the community colleges, shall develop a common intake tracking system that shall be implemented consistently by each participating community college.

3. The department of education shall coordinate statewide oversight, evaluation, and reporting efforts for the gap tuition assistance program.

4. The department of education, in coordination with the community colleges, may adjust the allocations generated pursuant to section 260I.2, subsection 2, paragraph "c", to ensure efficient delivery of services.

2011 Acts, ch 132, §88, 106; 2019 Acts, ch 135, §27; 2020 Acts, ch 1063, §385, 391, 392

Referred to in §260I.2

Section not amended; section history revised

260I.11 Rules.

The state board of education, in consultation with the community colleges, shall adopt rules pursuant to chapter 17A and this chapter to implement the provisions of this chapter.

2011 Acts, ch 118, §87, 89; 2011 Acts, ch 132, §89, 106; 2019 Acts, ch 135, §28

SUBTITLE 3

HIGHER EDUCATION

CHAPTER 261

COLLEGE STUDENT AID COMMISSION

Referred to in §8A.504, 261B.11A, 261F.1, 261G.4

Iowa higher education loan authority
is attached to the commission; §7E.7, chapter 261A

	SUBCHAPTER I		
	GENERAL PROVISIONS		
261.1	Commission created.	261.19A	Osteopathic forgivable loan program. Repealed by 97 Acts, ch 134, §2.
261.2	Duties of commission.	261.19B	Osteopathic physician recruitment revolving fund. Repealed by 2011 Acts, ch 132, §27, 106.
261.3	Organization — bylaws.		
261.4	Funds — compensation and expenses of commission.		
261.5	Response to national emergency — waiver authority.		PART 3
261.6	All Iowa opportunity foster care grant program. Repealed by 2017 Acts, ch 172, §43.		ADMINISTRATION
261.7	Textbook notice — legislative intent and recommendation.	261.20	Scholarship and tuition grant reserve fund.
261.8	Reserved.	261.21	National guard tuition aid program. Repealed by 99 Acts, ch 205, §47.
		261.22	Accelerated career education grants. Repealed by 2014 Acts, ch 1141, §27.
	SUBCHAPTER II	261.23	Registered nurse and nurse educator loan forgiveness program. Transferred to §261.116; 2014 Acts, ch 1061, §16.
	TUITION GRANTS TO STUDENTS		
	PART 1		
	IOWA TUITION GRANTS	261.24	Iowa state fair scholarship. Transferred to §261.62; 2014 Acts, ch 1061, §16.
261.9	Definitions.	261.25	Appropriations — standing limited.
261.10	Who qualified.	261.26	through 261.34 Reserved.
261.11	Extent of grant.		
261.12	Amount of grant.		
261.13	Annual grant.		
261.14	Other aid considered.		
261.15	Administration by commission — rules.		
261.16	Application for grants.		SUBCHAPTER III
261.16A	Iowa tuition grants — for-profit institutions.		IOWA GUARANTEED LOAN PROGRAM
		261.35	Definitions.
		261.36	Powers.
	PART 2	261.37	Duties.
	VOCATIONAL-TECHNICAL TUITION GRANTS	261.38	Agency operating account.
261.17	Vocational-technical tuition grants.	261.39	Transfer of funds and assets. Repealed by 2014 Acts, ch 1141, §27.
261.17A	Iowa hope loan program. Repealed by 2014 Acts, ch 1141, §27.	261.40	Reserved.
261.18	Reserved.	261.41	Account dissolved — balance to general fund. Repealed by 2014 Acts, ch 1141, §27.
261.19	Health care professional recruitment program. Transferred to §261.115; 2014 Acts, ch 1061, §16.	261.42	Short title.
		261.43	Actions not barred.
		261.43A	Security interest in education loans.

	SUBCHAPTER IV	261.88	through 261.91 Reserved.
	LOAN PAYMENT AND REPAYMENT PROGRAMS		
261.44	Guaranteed loan payment program. Repealed by 2014 Acts, ch 1141, §27.		
261.45	through 261.47 Reserved.	261.92	through 261.97 Repealed by 2015 Acts, ch 140, §18, 58, 59.
261.48	Minority teacher loan payments. Repealed by 2014 Acts, ch 1141, §27.	261.98	through 261.100 Reserved.
261.49	through 261.53 Reserved.		
261.54	Repayment of science and mathematics loans. Repealed by 2014 Acts, ch 1141, §27.		
261.55	through 261.60 Reserved.		
	SUBCHAPTER V		
	BARBER AND COSMETOLOGY ARTS AND SCIENCES TUITION GRANT PROGRAM		
261.61	Barber and cosmetology arts and sciences tuition grant program. Repealed by 2017 Acts, ch 172, §43.		
	SUBCHAPTER VI		
	IOWA STATE FAIR SCHOLARSHIP		
261.62	Iowa state fair scholarship.		
261.63	through 261.70 Reserved.		
	SUBCHAPTER VII		
	CHIROPRACTIC GRADUATE STUDENT FORGIVABLE LOAN PROGRAM		
261.71	Chiropractic graduate student forgivable loans.	261.110	Teach Iowa scholar program.
261.72	Chiropractic loan revolving fund.	261.111	Teacher shortage forgivable loan program.
261.73	Chiropractic loan forgiveness program.	261.112	Teacher shortage loan forgiveness program.
261.74	through 261.80 Reserved.		
	SUBCHAPTER VIII		
	WORK-STUDY PROGRAM		
261.81	Work-study program.		
261.81A	and 261.82 Repealed by 2014 Acts, ch 1141, §27.		
261.83	Eligibility and duties of institutions.		
261.84	Student eligibility.		
261.85	Appropriation.		
	SUBCHAPTER IX		
	NATIONAL GUARD EDUCATIONAL ASSISTANCE		
261.86	National guard service scholarship program.		
	SUBCHAPTER X		
	ALL IOWA OPPORTUNITY SCHOLARSHIPS		
261.87	All Iowa opportunity scholarship program and fund.		
			SUBCHAPTER XI
			IOWA GRANT PROGRAM
			SUBCHAPTER XII
			MINORITY ACADEMIC GRANTS FOR ECONOMIC SUCCESS
		261.101	Legislative intent.
		261.102	Definitions.
		261.103	Program qualifications.
		261.104	Powers of the commission.
		261.105	Duties of applicant.
		261.106	through 261.109 Reserved.
			SUBCHAPTER XIII
			TEACHER SHORTAGE FORGIVABLE LOAN AND LOAN FORGIVENESS PROGRAMS
		261.110	Teach Iowa scholar program.
		261.111	Teacher shortage forgivable loan program.
		261.112	Teacher shortage loan forgiveness program.
			SUBCHAPTER XIV
			OTHER LOAN REPAYMENT AND FORGIVENESS PROGRAMS — HEALTH PROFESSIONS
		261.113	Rural Iowa primary care loan repayment program — fund — appropriations.
		261.114	Rural Iowa advanced registered nurse practitioner and physician assistant loan repayment program — fund — appropriations.
		261.115	Health care professional recruitment program.
		261.116	Health care loan repayment program.
		261.117	through 261.119 Reserved.
		261.120	Rural veterinarian loan repayment program — fund — appropriations.
			SUBCHAPTER XV
			LICENSING SANCTIONS
		261.121	through 261.127 Repealed by 2019 Acts, ch 13, §3.
			SUBCHAPTER XVI
			HEALTH CARE PROFESSIONAL INCENTIVE PAYMENT PROGRAM
		261.128	Health care professional incentive payment program — repeal. Repealed by its own terms; 2015 Acts, ch 30, §216.

SUBCHAPTER XVII		SUBCHAPTER XVIII	
IOWA NEEDS NURSES NOW INITIATIVE		SKILLED WORKFORCE SHORTAGE TUITION GRANT PROGRAM	
261.129	Iowa needs nurses now initiative. Repealed by 2017 Acts, ch 172, §43.	261.130	Skilled workforce shortage tuition grant program.
		261.131	Future ready Iowa skilled workforce last-dollar scholarship program.
		261.132	Future ready Iowa skilled workforce grant program.

SUBCHAPTER I
GENERAL PROVISIONS

261.1 Commission created.

1. There is hereby created a commission to be known as the “*College Student Aid Commission*” of the state of Iowa.

2. Membership of the commission shall be as follows:

a. A member of the state board of regents to be named by the board, or the executive director of the board if so appointed by the board, who shall serve for a four-year term or until the expiration of the member’s term of office.

b. The director of the department of education or the director’s designee.

c. (1) Two members of the senate, one to be appointed by the president of the senate and one to be appointed by the minority leader of the senate, to serve as ex officio, nonvoting members.

(2) Two members of the house of representatives, one to be appointed by the speaker of the house of representatives and one to be appointed by the minority leader of the house of representatives, to serve as ex officio, nonvoting members.

(3) The members of the senate and house of representatives shall serve at the pleasure of the appointing legislator for a term beginning upon the convening of the general assembly and expiring upon the convening of the following general assembly, or when the appointee’s successor is appointed, whichever occurs later.

d. Nine additional members to be appointed by the governor as follows:

(1) One member shall be selected to represent private colleges and universities located in the state of Iowa. When appointing this member, the governor shall give careful consideration to any person nominated or recommended by any organization or association of some or all private colleges and universities located in the state of Iowa.

(2) One member shall be selected to represent Iowa’s community colleges. When appointing this member, the governor shall give careful consideration to any person nominated or recommended by any organization or association of Iowa community colleges.

(3) One member shall be enrolled as a student at an institution of higher learning governed by the board of regents, a community college, or an accredited private institution.

(4) One member shall be a parent of a student enrolled at an institution of higher learning governed by the board of regents, a community college, or an accredited private institution.

(5) One member shall represent practitioners licensed under chapter 272. When appointing this member, the governor shall give careful consideration to any person nominated by an Iowa teacher association or other education stakeholder organization.

(6) Four members shall represent the general public, none of whom shall be officers, board members, or trustees of an institution of higher learning or of an association of institutions of higher learning.

3. The members of the commission appointed by the governor shall serve for a term of four years. The voting members of the commission shall elect a chairperson and vice chairperson. Meetings may be called by the chairperson or a majority of the voting members.

4. a. Vacancies on the commission shall be filled for the unexpired term of such vacancies in the same manner as the original appointment.

b. A vacancy shall exist on the commission when a legislative member of the commission ceases to be a member of the general assembly, when a parent member no longer has a child enrolled in postsecondary education, or when a student member ceases to be enrolled as a student. Such vacancy shall be filled within thirty days.

[C66, 71, 73, 75, 77, 79, 81, §261.1]

85 Acts, ch 67, §31; 85 Acts, ch 212, §21; 86 Acts, ch 1245, §2032; 89 Acts, ch 83, §37; 89 Acts, ch 300, §1; 90 Acts, ch 1223, §24; 90 Acts, ch 1253, §121, 122; 91 Acts, ch 61, §1, 2; 2000 Acts, ch 1095, §2; 2006 Acts, ch 1051, §2; 2008 Acts, ch 1107, §1 – 3; 2008 Acts, ch 1191, §134; 2010 Acts, ch 1061, §91; 2017 Acts, ch 172, §11 – 13; 2018 Acts, ch 1041, §68

Referred to in §261B.2, 261G.2

261.2 Duties of commission.

The commission shall:

1. Prepare and administer a state plan for a state supported and administered scholarship program. The state plan shall provide for scholarships to deserving students of Iowa, matriculating in Iowa universities, colleges, community colleges, or schools of professional nursing. Eligibility of a student for receipt of a scholarship shall be based upon academic achievement and completion of advanced level courses prescribed by the commission.

2. Administer the tuition grant program under this chapter.

3. Develop and implement, in cooperation with the state board of regents, an educational program and marketing strategies designed to inform parents about the options available for financing a college education and the need to accumulate the financial resources necessary to pay for a college education. The educational program shall include but not be limited to distribution of informational material to public and nonpublic elementary schools for distribution to parents and guardians of five-year and six-year old children.

4. Approve transfers from the scholarship and tuition grant reserve fund under section 261.20.

5. Develop and implement, in cooperation with the judicial district departments of correctional services and the department of corrections, a program to assist criminal offenders in applying for federal and state aid available for higher education.

6. Develop and implement, in cooperation with the department of human services and the judicial branch, a program to assist juveniles who are sixteen years of age or older and who have a case permanency plan under chapter 232 or 237 or are otherwise under the jurisdiction of chapter 232 in applying for federal and state aid available for higher education.

7. a. Adopt rules to establish reasonable registration standards for the approval, pursuant to section 261B.3A, of postsecondary schools that are required to register with the commission in order to operate in this state. The registration standards established by the commission shall ensure that all of the following conditions are satisfied:

(1) The courses, curriculum, and instruction offered by the postsecondary school are of such quality and content as may reasonably and adequately ensure achievement of the stated objective for which the courses, curriculum, or instruction are offered.

(2) The postsecondary school has adequate space, equipment, instructional material, and personnel to provide education and training of good quality.

(3) The educational and experience qualifications of the postsecondary school's directors, administrators, and instructors are such as may reasonably ensure that students will receive instruction consistent with the objectives of the postsecondary school's programs of study.

(4) Upon completion of training or instruction, students are given certificates, diplomas, or degrees as appropriate by the postsecondary school indicating satisfactory completion of the program.

(5) The postsecondary school is financially responsible and capable of fulfilling commitments for instruction.

b. The commission shall post an application on the commission's internet site and shall render a decision on an application for registration within one hundred eighty days of the filing of the application.

8. Submit by January 15 annually a report to the general assembly which provides, by program, the number of individuals who received loan forgiveness or loan repayment in

the previous fiscal year, the amounts paid to or on behalf of individuals under sections 261.73, 261.112, and 261.116, and the institutions from which individuals graduated, and that includes any proposed statutory changes and the commission's findings and recommendations.

9. Require any postsecondary institution whose students are eligible for or who receive assistance under programs administered by the commission and who were enrolled in a school district in Iowa to include in its student management information system the unique student identifiers assigned to the institution's students while the students were in the state's kindergarten through grade twelve system.

10. Ensure that students receiving state-funded scholarships and grants are attending institutions of higher education that meet all of the following conditions:

a. The institutions are not required to register under chapter 261B or the institutions are participating resident institutions as defined in section 261G.2 that volunteer to register under section 261B.11B.

b. The institutions are eligible to participate in a federal student aid program authorized under Tit. IV of the federal Higher Education Act of 1965, Pub. L. No. 89-329, as amended.

11. Require any postsecondary institution whose students are eligible for or who receive financial assistance under programs administered by the commission to transmit annually to the commission information about the numbers of minority students enrolled in and minority faculty members employed at the institution. The commission shall compile and report the information collected to the general assembly, the governor, and the legislative services agency by March 1 annually.

12. Enter into and administer, or recognize, an interstate reciprocity agreement for the provision of postsecondary distance education by a postsecondary institution pursuant to chapter 261G. The commission shall adopt rules establishing application procedures and criteria for the authorization of postsecondary institutions providing postsecondary distance education under interstate reciprocity agreements pursuant to chapter 261G and for the review and approval of interstate reciprocity agreements the commission may enter into or recognize pursuant to this subsection and chapter 261G. The commission may accept an authorization granted by another state to a postsecondary institution under an interstate reciprocity agreement to deliver postsecondary distance education.

[C66, 71, 73, 75, 77, 79, 81, §261.2]

83 Acts, ch 101, §60; 83 Acts, ch 184, §5, 11, 15; 88 Acts, ch 1003, §1; 88 Acts, ch 1261, §2; 88 Acts, ch 1284, §20, 21; 89 Acts, ch 300, §2; 90 Acts, ch 1253, §122; 90 Acts, ch 1272, §45; 92 Acts, ch 1231, §42; 92 Acts, ch 1240, §17; 93 Acts, ch 179, §20; 95 Acts, ch 70, §1; 98 Acts, ch 1047, §27; 2000 Acts, ch 1095, §3; 2004 Acts, ch 1145, §2; 2005 Acts, ch 59, §1; 2007 Acts, ch 214, §24; 2008 Acts, ch 1181, §31; 2009 Acts, ch 12, §1, 2; 2009 Acts, ch 118, §48, 54; 2009 Acts, ch 177, §24; 2010 Acts, ch 1031, §314; 2010 Acts, ch 1147, §8, 13; 2011 Acts, ch 36, §1; 2014 Acts, ch 1063, §1, 2; 2017 Acts, ch 172, §14; 2018 Acts, ch 1041, §69

Referred to in §232.2, 261.114, 261G.2

261.3 Organization — bylaws.

1. The commission is an autonomous state agency which is attached to the department of education for organizational purposes only.

2. The commission shall determine its own organization, draw up its own bylaws, adopt rules under chapter 17A, and do such other things as may be necessary and incidental in the administration of this chapter, including the housing, employment, and fixing the compensation and bond of persons required to carry out its functions and responsibilities. A decision of the commission is final agency action under chapter 17A.

3. The commission shall function at the seat of government or such other place as it might designate.

[C66, 71, 73, 75, 77, 79, 81, §261.3]

86 Acts, ch 1245, §1454; 2017 Acts, ch 54, §76

261.4 Funds — compensation and expenses of commission.

The director of the department of administrative services shall keep an accounting of all funds received and expended by the commission. The members of the commission, except those members who are employees of the state, shall be paid a per diem as specified in section 7E.6 and shall be reimbursed for actual and necessary expenses. All per diem and expense moneys paid to nonlegislative members shall be paid from funds appropriated to the commission. Legislative members of the commission shall receive payment pursuant to section 2.10 and section 2.12.

[C66, 71, 73, 75, 77, 79, 81, §261.4]

90 Acts, ch 1256, §44; 2003 Acts, ch 145, §286

261.5 Response to national emergency — waiver authority.

1. For purposes of this section, unless the context otherwise requires:

a. “*Active duty*” means “*active duty*” as defined in 10 U.S.C. §101(d)(1), except that the term does not include active duty for training or attendance at a service school.

b. “*Affected individual*” means an individual who is serving on active duty during the national emergency; or who resides or is employed in an area that is declared a disaster area by any federal, state, or local official in connection with the national emergency; or who suffered direct economic hardship as a result of the national emergency, as determined under a waiver or modification issued pursuant to this section.

c. “*Serving on active duty during the national emergency*” means any of the following individuals:

(1) A reserve of an armed force ordered to active duty under 10 U.S.C. §12301(a), 12301(g), 12302, 12304, or 12306, or any retired member of an armed force ordered to active duty under 10 U.S.C. §688, as amended, for service in connection with the emergency or subsequent actions or conditions, regardless of the location at which the active duty service is performed.

(2) Any other member of an armed force on active duty in connection with the emergency or subsequent actions or conditions who has been assigned to a duty station at a location other than the location at which the member is normally assigned.

2. Notwithstanding any other provision of this chapter, in the event of a national emergency declared by the president of the United States by reason of terrorist attack, the commission may waive or modify any statutory or regulatory provision applicable to state financial aid programs established pursuant to this chapter to ensure, with regard to affected individuals, that the following occurs:

a. The financial positions of affected individuals who are state student loan borrowers are not worsened in relation to those loans because of their status as affected individuals.

b. Administrative requirements placed on state student loan borrowers are minimized, to the extent possible, without impairing the integrity of the student loan programs, to ease the burden on these borrowers and to avoid inadvertent technical violations or defaults.

c. The calculation of “annual adjusted family income” and “available income”, as used in the determination of need for student financial assistance under 20 U.S.C. §1070 et seq., for affected individuals, or if applicable, for the spouses or dependents of affected individuals, may be modified to mean the sums received in the first calendar year of the award year for which the determination is made, in order to reflect more accurately the financial condition of the affected individuals or their families.

3. Notwithstanding any other provision of this chapter, in the event of a national emergency declared by the president of the United States by reason of terrorist attack, the commission may grant temporary relief from requirements rendered infeasible or unreasonable, including due diligence requirements and reporting deadlines, by the national emergency, to an institution of higher education under the state board of regents, a community college, an accredited private institution as defined in section 261.9, eligible lenders, and other entities participating in the state student assistance programs in accordance with this chapter, that are located in, or whose operations are directly affected by, areas that are declared disaster areas by any federal, state, or local official in connection with the national emergency. If the commission issues a waiver in accordance with this

section, the report prepared by the commission pursuant to section 17A.9A, subsection 5, shall include examples of measures that a postsecondary institution may take in the appropriate exercise of discretion, as provided in 20 U.S.C. §1087tt, to adjust financial need and aid eligibility determinations for affected individuals.

4. This section shall not be construed as a requirement that the commission exercise the waiver or modification authority provided pursuant to this section on a case-by-case basis.

2002 Acts, ch 1036, §1, 2

261.6 All Iowa opportunity foster care grant program. Repealed by 2017 Acts, ch 172, §43.

261.7 Textbook notice — legislative intent and recommendation.

1. In order to promote consumer choice and lower the costs of textbooks in higher education, the general assembly intends that students enrolled in institutions of higher learning have access to appropriate textbook information prior to the start of classes, with adequate time to pursue alternative purchase avenues.

2. The general assembly recommends that every public and private institution of higher education in this state, including those institutions referenced in chapters 260C and 262 and section 261.9, post the list of required and suggested textbooks for all courses and the corresponding international standard book numbers for such textbooks at least fourteen days before the start of each semester or term, to the extent possible, at the locations where textbooks are sold on campus and on the internet site for the respective institution of higher education.

3. The college student aid commission is directed to convey the legislative intent and recommendation contained in this section to every institution of higher education in the state registered pursuant to chapter 261B at least once a year.

2008 Acts, ch 1146, §1; 2008 Acts, ch 1191, §125; 2013 Acts, ch 90, §257

261.8 Reserved.

SUBCHAPTER II

TUITION GRANTS TO STUDENTS

PART 1

IOWA TUITION GRANTS

261.9 Definitions.

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

1. “Accredited private institution” means an institution of higher learning located in Iowa which is operated privately and not controlled or administered by any state agency or any subdivision of the state and which meets the criteria in paragraphs “a” and “b” and all of the criteria in paragraphs “d” through “i”, except that institutions defined in paragraph “c” of this subsection are exempt from the requirements of paragraphs “a” and “b”:

a. Is accredited by the higher learning commission.

b. Is accredited by the higher learning commission, is exempt from taxation under section 501(c)(3) of the Internal Revenue Code, and annually provides a matching aggregate amount of institutional financial aid equal to at least seventy-five percent of the amount received in a fiscal year by the institution’s students for Iowa tuition grant assistance under this chapter. Commencing with the fiscal year beginning July 1, 2006, the matching aggregate amount of institutional financial aid shall increase by the percentage of increase each fiscal year of funds appropriated for Iowa tuition grants under section 261.25, subsection 1, to a maximum match of one hundred percent. The institution shall file annual reports with the commission prior to receipt of tuition grant moneys under this chapter. An institution whose income is not

exempt from taxation under section 501(c) of the Internal Revenue Code and whose students were eligible to receive Iowa tuition grant money in the fiscal year beginning July 1, 2003, shall meet the match requirements of this paragraph no later than June 30, 2005.

c. Is a specialized college that is accredited by the higher learning commission, and which offers health professional programs that are affiliated with health care systems located in Iowa.

d. Promotes equal opportunity and affirmative action efforts in the recruitment, appointment, assignment, and advancement of personnel at the institution and provides information regarding such efforts to the commission upon request.

e. Adopts a policy that prohibits unlawful possession, use, or distribution of controlled substances by students and employees on property owned or leased by the institution or in conjunction with activities sponsored by the institution. Each institution shall provide information about the policy to all students and employees. The policy shall include a clear statement of sanctions for violation of the policy and information about available drug or alcohol counseling and rehabilitation programs. In carrying out this policy, an institution shall provide substance abuse prevention programs for students and employees.

f. Develops and implements a written policy, which is disseminated during student registration or orientation, addressing the following four areas relating to sexual abuse:

(1) Counseling.

(2) Campus security.

(3) Education, including prevention, protection, and the rights and duties of students and employees of the institution.

(4) Facilitating the accurate and prompt reporting of sexual abuse to the duly constituted law enforcement authorities.

g. (1) Adopts a policy to offer not less than the following options to a student who is a member, or the spouse of a member if the member has a dependent child, of the Iowa national guard or reserve forces of the United States and who is ordered to national guard duty or federal active duty:

(a) Withdraw from the student's entire registration and receive a full refund of tuition and mandatory fees.

(b) Make arrangements with the student's instructors for course grades, or for incompletes that shall be completed by the student at a later date. If such arrangements are made, the student's registration shall remain intact and tuition and mandatory fees shall be assessed for the courses in full.

(c) Make arrangements with only some of the student's instructors for grades, or for incompletes that shall be completed by the student at a later date. If such arrangements are made, the registration for those courses shall remain intact and tuition and mandatory fees shall be assessed for those courses. Any course for which arrangements cannot be made for grades or incompletes shall be considered dropped and the tuition and mandatory fees for the course refunded.

(2) As used in this lettered paragraph, "*dependent child*" means the same as defined in section 260C.14, subsection 14, paragraph "b", subparagraph (2), subparagraph division (a).

h. Develops and implements a consistent written policy for an employee who in the scope of the person's employment responsibilities examines, attends, counsels, or treats a child to report suspected physical or sexual abuse. The policy shall include an employee's reporting responsibilities. The reporting responsibilities shall designate the time, circumstances, and method for reporting suspected child abuse to the accredited private institution's administration and reporting to law enforcement. Nothing in the policy shall prohibit an employee from reporting suspected child abuse in good faith to law enforcement.

i. (1) Adopts a policy to require that the institution shall annually, beginning December 15, 2015, file a report with the governor and the general assembly providing information and statistics for the previous five academic years on the number of students per year who are veterans who received education credit for military education, training, and service, that number as a percentage of veterans known to be enrolled at the institution, the average number of credits received by students, and the average number of credits applied towards

the award or completion of a course of instruction, postsecondary diploma, degree, or other evidences of distinction.

(2) For purposes of this paragraph, “*veteran*” means a veteran as defined in section 35.1 or a member of the reserve forces of the United States or the national guard as defined in section 29A.1 who has served at least one year of the member’s commitment and is eligible for or has exhausted federal veterans education benefits under 38 U.S.C. ch. 30, 32, 33, or 36 or 10 U.S.C. ch. 1606 or 1607, respectively.

2. “*Commission*” means the college student aid commission.

3. “*Eligible institution*” means an institution of higher learning located in Iowa which is operated privately and not controlled or administered by any state agency or any subdivision of the state, which is not exempt from taxation under section 501(c)(3) of the Internal Revenue Code, and which meets all of the criteria in subsection 1, paragraphs “*d*” through “*i*”, and the criteria in paragraphs “*a*” or “*b*” as follows:

a. Is accredited by the higher learning commission and which, effective January 8, 2010, purchased an accredited private institution that was exempt from taxation under section 501(c) of the Internal Revenue Code, or whose students were eligible to receive tuition grants in the fiscal year beginning July 1, 2003. The eligible institution shall annually provide a matching aggregate amount of institutional financial aid which shall increase by the percentage of increase each fiscal year of funds appropriated for Iowa tuition grants under section 261.25, subsection 2, to a maximum match of one hundred percent as initiated under section 261.9, subsection 1, paragraph “*b*”, Code 2005.

b. Is a barber school licensed under section 158.7 or a school of cosmetology arts and sciences licensed under chapter 157 and is accredited by a national accrediting agency recognized by the United States department of education. For the fiscal year beginning July 1, 2017, an eligible institution under this paragraph shall provide a matching aggregate amount of institutional financial aid equal to at least seventy-five percent of the amount received by the institution’s students for Iowa tuition grant assistance under section 261.16A. For the fiscal year beginning July 1, 2018, the institution shall provide a matching aggregate amount of institutional financial aid equal to at least eighty-five percent of the amount received in that fiscal year. Commencing with the fiscal year beginning July 1, 2019, and each succeeding fiscal year, the matching aggregate amount of institutional financial aid shall be at least equal to the match provided by eligible institutions under paragraph “*a*”.

4. “*Financial need*” means the difference between the student’s financial resources available, including those available from the student’s parents as determined by a completed parents’ confidential statement, and the student’s anticipated expenses while attending the accredited private institution. Financial need shall be redetermined at least annually.

5. “*Full-time resident student*” means an individual resident of Iowa who is enrolled at an accredited private institution in a course of study including at least twelve semester hours or the trimester equivalent of twelve semester hours. “*Course of study*” does not include correspondence courses.

6. “*Part-time resident student*” means an individual resident of Iowa who is enrolled at an accredited private institution in a course of study including at least three semester hours or the trimester or quarter equivalent of three semester hours. “*Course of study*” does not include correspondence courses.

7. “*Qualified student*” means a resident student who has established financial need and who is making satisfactory progress toward graduation.

8. “*Tuition grant*” means an award by the state of Iowa to a qualified student under this subchapter.

[C71, 73, 75, 77, 79, 81, §261.9]

87 Acts, ch 233, §455; 88 Acts, ch 1284, §22 – 24; 89 Acts, ch 319, §42; 90 Acts, ch 1253, §122; 90 Acts, ch 1272, §48; 91 Acts, ch 180, §1; 92 Acts, ch 1106, §1, 4; 2000 Acts, ch 1095, §4 – 11; 2001 Acts, ch 24, §42; 2001 Acts, ch 39, §2; 2003 Acts, ch 179, §113, 114; 2004 Acts, ch 1086, §56; 2004 Acts, ch 1175, §237, 238; 2005 Acts, ch 169, §25; 2010 Acts, ch 1169, §4; 2011 Acts, ch 36, §3; 2012 Acts, ch 1040, §4, 5; 2012 Acts, ch 1072, §35; 2014 Acts, ch 1013,

§16; 2014 Acts, ch 1061, §3; 2014 Acts, ch 1116, §31, 32; 2015 Acts, ch 8, §2; 2017 Acts, ch 54, §76; 2017 Acts, ch 170, §36; 2017 Acts, ch 172, §15; 2018 Acts, ch 1026, §80

Referred to in §256.7, 256.28, 261.5, 261.7, 261.16A, 261.25, 261.71, 261.83, 261.86, 261.102, 261.111, 261.114, 261.131, 261.132, 261B.11, 261E.2, 261G.2, 714.19

261.10 Who qualified.

A tuition grant may be awarded to a resident of Iowa who is admitted and in attendance as a full-time or part-time resident student at an accredited private institution and who establishes financial need.

[C71, 73, 75, 77, 79, 81, §261.10]

88 Acts, ch 1284, §25

261.11 Extent of grant.

A qualified full-time resident student may receive tuition grants for not more than eight semesters of undergraduate study or the trimester or quarter equivalent. A qualified part-time resident student may receive tuition grants for not more than sixteen semesters of undergraduate study or the trimester or quarter equivalent.

[C71, 73, 75, 77, 79, 81, §261.11]

88 Acts, ch 1284, §26

261.12 Amount of grant.

1. The amount of a tuition grant to a qualified full-time student for the fall and spring semesters, or the trimester equivalent, shall be the amount of the student's financial need for that period. However, a tuition grant shall not exceed the lesser of:

a. The total tuition and mandatory fees for that student for two semesters or the trimester or quarter equivalent, less the base amount determined annually by the college student aid commission, which base amount shall be within ten dollars of the average tuition for two semesters or the trimester equivalent of undergraduate study at the state universities under the board of regents, but in any event the base amount shall not be less than four hundred dollars; or

b. For the fiscal year beginning July 1, 2017, and for each succeeding fiscal year, an amount equivalent to the average resident tuition and mandatory fees for two semesters or the equivalent of undergraduate study at the institutions of higher learning governed by the state board of regents.

2. The amount of a tuition grant to a qualified full-time student for the summer semester or trimester equivalent shall be one-half the amount of the tuition grant the student receives under subsection 1.

3. The amount of a tuition grant to a qualified part-time student enrolled in a course of study including at least three semester hours but fewer than twelve semester hours for the fall, spring, and summer semesters, or the trimester or quarter equivalent, shall be equal to the amount of a tuition grant that would be paid to a full-time student times a number which represents the number of hours in which the part-time student is actually enrolled divided by twelve semester hours, or the trimester or quarter equivalent.

[C71, 73, 75, 77, 79, 81, §261.12]

83 Acts, ch 197, §13; 84 Acts, ch 1302, §16; 85 Acts, ch 263, §16; 88 Acts, ch 1284, §27; 89 Acts, ch 300, §3; 89 Acts, ch 319, §43; 90 Acts, ch 1253, §122; 90 Acts, ch 1272, §49; 91 Acts, ch 10, §1; 91 Acts, ch 258, §39; 95 Acts, ch 218, §21; 96 Acts, ch 1215, §36; 96 Acts, ch 1219, §4, 5; 97 Acts, ch 212, §25; 98 Acts, ch 1215, §33; 99 Acts, ch 205, §28; 2000 Acts, ch 1223, §26; 2013 Acts, ch 140, §151; 2015 Acts, ch 140, §46, 58, 59; 2017 Acts, ch 172, §16

261.13 Annual grant.

A tuition grant may be made annually for the fall, spring, and summer semesters or the trimester equivalent. Payments under the grant shall be allocated equally among the semesters or trimesters and shall be paid at the beginning of each semester or trimester upon certification by the accredited private institution that the student is admitted and in attendance. If the student discontinues attendance before the end of any semester or trimester after receiving payment under the grant, the entire amount of any refund due that

student, up to the amount of any payments made under the annual grant, shall be paid by the accredited private institution to the state.

[C71, 73, 75, 77, 79, 81, §261.13]
96 Acts, ch 1219, §6

261.14 Other aid considered.

If a student receives financial aid under any other program the full amount of such financial aid shall be considered part of the student's financial resources available in determining the amount of the student's financial need for that period. In no case may the state's total financial contribution to the student's education, including financial aid under any other state program, exceed the tuition and mandatory fees at the institution which the student attends.

[C71, 73, 75, 77, 79, 81, §261.14]

261.15 Administration by commission — rules.

The commission shall administer this program and shall:

1. Provide application forms and parents' confidential statement forms.
2. Adopt rules and regulations for determining financial need, defining tuition and mandatory fees, defining residence for the purposes of this subchapter, processing and approving applications for tuition grants, and determining priority of grants. The commission may provide for proration of funds if the available funds are insufficient to pay all approved grants. Such proration shall take primary account of the financial need of the applicant. In determining who is a resident of Iowa, the commission's rules shall be at least as restrictive as those of the board of regents.
3. Approve and award tuition grants.
4. Make an annual report to the governor and general assembly, and evaluate the tuition grant program for the period. The commission may require the accredited private institution to promptly furnish any information which the commission may request in connection with the tuition grant program.

[C71, 73, 75, 77, 79, 81, §261.15]
2017 Acts, ch 54, §76
Referred to in §261.16A

261.16 Application for grants.

Each applicant, in accordance with the rules and regulations of the commission, shall:

1. Complete and file an application for a tuition grant.
2. Be responsible for the submission of the parents' confidential statement for processing, the processed information to be returned both to the commission and to the college in which the applicant is enrolling.
3. Report promptly to the commission any information requested.
4. File a new application and parents' confidential statement annually on the basis of which the applicant's eligibility for a renewed tuition grant will be evaluated and determined.

[C71, 73, 75, 77, 79, 81, §261.16]
Referred to in §261.16A

261.16A Iowa tuition grants — for-profit institutions.

1. *Students qualified.* A tuition grant from moneys appropriated under section 261.25, subsection 2, may be awarded to a resident of Iowa who is admitted and in attendance as a full-time or part-time resident student at an eligible institution and who establishes financial need.

2. *Extent of grant.*

a. A qualified full-time resident student enrolled in an eligible institution that meets the criteria of section 261.9, subsection 3, paragraph "a", may receive tuition grants for not more than eight semesters of undergraduate study or the equivalent; a qualified part-time resident student enrolled in the eligible institution may receive tuition grants for not more than sixteen semesters of undergraduate study or the equivalent.

b. A qualified full-time resident student enrolled in an eligible institution that meets the criteria of section 261.9, subsection 3, paragraph "b", may receive tuition grants for not more

than four semesters or the equivalent of two full years of study. However, if a student resumes study after at least a two-year absence, the student may again be eligible for the specified amount of time, except that the student shall not receive assistance for courses for which credit was previously received.

3. *Amount of grant.*

a. The amount of a tuition grant to a qualified full-time student for the fall and spring semesters, or the equivalent, shall be the amount of the student's financial need for that period. However, a tuition grant shall not exceed six thousand dollars.

b. The amount of a tuition grant to a qualified full-time student for the summer semester or equivalent shall be one-half the amount of the tuition grant the student receives under paragraph "a".

c. The amount of a tuition grant to a qualified part-time student enrolled in a course of study including at least three semester hours but fewer than twelve semester hours for the fall, spring, and summer semesters, or the equivalent, shall be equal to the amount of a tuition grant that would be paid to a full-time student times a number which represents the number of hours in which the part-time student is actually enrolled divided by twelve semester hours, or the equivalent.

d. If a qualified student receives financial aid under any other program, the full amount of such financial aid shall be considered part of the student's financial resources available in determining the amount of the student's financial need for that period. In no case may the state's total financial contribution to the student's education, including financial aid under any other state or federal program, exceed the tuition and mandatory fees at the eligible institution the student attends.

4. *Grant payments — attendance discontinued.*

a. Payments under the tuition grant shall be allocated equally among the semesters or the equivalent and shall be paid at the beginning of each semester or equivalent upon certification by the eligible institution that the student is admitted and in full-time or part-time attendance in a course of study.

b. If the student discontinues attendance before the end of any semester, or the equivalent, after receiving payment under the grant, the entire amount of any refund due that student, up to the amount of any payments made under the annual grant, shall be paid by the eligible institution to the state.

5. *Commission responsibilities.* The commission's responsibilities for administering tuition grants under this section shall be the same as provided under section 261.15. The commission may require an eligible institution to promptly furnish any information which the commission may request in connection with the tuition grant program.

6. *Grant applications.* Each applicant for a tuition grant under this section shall meet the requirements of section 261.16.

7. *Reports to commission.* An eligible institution shall file annual reports with the commission, as required by the commission and under section 261.9, prior to receipt of tuition grant moneys under this chapter.

2017 Acts, ch 172, §17

Referred to in §261.9

PART 2

VOCATIONAL-TECHNICAL TUITION GRANTS

261.17 Vocational-technical tuition grants.

1. A vocational-technical tuition grant may be awarded to any resident of Iowa who is admitted and in attendance as a full-time or part-time student in a vocational-technical or career option program at a community college in the state, and who establishes financial need.

2. All classes, including liberal arts classes, identified by the community college as required for completion of the student's vocational-technical or career option program shall

be considered a part of the student's vocational-technical or career option program for the purpose of determining the student's eligibility for a grant. Notwithstanding subsection 3, if a student is making satisfactory academic progress but the student cannot complete a vocational-technical or career option program in the time frame allowed for a student to receive a vocational-technical tuition grant as provided in subsection 3 because additional classes are required to complete the program, the student may continue to receive a vocational-technical tuition grant for not more than one additional enrollment period.

3. a. A qualified full-time student may receive vocational-technical tuition grants for not more than four semesters or the trimester or quarter equivalent of two full years of study. A qualified part-time student enrolled in a course of study including at least three semester hours but fewer than twelve semester hours or the trimester or quarter equivalent may receive vocational-technical tuition grants for not more than eight semesters or the trimester or quarter equivalent of two full years of full-time study.

b. However, if a student resumes study after at least a two-year absence, the student may again be eligible for the specified amount of time, except that the student shall not receive assistance for courses for which credit was previously received.

4. a. The amount of a vocational-technical tuition grant to a qualified full-time student shall not exceed the lesser of one thousand two hundred dollars per year or the amount of the student's established financial need.

b. The amount of a vocational-technical tuition grant to a qualified part-time student enrolled in a course of study including at least three semester hours but fewer than twelve semester hours or the trimester or quarter equivalent shall be equal to the amount of a vocational-technical tuition grant that would be paid to a full-time student, except that the commission shall prorate the amount in a manner consistent with the federal Pell grant program proration.

5. A vocational-technical tuition grant shall be awarded on an annual basis, requiring reapplication by the student for each year. Payments under the grant shall be allocated equally among the semesters or quarters of the year upon certification by the institution that the student is in full-time or part-time attendance in a vocational-technical or career option program, as defined under rules of the department of education. If the student discontinues attendance before the end of any term after receiving payment of the grant, the entire amount of any refund due that student, up to the amount of any payments made under the annual grant, shall be paid by the institution to the state.

6. If a student receives financial aid under any other program, the full amount of that financial aid shall be considered part of the student's financial resources available in determining the amount of the student's financial need for that period.

7. The commission shall administer this program and shall:

a. Provide application forms for distribution to students by Iowa high schools and community colleges.

b. Adopt rules for determining financial need, defining residence for the purposes of this section, processing and approving applications for grants and determining priority for grants.

c. Approve and award grants on an annual basis.

d. Make an annual report to the governor and general assembly.

8. Each applicant, in accordance with the rules established by the commission, shall:

a. Complete and file an application for a vocational-technical tuition grant.

b. Be responsible for the submission of the financial information required for evaluation of the applicant's need for a grant, on forms determined by the commission.

c. Report promptly to the commission any information requested.

d. Submit a new application and financial statement for reevaluation of the applicant's eligibility to receive a second-year renewal of the grant.

[C75, 77, 79, 81, §261.17]

83 Acts, ch 197, §14; 87 Acts, ch 233, §456; 89 Acts, ch 319, §44; 90 Acts, ch 1253, §120; 90 Acts, ch 1272, §50; 97 Acts, ch 212, §26; 98 Acts, ch 1215, §34, 35; 99 Acts, ch 205, §29, 30; 2001 Acts, 2nd Ex, ch 6, §20, 37; 2002 Acts, ch 1014, §1; 2010 Acts, ch 1061, §180

261.17A Iowa hope loan program. Repealed by 2014 Acts, ch 1141, §27.

261.18 Reserved.

261.19 Health care professional recruitment program. Transferred to §261.115; 2014 Acts, ch 1061, §16.

261.19A Osteopathic forgivable loan program. Repealed by 97 Acts, ch 134, §2.

261.19B Osteopathic physician recruitment revolving fund. Repealed by 2011 Acts, ch 132, §27, 106.

PART 3
ADMINISTRATION

261.20 Scholarship and tuition grant reserve fund.

1. A scholarship and tuition grant reserve fund is created to assure that financial assistance will be available to all students who are awarded scholarships or tuition grants through programs funded under this chapter. The fund is created as a separate fund in the state treasury, and moneys in the fund shall not revert to the general fund unless, and then only to the extent that, the funds exceed the maximum allowed balance.

2. The maximum balance of the scholarship and tuition grant reserve fund is an amount equal to two percent of the funds appropriated to the scholarship and tuition grant programs under section 261.25 during the preceding fiscal year. The moneys in the fund shall be placed in separate accounts within the fund, according to the source and purpose of the original appropriation. Moneys in the various accounts shall only be used to alleviate a current fiscal year shortfall in appropriations for scholarship or tuition grant programs that have the same nature as the programs for which the moneys were originally appropriated. At the conclusion of a fiscal year, any surplus appropriations made to the commission for scholarship or tuition grant programs are appropriated to the scholarship and grant reserve fund in an amount equal to the amount of the surplus or the amount necessary to achieve the maximum balance, whichever amount is less.

3. Transfers of moneys from the scholarship and tuition grant reserve fund to appropriation accounts in which there is a current fiscal year shortfall may be made only with the prior written approval of the governor. At least two weeks before moneys are transferred from the fund, the commission shall notify the chairpersons of the standing appropriations committees of the general assembly and the co-chairpersons of the education appropriations subcommittee of the proposed transfer. The notice shall include information concerning the amount of and reason for the proposed transfer. The chairpersons shall be given at least two weeks to review and comment on the proposed transfer before the transfer can be made.

4. The commission shall annually report to the general assembly the methodology and manner in which the commission makes the determination of awards for programs for which funds are appropriated under section 261.25.

89 Acts, ch 300, §4; 2020 Acts, ch 1121, §8

Referred to in §261.2
Subsection 2 amended

261.21 National guard tuition aid program. Repealed by 99 Acts, ch 205, §47.

261.22 Accelerated career education grants. Repealed by 2014 Acts, ch 1141, §27.

261.23 Registered nurse and nurse educator loan forgiveness program. Transferred to §261.116; 2014 Acts, ch 1061, §16.

261.24 Iowa state fair scholarship. Transferred to §261.62; 2014 Acts, ch 1061, §16.

261.25 Appropriations — standing limited.

1. There is appropriated from the general fund of the state to the commission for each fiscal year the sum of forty-seven million seven hundred three thousand four hundred sixty-three dollars for tuition grants to qualified students who are enrolled in accredited private institutions.

2. There is appropriated from the general fund of the state to the commission for each fiscal year the sum of four hundred twenty-six thousand two hundred twenty dollars for tuition grants for qualified students who are enrolled in eligible institutions. Of the moneys appropriated under this subsection, not more than eighty thousand dollars annually shall be used for tuition grants to qualified students who are attending an eligible institution under section 261.9, subsection 3, paragraph “b”.

3. There is appropriated from the general fund of the state to the commission for each fiscal year the sum of one million seven hundred fifty thousand one hundred eighty-five dollars for vocational-technical tuition grants.

4. This section shall not be construed to be a limitation on any of the amounts which may be appropriated by the general assembly for any program enumerated in this section.

[C77, 79, 81, §261.25]

83 Acts, ch 197, §15; 85 Acts, ch 263, §17; 87 Acts, ch 233, §458; 88 Acts, ch 1003, §2; 88 Acts, ch 1284, §13, 28; 89 Acts, ch 319, §47, 48; 90 Acts, ch 1253, §122; 90 Acts, ch 1272, §54; 91 Acts, ch 180, §3; 91 Acts, ch 260, §908; 91 Acts, ch 267, §218; 92 Acts, ch 1246, §30; 93 Acts, ch 179, §21; 94 Acts, ch 1193, §19, 20; 95 Acts, ch 218, §22; 96 Acts, ch 1215, §38; 97 Acts, ch 212, §27; 98 Acts, ch 1215, §37, 38; 99 Acts, ch 205, §31, 32; 2000 Acts, ch 1095, §14; 2000 Acts, ch 1223, §28; 2002 Acts, ch 1171, §85; 2002 Acts, 2nd Ex, ch 1003, §93, 95; 2003 Acts, ch 35, §45, 49; 2003 Acts, ch 182, §13; 2004 Acts, ch 1175, §93; 2005 Acts, ch 169, §26, 27; 2006 Acts, ch 1180, §18, 19; 2006 Acts, ch 1182, §43; 2007 Acts, ch 214, §27; 2008 Acts, ch 1181, §33; 2009 Acts, ch 177, §27; 2010 Acts, ch 1183, §23, 24, 43; 2011 Acts, ch 36, §4; 2011 Acts, ch 132, §13, 106; 2012 Acts, ch 1132, §11; 2017 Acts, ch 172, §18, 19; 2018 Acts, ch 1163, §13; 2019 Acts, ch 135, §13

Referred to in §261.9, 261.16A, 261.20

261.26 through 261.34 Reserved.

SUBCHAPTER III

IOWA GUARANTEED LOAN PROGRAM

261.35 Definitions.

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

1. “*Commission*” means the college student aid commission of the state of Iowa.

2. “*Eligible borrower*” means a person, or the parent of a person, who is enrolled or will be enrolled at an eligible institution. All eligible borrowers must meet the eligibility requirements established by the commission.

3. “*Eligible institution*” means any postsecondary educational institution which meets the requirements of the provisions of the Higher Education Act of 1965 for student participation in the federal interest subsidy program and the requirements prescribed by rule of the commission.

4. “*Eligible lender*” means a financial or credit institution, insurance company or other approved lender which meets the standards prescribed by the commission and has executed a lender participation agreement with the commission.

5. “*Higher Education Act of 1965*” means the federal Higher Education Act of 1965, as amended and codified in 20 U.S.C. §1071 et seq.

[C79, 81, §261.35; 81 Acts, ch 8, §12, ch 85, §1]

86 Acts, ch 1246, §25; 89 Acts, ch 300, §5; 90 Acts, ch 1253, §122; 2006 Acts, ch 1180, §20; 2017 Acts, ch 54, §76

Referred to in §261.62

261.36 Powers.

The commission shall have necessary powers to carry out its purposes and duties under this subchapter, including but not limited to the power to:

1. Sue and be sued in its own name.
2. Incur and discharge debts including the payment of any defaulted loan obligations which have been guaranteed by the commission.
3. Make and execute agreements, contracts, and other instruments with any public or private person or agency including the United States secretary of education.
4. Guarantee loans made by eligible lenders to eligible borrowers who are, or whose children are, enrolled or will be enrolled at eligible institutions as at least half-time students as defined by the commission.
5. Approve educational institutions as eligible institutions upon their meeting the requirements established by the commission.
6. Approve financial or credit institutions, insurance companies, or other lenders as eligible lenders upon their meeting the standards established by the commission for making guaranteed loans.
7. Accept appropriations, gifts, grants, loans, or other aid from public or private persons or agencies including the United States secretary of education.
8. Implement various means of encouraging maximum lender participation in the Iowa guaranteed loan program.

[C71, 73, 75, 77, §261.5, 261.6; C79, 81, §261.36; 81 Acts, ch 8, §13]

83 Acts, ch 101, §61; 89 Acts, ch 300, §26; 90 Acts, ch 1168, §36; 2017 Acts, ch 54, §76; 2019 Acts, ch 24, §31

261.37 Duties.

The duties of the commission under this subchapter shall be as follows:

1. To review the Iowa guaranteed loan program.
2. To review and make disposition of all applications for the guarantee of student loans.
3. Collect an insurance premium of not more than the amount authorized by the federal Higher Education Act of 1965. The premium shall be collected by the lender upon the disbursement of the loan and shall be remitted promptly to the commission.
4. To enter into all necessary agreements with the United States secretary of education as required for the purpose of receiving full benefit of the state program incentives offered pursuant to the Higher Education Act of 1965.
5. To adopt rules pursuant to chapter 17A to implement the provisions of this subchapter including establishing standards for educational institutions, lenders, and individuals to become eligible institutions, lenders, and borrowers. Notwithstanding any contrary provisions in chapter 537, the rules and standards established shall be consistent with the requirements provided in the Higher Education Act of 1965.
6. To reimburse eligible lenders for the amount authorized by the federal Higher Education Act of 1965 on defaulted loans guaranteed by the commission upon receipt of written notice of the default accompanied by evidence that the lender has exercised the required degree of diligence in efforts to collect the loan.
7. To establish an effective system for the collection of delinquent loans, including the adoption of an agreement with the department of administrative services to set off against a defaulter's income tax refund or rebate the amount that is due because of a default on a loan made under this subchapter. The commission shall adopt rules under chapter 17A necessary to assist the department of administrative services in the implementation of the student loan setoff program as established under section 8A.504. The commission shall apply administrative wage garnishment procedures authorized under the federal Higher Education Act of 1965, as amended and codified in 20 U.S.C. §1071 et seq., for all delinquent loans, including loans authorized under section 261.38, when a defaulter who is financially capable of paying fails to voluntarily enter into a reasonable payment agreement. In no case shall the commission garnish more than the amount authorized by federal law for all loans being collected by the commission, including those authorized under section 261.38.
8. To develop and disseminate informational and educational materials to lenders,

postsecondary institutions and borrowers. The commission shall provide applicants, as deemed necessary by the commission, with information about the past default rates of borrowers, enrollment, and placement statistics by postsecondary institution.

9. To develop all forms necessary to the proper administration of the guaranteed student loan program and provide supplies of such forms to participating lenders and postsecondary institutions.

10. To report annually to the governor and the general assembly on the status of the guaranteed student loan program.

11. To implement all possible assistance to eligible lenders for the purpose of easing the workload entailed in participation in the guaranteed student loan program.

[C79, 81, §261.37; 81 Acts, ch 8, §14; 82 Acts, ch 1057, §1]

83 Acts, ch 101, §62; 87 Acts, ch 233, §459; 88 Acts, ch 1284, §29; 89 Acts, ch 300, §6; 90 Acts, ch 1168, §37; 96 Acts, ch 1158, §1; 2003 Acts, ch 145, §228; 2004 Acts, ch 1145, §3; 2014 Acts, ch 1061, §4; 2017 Acts, ch 54, §76

For future amendment to subsection 7 effective upon the later of January 1, 2021, or the effective date of rules adopted by the department of revenue to implement 2020 Acts, ch 1064, see 2020 Acts, ch 1064, §12, 28; 2020 Acts, ch 1118, §73, 74

261.38 Agency operating account.

1. The commission shall establish an agency operating account as authorized by the federal Higher Education Act of 1965. The commission shall credit to the agency operating account all moneys provided for the state student loan program by the United States, the state of Iowa, or any of their agencies, departments, or instrumentalities, as well as any funds accruing to the program which are not required for current administrative expenses. The commission may expend moneys in the agency operating account as authorized by the federal Higher Education Act of 1965.

2. Notwithstanding section 8.33, funds on deposit in the agency operating account shall not revert to the state general fund at the close of any fiscal year.

3. The treasurer of state shall invest any funds in the agency operating account, and, notwithstanding section 12C.7, the interest income earned shall be credited back to the agency operating account.

4. *a.* The commission may enter into agreements with the Iowa student loan liquidity corporation in order to increase access for students to education loan programs that the commission determines meet the education needs of Iowa residents. The agreements shall permit the establishment, funding, and operation of alternative education loan programs, as described in section 144(b)(1)(B) of the Internal Revenue Code of 1986 as amended, as defined in section 422.3, in addition to programs permitted under the federal Higher Education Act of 1965. In accordance with those agreements, the Iowa student loan liquidity corporation may issue bonds, notes, or other obligations to the public and others for the purpose of funding the alternative education loan programs. This authority to issue bonds, notes, or other obligations shall be in addition to the authority established in the articles of incorporation and bylaws of the Iowa student loan liquidity corporation.

b. Bonds, notes, or other obligations issued by the Iowa student loan liquidity corporation are not an obligation of this state or any political subdivision of this state within the meaning of any constitutional or statutory debt limitations, but are special obligations of the Iowa student loan liquidity corporation, and the corporation shall not pledge the credit or taxing power of this state or any political subdivision of this state, or make its debts payable out of any of the moneys except those of the corporation.

[C71, 73, 75, 77, §261.5, 261.8; C79, 81, §261.38]

86 Acts, ch 1246, §26, 27; 89 Acts, ch 300, §7; 90 Acts, ch 1253, §122; 91 Acts, ch 180, §4, 5; 92 Acts, ch 1246, §31; 99 Acts, ch 205, §33 – 37; 2010 Acts, ch 1061, §180; 2014 Acts, ch 1061, §5, 6

Referred to in §261.37

261.39 Transfer of funds and assets. Repealed by 2014 Acts, ch 1141, §27.

261.40 Reserved.

261.41 Account dissolved — balance to general fund. Repealed by 2014 Acts, ch 1141, §27.

261.42 Short title.

This subchapter shall be known and may be cited as the “*Iowa Guaranteed Loan Program*”.

[C79, 81, §261.42]

89 Acts, ch 300, §8; 90 Acts, ch 1168, §39; 2017 Acts, ch 54, §76

261.43 Actions not barred.

No lapse of time shall be a bar to any action to recover on any loan guaranteed by the commission.

89 Acts, ch 300, §9

261.43A Security interest in education loans.

A nonprofit organization qualifying for tax-exempt status under the Internal Revenue Code, as defined in section 422.3, that provides or acquires education loans in the organization's normal course of business shall, notwithstanding any contrary provision of chapter 554 or other state law, establish and perfect a security interest and establish priority over other security interests in such education loans by filing in the same manner as provided for perfecting a security interest in a student loan pursuant to 20 U.S.C. §1082(m)(1)(E). This section applies to education loans provided under this chapter by such nonprofit organizations and other education loans provided by such nonprofit organizations.

2002 Acts, ch 1021, §1

SUBCHAPTER IV

LOAN PAYMENT AND REPAYMENT PROGRAMS

261.44 Guaranteed loan payment program. Repealed by 2014 Acts, ch 1141, §27.

261.45 through 261.47 Reserved.

261.48 Minority teacher loan payments. Repealed by 2014 Acts, ch 1141, §27.

261.49 through 261.53 Reserved.

261.54 Repayment of science and mathematics loans. Repealed by 2014 Acts, ch 1141, §27.

261.55 through 261.60 Reserved.

SUBCHAPTER V

BARBER AND COSMETOLOGY ARTS AND SCIENCES TUITION GRANT PROGRAM

261.61 Barber and cosmetology arts and sciences tuition grant program. Repealed by 2017 Acts, ch 172, §43. See §261.16A.

SUBCHAPTER VI
IOWA STATE FAIR SCHOLARSHIP

261.62 Iowa state fair scholarship.

The Iowa state fair scholarship fund is established in the office of treasurer of state to be administered by the commission. The commission shall adopt rules pursuant to chapter 17A for the administration of this section. The rules shall provide, at a minimum, that only residents of Iowa who have actively participated in the Iowa state fair and graduated from an accredited secondary school in Iowa shall be eligible to receive an Iowa state fair scholarship for matriculation at an eligible institution as defined in section 261.35. Notwithstanding section 12C.7, interest earned on money in the Iowa state fair scholarship fund shall be deposited into the fund and may be used by the commission only for Iowa state fair scholarship awards.

98 Acts, ch 1215, §36, 63

C99, §261.24

2014 Acts, ch 1061, §16

C2015, §261.62

261.63 through 261.70 Reserved.

SUBCHAPTER VII
CHIROPRACTIC GRADUATE STUDENT FORGIVABLE LOAN PROGRAM

261.71 Chiropractic graduate student forgivable loans.

1. A chiropractic graduate student forgivable loan program is established, to be administered by the college student aid commission for resident graduate students who are enrolled at Iowa chiropractic colleges and universities. A resident graduate student attending an Iowa chiropractic college or university is eligible for loan forgiveness under the program if the student meets all of the following conditions:

a. The student graduates from an Iowa chiropractic college or university that meets the requirements for approval under section 151.4.

b. The student has completed a chiropractic residency program.

c. The student agrees to practice in an underserved area in the state of Iowa for a period of time to be determined by the commission at the time the loan is awarded.

d. The student has received a loan from moneys appropriated to the college student aid commission for this program.

2. The contract for the loan repayment shall stipulate the time period the chiropractor shall practice in an underserved area in this state. In addition, the contract shall stipulate that the chiropractor repay any funds paid on the chiropractor's loan by the commission if the chiropractor fails to practice in an underserved area in this state for the required period of time. Forgivable loans made to eligible students shall not become due, for repayment purposes, until one year after the student has graduated. A loan that has not been forgiven may be sold to a bank, savings association, credit union, or nonprofit agency eligible to participate in the guaranteed student loan program under the federal Higher Education Act of 1965, 20 U.S.C. §1071 et seq., by the commission when the loan becomes due for repayment.

3. For purposes of this section "*graduate student*" means a student who has completed at least ninety semester hours, or the trimester or quarter equivalent, of postsecondary course work at a public higher education institution or at an accredited private institution, as defined under section 261.9. "*Underserved area*" means a geographical area included on the Iowa governor's health practitioner shortage area list, which is compiled by the center for rural health and primary care of the Iowa department of public health. The commission shall adopt rules, consistent with rules used for students enrolled in higher education institutions

under the control of the state board of regents, for purposes of determining Iowa residency status of graduate students under this section. The commission shall also adopt rules which provide standards, guidelines, and procedures for the receipt, processing, and administration of student applications and loans under this section.

95 Acts, ch 218, §23; 96 Acts, ch 1158, §2, 3; 99 Acts, ch 205, §38, 39; 2012 Acts, ch 1017, §65

261.72 Chiropractic loan revolving fund.

A chiropractic loan revolving fund is created in the state treasury as a separate fund under the control of the commission. The commission shall deposit payments made by chiropractic loan recipients and the proceeds from the sale of chiropractic loans, less costs of collection of delinquent chiropractic loans, into the chiropractic loan revolving fund. Moneys credited to the fund shall be used to supplement moneys appropriated for the chiropractic graduate student forgivable loan program, for loan forgiveness to eligible chiropractic physicians, and to pay for loan or interest repayment defaults by eligible chiropractic physicians. Notwithstanding section 8.33, any balance in the fund on June 30 of any fiscal year shall not revert to the general fund of the state.

96 Acts, ch 1158, §4

Allocation to chiropractic loan forgiveness program; 2015 Acts, ch 140, §4, 23; 2017 Acts, ch 172, §3, 48; 2019 Acts, ch 135, §3; 2020 Acts, ch 1121, §1

261.73 Chiropractic loan forgiveness program.

1. A chiropractic loan forgiveness program is established to be administered by the commission. A chiropractor is eligible for the program if the chiropractor is a resident of this state, is licensed to practice under chapter 151, and is engaged in the practice of chiropractic in this state.

2. Each applicant for loan forgiveness shall, in accordance with the rules of the commission, do the following:

a. Complete and file an application for chiropractic loan forgiveness. The individual shall be responsible for the prompt submission of any information required by the commission.

b. File a new application and submit information as required by the commission annually on the basis of which the applicant's eligibility for the renewed loan forgiveness will be evaluated and determined.

c. Complete and return on a form approved by the commission an affidavit of practice verifying that the applicant meets the eligibility requirements of subsection 1.

3. The annual amount of chiropractic loan forgiveness shall not exceed the resident tuition rate established for institutions of higher learning governed by the state board of regents for the first year following the chiropractor's graduation from a college of chiropractic approved by the board of chiropractic in accordance with section 151.4, or twenty percent of the chiropractor's total federally guaranteed Stafford loan amount under the federal family education loan program or the federal direct loan program, including principal and interest, whichever amount is less. A chiropractor shall be eligible for the loan forgiveness program for not more than five consecutive years.

4. A chiropractic loan forgiveness repayment fund is created for deposit of moneys appropriated to or received by the commission for use under the program. Notwithstanding section 8.33, moneys deposited in the fund shall not revert to any fund of the state at the end of any fiscal year but shall remain in the chiropractic loan forgiveness repayment fund and be continuously available for loan forgiveness under the program. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the fund shall be credited to the fund.

5. The commission shall adopt rules pursuant to chapter 17A to administer this section.

2008 Acts, ch 1181, §34

Referred to in §261.2

261.74 through 261.80 Reserved.

SUBCHAPTER VIII
WORK-STUDY PROGRAM

261.81 Work-study program.

The Iowa college work-study program is established to stimulate and promote the part-time employment of students attending Iowa postsecondary educational institutions, and the part-time or full-time summer employment of students registered for classes at Iowa postsecondary institutions during the succeeding school year, who are in need of employment earnings in order to pursue postsecondary education. The program shall be administered by the commission. The commission shall adopt rules under chapter 17A to carry out the program. The employment under the program shall be employment by the postsecondary education institution itself or work in a public agency or private nonprofit organization under a contract between the institution or the commission and the agency or organization. The work shall not result in the displacement of employed workers or impair or affect existing contracts for services. Moneys used by an institution for the work-study program shall supplement and not supplant jobs and existing financial aid programs provided for students through the institution.

85 Acts, ch 219, §1; 88 Acts, ch 1284, §31; 89 Acts, ch 300, §18; 89 Acts, ch 319, §50; 91 Acts, ch 180, §6; 95 Acts, ch 70, §2

261.81A and 261.82 Repealed by 2014 Acts, ch 1141, §27.

261.83 Eligibility and duties of institutions.

1. An eligible postsecondary education institution is an institution of higher education under the state board of regents, a community college, or an accredited private institution as defined in section 261.9, subsection 1. The commission may enter into an agreement with an eligible postsecondary education institution under which the commission will make grants to the institution for the work-study program.

2. The participating institution shall:

a. File the proper forms with the commission for participation in the program.

b. Develop jobs that meet the requirements of the Iowa college work-study program. To the extent possible, the job should complement the student's educational program and career goal.

c. Supervise and evaluate employment and maintain the records required by the commission.

d. Participate in the federal work-study program.

85 Acts, ch 219, §3; 90 Acts, ch 1253, §121; 2010 Acts, ch 1061, §180

261.84 Student eligibility.

In order to be eligible, a student must:

1. Be a citizen of the United States and a resident of this state.

2. Be enrolled and making satisfactory academic progress or accepted for enrollment at an eligible postsecondary institution on a half-time or greater basis.

3. Demonstrate financial need. A student's need shall be determined on the basis of a need analysis system approved for use by the commission or under the federal work-study program.

4. Have not defaulted on an Iowa guaranteed loan payment or on a loan guaranteed by the federal government.

85 Acts, ch 219, §4; 89 Acts, ch 300, §19, 26

261.85 Appropriation.

1. There is appropriated from the general fund of the state to the commission for each fiscal year the sum of two million seven hundred fifty thousand dollars for the work-study program.

2. From moneys appropriated in this section, one million five hundred thousand dollars

shall be allocated to institutions of higher education under the state board of regents and community colleges and the remaining dollars appropriated in this section shall be allocated by the commission on the basis of need as determined by the portion of the federal formula for distribution of work-study funds that relates to the current need of institutions.

87 Acts, ch 233, §463; 88 Acts, ch 1284, §32; 89 Acts, ch 319, §58; 90 Acts, ch 1272, §58; 91 Acts, ch 260, §909; 91 Acts, ch 267, §219; 92 Acts, ch 1246, §33; 93 Acts, ch 179, §22; 95 Acts, ch 218, §24; 2000 Acts, ch 1223, §29

State funding for certain fiscal years eliminated; 2015 Acts, ch 140, §5, 24; 2017 Acts, ch 172, §4, 49; 2019 Acts, ch 135, §4; 2020 Acts, ch 1121, §1

SUBCHAPTER IX

NATIONAL GUARD EDUCATIONAL ASSISTANCE

261.86 National guard service scholarship program.

1. A national guard service scholarship program is established to be administered by the college student aid commission for members of the Iowa national guard who are enrolled as undergraduate students in a community college, an institution of higher learning under the state board of regents, or an accredited private institution. The college student aid commission shall adopt rules pursuant to chapter 17A to administer this section. An individual is eligible for the national guard service scholarship program if the individual meets all of the following conditions:

a. Is a resident of the state and a member of an Iowa army or air national guard unit while receiving scholarship award payments issued pursuant to this section.

b. Satisfactorily completed required initial active duty training.

c. Maintains satisfactory performance of duty upon return from initial active duty training, including attending a minimum ninety percent of scheduled drill dates and attending annual training.

d. Is enrolled as an undergraduate student in a community college as defined in section 260C.2, an institution of higher learning under the control of the board of regents, or an accredited private institution as defined in section 261.9, and is maintaining satisfactory academic progress.

e. Provides proper notice of national guard status to the community college or institution at the time of registration for the term in which tuition benefits are sought.

f. Completes and submits application forms required by the commission, including the free application for federal student aid, and applies for all nonrepayable state and federal financial aid for which the member is eligible.

g. Submits an application to the adjutant general of Iowa, on forms prescribed by the adjutant general, who shall determine eligibility and whose decision is final. Notwithstanding any deadline established for the administration of this paragraph, the adjutant general shall accept an application submitted pursuant to this paragraph from an otherwise eligible member of the national guard who was on federal active duty at the time of such deadline.

2. Scholarship awards paid pursuant to this section shall not exceed the resident tuition rate established for institutions of higher learning under the control of the state board of regents. If the amount appropriated in a fiscal year for purposes of this section is insufficient to provide scholarships to all national guard members who apply for the program and who are determined by the adjutant general to be eligible for the program, the adjutant general shall, in coordination with the commission, determine the distribution of scholarships. However, scholarship awards paid pursuant to this section shall not be less than fifty percent of the resident tuition rate established for institutions of higher learning under the control of the state board of regents or fifty percent of the tuition rate at the institution attended by the national guard member, whichever is lower. Neither eligibility nor scholarship award determinations shall be based upon a national guard member's unit, the location at which drills are attended, or whether the eligible individual is a member of the Iowa army or air national guard.

3. a. (1) Except as provided in subparagraph (2), an eligible member of the national

guard, attending an institution as provided in subsection 1, paragraph “d”, shall not receive scholarship awards under this section for more than one hundred twenty semester, or the equivalent, credit hours of undergraduate study.

(2) An eligible member of the national guard, attending an institution as provided in subsection 1, paragraph “d”, who is enrolled in a program of education leading to a postsecondary degree that meets the eligibility requirements for the federal Edith Nourse Rogers STEM scholarship established under 38 U.S.C. §3320, shall not receive scholarship awards issued under this section for more than one hundred thirty semester, or the equivalent, credit hours of undergraduate study.

(3) A national guard member who has met the educational requirements for a baccalaureate degree is ineligible for a scholarship award under this section.

b. A member of the national guard who received educational assistance under this section prior to July 1, 2015, shall be deemed to have received educational assistance for the following number of credit hours for educational assistance received before that date:

(1) For each semester that the member received educational assistance while attending an institution as a full-time student, twelve credit hours.

(2) For each semester that the member received educational assistance while attending an institution as a part-time student, six credit hours.

(3) For each trimester or quarter that the member received educational assistance while attending an institution as a full-time or part-time student, the number of credit hours that are determined to be the semester equivalent by the college student aid commission.

4. The eligibility of applicants and scholarship award amounts to be paid shall be certified by the adjutant general of Iowa to the college student aid commission, and all amounts that are or become due to a community college, accredited private institution, or institution of higher learning under the control of the state board of regents under this section shall be paid to the college or institution by the college student aid commission upon receipt of certification by the president or governing board of the educational institution as to accuracy of charges made, and as to the attendance and academic progress of the individual at the educational institution. The college student aid commission shall maintain an annual record of the number of participants and the dollar value of the awards issued.

5. Scholarships awarded under this section may be used by the recipient for the recipient’s “cost of attendance” as defined in Tit. IV, pt. B, of the federal Higher Education Act of 1965 as amended.

6. Notwithstanding section 8.33, funds appropriated for purposes of this section which remain unencumbered or unobligated at the close of the fiscal year for which the funds were appropriated shall not revert but shall be available for expenditure for the following fiscal year for purposes of this section.

99 Acts, ch 205, §40; 2000 Acts, ch 1095, §15; 2003 Acts, ch 182, §14, 22; 2010 Acts, ch 1061, §180; 2011 Acts, ch 48, §1, 2; 2013 Acts, ch 46, §1; 2015 Acts, ch 9, §1; 2016 Acts, ch 1029, §1; 2016 Acts, ch 1132, §10, 19, 20; 2018 Acts, ch 1163, §14; 2019 Acts, ch 24, §32; 2019 Acts, ch 135, §14 – 16; 2020 Acts, ch 1062, §73 – 75

2016 amendment to subsection 6 takes effect May 27, 2016, and applies retroactively to June 30, 2015; 2016 Acts, ch 1132, §19, 20
Section not amended; section history revised

SUBCHAPTER X

ALL IOWA OPPORTUNITY SCHOLARSHIPS

261.87 All Iowa opportunity scholarship program and fund.

1. *Definitions.* As used in this subchapter, unless the context otherwise requires:

a. “Commission” means the college student aid commission.

b. “Eligible foster care student” means a person who has a high school diploma or a high school equivalency diploma under chapter 259A and is described by any of the following:

(1) Is age seventeen and is in a court-ordered placement under chapter 232 under the care and custody of the department of human services or juvenile court services.

(2) Is age seventeen and has been placed in a state juvenile institution pursuant to a court

order entered under chapter 232 under the care and custody of the department of human services.

(3) Is described by any of the following:

(a) On the date the person reached age eighteen or during the thirty calendar days preceding or succeeding that date, the person was in a licensed foster care placement pursuant to a court order entered under chapter 232 under the care and custody of the department of human services or juvenile court services.

(b) On the date the person reached age eighteen or during the thirty calendar days preceding or succeeding that date, the person was under a court order under chapter 232 to live with a relative or other suitable person.

(c) The person was in a licensed foster care placement pursuant to an order entered under chapter 232 prior to being legally adopted after reaching age sixteen.

(d) On the date the person reached age eighteen or during the thirty calendar days preceding or succeeding that date, the person was placed in a state juvenile institution pursuant to a court order entered under chapter 232 under the care and custody of the department of human services.

c. "*Eligible institution*" means a community college established under chapter 260C or an institution of higher learning governed by the state board of regents.

d. "*Eligible surviving-child student*" means a qualified student who is not a convicted felon as defined in section 910.15 and who meets any of the following criteria:

(1) Is the child of a peace officer, as defined in section 97A.1, who was killed in the line of duty as determined by the board of trustees of the Iowa department of public safety peace officers' retirement, accident, and disability system in accordance with section 97A.6, subsection 16.

(2) Is the child of a police officer or a fire fighter, as each is defined in section 411.1, who was killed in the line of duty as determined by the statewide fire and police retirement system in accordance with section 411.6, subsection 15.

(3) Is the child of a sheriff or deputy sheriff as each is defined in section 97B.49C, who was killed in the line of duty as determined by the Iowa public employees' retirement system in accordance with section 97B.52, subsection 2.

(4) Is the child of a fire fighter or police officer included under section 97B.49B, who was killed in the line of duty as determined by the Iowa public employees' retirement system in accordance with section 97B.52, subsection 2.

e. "*Financial need*" means the difference between the student's financial resources available, including those available from the student's parents as determined by a completed parents' confidential statement, and the student's anticipated expenses while attending an eligible institution.

f. "*Full-time resident student*" means an individual resident of Iowa who is enrolled at an eligible institution in a program of study including at least twelve semester hours or the trimester or quarter equivalent.

g. "*Part-time resident student*" means an individual resident of Iowa who is enrolled at an eligible institution in a program of study including at least three semester hours or the trimester or quarter equivalent.

h. "*Qualified student*" means a resident student who has established financial need and who is meeting all program requirements.

2. *Program — eligibility.* An all Iowa opportunity scholarship program is established to be administered by the commission. The awarding of scholarships under the program is subject to appropriations made by the general assembly. A person who meets all of the following requirements is eligible for the program:

a. Is a resident of Iowa and a citizen of the United States or a lawful permanent resident.

b. Applies in a timely manner for admission to an eligible institution and is accepted for admission.

c. Applies in a timely manner for any federal or state student financial assistance available to the student to attend an eligible institution.

d. Files a new application and parents' confidential statement, as applicable, annually on

the basis of which the applicant's eligibility for a renewed scholarship will be evaluated and determined.

e. Maintains satisfactory academic progress during each term for which a scholarship is awarded.

f. Begins enrollment at an eligible institution within two academic years of graduation from high school or receipt of a high school equivalency diploma under chapter 259A and continuously receives awards as a full-time or part-time student to maintain eligibility. However, the student may defer participation in the program for up to two years in order to pursue obligations that meet conditions established by the commission by rule or to fulfill military obligations.

3. *Priority for scholarship awards.* Priority for scholarships under this section shall be given to eligible foster care students, then to eligible surviving-child students, who meet the eligibility criteria under subsection 2. Following distribution to students who meet the eligibility criteria under subsection 2, the commission may establish priority for awarding scholarships using any moneys that remain in the all Iowa opportunity scholarship fund.

4. *Extent of scholarship.* A qualified student at an eligible institution may receive scholarships for not more than the equivalent of eight full-time semesters of undergraduate study, excluding summer semesters. A qualified student attending part-time may receive scholarships for not more than the equivalent of sixteen part-time semesters of undergraduate study. Scholarships awarded pursuant to this section shall not exceed the least of the following amounts, as determined by the commission:

a. The student's financial need.

b. One-half of the average resident tuition rate and mandatory fees established for institutions of higher learning governed by the state board of regents.

5. *Discontinuance of attendance — remittance.* If a student receiving a scholarship pursuant to this section discontinues attendance before the end of any academic term, the entire amount of any refund due to the student, up to the amount of any payments made by the state, shall be remitted by the eligible institution to the commission. The commission shall deposit refunds paid to the commission in accordance with this subsection into the fund established pursuant to subsection 6.

6. *Fund established.* An all Iowa opportunity scholarship fund is created in the state treasury as a separate fund under the control of the commission. All moneys deposited or paid into the fund are appropriated and made available to the commission to be used for scholarships for students meeting the requirements of this section. Notwithstanding section 8.33, any balance in the fund on June 30 of each fiscal year shall not revert to the general fund of the state, but shall be available for purposes of this section in subsequent fiscal years.

2007 Acts, ch 214, §28; 2009 Acts, ch 177, §28; 2015 Acts, ch 140, §47, 58, 59; 2016 Acts, ch 1034, §1; 2017 Acts, ch 54, §76; 2017 Acts, ch 172, §20 – 24; 2018 Acts, ch 1172, §80, 81; 2019 Acts, ch 32, §1, 2

Program to be expanded to include accredited private institutions if moneys appropriated exceed \$500,000; 2015 Acts, ch 140, §2, 21; 2016 Acts, ch 1132, §2; 2017 Acts, ch 172, §2; 2018 Acts, ch 1163, §2; 2019 Acts, ch 135, §2; 2020 Acts, ch 1121, §1

261.88 through 261.91 Reserved.

SUBCHAPTER XI

IOWA GRANT PROGRAM

261.92 through 261.97 Repealed by 2015 Acts, ch 140, §18, 58, 59.

261.98 through 261.100 Reserved.

SUBCHAPTER XII

MINORITY ACADEMIC GRANTS FOR ECONOMIC SUCCESS

261.101 Legislative intent.

The general assembly finds that the failure of many young Iowans to complete their education limits their opportunity for a life of fulfillment and hinders the state's efforts to provide a well-trained workforce for business and industry in Iowa. The general assembly also declares that it is the policy of this state to apply positive measures to ensure that equal opportunities exist for minority persons to pursue their educational goals. Therefore, the "Iowa Minority Academic Grants for Economic Success" program is established to provide additional funding to the state board of regents institutions, community colleges, and accredited private institutions in order to encourage resident minority students to remain in Iowa, to attend community colleges, private colleges, and universities in Iowa, and to assure that a limited family income will not be a barrier for a minority person to pursue a postsecondary education.

89 Acts, ch 319, §53; 90 Acts, ch 1253, §14

Referred to in §262.9, 262.92

261.102 Definitions.

1. "Accredited private institution" means an institution of higher education as defined in section 261.9, subsection 1.

2. "Commission" means the college student aid commission.

3. "Financial need" means the difference between the student's financial resources, including resources available from the student's parents and the student, as determined by a completed parents' financial statement and including any noncampus-administered federal or state grants and scholarships, and the student's estimated expenses while attending the institution. A student shall accept all available federal and state grants and scholarships before being considered eligible for grants under the Iowa minority academic grants for economic success program. Financial need shall be reconsidered on at least an annual basis.

4. "Full-time student" means an individual who is enrolled at an accredited private institution, community college, or board of regents' university for at least twelve semester hours or the trimester or quarter equivalent.

5. "Minority person" means an individual who is African American, Hispanic, Asian, or a Pacific Islander, American Indian, or an Alaskan Native American.

6. "Part-time student" means an individual who is enrolled at an accredited private institution, community college, or board of regents' university in a course of study including at least three semester hours or the trimester or quarter equivalent of three semester hours.

7. "Program" means the Iowa minority academic grants for economic success program established in this subchapter.

89 Acts, ch 319, §54; 90 Acts, ch 1253, §15, 122; 2009 Acts, ch 41, §103; 2017 Acts, ch 54, §76

Referred to in §262.82, 262.93

261.103 Program qualifications.

1. A grant under the program may be awarded to any minority person who is a resident of Iowa, who is accepted for admission or is attending a board of regents' university, community college, or an accredited private institution, and who demonstrates financial need. Applicants who receive vouchers under section 262.92 shall be given priority in receiving grants under the program, but an applicant shall not be denied a grant because the applicant does not hold vouchers under the program in section 262.92. For the fiscal year commencing July 1, 1990, and in subsequent years, grants shall be awarded to all minority persons, with priority to be given to those minority persons who are residents of Iowa.

2. Full-time students may receive grants for not more than eight semesters of undergraduate study or the trimester or quarter equivalent of eight semesters of undergraduate study. Part-time students may receive grants for not more than sixteen

semesters of undergraduate study or the trimester or quarter equivalent of sixteen semesters of undergraduate study.

3. The amount of the grant shall not exceed a student's yearly financial need or three thousand five hundred dollars, whichever is less. If the student is attending or seeking to enroll in an accredited private institution, fifty percent of the amount of the grant shall be provided by the accredited private institution and fifty percent shall be provided by the commission from state funds appropriated for that purpose.

4. Grants shall be awarded on an annual basis and shall be credited by the institution against the student's tuition, fees, room, and board, at the beginning of each semester, trimester, or quarter in equal installments upon certification by the institution that the student is admitted and attending the institution.

5. If a student receiving a grant under the program discontinues attendance before the end of any academic period, but after receiving payment of grant moneys for the academic period, the entire amount of any refund due the student, up to the amount of any payments made by the state, shall be remitted by the private institution to the commission.

89 Acts, ch 319, §55; 89 Acts, ch 322, §8; 90 Acts, ch 1253, §16

Referred to in §262.93

261.104 Powers of the commission.

In administering the program for the community colleges and the private institutions, the commission shall:

1. Provide application forms to students enrolled and attending or seeking to enroll and attend community colleges or accredited private institutions.

2. Develop and provide confidential financial statement forms to the parents or guardians of students applying for grants under this program.

3. Approve and award grants to community colleges and accredited private institutions under the program.

4. Adopt rules for determining financial need and residency for the purpose of awarding grants to qualified students, and any other rules necessary for the administration of the program.

5. Report annually to the governor and the general assembly on the progress and implementation of the program.

6. Require postsecondary institutions that receive moneys from students awarded grants under the program to furnish any information necessary for the implementation or administration of the program.

7. Solicit and receive private contributions and federal grants available for purposes of the program.

8. Maintain records on the recipients of vouchers under section 262.92 and adopt rules to provide for the giving of priority to students holding vouchers under that section.

9. Administer funds appropriated for the Iowa minority academic grants for economic success program to carry out the duties of the commission.

10. Provide for the proration of funds among qualified applicants if funds available are insufficient to pay all approved grants.

89 Acts, ch 319, §56; 90 Acts, ch 1253, §17

Referred to in §262.93

261.105 Duties of applicant.

An applicant for a grant under the program shall:

1. Complete and file an application for a grant on forms provided by the commission or regents institutions.

2. Submit the financial information required for evaluation of the applicant's financial need for a grant.

3. Comply with rules and information requests of the commission or regents institutions made in relation to the program.

89 Acts, ch 319, §57

Referred to in §262.93

261.106 through 261.109 Reserved.

SUBCHAPTER XIII

TEACHER SHORTAGE FORGIVABLE LOAN AND LOAN FORGIVENESS PROGRAMS

261.110 Teach Iowa scholar program.

1. A teach Iowa scholar program is established to provide teach Iowa scholar grants to selected high-caliber teachers. The commission shall administer the program in collaboration with the department of education.

2. An Iowa resident or nonresident applicant shall be eligible for a teach Iowa scholar grant if the applicant meets all of the criteria specified under, or established in accordance with, subsection 3. Priority shall be given to applicants who are residents of Iowa. A person is ineligible for this program if the person receives a forgivable loan under section 261.111 or loan forgiveness under section 261.112.

3. Criteria for eligibility shall be established by the commission and shall include but are not limited to the following:

a. The applicant was in the top twenty-five percent academically of students exiting a teacher preparation program approved by the state board of education pursuant to section 256.7, subsection 3, or a similar teacher preparation program in another state, or had earned other comparable academic credentials.

b. The applicant is preparing to teach in fields including but not limited to science, technology, engineering, or mathematics; English as a second language or special education instruction; or is preparing to teach in a hard-to-staff subject as identified by the department. The department shall take into account the varying regional needs in the state for teachers in these subject areas when applying the criterion of this paragraph. The department shall annually identify and designate hard-to-staff subjects for the purpose of this paragraph. The eligibility of an applicant who receives a teach Iowa scholar grant and who is preparing to teach in a hard-to-staff subject as identified by the department shall not be affected in subsequent years if the department does not continue to identify that subject as a hard-to-staff subject.

c. The applicant met all of the eligibility requirements of this section on or after January 1, 2013. A person who met the program eligibility requirements of this section prior to January 1, 2013, is ineligible for this program.

4. A selected applicant who meets all of the eligibility requirements of this section shall be eligible for a teach Iowa scholar grant for each year of full-time employment completed in this state as a teacher for a school district, charter school, area education agency, or accredited nonpublic school. A teach Iowa scholar grant shall not exceed four thousand dollars per year per recipient. Grants awarded under this section shall not exceed a total of twenty thousand dollars per recipient over a five-year period. If a selected applicant has received a federally guaranteed Stafford loan under the federal family education loan program or the federal direct loan program, a federal direct plus loan, or a federal Perkins loan, the selected applicant may elect to have the commission make payment under the program directly to the selected applicant's student loan holder.

5. The commission, in collaboration with the department of education, shall adopt rules pursuant to chapter 17A to administer this section. The rules shall include but shall not be limited to a process for use by the commission to determine which eligible applicants will receive teach Iowa scholar grants.

6. A teach Iowa scholar fund is established in the state treasury. The fund shall be administered by the commission and shall consist of moneys appropriated by the general assembly and any other moneys received by the commission for deposit in the fund. The moneys in the fund are appropriated to the commission for the teach Iowa scholar program. Notwithstanding section 8.33, moneys in the fund at the close of the fiscal year shall not revert to the general fund of the state but shall remain available for expenditure for the

teach Iowa scholar program for subsequent fiscal years. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the fund shall be credited to the fund.

2013 Acts, ch 121, §46; 2014 Acts, ch 1135, §15; 2015 Acts, ch 138, §16, 161, 162; 2017 Acts, ch 150, §1, 3, 4

Referred to in §261.112

2017 amendment to subsection 2 takes effect May 11, 2017, and does not apply to an individual receiving both a grant under this section and loan forgiveness under §261.112 on that date; 2017 Acts, ch 150, §3, 4

261.111 Teacher shortage forgivable loan program.

1. A teacher shortage forgivable loan program is established to be administered by the college student aid commission. An individual is eligible for the forgivable loan program if the individual is a resident of this state who is enrolled as a sophomore, junior, senior, or graduate student in an approved practitioner preparation program in a designated area in which teacher shortages are anticipated at an institution of higher learning under the control of the state board of regents or an accredited private institution as defined in section 261.9.

2. The director of the department of education shall annually designate the areas in which teacher shortages are anticipated. The director shall periodically conduct a survey of school districts, accredited nonpublic schools, and approved practitioner preparation programs to determine current shortage areas and predict future shortage areas.

3. Each applicant shall, in accordance with the rules of the commission, do the following:

a. Complete and file an application for a teacher shortage forgivable loan. The individual shall be responsible for the prompt submission of any information required by the commission.

b. File a new application and submit information as required by the commission annually on the basis of which the applicant's eligibility for the renewed forgivable loan will be evaluated and determined.

4. Forgivable loans to eligible students shall not become due until after the student graduates or leaves school. The individual's total loan amount, including principal and interest, shall be reduced by twenty percent for each year in which the individual remains an Iowa resident and is employed in Iowa by a school district or an accredited nonpublic school as a practitioner in the teacher shortage area for which the loan was approved. If the commission determines that the person does not meet the criteria for forgiveness of the principal and interest payments, the commission shall establish a plan for repayment of the principal and interest over a ten-year period. If a person required to make the repayment does not make the required payments, the commission shall provide for payment collection.

5. The annual amount of a teacher shortage forgivable loan shall not exceed the resident tuition rate established for institutions of higher education governed by the state board of regents, or the amount of the student's established financial need, whichever is less.

6. The commission shall prescribe by rule the interest rate for the forgivable loan.

7. A teacher shortage forgivable loan repayment fund is created for deposit of payments made by forgivable loan recipients who do not fulfill the conditions of the forgivable loan program and any other moneys appropriated to or received by the commission for deposit in the fund. Notwithstanding section 8.33, moneys deposited in the fund shall not revert to the general fund of the state at the end of any fiscal year but shall remain in the forgivable loan repayment fund and be continuously available to make additional loans under the program. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the fund shall be credited to the fund.

8. For purposes of this section, unless the context otherwise requires, "teacher" means the same as defined in section 272.1.

9. The commission shall submit in a report to the general assembly by January 1, annually, the number of students who received forgivable loans pursuant to this section, which institutions the students were enrolled in, and the amount paid to each of the institutions on behalf of the students who received forgivable loans pursuant to this section

and the total amount of loans outstanding, including a schedule of years remaining on the outstanding loans.

98 Acts, ch 1215, §39; 99 Acts, ch 205, §41; 2006 Acts, ch 1180, §21, 22; 2007 Acts, ch 214, §29, 30

Referred to in §261.110, 261.112

261.112 Teacher shortage loan forgiveness program.

1. A teacher shortage loan forgiveness program is established to be administered by the commission. A teacher is eligible for the program if the teacher is practicing in a teacher shortage area as designated by the department of education pursuant to subsection 2. A person is ineligible for this program if the person receives a grant under section 261.110 or a forgivable loan under section 261.111. For purposes of this section, “*teacher*” means an individual holding a practitioner’s license issued under chapter 272, who is employed in a nonadministrative position in a designated shortage area by a school district or area education agency pursuant to a contract issued by a board of directors under section 279.13.

2. The director of the department of education shall annually designate the geographic or subject areas experiencing teacher shortages. The director shall periodically conduct a survey of school districts, accredited nonpublic schools, and approved practitioner preparation programs to determine current shortage areas.

3. Each applicant for loan forgiveness shall, in accordance with the rules of the commission, do the following:

a. Complete and file an application for teacher shortage loan forgiveness. The individual shall be responsible for the prompt submission of any information required by the commission.

b. File a new application and submit information as required by the commission annually on the basis of which the applicant’s eligibility for the renewed loan forgiveness will be evaluated and determined.

c. Complete and return on a form approved by the commission an affidavit of practice verifying that the applicant is a teacher in an eligible teacher shortage area.

4. The annual amount of teacher shortage loan forgiveness shall not exceed the resident tuition rate established for institutions of higher learning governed by the state board of regents for the first year following the teacher’s graduation from an approved practitioner preparation program, or twenty percent of the teacher’s total federally guaranteed Stafford loan amount under the federal family education loan program or the federal direct loan program, including principal and interest, whichever amount is less. A teacher shall be eligible for the loan forgiveness program for not more than five years. However, practice by an eligible teacher in a teacher shortage area pursuant to subsection 1 must be completed within ten years following graduation from the approved practitioner preparation program.

5. A teacher shortage loan forgiveness repayment fund is created for deposit of moneys appropriated to or received by the commission for use under the program. Notwithstanding section 8.33, moneys deposited in the fund shall not revert to any fund of the state at the end of any fiscal year but shall remain in the loan forgiveness repayment fund and be continuously available for loan forgiveness under the program. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the fund shall be credited to the fund.

6. The commission shall submit in a report to the general assembly by January 1, annually, the number of individuals who received loan forgiveness pursuant to this section, which shortage areas the teachers taught in, the amount paid to each program participant, and other information identified by the commission as indicators of outcomes from the program.

7. The commission shall adopt rules pursuant to chapter 17A to administer this section.

2007 Acts, ch 214, §31; 2011 Acts, ch 36, §6; 2017 Acts, ch 150, §2 – 4

Referred to in §261.2, 261.110

2017 amendment to subsection 1 takes effect May 11, 2017, and does not apply to an individual receiving both loan forgiveness under this section and a grant under §261.110 on that date; 2017 Acts, ch 150, §3, 4

SUBCHAPTER XIV

OTHER LOAN REPAYMENT AND FORGIVENESS PROGRAMS — HEALTH PROFESSIONS

261.113 Rural Iowa primary care loan repayment program — fund — appropriations.

1. *Program established.* A rural Iowa primary care loan repayment program is established to be administered by the college student aid commission for purposes of providing loan repayments for medical students who agree to practice as physicians in service commitment areas for five years and meet the requirements of this section.

2. *Eligibility.* An individual is eligible to apply to enter into a program agreement with the commission if the individual is enrolled full-time in and receives a recommendation from the state university of Iowa college of medicine or Des Moines university — osteopathic medical center in a curriculum leading to a doctor of medicine degree or a doctor of osteopathic medicine degree.

3. *Program agreements.* A program agreement shall be entered into by an eligible student and the commission during the eligible student's final year of study leading to a doctor of medicine or doctor of osteopathic medicine degree. Under the agreement, to receive loan repayments pursuant to subsection 5, an eligible student shall agree to and shall fulfill all of the following requirements:

a. Receive a doctor of medicine or doctor of osteopathic medicine degree from an eligible university and apply for, enter, and complete a residency program approved by the commission.

b. Apply for and obtain a license to practice medicine and surgery or osteopathic medicine and surgery in this state.

c. Complete the residency program requirement with an Iowa-based residency program.

d. Within nine months of graduating from the residency program and receiving a permanent license in accordance with paragraph "b", engage in the full-time practice of medicine and surgery or osteopathic medicine and surgery specializing in family medicine, pediatrics, psychiatry, internal medicine, or general surgery for a period of five consecutive years in the service commitment area specified under subsection 8, unless the loan repayment recipient receives a waiver from the commission to complete the years of practice required under the agreement in another service commitment area pursuant to subsection 8.

4. *Priority to Iowa residents.* The commission shall give priority to eligible students who are residents of Iowa upon enrolling in the university.

5. *Loan repayment amounts.* The amount of loan repayment an eligible student who enters into an agreement pursuant to subsection 3 shall receive if in compliance with obligations under the agreement shall be forty thousand dollars annually for an eligible loan if the total loan amount equals or exceeds two hundred thousand dollars. Payments under this section may be made for each year of eligible practice during a period of five consecutive years and shall not exceed a total of two hundred thousand dollars. If the total amount of an eligible student's eligible loan upon graduation is less than two hundred thousand dollars, the commission shall divide the total amount of the eligible student's eligible loan by five to determine the annual amount of loan repayment the loan recipient is eligible to receive.

6. *Refinanced loans.* A loan repayment recipient who refinances an eligible loan by obtaining a private educational loan may continue to receive loan repayment under this section if the amount of loan repayment does not exceed the lesser of the amount specified in subsection 5 or the balance of the loan repayment amount the loan repayment recipient qualified to receive with the eligible loan.

7. *Program agreement limitation.* The commission shall not enter into more than twenty program agreements annually. The percentage of agreements entered into by students attending eligible universities shall be evenly divided. However, if there are fewer applicants at one eligible university, eligible student applicants enrolled in other eligible universities may be awarded the remaining agreements.

8. *Selection of service commitment area.* A loan repayment recipient shall notify the commission of the recipient's service commitment area prior to beginning practice in the area

in accordance with subsection 3, paragraph “d”. The commission may waive the requirement that the loan repayment recipient practice in the same service commitment area for all five years.

9. *Rules for additional loan repayment.* The commission shall adopt rules to provide, in addition to loan repayment provided to eligible students pursuant to this section and subject to the availability of surplus funds, loan repayment to a physician who received a doctor of medicine or doctor of osteopathic medicine degree from an eligible university as provided in subsection 2, obtained a license to practice medicine and surgery or osteopathic medicine and surgery in this state, completed the physician’s residency program requirement with an Iowa-based residency program, and is engaged in the full-time practice of medicine and surgery or osteopathic medicine and surgery as specified in subsection 3, paragraph “d”.

10. *Part-time practice — agreement amended.* A person who entered into an agreement pursuant to subsection 3 may apply to the commission to amend the agreement to allow the person to engage in less than the full-time practice specified in the agreement and under subsection 3, paragraph “d”. If the commission determines exceptional circumstances exist, the commission and the person may consent to amend the agreement under which the person shall engage in less than full-time practice of medicine and surgery or osteopathic medicine and surgery specializing in family medicine, pediatrics, psychiatry, internal medicine, or general surgery in a service commitment area for an extended period of part-time practice determined by the commission to be proportional to the amount of full-time practice remaining under the original agreement.

11. *Postponement and satisfaction of service obligation.*

a. The obligation to engage in practice in accordance with subsection 3 shall be postponed for the following purposes:

(1) Active duty status in the armed forces, the armed forces military reserve, or the national guard.

(2) Service in volunteers in service to America.

(3) Service in the federal peace corps.

(4) A period of service commitment to the United States public health service commissioned corps.

(5) A period of religious missionary work conducted by an organization exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code.

(6) Any period of temporary medical incapacity during which the person obligated is unable, due to a medical condition, to engage in full-time practice as required under subsection 3, paragraph “d”.

b. Except for a postponement under paragraph “a”, subparagraph (6), an obligation to engage in practice under an agreement entered into pursuant to subsection 3, shall not be postponed for more than two years from the time the full-time practice was to have commenced under the agreement.

c. An obligation to engage in full-time practice under an agreement entered into pursuant to subsection 3 shall be considered satisfied when any of the following conditions are met:

(1) The terms of the agreement are completed.

(2) The person who entered into the agreement dies.

(3) The person who entered into the agreement, due to a permanent disability, is unable to practice medicine and surgery or osteopathic medicine and surgery.

d. If a loan repayment recipient fails to fulfill the obligation to engage in practice in accordance with subsection 3, the recipient shall be subject to repayment to the commission of the loan amount plus interest as specified by rule. A loan repayment recipient who fails to meet the requirements of the obligation to engage in practice in accordance with subsection 3 may also be subject to repayment of moneys advanced by the service commitment area as provided in any agreement with the service commitment area.

12. *Trust fund established.* A rural Iowa primary care trust fund is created in the state treasury as a separate fund under the control of the commission. The commission shall remit all repayments made pursuant to this section to the rural Iowa primary care trust fund. All moneys deposited or paid into the trust fund are appropriated and made available to the commission to be used for meeting the requirements of this section. Moneys in the fund up

to the total amount that an eligible student may receive for an eligible loan in accordance with this section and upon fulfilling the requirements of subsection 3, shall be considered encumbered for the duration of the agreement entered into pursuant to subsection 3. Notwithstanding section 8.33, any balance in the fund on June 30 of each fiscal year shall not revert to the general fund of the state, but shall be available for purposes of this section in subsequent fiscal years.

13. *Definitions.* For purposes of this section:

a. “*Eligible loan*” means the physician’s total federally guaranteed Stafford loan amount under the federal family education loan program or the federal direct loan program, the recipient’s federal grad plus loans, or the recipient’s federal Perkins loan, including principal and interest.

b. “*Eligible university*” means either the state university of Iowa college of medicine or Des Moines university — osteopathic medical center.

c. “*Service commitment area*” means a city in Iowa with a population of less than twenty-six thousand that is located more than twenty miles from a city with a population of fifty thousand or more and which provides a twenty thousand dollar contribution for deposit in the rural Iowa primary care trust fund for each physician in the community who is participating in the loan repayment program.

2012 Acts, ch 1108, §1; 2012 Acts, ch 1138, §58 – 60; 2013 Acts, ch 141, §14, 15; 2014 Acts, ch 1061, §7 – 10; 2014 Acts, ch 1135, §16, 17; 2016 Acts, ch 1038, §1; 2016 Acts, ch 1073, §87 – 89; 2020 Acts, ch 1007, §1 – 3, 7, 8

2020 amendments to section apply retroactively to January 1, 2019, for recipients of loan repayment; 2020 Acts, ch 1007, §8

Subsection 5 amended

NEW subsections 6 and 7 and former subsections 6 – 11 renumbered as 8 – 13

261.114 Rural Iowa advanced registered nurse practitioner and physician assistant loan repayment program — fund — appropriations.

1. *Program established.* A rural Iowa advanced registered nurse practitioner and physician assistant loan repayment program is established to be administered by the college student aid commission for purposes of providing loan repayments for advanced registered nurse practitioner students and physician assistant students who agree to practice as advanced registered nurse practitioners or physician assistants in service commitment areas for five years and meet the requirements of this section.

2. *Eligibility.* An individual is eligible to apply to enter into a program agreement with the commission if the individual is enrolled full-time in and receives a recommendation from an eligible university in a curriculum leading to a doctorate of nursing practice degree or a masters of physician assistant studies degree.

3. *Program agreements.* A program agreement shall be entered into by an eligible student and the commission when the eligible student begins the final year of study in an academic program leading to eligibility for licensure as a nurse practitioner or physician assistant. The commission shall not enter into any new program agreement under this section on or after July 1, 2018. Under the agreement, to receive loan repayments pursuant to subsection 5, an eligible student shall agree to and shall fulfill all of the following requirements:

a. Receive a graduate-level credential qualifying the credential recipient for a license to practice as an advanced registered nurse practitioner pursuant to chapter 152 or physician assistant pursuant to chapter 148C.

b. Within nine months of receiving a degree and obtaining a license in accordance with paragraph “a”, engage in the full-time practice as an advanced registered nurse practitioner or physician assistant for a period of five consecutive years in the service commitment area specified under subsection 6, unless the loan repayment recipient receives a waiver from the commission to complete the years of practice required under the agreement in another service commitment area pursuant to subsection 6.

4. *Priority to Iowa residents.* The commission shall give priority to eligible students who are residents of Iowa upon enrolling in the eligible university.

5. *Loan repayment amounts.* The amount of loan repayment an eligible student who enters into an agreement pursuant to subsection 3 shall receive if in compliance with

obligations under the agreement shall not exceed four thousand dollars annually for an eligible loan. Payments under this section may be made for each year of eligible practice during a period of five consecutive years and shall not exceed a total of twenty thousand dollars.

6. *Selection of service commitment area.* A loan repayment recipient shall notify the commission of the recipient's service commitment area prior to beginning practice in the area in accordance with subsection 3. The commission may waive the requirement that the loan repayment recipient practice in the same service commitment area for all five years.

7. *Rules for additional loan repayment.* The commission shall adopt rules to provide, in addition to loan repayment provided to eligible students pursuant to this section and subject to the availability of surplus funds, loan repayment to an advanced registered nurse practitioner or physician assistant who, as provided in subsection 3, received a degree from an eligible university, obtained a license to practice in this state, and is engaged in full-time practice as an advanced registered nurse practitioner or physician assistant in a service commitment area.

8. *Satisfaction of service obligation.*

a. An obligation to engage in full-time practice under an agreement entered into pursuant to subsection 3 shall be considered satisfied when any of the following conditions are met:

(1) The terms of the agreement are completed.

(2) The person who entered into the agreement dies.

(3) The person who entered into the agreement, due to a permanent disability, is unable to practice as an advanced registered nurse practitioner or physician assistant.

b. If a loan repayment recipient fails to fulfill the obligation to engage in practice in accordance with subsection 3, the recipient shall be subject to repayment to the commission of the loan amount plus interest as specified by rule. A loan repayment recipient who fails to meet the requirements of the obligation to engage in practice in accordance with subsection 3 may also be subject to repayment of moneys advanced by the service commitment area as provided in any agreement with the service commitment area.

9. *Trust fund established.* A rural Iowa advanced registered nurse practitioner and physician assistant trust fund is created in the state treasury as a separate fund under the control of the commission. The commission shall remit all repayments made pursuant to this section to the rural Iowa advanced registered nurse practitioner and physician assistant trust fund. All moneys deposited or paid into the trust fund are appropriated and made available to the commission to be used for meeting the requirements of this section. Moneys in the fund up to the total amount that an eligible student may receive for an eligible loan in accordance with this section and upon fulfilling the requirements of subsection 3 shall be considered encumbered for the duration of the agreement entered into pursuant to subsection 3. Notwithstanding section 8.33, any balance in the fund on June 30 of each fiscal year shall not revert to the general fund of the state, but shall be available for purposes of this section in subsequent fiscal years. Notwithstanding section 8.33, any balance in the fund on June 30, 2023, shall not revert to the general fund of the state but shall be transferred to the health care loan repayment fund established pursuant to section 261.116 to be used for purposes of the health care loan repayment program.

10. *Definitions.* For purposes of this section:

a. "*Eligible loan*" means the loan repayment recipient's total federally guaranteed Stafford loan amount under the federal family education loan program or the federal direct loan program, the recipient's federal grad plus loans, or the recipient's federal Perkins loan, including principal and interest.

b. "*Eligible university*" means a college or university that meets the requirements of section 261.2, subsection 10, and is an institution of higher learning under the control of the state board of regents or an accredited private institution as defined in section 261.9.

c. "*Service commitment area*" means a city in Iowa with a population of less than twenty-six thousand that is located more than twenty miles from a city with a population of fifty thousand or more and which provides a two thousand dollar contribution for deposit in the rural Iowa advanced registered nurse practitioner and physician assistant trust fund for each advanced registered nurse practitioner or physician assistant in the community

who is participating in the rural Iowa advanced registered nurse practitioner and physician assistant loan repayment program.

11. *Future repeal.* This section is repealed July 1, 2023.

2013 Acts, ch 141, §16; 2014 Acts, ch 1061, §11 – 14; 2014 Acts, ch 1135, §18, 19; 2016 Acts, ch 1038, §2; 2018 Acts, ch 1163, §15 – 19

261.115 Health care professional recruitment program.

1. A health care professional recruitment program is established to be administered by the college student aid commission for Des Moines university — osteopathic medical center. The program shall consist of a loan repayment program for health care professionals. The commission shall regularly adjust the service requirement under each aspect of the program to provide, to the extent possible, an equal financial benefit for each period of service required.

2. A health care professional shall be eligible for the loan repayment program if the health care professional agrees to practice in an eligible rural community in this state. Des Moines university — osteopathic medical center shall recruit and place health care professionals in rural communities which have agreed to provide additional funds for the recipient's loan repayment. The contract for the loan repayment shall stipulate the time period the recipient shall practice in an eligible rural community in this state. In addition, the contract shall stipulate that the recipient repay any funds paid on the recipient's loan by the commission if the recipient fails to practice in an eligible rural community in this state for the required period of time.

3. A loan repayment recipient who refinances an eligible loan by obtaining a private educational loan may continue to receive loan repayment under this section.

4. A health care professional recruitment fund is created in the state treasury as a separate fund under the control of the commission for deposit of moneys appropriated to or received by the commission for use under the program. Notwithstanding section 8.33, any balance in the fund on June 30 of any fiscal year shall not revert to the general fund of the state but shall remain in the fund and be continuously available for loan repayment under the program. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the fund shall be credited to the fund.

5. For purposes of this section:

a. "*Eligible rural community*" means a medically underserved rural community which agrees to match state funds provided on at least a dollar-for-dollar basis for the loan repayment of a health care professional who practices in the community.

b. "*Health care professional*" means a physician, physician assistant, podiatrist, or physical therapist.

6. The commission shall adopt rules pursuant to chapter 17A to administer this section.

[C77, 79, 81, §261.19]

87 Acts, ch 115, §38; 89 Acts, ch 319, §46; 90 Acts, ch 1253, §122; 90 Acts, ch 1272, §51; 97 Acts, ch 134, §1; 2000 Acts, ch 1058, §30; 2000 Acts, ch 1095, §12; 2000 Acts, ch 1223, §27; 2004 Acts, ch 1175, §91; 2009 Acts, ch 177, §26; 2011 Acts, ch 132, §12, 106; 2012 Acts, ch 1132, §10; 2014 Acts, ch 1026, §71; 2014 Acts, ch 1061, §16

C2015, §261.115

2020 Acts, ch 1007, §4, 5, 7, 8

2020 amendments to section apply retroactively to January 1, 2019, for recipients of loan repayment; 2020 Acts, ch 1007, §8

NEW subsection 3

Former subsection 3 amended and renumbered as 4

Former subsections 4 and 5 renumbered as 5 and 6

261.116 Health care loan repayment program.

1. *Definitions.* For purposes of this section, unless the context otherwise requires:

a. "*Advanced registered nurse practitioner*" means a person licensed as a registered nurse under chapter 152 or 152E who is licensed by the board of nursing as an advanced registered nurse practitioner.

b. "*Nurse educator*" means a registered nurse who holds a master's degree or doctorate degree and is employed by a community college, an accredited private institution, or an institution of higher education governed by the state board of regents as a faculty member to

teach nursing at a nursing education program approved by the board of nursing pursuant to section 152.5.

c. “*Physician assistant*” means a person licensed as a physician assistant under chapter 148C.

d. “*Qualified student loan*” means a loan that was made, insured, or guaranteed under Tit. IV of the federal Higher Education Act of 1965, as amended, or under Tit. VII or VIII of the federal Public Health Service Act, as amended, directly to the borrower for attendance at an approved postsecondary educational institution.

e. “*Service commitment area*” means a city in Iowa with a population of less than twenty-six thousand that is located more than twenty miles from a city with a population of fifty thousand or more.

2. *Program established.* A health care loan repayment program is established to be administered by the commission for purposes of repaying the qualified student loans of registered nurses, advanced registered nurse practitioners, physician assistants, and nurse educators who practice full-time in a service commitment area or teach in this state, as appropriate, and who are selected for the program in accordance with this section. An applicant who is a member of the Iowa national guard is exempt from the service commitment area requirement, but shall submit an affidavit verifying the applicant is practicing full-time in this state.

3. *Application requirements.* Each applicant for loan repayment shall, in accordance with the rules of the commission, do the following:

a. Complete and file an application for loan repayment. The individual shall be responsible for the prompt submission of any information required by the commission.

b. File a new application and submit information as required by the commission annually on the basis of which the applicant’s eligibility for the renewed loan repayment will be evaluated and determined.

c. Complete and return, on a form approved by the commission, an affidavit of practice verifying that the applicant is a registered nurse, an advanced registered nurse practitioner, or a physician assistant who is practicing full-time in a service commitment area in this state or is a nurse educator who teaches full-time in this state. If practice in a service commitment area is required as a condition of receiving loan repayment, the affidavit shall specify the service commitment area in which the applicant is practicing full-time.

4. *Loan repayment amounts.* The annual amount of loan repayment provided to a recipient under this section shall not exceed six thousand dollars, or twenty percent of the recipient’s total qualified student loan, whichever amount is less. A recipient is eligible for the loan repayment program for not more than five consecutive years.

5. *Refinanced loans.* A loan repayment recipient who refinances a qualified student loan by obtaining a private educational loan may continue to receive loan repayment under this section if the amount of loan repayment does not exceed the lesser of the amount specified in subsection 4 or the balance of the loan repayment amount the loan repayment recipient qualified to receive with the qualified student loan.

6. *Selection criteria.* The commission shall establish by rule the evaluation criteria to be used in evaluating applications submitted under this section. Priority shall be given to applicants who are residents of Iowa and, if requested by the adjutant general, to applicants who are members of the Iowa national guard.

7. *Health care loan repayment fund.* A health care loan repayment fund is created for deposit of moneys appropriated to or received by the commission for use under the program. Notwithstanding section 8.33, moneys deposited in the health care loan repayment fund shall not revert to any fund of the state at the end of any fiscal year but shall remain in the loan repayment fund and be continuously available for loan repayment under the program. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the health care loan fund shall be credited to the fund.

8. *Report.* The commission shall submit in a report to the general assembly by January 1, annually, the number of individuals who received loan repayment pursuant to this section, where the participants practiced or taught, the amount paid to each program participant, and other information identified by the commission as indicators of outcomes of the program.

9. *Rules.* The commission shall adopt rules pursuant to chapter 17A to administer this section.

2002 Acts, ch 1131, §1

C2003, §261.23

2003 Acts, ch 108, §47; 2007 Acts, ch 214, §26; 2009 Acts, ch 118, §49, 50, 54; 2014 Acts, ch 1061, §16

C2015, §261.116

2018 Acts, ch 1163, §20; 2020 Acts, ch 1007, §6 – 8

Referred to in §261.2, 261.114

2020 amendment to section applies retroactively to January 1, 2019, for recipients of loan repayment; 2020 Acts, ch 1007, §8
NEW subsection 5 and former subsections 5 – 8 renumbered as 6 – 9

261.117 through 261.119 Reserved.

261.120 Rural veterinarian loan repayment program — fund — appropriations.

1. *Definitions.* For purposes of this section, unless the context otherwise requires:

a. “*Eligible loan*” means the veterinarian’s total federally guaranteed Stafford loan amount under the federal family education loan program or the federal direct loan program, or the recipient’s federal grad plus loans, including principal and interest.

b. “*Practice of food supply veterinary medicine*” includes corporate and private practices devoted to food animal medicine, mixed animal medicine located in a rural area, food safety, epidemiology, public health, animal health, and other public and private practices that contribute to the production of a safe and wholesome food supply.

c. “*Rural service commitment area*” means a city in Iowa with a population of less than twenty-six thousand that is located more than twenty miles from a city with a population of fifty thousand or more and which provides a dollar contribution equivalent to twelve and one-half percent of the veterinarian’s total eligible loan amount upon graduation for deposit in the rural veterinary care trust fund.

d. “*Veterinary shortage area*” means a designated veterinary service shortage situation in Iowa identified and nominated by the state veterinarian, or recommended for designation in accordance with the federal National Veterinary Medical Service Act, 7 U.S.C. §3101 et seq., and published by the United States department of agriculture.

2. *Program established.* A rural veterinarian loan repayment program is established to be administered by the college student aid commission for purposes of providing loan repayments for individuals who agree to practice as veterinarians in rural service commitment areas or in veterinary shortage areas in Iowa for four years and meet the requirements of this section. The commission shall adopt rules pursuant to chapter 17A to administer this section. The commission may accept gifts, grants, bequests, and other private contributions, as well as state or federal moneys, for deposit in the fund created under subsection 10.

3. *Eligibility.*

a. An individual is eligible to apply to enter into a program agreement with the commission if the individual meets any of the following requirements:

(1) Is enrolled in the final year of a veterinary degree program at a college of veterinary medicine accredited by the American veterinary medical association council on education.

(2) Is a veterinarian licensed pursuant to chapter 169 who, within five years of applying for this program, received a veterinary medicine degree from a college of veterinary medicine accredited by the American veterinary medical association council on education.

b. An individual who participated in and received loan repayment awards through the veterinary medicine loan repayment program administered by the United States department of agriculture, national institute of food and agriculture, is ineligible to enter into a program agreement under this section.

4. *Program agreements.* A program agreement shall be entered into by an individual and the commission if the individual meets the requirements of subsection 3. Under the agreement, to receive loan repayments pursuant to subsection 6, the individual shall fulfill all of the following requirements:

a. Receive or possess a doctor of veterinary medicine, or the equivalent, from a college

of veterinary medicine accredited by the American veterinary medical association council on education.

b. Possess, or apply for and obtain, a license to practice veterinary medicine under chapter 169.

c. Secure an offer of employment or establish and maintain a practice in a veterinary shortage situation or rural service commitment area and engage in the full-time practice of veterinary medicine for a period of four consecutive years after entering into the agreement in the veterinary shortage area or rural service commitment area, unless the loan repayment recipient receives a waiver from the commission to complete the years of practice required under the agreement in another veterinary shortage area or rural service commitment area pursuant to subsection 7.

5. *Priority to certain applicants.* The commission shall give priority to applicants who graduated from a high school in Iowa or completed private instruction under chapter 299A.

6. *Loan repayment amounts.*

a. Unless the agreement entered into under subsection 4 stipulates otherwise, the amount of loan repayment an individual who enters into an agreement shall receive if in compliance with obligations under the agreement shall not exceed fifteen thousand dollars annually for an eligible loan. Payments under this section may be made for each year of eligible practice during a period of four consecutive years and shall not exceed a total of sixty thousand dollars or the amount of outstanding eligible loans, whichever amount is less.

b. Subject to the availability of funding for this purpose, the commission shall enter into at least five program agreements annually.

7. *Selection of rural service commitment area or veterinary shortage area.* A loan repayment recipient shall notify the commission of the recipient's rural service commitment area or veterinary shortage area prior to beginning practice in the area in accordance with subsection 4, paragraph "c". The commission may waive the requirement that the loan repayment recipient practice in the same rural service commitment area or veterinary shortage area for all four years.

8. *Rural service commitment area or veterinarian shortage area priority.*

a. When possible, the commission shall enter into agreements under subsection 4 with individuals who agree to practice in areas in the following priority order:

(1) Private practice food supply veterinary medicine in any veterinary shortage area.

(2) Private practice food supply veterinary medicine in a city in Iowa with a population of less than twenty-six thousand that is located more than twenty miles from a city with a population of fifty thousand or more, especially in remote or economically depressed rural areas.

(3) Animal veterinary medicine in a rural service commitment area.

b. Notwithstanding paragraph "a", the commission may consult with the state veterinarian to determine prioritization in accordance with this subsection.

9. *Postponement and satisfaction of service obligation.*

a. The obligation to engage in practice in accordance with subsection 4 shall be postponed for the following purposes:

(1) Active duty status in the armed forces, the armed forces military reserve, or the national guard.

(2) Service in volunteers in service to America.

(3) Service in the federal peace corps.

(4) A period of rural service commitment to the United States public health service commissioned corps.

(5) A period of religious missionary work conducted by an organization exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code.

(6) Any period of temporary medical incapacity during which the person obligated is unable, due to a medical condition, to engage in full-time practice as required under subsection 4, paragraph "c".

b. Except for a postponement under paragraph "a", subparagraph (6), an obligation to engage in practice under an agreement entered into pursuant to subsection 4 shall not

be postponed for more than two years from the time the full-time practice was to have commenced under the agreement.

c. An obligation to engage in full-time practice under an agreement entered into pursuant to subsection 4 shall be considered satisfied when any of the following conditions are met:

- (1) The terms of the agreement are completed.
- (2) The person who entered into the agreement dies.
- (3) The person who entered into the agreement, due to a permanent disability, is unable to practice veterinary medicine.
- (4) The commission waives the requirement that the person who entered into the agreement fulfill the obligation to engage in practice.

d. If a loan repayment recipient fails to fulfill the obligation to engage in practice in accordance with subsection 4, the recipient shall be subject to repayment to the commission of the loan amount plus interest as specified by rule. A loan repayment recipient who fails to meet the requirements of the obligation to engage in practice in accordance with subsection 4 may also be subject to repayment of moneys advanced by the rural service commitment area as provided in any agreement with the rural service commitment area.

10. *Trust fund established.* A rural veterinary care trust fund is created in the state treasury as a separate fund under the control of the commission. The commission may accept gifts, grants, bequests, and other private contributions, as well as state or federal moneys, for deposit in the fund. The commission shall remit all repayments made pursuant to this section to the rural veterinary care trust fund. All moneys deposited or paid into the trust fund are appropriated and made available to the commission to be used for meeting the requirements of this section and increasing the number of veterinarians participating in the program. Moneys in the fund up to the total amount that an eligible individual may receive for an eligible loan in accordance with this section and upon fulfilling the requirements of subsection 4, shall be considered encumbered for the duration of the agreement entered into pursuant to subsection 4. Notwithstanding section 8.33, any balance in the fund on June 30 of each fiscal year shall not revert to the general fund of the state, but shall be available for purposes of this section and to increase the number of veterinarians participating in the program in subsequent fiscal years.

2020 Acts, ch 1049, §1
NEW section

SUBCHAPTER XV

LICENSING SANCTIONS

261.121 through 261.127 Repealed by 2019 Acts, ch 13, §3.

SUBCHAPTER XVI

HEALTH CARE PROFESSIONAL INCENTIVE PAYMENT PROGRAM

261.128 Health care professional incentive payment program — repeal. Repealed by its own terms; 2015 Acts, ch 30, §216.

SUBCHAPTER XVII

IOWA NEEDS NURSES NOW INITIATIVE

261.129 Iowa needs nurses now initiative. Repealed by 2017 Acts, ch 172, §43.

SUBCHAPTER XVIII

SKILLED WORKFORCE SHORTAGE TUITION GRANT PROGRAM

261.130 Skilled workforce shortage tuition grant program.

1. A skilled workforce shortage tuition grant may be awarded to any resident of Iowa who is admitted and in attendance as a full-time or part-time student in a career-technical or career option program to pursue an associate's degree or other training at a community college in the state, and who establishes financial need.

2. Skilled workforce shortage tuition grants shall be awarded only to students pursuing a career-technical or career option program in an industry identified as having a shortage of skilled workers by a community college after conducting a regional skills gap analysis or as being a high-demand job by the department of workforce development in the department's most recent list of high-demand jobs. If a community college no longer identifies the industry as having a shortage of skilled workers or the department no longer identifies the industry as a high-demand job, an eligible student who received a grant for a career-technical or career option program based on that identification shall continue to receive the grant until achieving a postsecondary credential, up to an associate degree, as long as the student is continuously enrolled in that program and continues to meet all other eligibility requirements.

3. The amount of a skilled workforce shortage tuition grant shall not exceed the lesser of one-half of a student's tuition and fees for an approved career-technical or career option program or the amount of the student's established financial need.

4. All classes identified by the community college as required for completion of the student's approved career-technical or career option program shall be considered a part of the student's career-technical or career option program for the purpose of determining the student's eligibility for a grant. Notwithstanding subsection 5, if a student is making satisfactory academic progress but the student cannot complete a career-technical or career option program in the time frame allowed for a student to receive a skilled workforce shortage tuition grant as provided in subsection 5 because additional classes are required to complete the program, the student may continue to receive a skilled workforce shortage tuition grant for not more than one additional enrollment period.

5. *a.* A qualified full-time student may receive skilled workforce shortage tuition grants for not more than four semesters or the trimester or quarter equivalent of two full years of study. A qualified part-time student enrolled in a course of study including at least three semester hours but fewer than twelve semester hours or the trimester or quarter equivalent may receive skilled workforce shortage tuition grants for not more than eight semesters or the trimester or quarter equivalent of two full years of full-time study.

b. However, if a student resumes study after at least a two-year absence, the student may again be eligible for the specified amount of time, except that the student shall not receive assistance for courses for which credit was previously received.

6. A skilled workforce shortage tuition grant shall be awarded on an annual basis, requiring reapplication by the student for each year. Payments under the grant shall be allocated equally among the semesters or quarters of the year upon certification by the community college that the student is in full-time or part-time attendance in a career-technical or career option program consistent with the requirements of this section. If the student discontinues attendance before the end of any term after receiving payment of the grant, the entire amount of any refund due that student, up to the amount of any payments made under the annual grant, shall be paid by the community college to the state.

7. If a student receives financial aid under any other program, the full amount of that financial aid shall be considered part of the student's financial resources available in determining the amount of the student's financial need for that period.

8. The commission shall administer this program and shall:

a. Provide application forms for distribution to students by Iowa high schools and community colleges.

b. Adopt rules for approving career-technical or career option programs in industries identified by the department of workforce development; determining financial need; defining

residence for the purposes of this section; processing and approving applications for grants; and determining priority for grants.

c. Approve and award grants on an annual basis.

d. Make an annual report to the governor and general assembly. The report shall include the number of students receiving assistance and the industries identified by the community colleges and by the department of workforce development for which students were admitted to a career-technical or career option program.

9. Each applicant, in accordance with the rules established by the commission, shall:

a. Complete and file an application for a skilled workforce shortage tuition grant.

b. Be responsible for the submission of the financial information required for evaluation of the applicant's need for a grant, on forms determined by the commission.

c. Report promptly to the commission any information requested.

d. Submit a new application for reevaluation of the applicant's eligibility to receive a second-year renewal of the grant.

2012 Acts, ch 1132, §20; 2019 Acts, ch 31, §1, 2; 2020 Acts, ch 1063, §102

Subsection 8, paragraph b amended

261.131 Future ready Iowa skilled workforce last-dollar scholarship program.

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

a. "*Adult learner*" means a person who, following receipt of a high school diploma or high school equivalency diploma and on or after attaining the age of twenty, enrolls on a full-time or part-time basis in an eligible program at an eligible institution and maintains continuous enrollment on a full-time or part-time basis in subsequent terms to receive additional awards. A person's age for purposes of this paragraph shall be calculated on July 1 prior to the year of enrollment in an eligible institution.

b. "*Approved state-recognized work-based learning program*" means a structured educational and training program that includes authentic worksite training and is approved by the department of education according to a process established under rules adopted pursuant to section 256.7, subsection 34.

c. "*Commission*" means the college student aid commission.

d. "*Credential*" means a postsecondary certificate, diploma, or degree, conferring no more than an associate degree, awarded by an eligible institution and earned in a program of study that leads to a high-demand job and is authorized for federal student aid under Tit. IV of the federal Higher Education Act of 1965, as amended.

e. "*Eligible institution*" means a community college as defined in section 260C.2 or an accredited private institution as defined in section 261.9, that meets all of the following criteria:

(1) Applies to and is approved by the commission to participate in the future ready Iowa skilled workforce last-dollar scholarship program.

(2) Requires eligible students to complete and file application forms required by the commission, apply for all available state and federal financial aid, apply to the eligible institution to participate in the program, attend orientation in person or virtually, register for classes with the assistance of an academic advisor, and participate in academic and career advising sessions offered under the program.

(3) Facilitates, in collaboration with the commission on volunteer service created in section 15H.2, the assignment of a volunteer mentor to each eligible student, based on the eligible student's interest. The volunteer mentor shall have successfully passed a background investigation and a check of the national sex offender registry as required under section 15H.10, subsection 2, and both the eligible student and the volunteer mentor shall have entered into a written agreement as provided in section 15H.10, subsection 3.

(4) Facilitates connections through campus career centers and services to internships and similar local, state, and federal programs.

(5) Markets the eligible institution's future ready Iowa program of study and optional incentives, which may include but not be limited to credit for military experience, on the eligible institution's internet site and to other relevant agencies and organizations as

recommended by the college student aid commission, the commission on volunteer service, or the department of workforce development.

(6) Submits annually information and data regarding the eligible program operated by the eligible institution, the students and volunteer mentors participating in the eligible program, scholarship recipient eligible program completion results, and statistics on employment outcomes for eligible program participants by industry, to the commission in the manner required by the commission.

f. “*Eligible program*” means a program of study or an academic major jointly approved by the commission and the department of workforce development, in consultation with an eligible institution, that leads to a credential aligned with a high-demand job designated by the workforce development board or a community college pursuant to section 84A.1B, subsection 14. If the board or a community college removes a high-demand job from a list created under section 84A.1B, subsection 14, an eligible student who received a scholarship for a program based on that high-demand job shall continue to receive the scholarship until achieving a postsecondary credential, up to an associate degree, as long as the student continues to meet all other eligibility requirements.

g. “*Eligible student*” means an Iowa resident who meets all of the following requirements:

(1) Is any of the following:

(a) A graduate of an Iowa high school, or a person who completed private instruction under chapter 299A, or a person who is a recipient of a high school equivalency diploma, and who prior to becoming an adult learner enrolls full-time during the academic year, or part-time for a summer semester, in an eligible program at an eligible institution.

(b) A graduate of an Iowa high school or a person who completed private instruction under chapter 299A, or a recipient of a high school equivalency diploma, and who prior to becoming an adult learner, enters into full-time or part-time employment as part of an approved state-recognized work-based learning program, and enrolls full-time or part-time in an eligible program in an eligible institution.

(c) An adult learner who is at least age twenty at the beginning of the state fiscal year, who has received a high school diploma or a high school equivalency diploma, and who enrolls in an eligible program in an eligible institution as a full-time or part-time student.

(2) Completes and submits application forms required by the commission, including the free application for federal student aid; applies for all available state and federal financial aid; attends orientation in person or virtually; registers for classes with the assistance of an academic advisor; and participates in academic and career advising sessions required under the eligible program. To receive a renewal of a scholarship awarded under this section, an eligible student must annually submit a new application to the commission for reevaluation of eligibility.

(3) Is making satisfactory academic progress as defined by the eligible institution.

(4) Remains continuously enrolled unless granted a leave of absence by the eligible institution based on criteria adopted by rule by the commission.

h. “*Full-time*” means enrollment in at least twelve semester hours or the equivalent.

i. “*Part-time*” means enrollment in at least six but less than twelve semester hours or the equivalent.

2. *Allowable activities.* An eligible student may work with an assigned volunteer mentor to help the student meet the requirements of this section or the requirements of an eligible program, identify and participate in work-based learning opportunities with the approval of the eligible institution, and make other career-related connections.

3. *Scholarship limitations — requirements.*

a. For an eligible student who is attending an eligible institution that is a community college during the fall, spring, or summer term of enrollment, and is pursuing a postsecondary credential up to an associate degree, the annual amount of a future ready Iowa skilled workforce last-dollar scholarship, when combined with other state and federal nonrepayable student aid, shall not exceed an amount equivalent to the tuition and any mandatory institution-wide fees charged by the community college for the eligible program. For an eligible student pursuing a postsecondary credential up to an associate degree at an eligible institution that is an accredited private institution during the fall, spring, or summer

term of enrollment, the annual amount of a future ready Iowa skilled workforce last-dollar scholarship, when combined with other state and federal nonrepayable student aid, shall not exceed an amount equivalent to the average tuition rate plus the average institution-wide mandatory fees charged during the same term of enrollment by the eligible institutions that are community colleges.

b. If an eligible student receives nonrepayable financial aid under any other state or federal program, the full amount of that aid shall be considered part of the student's available financial resources before determining the amount of the student's future ready Iowa skilled workforce last-dollar scholarship for the same period during which the student receives other state or federal financial aid. However, each eligible student enrolled full-time in an eligible program shall receive at least five hundred dollars annually, and the amount received by each eligible part-time student shall be the same amount prorated by the commission based on the number of semester hours, or the equivalent, for which the part-time student is enrolled.

c. A full-time eligible student may receive a future ready Iowa skilled workforce last-dollar scholarship for not more than five semesters, or the equivalent, or until the eligible student earns the credential sought, up to an associate degree, under the program, whichever occurs first. A part-time eligible student may receive the scholarship for not more than eight semesters, or the equivalent, on a prorated basis, or until the eligible student earns the credential sought, up to an associate degree, under the eligible program, whichever occurs first. All classes identified by an eligible institution as required for completion of the eligible program by the eligible student shall be considered required under the eligible program for purposes of this section.

d. A future ready Iowa skilled workforce last-dollar scholarship shall be awarded on an annual basis, requiring reapplication by an eligible student each year. Scholarship payments shall be allocated equally among the semesters, or the equivalent, and paid upon certification by the eligible institution that the student meets the requirements of subsection 1, paragraph "g".

e. If a scholarship recipient discontinues attendance before the end of any semester, or the equivalent, after receiving scholarship payments, the entire amount of any refund due that recipient, up to the full amount of all of the annual scholarship payments made, shall be paid by the eligible institution to the commission. A scholarship recipient, who is not approved for a leave of absence by the eligible institution, who discontinues attendance before the end of a semester, or the equivalent, is ineligible to receive future scholarships under this section.

4. *Commission's duties and responsibilities.* Subject to an appropriation of funds by the general assembly for purposes of this section, the commission shall administer the future ready Iowa skilled workforce last-dollar scholarship program and shall do all of the following:

a. Provide application forms for distribution to students by high schools and eligible institutions.

b. Adopt rules under chapter 17A, in collaboration with the department of workforce development, for administration of this section, including but not limited to establishing the duties and responsibilities of eligible institutions under the program; defining residence and satisfactory academic progress for purposes of the program; and establishing procedures for scholarship application, processing, and approval. The rules shall provide for determining the priority awarding of scholarships if funds available for purposes of this section are insufficient to pay all eligible students. Priority shall be given to fully awarding each eligible student approved for a scholarship rather than to prorating scholarship awards among all eligible students.

c. Approve and award future ready Iowa skilled workforce last-dollar scholarships on an annual basis.

d. Transmit to the department of workforce development the compilation of information, data, and statistics submitted in accordance with subsection 1, paragraph "e", subparagraph (6), for the annual report required under section 84A.1B.

5. *Fund created.* A future ready Iowa skilled workforce last-dollar scholarship fund is created in the state treasury as a separate fund under the control of the commission. All moneys deposited or paid into the fund are appropriated and made available to

the commission to be used for scholarships awarded as provided under this section. Notwithstanding section 8.33, any balance in the fund on June 30 of each fiscal year shall not revert to the general fund of the state, but shall be available for purposes of this section in subsequent fiscal years.

2018 Acts, ch 1067, §12, 15; 2018 Acts, ch 1172, §24; 2020 Acts, ch 1117, §16, 17

Referred to in §15H.10, 84A.1B, 84A.13, 256.7

Subsection 1, NEW paragraphs a and b and former paragraphs a – g redesignated as c – i

Subsection 1, paragraph g, subparagraph (1) amended

261.132 Future ready Iowa skilled workforce grant program.

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

a. “*Commission*” means the college student aid commission.

b. “*Eligible institution*” means an institution of higher learning governed by the state board of regents or an accredited private institution as defined in section 261.9, that meets all of the following criteria:

(1) Applies to and is approved by the commission to participate in the future ready Iowa skilled workforce grant program.

(2) Requires eligible students to complete and file application forms required by the commission, apply for all available state and federal financial aid, apply to the eligible institution to participate in the program, attend orientation in person or virtually, register for classes with the assistance of an academic advisor, and participate in academic and career advising sessions required under the program.

(3) Certifies that prior to participating in the program an eligible student has earned at least half of the credits necessary for a bachelor’s degree and is able to complete a bachelor’s degree in an eligible program of study or academic major leading to a designated high-demand job in the prescribed grant time frame.

(4) Facilitates the assignment of a volunteer mentor to each eligible student based on the eligible student’s interest. The volunteer mentor shall have successfully passed a background investigation and a check of the national sex offender registry as required under section 15H.10, subsection 2, and both the eligible student and the volunteer mentor shall have entered into a written agreement as provided in section 15H.10, subsection 3.

(5) Facilitates connections through campus career centers and services to internships and similar local, state, and federal programs.

(6) Markets the eligible institution’s eligible program and optional incentives, which may include but not be limited to credit for military experience, on the eligible institution’s internet site and to other relevant agencies and organizations as recommended by the college student aid commission, the commission on volunteer service, or the department of workforce development.

(7) Submits annually information and data regarding the eligible program operated by the eligible institution, the students and volunteer mentors participating in the eligible program, and statistics on employment outcomes for eligible program participants by industry, to the commission in the manner required by the commission.

c. “*Eligible program*” means a program of study or an academic major jointly approved by the commission and the department of workforce development, in consultation with the eligible institution, that leads to a bachelor’s degree aligned with a high-demand job designated by the workforce development board pursuant to section 84A.1B, subsection 14. If the department removes a high-demand job from the list created under section 84A.1B, subsection 14, an eligible student who received a grant for a program based on that high-demand job shall continue to receive the grant until achieving a bachelor’s degree as long as the student continues to meet all other eligibility requirements.

d. “*Eligible student*” means an Iowa resident who meets all of the following requirements:

(1) Has earned at least half of the credits necessary for a bachelor’s degree and is able to complete a bachelor’s degree in an eligible program of study or academic major leading to a designated high-demand job in the prescribed grant time frame.

(2) Completes and submits application forms required by the commission, including the free application for federal student aid; applies for all available state and federal financial aid; attends orientation in person or virtually; registers for classes with the assistance of

an academic advisor; and participates in academic and career advising sessions required under the eligible program. To receive a renewal of a grant awarded under this section, an eligible student must annually submit a new application to the commission for reevaluation of eligibility.

(3) Has not been enrolled in postsecondary education during the twenty-four months preceding the date on which the commission receives the individual's application to participate in the program.

(4) Enrolls in at least six semester hours, or the equivalent, in an eligible program. However, an eligible student may enroll in fewer than six semester hours, or the equivalent, if the eligible student needs fewer than six semester hours of credit, or the equivalent, to achieve a bachelor's degree under the eligible program.

(5) Is making satisfactory academic progress as defined by the eligible institution.

(6) Remains continuously enrolled unless granted a leave of absence by the eligible institution based on criteria adopted by rule by the commission.

e. "Full-time" means enrollment in at least twelve semester hours or the equivalent.

f. "Part-time" means enrollment in at least six but less than twelve semester hours or the equivalent.

2. *Allowable activities.* An eligible student may work with an assigned volunteer mentor to help the student meet the requirements of this section or the requirements of an eligible program, identify and participate in work-based learning opportunities with the approval of the eligible institution, and make other career-related connections.

3. *Grant limitations — requirements.*

a. A full-time eligible student may receive a future ready Iowa skilled workforce grant annually for not more than four semesters, or the equivalent, or until the eligible student earns a bachelor's degree under the program, whichever occurs first. A part-time eligible student may receive the grant for not more than eight semesters, or the equivalent, on a prorated basis, or until the eligible student earns a bachelor's degree under the eligible program, whichever occurs first.

b. The amount of a future ready Iowa skilled workforce grant to a full-time eligible student shall be at least one thousand dollars annually. The amount of a future ready Iowa skilled workforce grant to a part-time eligible student shall be equal to the amount that would be awarded to a full-time student except that the commission shall prorate the amount based on the recipient student's semester hour or equivalent enrollment.

c. A future ready Iowa skilled workforce grant shall be awarded on an annual basis, requiring reapplication by an eligible student each year. Payments under the grant shall be allocated equally among the semesters, or the equivalent, and paid upon certification by the eligible institution that the student meets the requirements of subsection 1, paragraph "d".

d. If a grant recipient discontinues attendance before the end of any semester, or the equivalent, after receiving grant payments, the entire amount of any refund due that recipient, up to the full amount of grant payments made during that semester, or the equivalent, shall be paid by the eligible institution to the commission.

4. *Commission's duties and responsibilities.* Subject to an appropriation of funds by the general assembly for purposes of this section, the commission shall administer the future ready Iowa skilled workforce grant program and shall do all of the following:

a. Provide application forms for distribution to students by eligible institutions.

b. Adopt rules under chapter 17A, in collaboration with the department of workforce development, for administration of this section, including but not limited to establishing the duties and responsibilities of eligible institutions under the program; defining residence and satisfactory academic progress for purposes of the program; and establishing procedures for grant application, processing, and approval. The rules shall provide for determining the priority awarding of grants if funds available for purposes of this section are insufficient to pay all eligible students. Priority shall be given to fully awarding eligible students approved for grants based on the date of application, rather than prorating grant awards among all eligible students.

c. Approve and award grants on an annual basis.

d. Transmit to the department of workforce development the compilation of information,

data, and statistics submitted in accordance with subsection 1, paragraph “b”, subparagraph (7), for the annual report required under section 84A.1B.

5. *Fund created.* A future ready Iowa skilled workforce grant fund is created in the state treasury as a separate fund under the control of the commission. All moneys deposited or paid into the fund are appropriated and made available to the commission to be used for grants awarded as provided under this section. Notwithstanding section 8.33, any balance in the fund on June 30 of each fiscal year shall not revert to the general fund of the state, but shall be available for purposes of this section in subsequent fiscal years.

2018 Acts, ch 1067, §13, 15

Referred to in §15H.10, 84A.1B, 84A.13

CHAPTER 261A

HIGHER EDUCATION LOAN AUTHORITY (PRIVATE INSTITUTIONS)

Referred to in §12.28, 12.30

Authority is attached to the college student aid commission; §7E.7, chapter 261

	SUBCHAPTER I		
	GENERAL PROVISIONS		
261A.1	Short title and citation.	261A.24	Chapter as alternative method — powers not subject to supervision or regulation.
261A.2	Declaration of purpose.	261A.25	Notice.
261A.3	Legislative findings.	261A.26	Liberal construction of chapter.
261A.4	Definitions.	261A.27	Exercise of powers as essential public function — exemption from taxation.
261A.5	Creation as public instrumentality.	261A.28	through 261A.31 Reserved.
261A.6	Membership of authority.		
261A.7	Duties of authority.		
261A.8	Powers of authority.		
261A.9	Expenses of authority — limitation of liability.		SUBCHAPTER II
			HIGHER EDUCATION FACILITIES PROGRAM
261A.10	Acquisition of moneys, endowments, properties, and guarantees.	261A.32	Legislative findings.
		261A.33	Purpose of subchapter.
261A.11	Conveyance of loan funding deposit after payment of principal and interest.	261A.34	Definitions.
		261A.35	General power of authority.
261A.12	Obligations.	261A.36	Issuance of obligations.
261A.13	Trust agreement to secure obligations.	261A.37	Loans authorized.
261A.14	Payment of obligations — nonliability of state.	261A.38	Issuance of obligations — conditions.
261A.15	Pledge of revenues.	261A.39	General powers — apportionment of costs.
261A.16	Funds for sales of obligations as trust funds — application of funds.	261A.40	Joint and combination projects.
		261A.41	Expenses.
261A.17	Rights of holders of obligations.	261A.42	Obligations.
261A.18	Refunding bonds — purpose — proceeds — investment of proceeds.	261A.43	Resolution provisions.
		261A.44	Obligations secured by trust agreement.
261A.19	Investment of funds of authority.	261A.45	Obligations issued to acquire federally guaranteed securities.
261A.20	Obligations as legal investments.		
261A.21	Annual report.	261A.46	Obligations not liability of state or political subdivision.
261A.22	Waiver of competitive bidding.	261A.47	Money received by authority.
261A.23	Institution power — interest rates.	261A.48	Powers of holders and trustees.

261A.49 Bondholders — pledge —
agreement of the state.

261A.50 Provisions controlling.

SUBCHAPTER I GENERAL PROVISIONS

261A.1 Short title and citation.

This chapter may be cited as the “*Iowa Higher Education Loan Authority Act*”.

[82 Acts, ch 1031, §1]

Referred to in §261A.24

261A.2 Declaration of purpose.

It is declared that for the benefit of the people of the state of Iowa, the conduct and increase of their commerce, the protection and enhancement of their welfare, the development of continued prosperity and the improvement of their health and living conditions, it is essential that this and future generations of youth be given the fullest opportunity to learn and to develop their intellectual and mental capacities and skills; that to achieve these ends it is of the utmost importance that students attending institutions of higher education located in Iowa have reasonable financial alternatives to enhance their access to such institutions; that reasonable financial access to institutions of higher education will assist youth in achieving the optimum levels of learning and development of their intellectual and mental capacities and skills; that it is the purpose of this chapter to provide a measure of assistance and an alternative method to enable students and the families of students attending institutions of higher education located in Iowa to appropriately and prudently finance the cost or a portion of the cost of higher education; and that it is the intent of this chapter to supplement federal guaranteed higher education loan programs, other student loan programs, and grant or scholarship programs to provide the needed additional options for the financing of a student’s higher education in execution of the public policy set forth above.

[82 Acts, ch 1031, §2]

Referred to in §261A.24

261A.3 Legislative findings.

The general assembly finds as follows:

1. The establishment of the authority is in all respects for the benefit of the people of the state of Iowa, for the improvement of their education, health and welfare, and for the promotion of the economy, which are public purposes.

2. The authority will be performing an essential governmental function in the exercise of the powers and duties conferred upon it by this chapter.

3. There exists a serious problem in this state regarding the ability of students to obtain financing for the cost of education beyond the high school level.

4. Escalating costs of securing such an education have contributed to the difficulties faced by students in attempting to finance an education.

5. Without public action as contemplated by this chapter, many students will be forced to postpone or abandon plans for obtaining additional education.

6. It is in the interests and welfare of the citizens of the state to provide a means for assisting students to continue their education.

7. Without public action as contemplated by this chapter, the inability to obtain educational financing will result in declining enrollments at institutions of higher education.

8. It is necessary to create a higher education loan authority to encourage the investment of private capital in the provision of funds for the financing of student loans.

9. All of the purposes stated in this section are public purposes and uses for which public moneys may be borrowed, expended, advanced, loaned, or granted.

[82 Acts, ch 1031, §3]

Referred to in §261A.24

261A.4 Definitions.

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

1. “*Authority*” means the Iowa higher education loan authority created by this chapter, and “*members of the authority*” means those persons appointed to the authority pursuant to section 261A.6.
2. “*Authority loans*” means loans by the authority to institutions of higher education for the purpose of funding education loans.
3. “*Bond resolution*” means a resolution of the authority and the trust agreement, if any, and any supplements or amendments to the resolution and agreement, authorizing the issuance of and providing for the terms and conditions applicable to obligations.
4. “*Bond service charges*” means principal, including mandatory sinking fund requirements for retirement of obligations, and interest, and redemption premium, if any, required to be paid by the authority on obligations.
5. “*Borrower*” means a student who has received an education loan or a parent who has received or agreed to pay an education loan.
6. “*Cost of attendance*” means the amount defined by the institution for the purpose of the guaranteed student loan program as defined under Tit. IV, part B, of the Higher Education Act of 1965, as amended.
7. “*Default insurance*” means insurance insuring education loans, authority loans, or obligations against default.
8. “*Default reserve fund*” means a fund established pursuant to a bond resolution for the purpose of securing education loans, authority loans, or obligations.
9. “*Education loan*” means a loan which is made by an institution to a student or parents of a student, or both, in amounts not in excess of the maximum amounts specified in rules adopted by the authority under chapter 17A to finance all or a portion of the cost of the student’s attendance at the institution.
10. “*Education loan series portfolio*” means all education loans made by a specific institution which are funded from the proceeds of an authority loan to the institution from the proceeds of a related specific issue of obligations through the authority.
11. “*Governmental agency*” means the state or a state department, division, commission, institution, or authority, an agency, city, county, township, school district, and any other political subdivision or special district in this state established pursuant to law, and, except where otherwise indicated, also means the United States or a department, division, or agency of the United States, and an agency, commission, or authority established pursuant to an interstate compact or agreement.
12. “*Institution*” means a nonprofit educational institution located in Iowa not owned or controlled by the state or any political subdivision, agency, instrumentality, district, or city of the state, which is authorized by law to provide a program of education beyond the high school level and which meets all of the following requirements:
 - a. Admits as regular students only individuals having a certificate of graduation from high school, or the recognized equivalent of such a certificate.
 - b. Provides an educational program for which it awards a baccalaureate degree; or provides an educational program which conditions admission upon the prior attainment of a baccalaureate degree or its equivalent, for which it awards a postgraduate degree; or provides not less than a two-year program which is acceptable for full credit toward a baccalaureate degree, or offers not less than a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge.
 - c. Is accredited by a nationally recognized accrediting agency or association or, if not accredited, is an institution whose credits are accepted, on transfer, by not less than three institutions which are accredited.
 - d. Does not discriminate in the admission of students on the basis of age, race, creed, color, sex, national origin, religion, or disability.
 - e. Has a governing board which possesses its own sovereignty.

f. Has a governing board, or delegated institutional officials, which possess final authority in all matters of local control, including educational policy, choice of personnel, determination of program, and financial management.

13. “*Loan funding deposit*” means money or other property that is deposited:

a. By an institution with the authority or a trustee.

b. In amounts deemed necessary by the authority as a condition for the institution’s participation in the authority’s programs.

c. For the purpose of one or more of the following:

(1) Providing security for obligations.

(2) Funding a default reserve fund.

(3) Acquiring default insurance.

(4) Defraying costs of the authority.

14. “*Obligations*” means bonds, notes, or other evidences of indebtedness of the authority, including interest coupons pertaining thereto, issued under this chapter, including refunding bonds.

15. “*Parent*” means a parent or guardian of a student at an institution.

16. “*Person*” means a public or private person, firm, partnership, association, corporation or other body.

[82 Acts, ch 1031, §4]

2008 Acts, ch 1031, §43

Referred to in §261A.24

261A.5 Creation as public instrumentality.

The Iowa higher education loan authority is created as a body politic and corporate. The authority is a public instrumentality and the exercise by the authority of the powers conferred by this chapter is the performance of an essential public function. The authority is attached to the college student aid commission for administrative purposes.

[82 Acts, ch 1031, §5]

86 Acts, ch 1245, §1455; 90 Acts, ch 1253, §122

Referred to in §261A.24

261A.6 Membership of authority.

1. The authority consists of five members to be appointed by the governor subject to confirmation by the senate. The powers of the authority are vested in and exercised by the members of the authority. Each member of the authority shall be a resident of the state and not more than three members shall be members of the same political party.

2. The members of the authority shall be appointed by the governor for terms of six years beginning and ending as provided in section 69.19. A member of the authority is eligible for reappointment. The governor shall fill a vacancy for the remainder of the unexpired term. A member of the authority may be removed by the governor for misfeasance, malfeasance, or willful neglect of duty or other cause after notice and a public hearing unless the notice and hearing are waived by the member in writing.

3. The members of the authority shall annually elect one of the members as chairperson and one as vice chairperson. The members of the authority may appoint an executive director, an assistant executive director, and other officers as the members of the authority determine. The officers shall not be members of the authority, shall serve at the pleasure of the authority, and shall receive compensation as fixed by the authority.

4. The executive director or assistant executive director or other person designated by resolution of the authority shall keep a record of the proceedings of the authority and shall be custodian of all books, documents, and papers filed with the authority, the minute book or journal of the authority, and its official seal. The executive director, assistant executive director, or other person may cause copies to be made of minutes and other records and documents of the authority and may give certificates under the official seal of the authority that the copies are true copies, and persons dealing with the authority may rely upon the certificates.

5. Three members of the authority constitute a quorum. The affirmative vote of a majority

of the members of the authority is necessary for any action taken by the authority. The majority shall not include a member who has a conflict of interest and a statement by a member of a conflict of interest is conclusive for this purpose. A vacancy in the membership of the authority does not impair the right of a quorum to exercise the rights and perform the duties of the authority. An action taken by the authority under this chapter may be authorized by resolution at a regular or special meeting, and each resolution shall take effect immediately and need not be published or posted, except as provided in section 261A.25. Meetings of the authority shall be held at the call of the chairperson or at the request of two members.

6. The members of the authority shall not receive compensation for the performance of their duties as members but each member shall be paid necessary expenses while engaged in the performance of duties of the authority.

7. The members of the authority shall give bond as required for public officers in chapter 64.

8. The members of the authority are subject to and are officials within the meaning of chapter 68B.

9. Notwithstanding chapter 68B or any other laws to the contrary, it is not a conflict of interest or violation of a law for a trustee, director, officer, or employee of a participating institution or for a person having a favorable reputation for skill, knowledge, and experience in state and municipal finance or for a person having a favorable reputation for skill, knowledge, and experience in the higher education loan finance field to serve as a member of the authority. However, in each case to which this chapter is applicable, the trustee, director, officer, or employee of the participating institution shall abstain from discussion, deliberation, action, and vote by the authority in respect to an undertaking pursuant to this chapter in which the participating institution of higher education has an interest; and the person having a favorable reputation for skill, knowledge, and experience in state and municipal finance shall abstain from discussion, deliberation, action, and vote by the authority in respect to a sale, purchase, or ownership of obligations of the authority in which an investment banking firm or insurance company or bank of which the person is a partner, officer, or employee has or may have a current or future interest; and the person having a favorable reputation for skill, knowledge, and experience in the higher education loan finance field shall abstain from discussion, deliberation, action, and vote by the authority in respect to an action of the authority in which a partnership, firm, joint venture, sole proprietorship, or corporation of which the person is an owner, venturer, participant, partner, officer, or employee has or may have a current or future interest.

10. All employees of the authority are exempt from chapter 8A, subchapter IV, and chapter 97B.

[82 Acts, ch 1031, §6, 28]

86 Acts, ch 1245, §843; 2003 Acts, ch 145, §229

Referred to in §261A.4, 261A.24

Confirmation, see §2.32

261A.7 Duties of authority.

The authority shall:

1. Adopt rules for the regulation of its affairs and the conduct of its business.
2. Adopt an official seal and alter the seal at pleasure.
3. Maintain an office at a place or places it designates.
4. *a.* Establish criteria for and guidelines encompassing the types of and qualifications for education loan financing programs. The authority may issue obligations for the purpose of making authority loans to institutions participating in a program of the authority for the purpose of providing education loans. The criteria and guidelines established by the authority for its education loan financing programs include eligibility standards for borrowers the authority determines are necessary or desirable in order to effectuate the purposes of this chapter, including the following:
 - (1) Each student shall have a certificate of admission or enrollment at a specific participating institution.

(2) Each student or the student's parents shall satisfy financial qualifications the authority establishes to effectuate the purposes of this chapter.

(3) Each student and the student's parents shall submit information required by the authority to the applicable institution.

b. The authority may contract with financial institutions and other qualified loan origination and servicing organizations, which shall assist in prequalifying borrowers for education loans and which shall service and administer each education loan and each institution's respective loan series portfolio. Each education loan's fees shall include a portion, if necessary, to cover the applicable pro rata cost of a servicing organization.

c. The authority may establish criteria governing the eligibility of institutions to participate in its programs, the making of authority loans and education loans, provisions for default, the establishment of default reserve funds, the purchase of default insurance, the provision of prudent debt service reserves, and the furnishing by participating institutions of higher education of additional guarantees of the education loans, authority loans, or obligations that the authority determines necessary. Criteria shall be established to assure the marketability of the obligations and the adequacy of the security for the obligations.

d. The authority shall establish limitations upon the principal amounts and the terms of education loans, criteria regarding the qualifications and characteristics of borrowers and procedures for allocating authority loans among institutions eligible for its program in order to effectuate the purposes of this chapter.

5. Issue obligations for its corporate purposes and fund or refund the obligations as provided in this chapter.

6. Fix and revise from time to time and charge and collect rates, fees, and charges for the services furnished or to be furnished by the authority, and contract with persons in respect to the services, including financial institutions, loan originators, servicers, administrators, issuers of letters of credit, and insurers.

7. Establish rules under chapter 17A with respect to authority loans, education loans, and education loan series portfolios.

8. Receive and accept from any source, loans, contributions or grants for or in aid of an authority education loan financing program or any portion of a program and, when required, use the funds, property, or labor only for the purposes for which it was loaned, contributed, or granted.

9. Make authority loans to institutions and require that the proceeds of the authority loans be used for making education loans and paying costs and fees in connection with the education loans.

10. Charge to and apportion among participating institutions its administrative and operating costs and expenses incurred in the exercise of its powers and duties.

11. Borrow working capital funds and other funds as necessary for start-up and continuing operations, provided that the funds are borrowed in the name of the authority only. Borrowings are limited obligations of the character described in section 261A.12 and are payable solely from revenues of the authority or the proceeds of obligations pledged for that purpose.

12. Notwithstanding other provisions in this chapter, commingle and pledge as security for a series or issue of obligations, with the consent of all of the institutions which are participating in the series or issue, the education loan series portfolios and some or all future education loan series portfolios of the institutions, and the loan funding deposits of the institutions. However, the education loan series portfolios and other security and moneys set aside in a fund or funds pledged for a series or issue of obligations shall be held for the sole benefit of the series or issue separate and apart from education loan series portfolios and other security and moneys pledged for any other series or issue of obligations. Obligations may be issued in series under one or more resolutions or trust agreements in the discretion of the authority.

13. Examine records and financial reports of participating institutions, and examine records and financial reports of a contractor organization or institution retained by the authority.

14. Require that authority loans be used solely to make education loans. The authority

shall require that institutions require that each borrower under an education loan use the proceeds solely for the cost of attendance and that each borrower certify as to the use of the proceeds.

15. Authorize its officers, agents, and employees to take any other action and do all things necessary or desirable in order to carry out the purposes of this chapter.

[82 Acts, ch 1031, §7]

2009 Acts, ch 41, §263

Referred to in §261A.24

261A.8 Powers of authority.

The authority may:

1. Sue and be sued in its own name, plead and be impleaded.
2. Employ consultants, attorneys, accountants, financial experts, loan processors, bankers, managers, and other employees and agents necessary in the authority's judgment, and fix their compensation.
3. When refunding obligations are issued to refund obligations, the proceeds of which were used to make authority loans, reduce the amount it is owed by the institutions which had received authority loans from the proceeds of the refunded obligations. The institutions may use this reduced amount to reduce the amount of interest being paid on education loans which the institutions had made pursuant to the authority loans from the proceeds of the refunded obligations.

[82 Acts, ch 1031, §8]

Referred to in §261A.24

261A.9 Expenses of authority — limitation of liability.

Expenses incurred in carrying out this chapter are payable solely from funds provided under this chapter and, except as specifically authorized under this chapter, a liability shall not be incurred by the authority beyond the extent to which moneys have been provided under this chapter.

[82 Acts, ch 1031, §9]

Referred to in §261A.24

261A.10 Acquisition of moneys, endowments, properties, and guarantees.

The authority may establish guidelines relating to the deposits of moneys, endowments, or properties by institutions which would provide prudent security for education loan funding programs, authority loans, education loans, or for obligations and may establish guidelines relating to guarantees of or contracts to purchase education loans or obligations by the institutions or by financial institutions or others. A default reserve fund may be established for each series or issue of obligations. The authority may receive moneys, endowments, properties, and guarantees it deems appropriate and, if necessary, may take title in the name of the authority or in the name of a participating institution or a trustee.

[82 Acts, ch 1031, §10]

Referred to in §261A.24

261A.11 Conveyance of loan funding deposit after payment of principal and interest.

When the principal of and interest on obligations of the authority issued to finance the cost of an education loan financing program or programs, including any refunding obligations issued to refund and refinance the obligations, have been fully paid and retired or when adequate provision has been made to fully pay and retire the obligations of the authority, and all other conditions of the bond resolution have been satisfied and the lien created by the bond resolution has been released in accordance with its provisions, the authority shall promptly perform functions and execute deeds and conveyances necessary and required to convey remaining moneys, properties, and other assets comprising loan funding deposits to the institutions which furnished the loan funding deposits in proportion to the amounts furnished by the respective institutions.

[82 Acts, ch 1031, §11]

Referred to in §261A.24

261A.12 Obligations.

1. The authority may from time to time issue obligations for any corporate purpose and the obligations of the authority are declared to be negotiable for all purposes notwithstanding their payment from limited sources and without regard to any other law.

2. The authority shall not have outstanding at any one time obligations in an aggregate principal amount exceeding one hundred million dollars excluding obligations issued to refund the obligations of the authority.

3. Each issue of obligations is payable solely out of revenues of the authority pertaining to the program relating to the issue, including principal and interest on authority loans and education loans; payments by institutions of higher education, banks, insurance companies, or others pursuant to letters of credit or purchase agreements; investment earnings from funds or accounts maintained pursuant to the bond resolution; insurance proceeds; loan funding deposits; proceeds of sales of education loans; proceeds of refunding obligations; and fees, charges, and other revenues of the authority from the program.

4. Obligations may be issued as serial obligations or as term obligations, or both. Obligations shall be authorized by a bond resolution of the authority and shall bear dates, mature at times not later than the year following the last year in which the final payments in an education loan series portfolio are due, or thirty years, whichever is sooner, from their respective dates of issue, bear interest at rates, be payable at times, be in denominations, be in a form, either coupon or fully registered, carry registration and conversion privileges, be payable in lawful money of the United States of America, and be subject to terms of redemption as the bond resolution provides. Obligations shall be executed by the manual or facsimile signatures of officers of the authority designated by the authority. Obligations shall be sold in a manner and at prices as the authority determines.

5. A bond resolution may contain provisions, which shall be a part of the contract with the holders of the obligations to be authorized, as to all of the following:

a. Pledging or assigning the revenues derived from the authority loans and education loans with respect to which the obligations are to be issued.

b. The fees and other amounts to be charged, and the sums to be raised in each year, and the use, investment, and disposition of the sums.

c. The setting aside of loan funding deposits, debt service reserves, capitalized interest accounts, cost of insurance accounts, and sinking funds, and their regulation, investment, and disposition.

d. Limitations on the use of the education loans.

e. Limitations on the purpose to which or the investments in which the proceeds of sale of an issue of obligations then or thereafter to be issued may be applied.

f. Limitations on the issuance of additional obligations, the terms upon which additional obligations may be issued and secured, the terms upon which additional obligations may rank on a parity with, or be subordinate or superior to, other obligations.

g. The refunding of outstanding obligations.

h. The procedure, if any, by which the terms of a contract with holders of obligations may be amended or abrogated, the amount of obligations to which the holders must consent to the amendment or abrogation, and the manner in which the consent may be given.

i. Defining the acts or omissions to act which constitute a default in the duties of the authority to holders of obligations and providing the rights or remedies of holders in the event of a default.

j. Providing for guarantees, pledges, endowments, letters of credit, property, or other security for the benefit of the holders of the obligations.

k. Any other matters relating to the obligations which the authority deems desirable.

6. Neither the members of the authority nor a person executing the obligations is liable personally on the obligations or subject to personal liability or accountability by reason of their issuance.

7. The authority may purchase its obligations out of funds available. The authority may hold, pledge, cancel, or resell obligations subject to and in accordance with agreements with holders of obligations.

8. The authority may refund any of its obligations. Refunding obligations shall be issued in the same manner as other obligations of the authority.

[82 Acts, ch 1031, §12]

Referred to in §261A.7, 261A.24

261A.13 Trust agreement to secure obligations.

In the discretion of the authority, obligations may be secured by a trust agreement by and between the authority and a corporate trustee or trustees, which may be a trust company or bank located in the state of Iowa that has the powers of a trust company. The bond resolution shall pledge the revenues to be received by the authority, may contain provisions for protecting and enforcing the rights and remedies of the holders of obligations as reasonable and proper and not in violation of law, including provisions that have been authorized to be included in any bond resolution of the authority, and may restrict the individual right of action by holders of obligations. A trust agreement may contain other provisions the authority deems reasonable and proper for the security of the holders of obligations. Expenses incurred in carrying out the trust agreement may be treated as a part of the cost of the operation of an education loan program.

[82 Acts, ch 1031, §13]

Referred to in §261A.24

261A.14 Payment of obligations — nonliability of state.

1. Obligations are obligations of the authority only, and not of the state of Iowa. Each obligation shall state upon its face that it represents and constitutes a debt of the authority, but not of the state of Iowa within the meaning of any constitutional or statutory limitation, and that it does not constitute a pledge of the full faith and credit of the authority or of the state of Iowa. The obligations shall not grant to the owners or holders of the obligations the right to have the authority or the state levy taxes or appropriate funds for the payment of the principal or interest on the obligations. The obligations are payable, and shall state that they are payable, solely from the revenues pledged for their payment in accordance with the bond resolution.

2. This chapter does not authorize the authority or any department, board, commission, or other agency to create an obligation of the state within the meaning of the Constitution or laws of the State of Iowa.

[82 Acts, ch 1031, §14]

2006 Acts, ch 1010, §80

Referred to in §261A.24

261A.15 Pledge of revenues.

1. The authority shall fix, revise, charge, and collect fees and may contract with a person to do so. Each agreement entered into by the authority with an institution shall provide that the fees and other amounts payable by the institution of higher education with respect to a program of the authority are sufficient at all times to meet all of the following:

a. To pay its share of the administrative costs and expenses of the program.

b. To pay the principal of, the premium, if any, and the interest on outstanding obligations of the authority, issued in respect of the program to the extent that other revenues of the authority pledged for the payment of the obligations are insufficient to pay the obligations as they become due and payable.

c. To create and maintain reserves which may but need not be required or provided for in the bond resolution relating to the obligations of the authority.

d. To establish and maintain whatever education loan servicing, control, or audit procedures are deemed by the authority to be necessary to the prudent operation of the authority.

2. The authority shall pledge the revenues from each program as security for the issue of obligations relating to the program. A pledge is valid and binding from the time when the pledge is made, the revenues pledged by the authority are immediately subject to the lien of the pledge without physical delivery of the pledge or further act, and the lien of the pledge is valid and binding against all parties having claims of any kind in tort, contract, or otherwise

against the authority or a participating institution, irrespective of whether the parties have notice of the lien. The bond resolution and a financing statement, continuation statement, or other instrument by which the authority's interest in revenues is assigned need not be filed or recorded in public records in order to perfect the lien against third parties except that a copy of it shall be filed in the records of the authority and with the treasurer of state.

[82 Acts, ch 1031, §15]

2010 Acts, ch 1061, §180

Referred to in §261A.24

261A.16 Funds for sales of obligations as trust funds — application of funds.

Moneys received by or on behalf of the authority under this chapter, whether as proceeds from the sale of obligations or as revenues, are trust funds to be held and applied as provided in this chapter. An officer with whom, or a bank or trust company with which the moneys are deposited shall act as trustee of the moneys and shall hold and apply the moneys for the purposes of this chapter, subject to rules that this chapter and the bond resolution authorizing the obligations of an issue may provide.

[82 Acts, ch 1031, §16]

Referred to in §261A.24

261A.17 Rights of holders of obligations.

A holder of obligations or a trustee under a trust agreement entered into pursuant to this chapter, except to the extent that their rights are restricted by a bond resolution, may, by any suitable form of legal proceedings, protect and enforce rights under the laws of this state or granted by the bond resolution, may enjoin unlawful activities, and if there is a default on the payment of the principal of, premiums, if any, and interest on an obligation or in the performance of a covenant or agreement on the part of the authority in the bond resolution, may apply to the district court to appoint a receiver to administer and operate the education loan program, the revenues of which are pledged to the payment of principal of, premium, if any, and interest on the obligations, with full power to pay, and to provide for payment of principal of, premium, if any, and interest on the obligations, and with powers, subject to the direction of the court, as permitted by law and accorded to receivers, excluding the power to pledge additional revenues of the authority to the payment of the principal, premium, and interest.

[82 Acts, ch 1031, §17]

Referred to in §261A.24

261A.18 Refunding bonds — purpose — proceeds — investment of proceeds.

1. The authority may issue its obligations for the purpose of refunding obligations then outstanding, including the payment of a redemption premium on the obligations and interest accrued or to accrue to the earliest or a subsequent date of redemption, purchase, or maturity of the obligations.

2. The proceeds of obligations issued for the purpose of refunding outstanding obligations may, in the discretion of the authority, be applied to the purchase or retirement at maturity or redemption of the outstanding obligations either on their earliest or a subsequent redemption date or upon the purchase or at the maturity of the obligations and may, pending an application, be placed in escrow to be applied to the purchase or retirement at maturity or redemption on a date determined by the authority.

3. Any escrowed proceeds, pending their use, may be invested and reinvested in direct obligations of the United States of America, maturing at times as appropriate to assure the prompt payment of the principal of and interest and redemption premium, if any, on the outstanding obligations to be refunded. The interest, income, and profits, if any, earned or realized on an investment may also be applied to the payment of the outstanding obligations to be refunded. After the terms of the escrow have been fully satisfied and carried out, a balance of the proceeds and interest, income, and profits, if any, earned or realized on the investments shall be returned to the institution of higher education for use by it in any lawful manner.

4. Refunding obligations are subject to this chapter in the same manner and to the same extent as other obligations issued pursuant to this chapter.

[82 Acts, ch 1031, §18]

Referred to in §261A.19, 261A.24

261A.19 Investment of funds of authority.

Except as otherwise provided in section 261A.18, subsection 3, the authority may invest funds in direct obligations of the United States of America; obligations for which the timely payment of principal and interest is fully guaranteed by the United States of America; obligations of the federal intermediate credit banks, federal banks for cooperatives, federal land banks, federal home loan banks, federal national mortgage association, government national mortgage association and the student loan marketing association; certificates of deposit or time deposits constituting direct obligations of a bank as defined by chapter 524; and in withdrawable capital accounts or deposits of federal chartered savings associations which are insured by the federal deposit insurance corporation. However, investments may be made only in certificates of deposit or time deposits in banks which are insured by the federal deposit insurance corporation if then in existence. Securities authorized in this section may be purchased at the offering or market price at the time of the purchase. The securities purchased shall mature or be redeemable on dates prior to the time when, in the judgment of the authority, the funds invested will be required for expenditure. The judgment of the authority as to the time when funds will be required for expenditure or be redeemable is final.

[82 Acts, ch 1031, §19]

2012 Acts, ch 1017, §66

Referred to in §261A.24

261A.20 Obligations as legal investments.

Banks, bankers, trust companies, federally chartered savings associations, investment companies, and other persons carrying on a banking or investment business, insurance companies and insurance associations, and executors, administrators, guardians, trustees, and other fiduciaries may legally invest sinking funds, moneys, or other funds belonging to them or within their control in obligations of the authority.

[82 Acts, ch 1031, §20]

2012 Acts, ch 1017, §67

Referred to in §261A.24

261A.21 Annual report.

The authority shall keep an accurate account of its activities and shall annually provide a report of its activities to the governor and the members of the general assembly. The report is a public record and open for inspection at the offices of the authority during normal business hours. The report shall include all of the following:

1. Summaries of applications by institutions of higher education for education loan financing assistance presented to the authority during the fiscal year.
2. Summaries of education loan programs which have received any form of financial assistance from the authority during the year.
3. The nature and amount of all assistance.
4. A report concerning the financial condition of the various education loan series portfolios.
5. Projected activities of the authority for the next fiscal year, including projections of the total amount of financial assistance anticipated and the amount of obligations that will be necessary to provide the projected level of assistance during the next fiscal year.

[82 Acts, ch 1031, §21]

Referred to in §261A.24

261A.22 Waiver of competitive bidding.

Competitive bidding requirements of the Code or other similar requirements that may be lawfully waived are waived by this section and any requirement of competitive bidding or

other restriction imposed on the procedure for award of contracts is not applicable to action taken under this chapter.

[82 Acts, ch 1031, §22]

Referred to in §261A.24

261A.23 Institution power — interest rates.

Institutions may borrow money from the authority, make education loans and take all other actions and do things necessary or convenient to consummate the transactions contemplated under this chapter. It is lawful for the authority to establish, charge, contract for, and receive any amount or rate of interest or compensation with respect to authority loans and, subject to rules adopted by the authority, for participating institutions to charge, contract for, and receive any amount or rate of interest or compensation with respect to education loans.

[82 Acts, ch 1031, §23]

Referred to in §261A.24

261A.24 Chapter as alternative method — powers not subject to supervision or regulation.

Sections 261A.1 through 261A.23 provide a complete, additional, and alternative method for the doing of the things authorized by the chapter and the limitations imposed by this chapter do not affect powers or rights conferred by other laws, and the issuance of obligations and refunding obligations under this chapter need not comply with the requirements of any other law applicable to the issuance of obligations. Except as otherwise expressly provided in this chapter, the powers granted to the authority under this chapter are not subject to the supervision or regulation and do not require the approval or consent of a city or political subdivision or department, division, commission, board, body, bureau, official, or agency of a political subdivision or of the state.

[82 Acts, ch 1031, §24]

2020 Acts, ch 1063, §103

Section amended

261A.25 Notice.

The authority shall publish a notice of its intention to issue obligations in a newspaper published in and with general circulation in the state. The notice shall include a statement of the maximum amount of obligations proposed to be issued, and in general terms, what receipts will be pledged to pay bond service charges on the obligations. An action which questions the legality or validity of the obligations or the power of the authority to issue the obligations or the effectiveness or validity of any proceedings adopted for the authorization or issuance of the obligations shall not be brought after sixty days from the date of publication of the notice.

[82 Acts, ch 1031, §25]

Referred to in §261A.6

261A.26 Liberal construction of chapter.

This chapter, being necessary for the welfare of the state and its inhabitants, shall be liberally construed to effect its purpose.

[82 Acts, ch 1031, §26]

261A.27 Exercise of powers as essential public function — exemption from taxation.

1. The exercise of the powers granted by this chapter will be in all respects for the benefit of the people of this state, for the increase of their commerce, welfare, and prosperity, and for the improvement of their health and living conditions, and as the operation and maintenance of a program by the authority or its agent will constitute the performance of an essential public function. Income of the authority is exempt from all taxation in the state. Property of the authority, acquired or held for purposes of this chapter, is exempt from all taxation and special assessments in the state if the property was exempt for the fiscal year in which the property was first acquired or held and such property shall continue to be exempt for subsequent fiscal years. Property of the authority, acquired or held for purposes of this chapter, is subject to

taxation and special assessments in the state if the property was taxable for the fiscal year in which the property was first acquired or held and such property shall continue to be taxable for subsequent fiscal years.

2. Obligations issued by the authority on or after July 1, 2000, pursuant to either subchapter of this chapter, their transfer, and income therefrom are exempt from taxation of any kind by the state or any political subdivision of the state.

[82 Acts, ch 1031, §27]

2000 Acts, ch 1209, §1; 2017 Acts, ch 54, §37

Referred to in §422.7(2)(m)

261A.28 through 261A.31 Reserved.

SUBCHAPTER II

HIGHER EDUCATION FACILITIES PROGRAM

261A.32 Legislative findings.

The general assembly finds:

1. For the benefit of the people of the state of Iowa, the increase of their commerce, welfare, and prosperity, and the improvement of their health and living conditions, it is essential that this and future generations of youth be given the greatest opportunity to learn and to fully develop their intellectual and mental capacities and skills.

2. To achieve these ends it is of the utmost importance that educational institutions within the state be provided with appropriate additional means of assisting the youth in achieving the required levels of learning and development of their intellectual and mental capacities and skills through new or enhanced physical facilities and equipment at these institutions.

3. The financing and refinancing of educational facilities, through means as described in this subchapter, other than the appropriation of public funds to institutions, is a valid public purpose.

85 Acts, ch 210, §2; 2017 Acts, ch 54, §76

261A.33 Purpose of subchapter.

It is the purpose of this subchapter to provide a measure of assistance and an alternative method of enabling institutions in the state to finance the acquisition, construction, and renovation of needed educational facilities, structures and equipment and to refund, refinance, or reimburse outstanding indebtedness incurred by them or advances made by them, including advances from an endowment or any other similar fund, for the construction, acquisition, or renovation of needed educational facilities and structures, whether or not constructed, acquired, or renovated prior to July 1, 1985.

85 Acts, ch 210, §3; 2017 Acts, ch 54, §76

261A.34 Definitions.

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

1. “Cost” as applied to a project or any portion of a project financed under this subchapter means all or a part of the cost of construction and acquisition of land, buildings, or structures, including the cost of machinery and equipment; finance charges; interest prior to, during, and after completion of the construction for a reasonable period as determined by the authority; reserves for principal and interest; extensions, enlargements, additions, replacements, renovations, and improvements; improvements, replacements, and renovations for energy conservation and other purposes; engineering, financial, and legal services; plans, specifications, studies, surveys, estimates of cost of revenue, administrative expenses, expenses necessary or incidental to determining the feasibility or practicability of constructing the project; and such other expenses as the authority determines may be necessary or incidental to the construction and acquisition of the project, the financing of the construction and acquisition, and the placing of the project in operation.

2. “Obligation” means an obligation issued by the authority under this subchapter.

3. “*Project*” means any property located within the state, constructed or acquired before or after July 1, 1985, that may be used or will be useful in connection with the instruction, feeding, or recreation of students, the conducting of research, administration, or other work of an institution, or any combination of the foregoing. “*Project*” includes but is not limited to any academic facility, administrative facility, assembly hall, athletic facility, instructional facility, laboratory, library, maintenance facility, student health facility, recreational facility, research facility, student union, or other facility suitable for the use of an institution. “*Project*” also means the refunding or refinancing of outstanding obligations, mortgages, or advances, including advances from an endowment or similar fund, originally issued, made, or given by the institution to finance the cost of a project. “*Project*” also includes a project that is to be leased to an institution.

4. “*Property*” means the real estate upon which a project is or will be located, including equipment, machinery, and other similar items necessary or convenient for the operation of the project in the manner for which its use is intended, but not including such items as fuel, supplies, or other items that are customarily deemed to result in a current operation charge. Property does not include property used or to be used primarily for sectarian instruction or study, or as a place for devotional activities or religious worship, or any property which is used or to be used primarily in connection with any part of the program of a school or department of divinity for any religious denomination or the training of ministers, priests, rabbis, or other professional persons in the field of religion.

85 Acts, ch 210, §4; 97 Acts, ch 181, §1; 2000 Acts, ch 1209, §2; 2017 Acts, ch 54, §76

261A.35 General power of authority.

The authority is authorized to assist institutions in the constructing, financing, and refinancing of projects, and the authority may take action authorized by this subchapter. The authority is authorized to be a member of limited liability companies organized for the purpose of leasing projects to institutions.

85 Acts, ch 210, §5; 2000 Acts, ch 1209, §3; 2017 Acts, ch 54, §76

261A.36 Issuance of obligations.

The authority may issue obligations of the authority for any of its corporate purposes as provided for in this subchapter including the issuing of obligations to finance projects to be leased to an institution, and fund or refund the obligations pursuant to this subchapter.

85 Acts, ch 210, §6; 97 Acts, ch 181, §2; 2000 Acts, ch 1209, §4; 2017 Acts, ch 54, §76

261A.37 Loans authorized.

The authority may make loans to an institution for the cost of a project or in anticipation of the receipt of tuition by the institution in accordance with an agreement between the authority and the institution, except that a loan for the cost of a project shall not exceed the total cost of the project, as determined by the institution and approved by the authority and except that loans in anticipation of the receipt of tuition shall not exceed the anticipated amount of tuition to be received by the institution in the one-year period following the date of the loan. The authority may lease projects to institutions under the terms of lease agreements determined by the institution and the authority, except that the term of the lease shall not exceed the estimated useful economic life of the project. The authority may make loans to an entity other than an institution in accordance with an agreement between the authority and the entity for the cost of a project if the project is to be leased to an institution.

85 Acts, ch 210, §7; 97 Acts, ch 181, §3; 2000 Acts, ch 1209, §5

261A.38 Issuance of obligations — conditions.

The authority may issue obligations and make loans to an institution or another entity if the project is to be leased to an institution or may issue obligations to finance projects to be leased by the authority to an institution and refund, refinance, or reimburse outstanding obligations, indebtedness, mortgages, or advances, including advances from an endowment or any similar fund, issued, made, or given by the institution, whether before or after July 1, 1985, for the cost of a project, when the authority finds that the financing prescribed in this

section is in the public interest, and either alleviates a financial hardship upon the institution, results in a lesser cost of education, or enables the institution to offer greater security for a loan or loans to finance a new project or projects or to effect savings in interest costs or more favorable amortization terms.

85 Acts, ch 210, §8; 97 Acts, ch 181, §4; 2000 Acts, ch 1209, §6

261A.39 General powers — apportionment of costs.

The authority may do all things necessary or convenient to carry out the purposes of this subchapter. The authority may charge to and equitably apportion among participating institutions its administrative costs and expenses incurred in the exercise of the powers and duties conferred on the authority by this subchapter.

85 Acts, ch 210, §9; 2017 Acts, ch 54, §76

261A.40 Joint and combination projects.

The authority may undertake a project for two or more institutions jointly or for any combination of institutions, and may combine for financing purposes, with the consent of all of the institutions which are involved, the project and some or all future projects of any institution or institutions, and this subchapter applies to and is for the benefit of the authority and the joint participants. However, the money set aside in a fund or funds pledged for any series or issue of obligations shall be held for the sole benefit of the series or issue separate and apart from money pledged for another series or issue of obligations of the authority. To facilitate the combining of projects, obligations may be issued in series under one or more resolutions or trust agreements and may be fully open-ended, thus providing for the unlimited issuance of additional series, or partially open-ended, limited as to additional series. The authority may permit an institution to substitute one or more projects of equal value, as determined by an independent appraiser satisfactory to the authority, for a project financed under this subchapter on terms and subject to conditions the authority prescribes.

85 Acts, ch 210, §10; 2017 Acts, ch 54, §76

261A.41 Expenses.

Expenses incurred in carrying out this subchapter are payable solely from funds provided under this subchapter and a liability or obligation shall not be incurred by the authority beyond the extent to which money is provided under this subchapter.

85 Acts, ch 210, §11; 2017 Acts, ch 54, §76

261A.42 Obligations.

1. The authority may provide by resolution for the issuance of obligations for the purpose of paying, refinancing, or reimbursing all or part of the cost of a project. Except to the extent payable from payments to be made on federally guaranteed securities as provided in section 261A.45, the principal of and the interest on the obligations shall be payable solely out of the revenue of the authority derived from the project to which they relate and from other facilities pledged or made available for this purpose by the institution for whose benefit the obligations were issued. The obligations of each issue shall be dated, shall bear interest at rate or rates, without regard to any limit contained in any other statute or law of the state, and shall mature at times not exceeding forty years from the date of issuance, all as determined by the authority; and may be made redeemable before maturity at the prices and under terms fixed by the authority in the authorizing resolution.

2. Except as otherwise provided by this subchapter, the obligations are to be paid solely out of the revenue of the project to which they relate and, in certain instances, out of the revenue of certain other facilities, and subject to section 261A.45 with respect to a pledge of government securities, the obligations may be unsecured or secured in the manner and to the extent determined by the authority. The authority shall determine the form of the obligations, including interest coupons, if any, to be attached, and shall fix the denominations of the obligations and the places of payment of principal and interest which may be at any bank or trust company within or without the state. The obligations and coupons attached, if any, shall be executed by the manual or facsimile signatures of officers of the authority designated by

the authority. If an official of the authority whose signature or a facsimile of whose signature appears on any obligations or coupons ceases to be an official before the delivery of the obligations, the signature or facsimile, nevertheless, is valid and sufficient for all purposes the same as if the individual had remained an official of the authority until delivery. Obligations issued under this subchapter have all the qualities and incidents of negotiable instruments, notwithstanding this payment from limited sources and without regard to any other law. The obligations may be issued in coupon or in registered form, or both, and one form may be exchangeable for the other in the manner as the authority may determine. Provision may be made for the registration of any coupon obligations as to principal alone and also as to both principal and interest, and for the reconversion into coupon obligations of any obligations registered as to both principal and interest. The obligations may be sold in the manner, either at public or private sale, as the authority determines.

3. The proceeds of the obligations of each issue shall be used solely for the payment of the cost of the project for which the obligations have been issued, and shall be disbursed in the manner and under the restrictions, if any, as the authority provides in the resolution authorizing the issuance of the obligations or in the trust agreement provided for in section 261A.44 securing the obligations. If the proceeds of the obligations of an issue, by error of estimates or otherwise, are less than the costs, additional obligations may in like manner be issued to provide the amount of the deficit, and, unless otherwise provided in the resolution authorizing the issuance of the obligations or in the trust agreement securing them, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the obligations first issued. If the proceeds of the obligations of an issue shall exceed the cost of the project for which the same shall have been issued, the surplus shall be deposited to the credit of the sinking fund for the obligations. Prior to the preparation of definitive obligations, the authority may, under like restrictions, issue interim receipts or temporary obligations, with or without coupons, exchangeable for definitive obligations when the obligations have been executed and are available for delivery.

4. The authority may also provide for the replacement of obligations which become mutilated or are destroyed or lost. Obligations may be issued under this subchapter without obtaining the consent of an officer, department, division, commission, board, bureau, or agency of the state, and without other proceedings or conditions other than those which are specifically required by this subchapter. The authority may purchase its bonds out of funds available for that purpose. The authority may hold, pledge, cancel, or resell the obligations, subject to and in accordance with any agreement with the obligation holders. Members of the authority and any person executing the obligations are not liable personally on the obligations or subject to personal liability or accountability by reason of the issuance of the obligations.

85 Acts, ch 210, §12; 97 Acts, ch 181, §5; 2011 Acts, ch 25, §143; 2017 Acts, ch 54, §76

261A.43 Resolution provisions.

The resolution authorizing obligations or an issue of obligations may contain provisions, which shall be a part of the contract with the holders of the obligations to be authorized, as to:

1. Pledging or assigning the revenue of the project with respect to which the obligations are to be issued or the revenue of other property or facilities.

2. Setting aside reserves or sinking funds, and the regulation, investment, and disposition of them.

3. Limitations on the use of the project.

4. Limitations on the purpose to which or the investments in which the proceeds of sale of an issue of obligations then or thereafter to be issued may be applied and pledging the proceeds to secure the payment of the obligations or an issue of the obligations.

5. Limitations on the issuance of additional obligations, the terms upon which additional obligations may be issued and secured, and the refunding of outstanding obligations.

6. The procedure, if any, by which the terms of any contract with obligation holders may be amended or abrogated, the amount of obligations the holders of which must consent to the amendment or abrogation, and the manner in which the consent may be given.

7. Limitations on the amount of money derived from the project to be expended for operating, administrative, or other expenses of the authority.

8. Defining the acts or omissions to act which constitute a default in the duties of the authority to holders of its obligations and providing the rights and remedies of the holders in the event of a default.

9. Mortgaging a project and the project site or other property for the purpose of securing the obligation holders.

10. Other matters relating to the obligations which the authority deems desirable.

85 Acts, ch 210, §13

261A.44 Obligations secured by trust agreement.

1. Obligations issued under this subchapter may be secured by a trust agreement by and between the authority and an incorporated trustee, which may be a trust company or bank having the powers of a trust company within or without the state. The trust agreement or the resolution providing for the issuance of the obligations may pledge or assign the revenue to be received or proceeds of any contract pledged and may convey or mortgage the project or any portion of the project.

2. A pledge or assignment made by the authority pursuant to this section is valid and binding from the time that the pledge or assignment is made, and the revenue pledged and thereafter received by the authority is immediately subject to the lien of the pledge or assignment without physical delivery or any further act. The lien of the pledge or assignment is valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the authority irrespective of whether the parties have notice of the lien.

3. The resolution or trust agreement by which a pledge is created or an assignment made shall be filed or recorded in the records of the authority, with the secretary of state, and in each county in which the project is located.

4. The trust agreement or resolution providing for the issuance of the obligations may contain provisions for protecting and enforcing the rights and remedies of the obligation holders as are reasonable and proper, not in violation of law, or provided for in this subchapter. A bank or trust company incorporated under the laws of this state which acts as depository of proceeds of the obligations, revenue, or other money shall furnish the indemnifying obligations or pledge the securities as required by the authority. The trust agreement may set forth the rights and remedies of the obligation holders and of the trustee, and may restrict the individual right of action by obligation holders. The trust agreement or resolution may contain other provisions the authority deems reasonable and proper for the security of the obligation holders.

5. Expense incurred in carrying out the trust agreement or resolution may be treated as a part of the cost of the operation of a project.

85 Acts, ch 210, §14; 2017 Acts, ch 54, §76; 2019 Acts, ch 24, §33

Referred to in §261A.42

261A.45 Obligations issued to acquire federally guaranteed securities.

1. The authority may finance the cost of a project, refund outstanding indebtedness, or reimburse advances from an endowment or similar fund of an institution as authorized by this subchapter, by issuing its obligations pursuant to a plan of financing involving the acquisition of a federally guaranteed security or the acquisition or entering into of commitments to acquire a federally guaranteed security. For the purposes of this section, "*federally guaranteed security*" means any direct obligation of, or obligation the principal of and interest on which are fully guaranteed or insured by the United States, or an obligation issued by, or the principal of and interest on which are fully guaranteed or insured by any agency or instrumentality of the United States, including without limitation an obligation that is issued pursuant to the National Housing Act, or any successor provision of law.

2. The authority may acquire or enter into commitments to acquire a federally guaranteed security and pledge or otherwise use the federally guaranteed security in the manner the authority deems in its best interest to secure or otherwise provide a source of repayment of its obligations issued to finance or refinance a project, or may enter into an appropriate

agreement with an institution whereby the authority may make a loan to the institution for the purpose of acquiring or entering into commitments to acquire a federally guaranteed security. An agreement entered into pursuant to this section may contain provisions deemed necessary or desirable by the authority for the security or protection of the authority or the holders of the obligations, except that the authority, prior to making an acquisition, commitment, or loan, shall determine and enter into an agreement with the institution or another appropriate institution to require that the proceeds derived from the acquisition of a federally guaranteed security will be used, directly or indirectly, for the purpose of financing or refinancing a project.

3. The obligations issued pursuant to this section shall not exceed in principal amount the cost of financing or refinancing the project as determined by the participating institution and approved by the authority, except that the costs may include, without limitation, all costs and expenses necessary or incidental to the acquisition of or commitment to acquire a federally guaranteed security and to the issuance and obtaining of insurance or guarantee of an obligation issued or incurred in connection with a federally guaranteed security. In other respects the bonds are subject to this subchapter, and the trust agreement creating the bonds may contain provisions set forth in this subchapter as the authority deems appropriate.

4. If a project is financed or refinanced pursuant to this section, the title to the project shall remain in the participating institution owning the project, subject to the lien of a mortgage or security interest securing, directly or indirectly, the federally guaranteed securities being purchased or to be purchased.

85 Acts, ch 210, §15; 2017 Acts, ch 54, §38

Referred to in §261A.42

261A.46 Obligations not liability of state or political subdivision.

Obligations issued pursuant to this subchapter are not debts of the state or of any political subdivision of the state or a pledge of the faith and credit of the state or of any political subdivision, but the obligations are limited obligations of the authority payable solely from the funds or securities, pledged for their payment as authorized in this subchapter, unless the obligations are refunded by refunding obligations issued under this subchapter, which refunding obligations shall be payable solely from funds or securities pledged for their payment as authorized in this subchapter. All revenue obligations shall contain on their face a statement to the effect that the obligations, as to both principal and interest, are not obligations of the state, or of any political subdivision of the state, but are limited obligations of the authority payable solely from revenue or securities pledged for their payment. Expenses incurred in carrying out this subchapter are payable solely from funds provided under this subchapter, and this subchapter does not authorize the authority to incur indebtedness or liability on behalf of or payable by the state or any political subdivision of the state.

85 Acts, ch 210, §16; 2017 Acts, ch 54, §76

261A.47 Money received by authority.

All money received by the authority, whether as proceeds from the sale of obligations, from revenue, or otherwise, shall be deemed to be trust funds to be held and applied solely as provided in this subchapter, but prior to the time when needed for use may be invested to the extent and in the manner provided by the authority. The funds shall be deposited, held, and secured as determined by the authority, except to the extent provided otherwise in the resolution authorizing the issuance of the related obligations or in the trust agreement securing the obligations. The resolution authorizing the issuance of the obligations or the trust agreement securing the obligations shall provide that an officer, bank or trust company to which the money is entrusted shall act as trustee of the money and shall hold and apply the money for the purposes of this subchapter, subject to the provisions of this subchapter and of the authorizing resolution or trust agreement.

85 Acts, ch 210, §17; 2017 Acts, ch 54, §76

261A.48 Powers of holders and trustees.

1. A holder of obligations or of the coupons pertaining to obligations and the trustee under a trust agreement, except to the extent the rights given in this subchapter are restricted by the authorizing resolution or trust agreement, may, by suit, mandamus, or other proceedings, protect and enforce any and all rights under the laws of this state, or under the trust agreement or resolution authorizing the issuance of the obligations, and may enforce and compel the performance of all duties required by this subchapter or by the trust agreement or resolution to be performed by the authority or by an officer, employee, or agent of the authority, including the fixing, charging, and collecting of fees and charges authorized in this subchapter and required by the resolution or trust agreement to be fixed and collected.

2. The rights of holders include the right to compel the performance of all duties of the authority required by this subchapter or the resolution or trust agreement, to enjoin unlawful activities, and in the event of default with respect to the payment of any principal of, premium, if any, and interest on an obligation or in the performance of a covenant or agreement on the part of the authority in the resolution, to apply to a court having jurisdiction of the cause to appoint a receiver to administer and operate the project, the revenue of which is pledged to the payment of the principal of, premium, if any, and interest on the obligations, the receiver to have full power to pay and to provide for payment of the principal of, premium, if any, and interest on the obligations, and to have the powers, subject to the direction of the court, as are permitted by law and are accorded receivers in general equity cases, including the power to foreclose the mortgage on the project in the same manner as the foreclosure of a mortgage on real estate of private corporations, but excluding any power to pledge additional revenue of the authority to the payment of the principal, premium, and interest.

85 Acts, ch 210, §18; 2017 Acts, ch 54, §76

261A.49 Bondholders — pledge — agreement of the state.

The state pledges to and agrees with the holders of any obligations issued under this subchapter, and with those parties who enter into contracts with the authority pursuant to this subchapter, that the state will not limit or alter the rights vested in the authority until the obligations, together with the interest on the obligations, are fully met and discharged and the contracts are fully performed on the part of the authority, except that this section does not preclude the limitation or alteration if and when adequate provision is made by law for the protection of the rights of the holders of the obligations of the authority or those entering into contracts with the authority.

85 Acts, ch 210, §19; 2017 Acts, ch 54, §76

261A.50 Provisions controlling.

The powers granted the authority under this subchapter are in addition to the powers of the authority contained in other provisions of this chapter. All other provisions of this chapter apply to obligations issued pursuant to and powers granted the authority under this subchapter, except to the extent they are inconsistent with this subchapter.

85 Acts, ch 210, §20; 2017 Acts, ch 54, §76

CHAPTER 261B

REGISTRATION OF POSTSECONDARY SCHOOLS

Referred to in §261.2, 261.7, 261G.4, 714.21A

See also §714.17 – 714.25

261B.1	Policy.	261B.9	Disclosure to students.
261B.2	Definitions.	261B.10	Advisory committee. Repealed by 2010 Acts, ch 1031, §315.
261B.3	Registration.	261B.11	Exceptions.
261B.3A	Requirements — provisional registration.	261B.11A	Ineligibility for state student aid programs.
261B.4	Registration information.	261B.11B	Voluntary registration.
261B.5	Changes.	261B.12	Violations — enforcement.
261B.6	List of schools.	261B.13	Prohibition.
261B.7	Unauthorized representation.		
261B.8	Registration fees — postsecondary education fund.		

261B.1 Policy.

The general assembly finds that the availability of courses and programs leading to educational degrees and the existence of institutions of postsecondary education that offer courses and programs leading to educational degrees are in the best interest of the state. The general assembly has found that the state can provide protection for persons choosing institutions and programs by ensuring that accurate and complete information about institutions and programs is available to these persons and to the public.

84 Acts, ch 1098, §1

261B.2 Definitions.

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

1. “*Commission*” means the college student aid commission created pursuant to section 261.1.

2. “*Course of instruction*” means a postsecondary educational program that a school offers through in-person instruction, distance delivery, correspondence study methods, or any combination thereof.

3. “*Degree*” means a postsecondary credential conferring on the recipient the title of associate, bachelor, master, or doctor, or an equivalent title, signifying educational attainment based on study which may be supplemented by experience or achievement testing. A postsecondary degree under this chapter shall not include an honorary degree or other unearned degree.

4. “*Presence*” means a location in Iowa at which a student participates in any structured activity related to a school’s distance education course of instruction, with the exception of proctored examinations. “*Presence*” also means an address, location, telephone number, or internet protocol address in Iowa from which a school conducts any aspect of its operations. For the purpose of a residential course of instruction offered on a school’s campus that is not located in Iowa, “*presence*” does not include:

a. Occasional, short-term activities conducted at a location in Iowa for the purpose of recruiting students for the school’s residential course of instruction.

b. A residency, practicum, internship, clinical, or similar experience that the school permits the student to participate in at a location in Iowa, provided that a person who provides instruction or supervision at the Iowa location is not compensated by the school.

5. “*School*” means an agency of the state or political subdivision of the state, individual, partnership, company, firm, society, trust, association, corporation, or any combination which meets any of the following criteria:

a. Is, owns, or operates a postsecondary educational institution.

b. Provides a postsecondary course of instruction leading to a degree.

c. Uses in its name the term “*college*”, “*academy*”, “*institute*”, or “*university*” or a similar

term to imply that the person is primarily engaged in the education of students at the postsecondary level, and charges for its services.

6. “*Student*” means a person who enrolls in or seeks to enroll in a course of instruction offered or conducted by a school.

84 Acts, ch 1098, §2; 96 Acts, ch 1158, §5, 6; 2009 Acts, ch 12, §3, 4; 2012 Acts, ch 1077, §1; 2013 Acts, ch 30, §60

261B.3 Registration.

1. Except as provided in section 261B.11, a school shall register with the commission if a person compensated by the school conducts any portion of a course of instruction in this state or if the school otherwise has a presence in this state.

a. Registrations shall be renewed every two years and shall be amended upon any substantive change in location, program offering, or accreditation. A school makes a substantive change in a program offering when the school proposes to offer or modify a program that requires the approval of the state board of education or any other state agency authorized to approve the school or its program in this state.

b. Registration shall be made on application forms approved and made available by the commission and at the time and in the manner prescribed by the commission.

2. The commission may require a school to provide additional information the commission deems necessary to evaluate a school’s suitability for registration.

3. The commission shall notify a school in writing of its decision to grant or deny registration and any stipulation associated with the school’s registration.

4. If a school fails to meet any of the registration criteria, or if the commission believes that false, misleading, or incomplete information has been submitted in connection with an application for registration, the commission may deny registration. The commission shall conduct a hearing on the denial if a hearing is requested by a school. Upon a finding after the hearing that the school fails to meet any of the registration criteria, or that information contained in the registration application is false, misleading, or incomplete, the commission shall deny registration. The commission shall make the final decision on each registration. However, the decision of the commission is subject to judicial review in accordance with section 17A.19.

5. The commission shall adopt rules under chapter 17A for the implementation of this chapter.

84 Acts, ch 1098, §3; 96 Acts, ch 1158, §7; 2004 Acts, ch 1145, §4, 5; 2009 Acts, ch 12, §5; 2012 Acts, ch 1077, §2

Referred to in §261B.5, 261B.6

261B.3A Requirements — provisional registration.

1. In order to register, a school shall be accredited by an agency or organization approved or recognized by the United States department of education or a successor agency, be approved by any other state agency authorized to approve the school in this state, and, subsequently, be approved for operation by the commission.

2. A practitioner preparation program, as defined in section 272.1, operated by a school that applies to register the program in accordance with this chapter shall, in order to register, be accredited by an agency or organization approved or recognized by the United States department of education or a successor agency, be approved by the state board of education pursuant to section 256.7, subsection 3, and, subsequently, be approved for operation by the commission.

3. The commission may grant a provisional registration to a school that is not accredited by an agency or organization that is recognized by the United States department of education or its successor agency. The commission shall determine the duration of the provisional registration. During the provisional registration period, the school shall, at six-month intervals, submit to the commission documentation of its progress toward achieving accreditation. The commission may renew the school’s provisional registration at its discretion if the documentation submitted indicates that the school is making progress toward accreditation.

4. Nothing in this chapter shall be construed to exempt a school from the requirements of chapter 490, 491, or 714.

96 Acts, ch 1158, §8; 97 Acts, ch 13, §1; 2000 Acts, ch 1095, §17; 2004 Acts, ch 1145, §6; 2009 Acts, ch 12, §6; 2012 Acts, ch 1077, §3

Referred to in §261.2

261B.4 Registration information.

As a basis for registration, schools shall provide the commission with the following information:

1. The name or title of the school.
2. As applicable, the principal location of the school in this state, in other states, and in foreign countries, and the location of the place or places in this state, in other states, and in foreign countries where instruction is likely to be given.
3. A schedule of the total tuition charges, fees, and other costs payable to the school by a student during the course of instruction.
4. The refund policy of the school for the return of refundable portions of tuition, fees, or other charges. The tuition refund policy for Iowa resident students of a for-profit school with at least one program of more than four months in length that leads to a recognized educational credential, such as an academic or professional degree, diploma, or license, must comply with section 714.23.
5. The names and addresses of the principal owners of the school or the officers and members of the legal governing body of the school.
6. The name and address of the chief executive officer of the school.
7. A copy of or a description of the means by which the school intends to comply with section 261B.9.
8. The name of the accrediting agency recognized by the United States department of education or a successor agency which has accredited the school, the status under which accreditation is held, the name of any other accrediting or licensing entity that has accredited or licensed the school or its programs, a copy of the accrediting or licensure notice issued by the entity, and a record of any sanctions the entity has levied against the school.
9. The name, address, and telephone number of a contact person in this state. A school that applies for registration to offer a course of instruction by distance delivery may provide the name and address of its registered agent in Iowa.
10. The names or titles and a description of the courses and degrees to be offered in Iowa.
11. A description of procedures for the preservation of student records and the contact information to be used by students and graduates who seek to obtain transcript information.
12. The academic and instructional methodologies and delivery systems to be used by the school and the extent to which the school anticipates each methodology and delivery system will be used, including but not limited to classroom instruction, correspondence, distance delivery, independent study, and portfolio experience evaluation.
13. The name, title, business address, telephone number, and resume of an Iowa resident compensated by the school to perform duties at a location in Iowa. A school that applies for registration to offer a course of instruction by distance delivery may provide an internet address as the business address for an Iowa resident it compensates to perform duties remotely from a location in Iowa.
14. The school's official Stafford loan cohort default rate as calculated by the United States department of education for the three most recent federal fiscal years, if applicable.
15. Average student loan debt upon graduation of students completing programs at the school.
16. The graduation rate of undergraduate students as reported to the United States department of education.
17. Evidence that the school meets the conditions of financial responsibility established in section 714.18, or that the school qualifies for an exemption under section 714.18 or 714.19.

84 Acts, ch 1098, §4; 96 Acts, ch 1158, §9, 10; 2000 Acts, ch 1095, §18; 2009 Acts, ch 12, §7; 2012 Acts, ch 1077, §4; 2013 Acts, ch 90, §65; 2015 Acts, ch 140, §48, 53, 54

Referred to in §261B.5, 261B.6

261B.5 Changes.

If any information provided to the commission under section 261B.3 or 261B.4 changes, the school shall inform the commission within ninety days of the effective date of the change in the format specified by the commission.

84 Acts, ch 1098, §5; 2009 Acts, ch 12, §8

261B.6 List of schools.

The commission shall maintain a list of registered schools and the list and the information submitted under sections 261B.3 and 261B.4 are public records under chapter 22.

84 Acts, ch 1098, §6; 95 Acts, ch 67, §21; 2009 Acts, ch 12, §9

261B.7 Unauthorized representation.

A school or a school's officials or employees shall not advertise or represent that the school is approved or accredited by the commission or the state of Iowa. However, a registered school shall disclose that the school is registered by the commission on behalf of the state of Iowa and provide the commission's contact information for students who wish to inquire about the school or file a complaint.

84 Acts, ch 1098, §7; 2009 Acts, ch 12, §10; 2012 Acts, ch 1077, §5

261B.8 Registration fees — postsecondary education fund.

1. The commission shall set by rule and collect a nonrefundable initial registration fee and a renewal of registration fee from each registered school.

2. Fees shall be set by rule not more than once each year and shall be based upon the costs of administering this chapter.

3. A postsecondary registration fund is created in the state treasury under the control of the commission. Fees collected under this section shall be deposited in the postsecondary registration fund. Moneys in the fund are appropriated to the commission and shall be used by the commission to administer this chapter and chapter 261G. Notwithstanding section 8.33, moneys in the fund shall not revert to the general fund of the state at the end of a fiscal year. Notwithstanding section 12C.7, interest or earnings on moneys in the fund shall be credited to the fund.

84 Acts, ch 1098, §8; 96 Acts, ch 1158, §11; 2004 Acts, ch 1145, §7; 2009 Acts, ch 12, §11; 2014 Acts, ch 1063, §3

Referred to in §261G.5

261B.9 Disclosure to students.

Prior to the commencement of a course of instruction and prior to the receipt of a tuition charge or fee for a course of instruction, a school shall provide written disclosure to students of the following information accompanied by a statement that the information is being provided in compliance with this section:

1. The name or title of the course.
2. A brief description of the subject matter of the course.
3. The tuition charge or other fees charged for the course. If a student is enrolled in more than one course at the school, the tuition charge or fee for all courses may be stated in one sum.

4. The refund policy of the school for the return of the refundable portion of tuition, fees, or other charges. If refunds are not to be paid, the information shall state that fact.

5. Whether the credential or certificate issued, awarded, or credited to a student upon completion of the course or the fact of completion of the course is applicable toward a degree granted by the school and, if so, under what circumstances the application will be made.

6. The name of the accrediting agency recognized by the United States department of education or its successor agency which has accredited the school.

7. The disclosures required by the department of education for an out-of-state school that

the state board of education approves to offer a practitioner preparation program by distance delivery method.

84 Acts, ch 1098, §9; 2000 Acts, ch 1095, §19; 2012 Acts, ch 1077, §6, 7; 2013 Acts, ch 30, §61

Referred to in §261B.4

261B.10 Advisory committee. Repealed by 2010 Acts, ch 1031, §315.

261B.11 Exceptions.

1. This chapter does not apply to the following types of schools and courses of instruction:
 - a. Schools and educational programs conducted by firms, corporations, or persons solely for the training of their own employees.
 - b. Apprentice or other training programs provided by labor unions solely to members or applicants for membership.
 - c. Courses of instruction of an avocational or recreational nature that do not lead to an occupational objective.
 - d. Seminars, refresher courses, and programs of instruction sponsored by professional, business, or farming organizations or associations for the members and employees of members of these organizations or associations.
 - e. Courses of instruction conducted by a public school district or a combination of public school districts.
 - f. Colleges and universities authorized by the laws of this state to grant degrees.
 - g. Schools or courses of instruction or courses of training that are offered by a vendor solely to the purchaser or prospective purchaser of the vendor's product when the objective of the school or course is to enable the purchaser or the purchaser's employees to gain skills and knowledge to enable the purchaser to use the product.
 - h. Schools and educational programs conducted by religious organizations solely for the religious instruction of leadership practitioners of that religious organization.
 - i. Postsecondary educational institutions licensed by the state of Iowa under section 157.8 or 158.7 to operate as schools of cosmetology arts and sciences or as barber schools in the state.
 - j. Higher education institutions that meet the criteria established under section 261.9, subsection 1.
 - k. Postsecondary educational institutions offering programs limited to nondegree specialty career and technical training programs.
 - l. Higher education institutions located in Iowa that are affiliated with health care systems located in Iowa, and which offer health professions programs that are accredited by an accrediting agency recognized by the United States department of education.
 - m. Higher education institutions located in Iowa whose massage therapy curriculum is approved under administrative rules of the professional licensure division of the department of public health and whose instructors are licensed massage therapists under chapter 152C.
 - n. A postsecondary educational institution established in Bettendorf in 1969 to prepare students for the federal communications commission radio broadcasting examination.
 - o. A school of religious study located in Iowa that was established in Spain in 1982, is affiliated with the department of global missions of open bible churches, grants bachelor's degrees, and is accredited by a nationally recognized accrediting agency as determined by the United States department of education.
2. A school that claims an exemption from registration under subsection 1 must apply for approval of the exemption and demonstrate to the commission that it qualifies for the exemption and meets consumer protection standards established by the commission. The commission may approve the school's exemption claim for a period not to exceed two years, or may for good cause deny the exemption claim. A school must reapply to renew an exemption approved pursuant to this section.
 - a. A school approved for an exemption under this section must file evidence of financial responsibility under section 714.18 or demonstrate to the commission that the school qualifies for an exemption under section 714.18 or 714.19.

b. A for-profit school with at least one program of more than four months in length that leads to a recognized educational credential, such as an academic or professional degree, diploma, or license, must submit to the commission a tuition refund policy that meets the conditions of section 714.23.

3. A school that is denied an exemption claim by the commission, or that no longer qualifies for a claimed exemption, shall apply for registration or cease operating in Iowa.

84 Acts, ch 1098, §11; 96 Acts, ch 1158, §13; 97 Acts, ch 13, §2; 2005 Acts, ch 78, §1; 2009 Acts, ch 12, §13; 2012 Acts, ch 1077, §8; 2013 Acts, ch 90, §66; 2015 Acts, ch 140, §49, 53, 54; 2016 Acts, ch 1075, §1, 2; 2016 Acts, ch 1108, §60; 2016 Acts, ch 1132, §17, 19, 21

Referred to in §261B.3, 261B.11B, 261B.13

261B.11A Ineligibility for state student aid programs.

1. Students attending schools required to register under this chapter are ineligible for state student financial aid programs established under chapter 261.

2. A school required to register under this chapter is prohibited from offering state aid or advertising that state aid is or may be available to students attending the school.

2012 Acts, ch 1077, §9

261B.11B Voluntary registration.

A school or other postsecondary educational institution that is exempt under section 261B.11 may voluntarily register under this chapter in order to comply with chapter 261G or for purposes of institutional eligibility under 34 C.F.R. §600.9(a).

2014 Acts, ch 1063, §4; 2015 Acts, ch 29, §40

Referred to in §261.2, 261G.2, 261G.5

261B.12 Violations — enforcement.

1. When the commission or the commission's designee believes a school is in violation of this chapter, the commission shall order the school to show cause why the commission should not issue a cease and desist order to the school.

2. After the school's response to the show cause order has been reviewed by the commission, the commission may issue a cease and desist order to the school if the commission believes the school continues to be in violation of this chapter. If the school does not cease and desist, the commission may seek judicial enforcement of the cease and desist order in any district court.

3. A violation of this chapter constitutes an unlawful practice pursuant to section 714.16.

84 Acts, ch 1098, §12; 2009 Acts, ch 12, §14

See also §714.17 – 714.25

261B.13 Prohibition.

1. Notwithstanding any other provision in this chapter, a school or other entity that grants a degree shall not conduct any portion of a course of instruction or any aspect of its operations or otherwise establish a presence in this state if, with the exception of a school that qualifies for an exemption under section 261B.11, subsection 1, paragraph "h", the school or other entity is not accredited by an accrediting agency recognized by the United States department of education.

2. A school registered under this chapter or otherwise authorized to operate under the laws of this state shall not enter into an agreement to conduct a course of instruction, confer a degree, or conduct any other aspect of its operation with another school that is in violation of this section.

3. This section shall not apply to a foreign medical school that is accredited by a foreign entity recognized by the national committee on foreign medical education and accreditation.

2016 Acts, ch 1071, §1

CHAPTER 261C

POSTSECONDARY ENROLLMENT OPTIONS

Repealed by 2008 Acts, ch 1181, §65;
see §261E.6, 261E.7

CHAPTER 261D

MIDWESTERN HIGHER EDUCATION COMPACT

261D.1	Definition.	261D.4	Payment of dues. Repealed by
261D.2	Midwestern higher education compact.		2011 Acts, ch 132, §33, 34.
261D.3	Commission members representing Iowa — terms — vacancies.		

261D.1 Definition.

As used in this chapter, unless the context otherwise requires, “*commission*” means the midwestern higher education compact commission.

2005 Acts, ch 145, §1

261D.2 Midwestern higher education compact.

The midwestern higher education compact is entered into with all other states which enter into the compact in substantially the following form:

1. *Article I — Purpose.* The purpose of the midwestern higher education compact shall be to provide greater higher education opportunities and services in the midwestern region, with the aim of furthering regional access to, research in, and choice of higher education for the citizens residing in the several states which are parties to this compact.

2. *Article II — The commission.*

a. The compacting states create the midwestern higher education commission. The commission shall be a body corporate of each compacting state. The commission shall have all the responsibilities, powers, and duties set forth in this chapter, including the power to sue and be sued, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.

b. The commission shall consist of five resident members of each state as follows: the governor or the governor’s designee, who shall serve during the tenure of office of the governor; two legislators, one from each house (except Nebraska, which may appoint two legislators from its unicameral legislature), who shall serve two-year terms and be appointed by the appropriate appointing authority in each house of the legislature; and two other at-large members, at least one of whom shall be selected from the field of higher education. The at-large members shall be appointed in a manner provided by the laws of the appointing state. One of the two at-large members initially appointed in each state shall serve a two-year term. The other, and any regularly appointed successor to either at-large member, shall serve a four-year term. All vacancies shall be filled in accordance with the laws of the appointed states. Any commissioner appointed to fill a vacancy shall serve until the end of the incomplete term.

c. The commission shall select annually, from among its members, a chairperson, a vice chairperson, and a treasurer.

d. The commission shall appoint an executive director who shall serve at its pleasure and who shall act as secretary to the commission. The treasurer, the executive director, and such other personnel as the commission may determine shall be bonded in such amounts as the commission may require.

e. The commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a majority of the commission members of three

or more compacting states, shall call additional meetings. Public notice shall be given of all meetings and meetings shall be open to the public.

f. Each compacting state represented at any meeting of the commission is entitled to one vote. A majority of the compacting states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the commission.

3. *Article III — Powers and duties of the commission.*

a. The commission shall adopt a seal and suitable bylaws governing its management and operations.

b. Irrespective of the civil service, personnel, or other merit system laws of any of the compacting states, the commission in its bylaws shall provide for the personnel policies and programs of the compact.

c. The commission shall submit a budget to the governor and legislature of each compacting state at such time and for such period as may be required. The budget shall contain specific recommendations of the amount or amounts to be appropriated by each of the compacting states.

d. The commission shall report annually to the legislatures and governors of the compacting states, to the midwestern governors' conference, and to the midwestern legislative conference of the council of state governments concerning the activities of the commission during the preceding year. Such reports shall also embody any recommendations that may have been adopted by the commission.

e. The commission may borrow, accept, or contract for the services of personnel from any state or the United States or any subdivision or agency, from any interstate agency, or from any institution, foundation, person, firm, or corporation.

f. The commission may accept for any of its purposes and functions under the compact any and all donations and grants of money, equipment, supplies, materials, and services (conditional or otherwise) from any state or the United States or any subdivision or agency thereof, or interstate agency, or from any institution, foundation, person, firm, or corporation, and may receive, utilize, and dispose of the same.

g. The commission may enter into agreements with any other interstate education organizations or agencies and with higher education institutions located in nonmember states and with any of the various states of these United States to provide adequate programs and services in higher education for the citizens of the respective compacting states. The commission shall, after negotiations with interested institutions and interstate organizations or agencies, determine the cost of providing the programs and services in higher education for use of these agreements.

h. The commission may establish and maintain offices, which shall be located within one or more of the compacting states.

i. The commission may establish committees and hire staff as it deems necessary for the carrying out of its functions.

j. The commission may provide for actual and necessary expenses for attendance of its members at official meetings of the commission or its designated committees.

4. *Article IV — Activities of the commission.*

a. The commission shall collect data on the long-range effects of the compact on higher education. By the end of the fourth year from the effective date of the compact and every two years thereafter, the commission shall review its accomplishments and make recommendations to the governors and legislatures of the compacting states on the continuance of the compact.

b. The commission shall study issues in higher education of particular concern to the midwestern region. The commission shall also study the needs for higher education programs and services in the compacting states and the resources for meeting such needs. The commission shall from time to time prepare reports on such research for presentation to the governors and legislatures of the compacting states and other interested parties. In conducting such studies, the commission may confer with any national or regional planning body. The commission may redraft and recommend to the governors and legislatures of the various compacting states suggested legislation dealing with problems of higher education.

c. The commission shall study the need for provision of adequate programs and services

in higher education, such as undergraduate, graduate, or professional student exchanges in the region. If a need for exchange in a field is apparent, the commission may enter into such agreements with any higher education institution and with any of the compacting states to provide programs and services in higher education for the citizens of the respective compacting states. The commission shall, after negotiations with interested institutions and the compacting states, determine the costs of providing the programs and services in higher education for use in its agreements. The contracting states shall contribute the funds not otherwise provided, as determined by the commission, for carrying out the agreements. The commission may also serve as the administrative and fiscal agent in carrying out agreements for higher education programs and services.

d. The commission shall serve as a clearinghouse on information regarding higher education activities among institutions and agencies.

e. In addition to the activities of the commission previously noted, the commission may provide services and research in other areas of regional concern.

5. *Article V — Finance.*

a. The moneys necessary to finance the general operations of the commission, not otherwise provided for, in carrying forth its duties, responsibilities, and powers as stated herein shall be appropriated to the commission by the compacting states, when authorized by the respective legislatures, by equal apportionment among the compacting states.

b. The commission shall not incur any obligations of any kind prior to the making of appropriations adequate to meet the same; nor shall the commission pledge the credit of any of the compacting states, except by and with the authority of the compacting state.

c. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the commission.

d. The accounts of the commission shall be open at any reasonable time for inspection by duly authorized representatives of the compacting states and persons authorized by the commission.

6. *Article VI — Eligible parties and entry into force.*

a. The states of Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin shall be eligible to become party to this compact. Additional states will be eligible if approved by a majority of the compacting states.

b. As to any eligible party state, this compact shall become effective when its legislature shall have enacted the same into law.

c. Amendments to the compact shall become effective upon their enactment by the legislatures of all compacting states.

7. *Article VII — Withdrawal, default, and termination.*

a. Any compacting state may withdraw from this compact by enacting a statute repealing the compact, but such withdrawal shall not become effective until two years after the enactment of such statute. A withdrawing state shall be liable for any obligations which it may have incurred on account of its party status up to the effective date of withdrawal, except that if the withdrawing state has specifically undertaken or committed itself to any performance of an obligation extending beyond the effective date of withdrawal, it shall remain liable to the extent of such obligation.

b. If any compacting state shall at any time default in the performance of any of its obligations, assumed or imposed, in accordance with the provisions of this compact, all rights, privileges, and benefits conferred by this compact or agreements hereunder shall be suspended from the effective date of such default as fixed by the commission, and the commission shall stipulate the conditions and maximum time for compliance under which the defaulting state may resume its regular status. Unless such default shall be remedied under the stipulations and within the time period set forth by the commission, this compact may be terminated with respect to such defaulting state by affirmative vote of a majority of

the other member states. Any such defaulting state may be reinstated by performing all acts and obligations as stipulated by the commission.

8. *Article VIII — Severability and construction.*

a. The provisions of this compact entered into hereunder shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the Constitution of any compacting state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact entered into hereunder shall be held contrary to the constitution of any compacting state, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. The provisions of this compact entered into pursuant hereto shall be liberally construed to effectuate the purposes thereof.

b. This compact is now in full force and effect, having been approved by the governors and legislatures of more than five of the eligible states.

2005 Acts, ch 145, §2; 2008 Acts, ch 1032, §201

261D.3 Commission members representing Iowa — terms — vacancies.

1. The members of the commission representing this state shall consist of the following:

a. The governor or the governor's designee.

b. One member of the senate appointed by the president of the senate after consultation with the majority leader and minority leader of the senate.

c. One member of the house of representatives appointed by the speaker of the house of representatives after consultation with the majority leader and minority leader of the house of representatives.

d. One member appointed by the state board of regents.

e. One member appointed by the Iowa association of community college trustees.

2. In order to maximize participation in and knowledge of commission activities, alternate members of the commission representing Iowa shall be designated in the following manner:

a. One alternate member appointed by the governor.

b. One alternate member from the senate from the opposite political party of the commissioner appointed pursuant to subsection 1, paragraph "b", selected in the manner provided in subsection 1, paragraph "b".

c. One alternate member from the house of representatives from the opposite political party of the commissioner appointed pursuant to subsection 1, paragraph "c", selected in the manner provided in subsection 1, paragraph "c".

d. One alternate member appointed by the Iowa association of independent colleges and universities.

e. One alternate member appointed by the Iowa college student aid commission.

3. Nonlegislative members shall serve two-year terms except as otherwise provided under the terms of the compact. Legislative members shall serve two-year terms as provided in section 69.16B. Nonlegislative members shall serve without compensation, but shall receive their actual and necessary expenses and travel. Legislative members shall receive actual and necessary expenses pursuant to sections 2.10 and 2.12. Vacancies on the commission shall be filled for the unexpired portion of the term in the same manner as the original appointments. If a legislative member ceases to be a member of the general assembly, the legislative member shall no longer serve as a member of the commission.

4. It is the intent of the general assembly that commissioners representing the senate and the house of representatives be members of different political parties from one another.

2005 Acts, ch 145, §3; 2008 Acts, ch 1156, §40, 58; 2009 Acts, ch 41, §104

261D.4 Payment of dues. Repealed by 2011 Acts, ch 132, §33, 34.

CHAPTER 261E

SENIOR YEAR PLUS PROGRAM

Referred to in §11.6, 256.17, 257.6

<p>261E.1 Senior year plus program. 261E.2 Definitions. 261E.3 Eligibility. 261E.4 Advanced placement program. 261E.5 Advanced placement courses — access — examination fee payment.</p>	<p>261E.8 District-to-community college sharing or concurrent enrollment program. 261E.9 Regional academies. 261E.10 Career academies. 261E.11 Internet-based and Iowa communications network coursework. 261E.12 Internet-based clearinghouse. 261E.13 State program allocation.</p>
<p>261E.6 Postsecondary enrollment options program. 261E.7 Postsecondary enrollment options program payments — claims — reimbursements.</p>	

261E.1 Senior year plus program.

1. A senior year plus program is established to be administered by the department of education to provide Iowa high school students increased access to college credit or advanced placement coursework. The program shall consist of the following elements:

- a. Advanced placement classes, including on-site, consortium, and online opportunities and courses delivered via the Iowa communications network.
- b. Community college credit courses offered through written agreements between school districts and community colleges.
- c. College and university credit courses offered to individual high school students through the postsecondary enrollment options program in accordance with section 261E.6.
- d. Courses offered through regional and career academies for college credit.
- e. Internet-based courses offered for college credit.

2. The senior year plus programming provided by a school district pursuant to sections 261E.4 and 261E.6 may be available to students on a year-round basis.

2008 Acts, ch 1181, §51; 2020 Acts, ch 1107, §7

Subsection 1, paragraph e amended

261E.2 Definitions.

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

1. “*Concurrent enrollment*” means any course offered to students in grades nine through twelve during the regular school year approved by the board of directors of a school district through a contractual agreement between a community college and the school district that meets the provisions of section 257.11, subsection 3. “*Concurrent enrollment*” also means any course offered to students in grades nine through twelve during the regular school year approved by the authorities in charge of an accredited nonpublic school through a contract with a community college in accordance with section 261E.8, subsection 2, paragraph “b”.

2. “*Department*” means the department of education.

3. “*Director*” means the director of the department of education.

4. “*Eligible postsecondary institution*” means an institution of higher learning under the control of the state board of regents, a community college established under chapter 260C, or an accredited private institution as defined in section 261.9.

5. “*Institution*” means a school district or eligible postsecondary institution delivering the instruction in a given program as authorized by this chapter.

6. “*School board*” means the board of directors of a school district or a collaboration of boards of directors of school districts.

7. “*State board*” means the state board of education.

8. “*Student*” means any individual enrolled in grades nine through twelve in a school district who meets the criteria in section 261E.3, subsection 1. “*Student*” includes an

individual attending an accredited nonpublic school or the Iowa school for the deaf or the Iowa braille and sight saving school for purposes of sections 261E.4 and 261E.6.

2008 Acts, ch 1181, §52; 2019 Acts, ch 164, §3, 7; 2020 Acts, ch 1117, §21

Referred to in §85.61

Subsection 5 stricken and former subsection 6 renumbered as 5

Subsection 7 stricken and former subsections 8 – 10 renumbered as 6 – 8

261E.3 Eligibility.

1. *Student eligibility.* In order to ensure student readiness for postsecondary coursework, the student shall meet the following criteria:

a. The student shall meet the enrollment requirements established by the eligible postsecondary institution providing the course credit.

b. The student shall meet or exceed the minimum performance measures on any academic assessments that may be required by the eligible postsecondary institution.

c. The student shall have taken the appropriate course prerequisites, if any, prior to enrollment in the eligible postsecondary course, as determined by the eligible postsecondary institution delivering the course.

d. The student shall have attained the approval of the school board or its designee and the eligible postsecondary institution to register for the postsecondary course.

e. The student shall have demonstrated proficiency in reading, mathematics, and science as evidenced by achievement scores on the latest administration of the state assessment for which scores are available and as defined by the department. However, a student receiving competent private instruction under chapter 299A may demonstrate proficiency by submitting the written recommendation of the licensed practitioner providing supervision to the student in accordance with section 299A.2; may demonstrate proficiency as evidenced by achievement scores on the annual achievement evaluation required under section 299A.4; or may demonstrate proficiency as evidenced by a selection index, which is the sum of the critical reading, mathematics, and writing skills assessments, of at least one hundred forty-one on the preliminary scholastic aptitude test administered by the college board; a composite score of at least twenty-one on the college readiness assessment administered by ACT, inc.; or a sum of the critical reading and mathematics scores of at least nine hundred ninety on the college readiness assessment administered by the college board. If a student is not proficient in one or more of the content areas listed in this paragraph, has not taken the college readiness assessments identified in this paragraph, or has not achieved the scores specified in this paragraph, the school board may establish alternative but equivalent qualifying performance measures including but not limited to additional administrations of the state assessment, portfolios of student work, student performance rubric, or end-of-course assessments.

f. The student shall meet the definition of eligible student under section 261E.6, subsection 6, in order to participate in the postsecondary enrollment options program.

2. *Teacher and instructor eligibility.*

a. A teacher or instructor employed to provide instruction under this chapter shall meet the following criteria:

(1) The teacher shall be appropriately licensed to teach the subject the institution is employing the teacher to teach and shall meet the standards and requirements set forth which other full-time instructors teaching within the academic department are required to meet and which are approved by the appropriate postsecondary administration.

(2) The teacher shall collaborate, as appropriate, with other secondary and postsecondary faculty in the subject area.

(3) The district, in collaboration with the teacher or instructor, shall provide ongoing communication about course expectations, including a syllabus that describes the content, teaching strategies, performance measures, and resource materials used in the course, and academic progress to the student and in the case of students of minor age, to the parent or legal guardian of the student.

(4) The teacher or instructor shall provide curriculum and instruction that is accepted as college-level work as determined by the institution.

(5) The teacher or instructor shall use valid and reliable student assessment measures, to the extent available.

(6) If the instruction for any program authorized by this chapter is provided at a school district facility or a neutral site, the teacher or instructor shall have successfully passed a background investigation conducted in accordance with section 272.2, subsection 17, prior to providing such instruction. For purposes of this section, “neutral site” means a facility that is not owned or operated by an institution.

b. The teacher or instructor shall be provided with appropriate orientation and training in secondary and postsecondary professional development related to curriculum, pedagogy, assessment, policy implementation, technology, and discipline issues.

c. The eligible postsecondary institution shall provide the teacher or instructor with ongoing communication and access to instructional resources and support, and shall encourage the teacher or instructor to participate in the postsecondary institution’s academic departmental activities.

d. The teacher or instructor shall receive adequate notification of an assignment to teach a course under this chapter and shall be provided adequate preparation time to ensure that the course is taught at the college level.

e. An individual under suspension or revocation of an educational license or statement of professional recognition issued by the board of educational examiners shall not be allowed to provide instruction for any program authorized by this chapter.

3. *Institutional eligibility.* An institution providing instruction pursuant to this chapter shall meet the following criteria:

a. The institution shall ensure that students or in the case of minor students, parents or legal guardians, receive appropriate course orientation and information, including but not limited to a summary of applicable policies and procedures, the establishment of a permanent transcript, policies on dropping courses, a student handbook, information describing student responsibilities, and institutional procedures for academic credit transfer.

b. The institution shall ensure that students have access to student support services, including but not limited to tutoring, counseling, advising, library, writing and math labs, and computer labs, and student activities, excluding postsecondary intercollegiate athletics.

c. The institution shall ensure that students are properly enrolled in courses that will carry college credit.

d. The institution shall ensure that teachers and students receive appropriate orientation and information about the institution’s expectations.

e. The institution shall ensure that the courses provided achieve the same learning outcomes as similar courses offered in the subject area and are accepted as college-level work.

f. The institution shall review the course on a regular basis for continuous improvement, shall follow up with students in order to use information gained from the students to improve course delivery and content, and shall share data on course progress and outcomes with the collaborative partners involved with the delivery of the programming and with the department, as needed.

g. The school district shall certify annually to the department that the course provided to a high school student for postsecondary credit in accordance with this chapter does not supplant a course provided by the school district in which the student is enrolled, except as provided under section 257.11, subsection 3, paragraph “c”.

h. The institution shall not require a minimum or a maximum number of postsecondary credits to be earned by a high school student under this chapter.

i. The institution shall not place restrictions on participation in senior year plus programming beyond that which is specified in statute or administrative rule.

j. All eligible postsecondary institutions providing programming under this chapter shall include the unique student identifier assigned to students while in the kindergarten through grade twelve system as a part of the institution’s student data management system. Eligible postsecondary institutions providing programming under this chapter shall cooperate with the department on data requests related to the programming. All eligible postsecondary institutions providing programming under this chapter shall collect data and report to the

department on the proportion of females and minorities enrolled in science, technology, engineering, and mathematics-oriented educational opportunities provided in accordance with this chapter. The department shall submit the programming data and the department's findings and recommendations in a report to the general assembly annually by January 15.

k. The school district shall ensure that the background investigation requirement of subsection 2, paragraph "a", subparagraph (6), is satisfied. The school district shall pay for the background investigation conducted in accordance with subsection 2, paragraph "a", subparagraph (6), but may charge the teacher or instructor a fee not to exceed the actual cost charged the school district for the background investigation conducted.

2008 Acts, ch 1181, §53; 2011 Acts, ch 132, §14, 106; 2018 Acts, ch 1119, §13
Referred to in §257.11, 261E.2, 261E.8

261E.4 Advanced placement program.

1. A school district shall make available advanced placement courses to its resident students through direct instruction on-site, collaboration with another school district, or by using the online Iowa advanced placement academy.

2. A school district shall provide descriptions of the advanced placement courses available to students using a course registration handbook.

3. A school district shall ensure that advanced placement course teachers or instructors are appropriately licensed by the board of educational examiners in accordance with chapter 272 and meet the minimum certification requirements of the national organization that administers the advanced placement program.

4. A school district shall establish prerequisite coursework for each advanced placement course offered and shall describe the prerequisites in the course registration handbook, which shall be provided to every eighth grade student prior to the development of the student's career and academic plan pursuant to section 279.61.

2008 Acts, ch 1181, §54; 2016 Acts, ch 1108, §2, 9
Referred to in §261E.1, 261E.2

261E.5 Advanced placement courses — access — examination fee payment.

1. A student enrolled in a school district or accredited nonpublic school shall be provided access to advanced placement examinations at a rate of one-half of the cost of the regular examination fee the student or the student's parents or guardians would normally pay for the examination.

2. The board of directors of a school district and the authorities in charge of an accredited nonpublic school shall ensure that any student enrolled who is interested in taking an advanced placement examination is properly registered for the examination. An accredited nonpublic school shall provide a list of students registered for advanced placement examinations to the school district in which the accredited nonpublic school is located. The school district and the accredited nonpublic school shall also ensure that any student enrolled in the school district or school, as applicable, who is interested in taking an advanced placement examination and qualifies for a reduced fee for the examination is properly registered for the fee reduction. The school district shall provide the college board with a list of all students enrolled in the school district and the accredited nonpublic schools located in the school district who are properly registered for advanced placement examinations administered by the college board.

3. From the funds allocated pursuant to section 261E.13, subsection 1, paragraph "d", the department shall remit amounts to the college board for advanced placement examinations administered by the college board for students enrolled in school districts and accredited nonpublic schools pursuant to subsection 2 and shall distribute an amount per student to a school district submitting a list of students properly registered for the advanced placement examinations pursuant to subsection 2. The remittance rates to the college board and distribution amounts to the school districts in accordance with this subsection for the fiscal year beginning July 1, 2008, are as follows:

a. Thirty-eight dollars for each school district or accredited nonpublic school student who does not qualify for fee reduction.

b. Twenty-seven dollars for each school district or accredited nonpublic school student who qualifies for fee reduction.

c. Eight dollars to the school district for each school district or accredited nonpublic school student who was listed by the school district and who takes an advanced placement examination in accordance with this section.

2008 Acts, ch 1181, §55; 2013 Acts, ch 30, §62

Referred to in §261E.13

261E.6 Postsecondary enrollment options program.

1. *Program established.* The postsecondary enrollment options program is established to promote rigorous academic or career and technical pursuits and to provide a wider variety of options to high school students by enabling ninth and tenth grade students who have been identified by the school district as gifted and talented, and eleventh and twelfth grade students, to enroll in eligible courses at an eligible postsecondary institution of higher learning.

2. *Notification.* The availability and requirements of this program shall be included in each school district's student registration handbook. Information about the program shall be provided to the student and the student's parent or guardian prior to the development of the student's career and academic plan under section 279.61. The school district shall establish a process by which students may indicate interest in and apply for enrollment in the program.

3. *Authorization.* To participate in this program, an eligible student shall make application to an eligible postsecondary institution to allow the eligible student to enroll for college credit in a nonsectarian course offered at the institution. A comparable course, as defined in rules adopted by the board of directors of the school district consistent with department administrative rule, must not be offered by the school district or accredited nonpublic school the student attends. A course is ineligible for purposes of this section if the school district has a contractual agreement with the eligible postsecondary institution under section 261E.8 that meets the requirements of section 257.11, subsection 3, and the course may be delivered through such an agreement in accordance with section 257.11, subsection 3. If the postsecondary institution accepts an eligible student for enrollment under this section, the institution shall send written notice to the student, the student's parent or legal guardian in the case of a minor child, and the student's school district or accredited nonpublic school and the school district in the case of a nonpublic school student, or the Iowa school for the deaf or the Iowa braille and sight saving school. The notice shall list the course, the clock hours the student will be attending the course, and the number of hours of college credit that the eligible student will receive from the eligible postsecondary institution upon successful completion of the course.

4. Credits.

a. A school district, the Iowa school for the deaf, the Iowa braille and sight saving school, or accredited nonpublic school shall grant high school credit to an eligible student enrolled in a course under this chapter if the eligible student successfully completes the course as determined by the eligible postsecondary institution. The board of directors of the school district, the board of regents for the Iowa school for the deaf and the Iowa braille and sight saving school, or authorities in charge of an accredited nonpublic school shall determine the number of high school credits that shall be granted to an eligible student who successfully completes a course. Eligible students may take up to seven semester hours of credit during the summer months when school is not in session and receive credit for that attendance, if the student pays the cost of attendance for those summer credit hours.

b. The high school credits granted to an eligible student under this section shall count toward the graduation requirements and subject area requirements of the school district of residence, the Iowa school for the deaf, the Iowa braille and sight saving school, or accredited nonpublic school of the eligible student. Evidence of successful completion of each course and high school credits and college credits received shall be included in the student's high school transcript.

5. *Transportation.* The parent or legal guardian of an eligible student who has enrolled

in and is attending an eligible postsecondary institution under this chapter shall furnish transportation to and from the postsecondary institution for the student.

6. *Definition.* For purposes of this section and section 261E.7, unless the context otherwise requires, “*eligible student*” means a student classified by the board of directors of a school district, by the state board of regents for pupils of the Iowa school for the deaf and the Iowa braille and sight saving school, or by the authorities in charge of an accredited nonpublic school as a ninth or tenth grade student who is identified according to the school district’s gifted and talented criteria and procedures, pursuant to section 257.43, as a gifted and talented child, or an eleventh or twelfth grade student, during the period the student is participating in the postsecondary enrollment options program.

2008 Acts, ch 1181, §56; 2016 Acts, ch 1108, §3, 9, 61; 2017 Acts, ch 29, §80; 2020 Acts, ch 1117, §22

Referred to in §256F.4, 257.6, 260C.14, 261E.1, 261E.2, 261E.3, 282.18
Subsection 1 amended

261E.7 Postsecondary enrollment options program payments — claims — reimbursements.

1. Not later than June 30 of each year, a school district shall pay a tuition reimbursement amount to a postsecondary institution that has enrolled its resident eligible students under this chapter, unless the eligible student is participating in open enrollment under section 282.18, in which case, the tuition reimbursement amount shall be paid by the receiving district. However, if a child’s residency changes during a school year, the tuition shall be paid by the district in which the child was enrolled as of the date specified in section 257.6, subsection 1, or the district in which the child was counted under section 257.6, subsection 1, paragraph “a”, subparagraph (6). For students enrolled at the Iowa school for the deaf and the Iowa braille and sight saving school, the state board of regents shall pay a tuition reimbursement amount by June 30 of each year. The amount of tuition reimbursement for each separate course shall equal the lesser of:

a. The actual and customary costs of tuition, textbooks, materials, and fees directly related to the course taken by the eligible student.

b. Two hundred fifty dollars.

2. An eligible postsecondary institution that enrolls an eligible student under this section shall not charge that student for tuition, textbooks, materials, or fees directly related to the course in which the student is enrolled except that the student may be required to purchase equipment that becomes the property of the student. For the purposes of this subsection, equipment shall not include textbooks. However, if the student fails to complete and receive credit for the course, the student is responsible for all district costs directly related to the course as provided in subsection 1 and shall reimburse the school district for its costs. If the student is under eighteen years of age, the student’s parent or legal guardian shall sign the student registration form indicating that the parent or legal guardian is responsible for all costs directly related to the course if the student fails to complete and receive credit for the course. If documentation is submitted to the school district that verifies the student was unable to complete the course for reasons including but not limited to the student’s physical incapacity, a death in the student’s immediate family, or the student’s move to another school district, that verification shall constitute a waiver to the requirement that the student or parent or legal guardian pay the costs of the course to the school district.

3. An eligible postsecondary institution shall make pro rata adjustments to tuition reimbursement amounts based upon federal guidelines established pursuant to 20 U.S.C. §1091b.

2008 Acts, ch 1181, §57; 2009 Acts, ch 41, §105; 2020 Acts, ch 1117, §23

Referred to in §256F.4, 261E.6, 282.18

Subsection 2 stricken and former subsections 3 and 4 renumbered as 2 and 3

261E.8 District-to-community college sharing or concurrent enrollment program.

1. A district-to-community college sharing or concurrent enrollment program is established to be administered by the department to promote rigorous academic or career and technical pursuits and to provide a wider variety of options to high school students to

enroll in eligible nonsectarian courses at or through community colleges established under chapter 260C. The program shall be made available to all resident students in grades nine through twelve. Notice of the availability of the program shall be included in a school district's student registration handbook and the handbook shall identify which courses, if successfully completed, generate college credit under the program. A student and the student's parent or legal guardian shall also be made aware of this program as a part of the development of the student's career and academic plan in accordance with section 279.61.

2. a. Students from accredited nonpublic schools and students receiving competent private instruction or independent private instruction under chapter 299A may access the program through the school district in which the accredited nonpublic school or private institution is located.

b. (1) Students from accredited nonpublic schools may also access the program if the accredited nonpublic school in which the students are enrolled meets the requirements of this section and section 257.11, subsection 3, as if the accredited nonpublic school were a school district, and enters into a contract with a community college that meets the requirements of this section and section 257.11, subsection 3, for the provision of academic or career and technical coursework to high school students enrolled in the accredited nonpublic school. However, the accredited nonpublic school need not meet requirements for career and technical education more stringent than the requirements of section 256.11B. A student who wishes to participate in the program must make application to the accredited nonpublic school and the community college in the manner established under subsection 3 and meet the requirements of this section.

(2) An accredited nonpublic school that provides units of mathematics, science, and career and technical education under an agreement that meets the requirements of subparagraph (1) shall be deemed to have met the education program requirement for the units of mathematics, science, and career and technical education provided, as applicable, under section 256.11, subsection 5, paragraph "a", "d", or "e", or section 256.11B.

(a) Subject to an appropriation of funds by the general assembly for this purpose, a student enrolled in a unit of coursework provided under this subparagraph shall be counted as if the student was assigned a weighting under section 257.11, subsection 3, paragraph "b", in determining the amount calculated and paid to a community college under subparagraph (4), if the accredited nonpublic school is accredited under the standards required of a school district pursuant to section 256.11, the number of students enrolled in a class used to meet the unit requirement exceeds five, and the accredited nonpublic school's total enrollment in grades nine through twelve does not exceed two hundred pupils.

(b) A student enrolled in a unit of coursework provided under this subparagraph is not eligible to be counted as if the student was assigned a weighting under section 257.11, subsection 3, paragraph "b", in determining the amount calculated and paid to a community college under subparagraph (4), if the accredited nonpublic school's total enrollment in grades nine through twelve exceeds two hundred pupils.

(3) A community college that enters into a contract as provided in this paragraph shall submit to the department, during the fall and spring semesters, or the equivalent, a list of the accredited nonpublic school students enrolled for the semester, or the equivalent, who are participating in the program. The community college and the accredited nonpublic school shall verify to the department that the accredited nonpublic school and the coursework provided under this paragraph meet the requirements of this section and section 257.11, subsection 3, and shall provide to the department data and information elements as required under subsection 9 by rule.

(4) Subject to an appropriation of funds by the general assembly for this purpose, the department shall calculate, using the state cost per pupil, and pay to a community college for each semester in which a student is concurrently enrolled in the community college in accordance with this paragraph "b" an amount equivalent to the amount a school district would receive if the student was assigned a weighting under section 257.11, subsection 3, paragraph "b". If the amount appropriated annually for purposes of this paragraph "b" is insufficient to pay to community colleges the full amount for students concurrently enrolled in a community college in accordance with this paragraph "b", the department shall annually

prorate the amount for payments to community colleges for the concurrent enrollment of accredited nonpublic students under this paragraph “b”. A community college shall decrease the amount billed to the accredited nonpublic school by the amount calculated and paid to the community college by the department in accordance with this paragraph.

3. A student may make application to a community college and the school district to allow the student to enroll for college credit in a nonsectarian course offered by the community college. A comparable course, as defined in rules adopted by the board of directors of the school district, must not be offered by the school district or accredited nonpublic school which the student attends. The school board shall annually approve courses to be made available for high school credit using locally developed criteria that establishes which courses will provide the student with academic rigor and will prepare the student adequately for transition to a postsecondary institution. If a community college accepts a student for enrollment under this section, the school district, in collaboration with the community college, shall send written notice to the student, the student’s parent or legal guardian in the case of a minor child, and the student’s school district. The notice shall list the course, the clock hours the student will be attending the course, and the number of hours of college credit that the student will receive from the community college upon successful completion of the course.

4. A school district shall grant high school credit to a student enrolled in a course under this chapter if the student successfully completes the course as determined by the community college and the course was previously approved by the school board pursuant to subsection 3. The board of directors of the school district shall determine the number of high school credits that shall be granted to a student who successfully completes a course.

5. District-to-community college sharing agreements or concurrent enrollment programs that meet the requirements of section 257.11, subsection 3, are eligible for funding under that provision.

6. Community colleges shall comply with the data collection requirements of section 260C.14, subsection 21.

7. A student enrolled in a career and technical course made available pursuant to subsection 1 is exempt from the proficiency requirements of section 261E.3, subsection 1, paragraph “e”. However, a community college may require a student who applies for enrollment under a district-to-community college sharing or concurrent enrollment program to complete an initial assessment administered by the community college receiving the application to determine the applicant’s readiness to enroll in career and technical coursework, and the community college may deny the enrollment.

8. Subject to an appropriation of funds by the general assembly for this purpose, the department shall establish a program to provide additional funds for resident high school pupils enrolled in grades nine through twelve to attend a community college for college-level classes or attend a class taught by a community college-employed instructor through a contractual agreement between a community college and a school district that satisfies the requirements for classes under section 257.11, subsection 3, except that the classes eligible for funding under this program are offered during the summer and outside of the regular school year and are aligned with career pathways leading to postsecondary credentials and high-demand jobs designated by the workforce development board or a community college pursuant to section 84A.1B, subsection 14. A community college shall not charge students tuition for a class offered partially or completely outside of the regular school year under this program.

9. The state board, in collaboration with the board of directors of each community college, shall adopt rules that clearly define data and information elements to be collected related to the senior year plus programming, including concurrent enrollment courses. The data elements shall include but not be limited to the following:

a. The course title and whether the course supplements, rather than supplants, a school district course.

b. An unduplicated enrollment count of eligible students participating in the program.

c. The actual costs and revenues generated for concurrent enrollment. An aligned unique student identifier system shall be established by the department for students in kindergarten through grade twelve and community college.

- d. Degree, certifications, and other qualifications to meet the minimum hiring standards.
- e. Salary information including regular contracted salary and total salary.
- f. Credit hours and laboratory contact hours and other data on instructional time.
- g. Other information comparable to the data regarding teachers collected in the basic education data survey.

2008 Acts, ch 1181, §58; 2011 Acts, ch 20, §12; 2012 Acts, ch 1021, §59; 2012 Acts, ch 1119, §38; 2013 Acts, ch 121, §90; 2016 Acts, ch 1108, §4, 9; 2018 Acts, ch 1067, §14, 15; 2019 Acts, ch 164, §8; 2020 Acts, ch 1062, §39; 2020 Acts, ch 1063, §104; 2020 Acts, ch 1117, §24

Referred to in §84A.1B, 261E.2, 261E.6, 261E.10, 261E.11, 709.15

Subsection 1 amended

Subsection 2, paragraph b, subparagraph (2), subparagraph divisions (a) and (b) amended

Subsection 2, paragraph b, subparagraph (3) amended

261E.9 Regional academies.

1. *a.* A regional academy is a program established by a school district to which multiple school districts send students in grades seven through twelve. A school district establishing a regional academy may collaborate and partner with, enter into an agreement pursuant to chapter 28E with, or enter into a contract with, one or more school districts, area education agencies, community colleges, accredited public and private postsecondary institutions, accredited nonpublic schools, businesses, and private agencies located within or outside of the state.

b. The purpose of a regional academy established pursuant to this section shall be to build a culture of innovation for students and community, to diversify educational and economic opportunities by engaging in learning experiences that involve students in complex, real-world projects, and to develop regional or global innovation networks.

c. If a school district establishing a regional academy in accordance with this section submits a plan to the department for approval that demonstrates how the regional academy will increase and assess student achievement or increase and assess competency-based learning opportunities for students, the department may waive or modify any statutory or regulatory provision applicable to school districts except the department shall not waive or modify any statutory or regulatory provision relating to requirements applicable to school districts under chapters 11, 21, 22, 216, 216A, 256B, 279, 284, and 285; or relating to contracts with and discharge of teachers and administrators under chapters 20 and 279; or relating to audit requirements under section 256.9, subsection 20, and section 279.29.

2. *a.* A regional academy shall include in its curriculum advanced level courses.

b. A regional academy may include in its curriculum virtual or internet-based coursework and courses delivered via the Iowa communications network, career and technical courses, core curriculum coursework, courses required pursuant to section 256.7, subsection 26, or section 256.11, subsections 4 and 5, and asynchronous learning networks.

3. School districts participating in regional academies are eligible for supplementary weighting as provided in section 257.11, subsection 2. The school districts participating in the regional academy shall enter into an agreement on how the funding generated by the supplementary weighting received shall be used and shall submit the agreement to the department for approval.

4. Information regarding regional academies shall be provided to a student and the student's parent or guardian prior to the development of the student's career and academic plan under section 279.61.

2008 Acts, ch 1181, §59; 2011 Acts, ch 132, §15, 29; 2016 Acts, ch 1108, §5, 9

261E.10 Career academies.

1. As used in this section, "career academy" means the same as defined in section 258.6.

2. A career academy course may qualify as a concurrent enrollment course if it meets the requirements of section 261E.8.

3. The school district providing secondary education under this section shall be eligible for supplementary weighting under section 257.11, subsection 2, and the community college shall be eligible for funds allocated pursuant to section 260C.18A.

4. Information regarding career academies shall be provided by the school district to a

student and the student's parent or guardian prior to the development of the student's career and academic plan under section 279.61.

2008 Acts, ch 1181, §60; 2016 Acts, ch 1108, §6, 9, 62

Referred to in §261E.11

261E.11 Internet-based and Iowa communications network coursework.

1. The Iowa communications network may be used to deliver coursework for the programming provided under this chapter subject to an appropriation by the general assembly for that purpose. A school district that provides courses delivered via the Iowa communications network shall receive supplemental funding as provided in section 257.11, subsection 6.

2. The programming in this chapter may be delivered via internet-based technologies including but not limited to the Iowa learning online program. An internet-based course may qualify for additional supplemental weighting if it meets the requirements of section 261E.8 or section 261E.10.

3. To qualify as a senior year plus course, an internet-based course or course offered through the Iowa communications network must comply with the appropriate provisions of this chapter.

2008 Acts, ch 1181, §61

261E.12 Internet-based clearinghouse.

The department shall develop and make available to secondary and postsecondary students, parents or legal guardians, school districts, accredited nonpublic schools, and eligible postsecondary institutions an internet-based clearinghouse of information that allows students to identify participation options within the senior year plus program and transferability between educational systems, subject to an appropriation by the general assembly for this purpose. The internet-based resource shall provide links to other similar resources available through various Iowa postsecondary institution systems. The internet-based resource shall also identify course transferability and articulation between the secondary and postsecondary systems in Iowa and between the various Iowa postsecondary systems.

2008 Acts, ch 1181, §62

Referred to in §261E.13

261E.13 State program allocation.

1. For each fiscal year in which moneys are appropriated by the general assembly for purposes of the senior year plus program, the moneys shall be allocated as follows in the following priority order:

a. For the fiscal year beginning July 1, 2008, and succeeding fiscal years, an amount up to five hundred thousand dollars to the department to implement the internet-based clearinghouse pursuant to section 261E.12.

b. For the fiscal year beginning July 1, 2008, and succeeding fiscal years, an amount up to five hundred thousand dollars to the department for the development of a data management system, including the development of a transcript repository, for senior year plus programming provided under this chapter. The data management system shall include information generated by the provisions of section 279.61, data on courses taken by Iowa's students, and the transferability of course credit.

c. For the fiscal year beginning July 1, 2008, and succeeding fiscal years, an amount up to four hundred thousand dollars to the department for the development of additional internet-based educational courses that comply with the provisions of this chapter.

d. For the fiscal year beginning July 1, 2008, and succeeding fiscal years, an amount up to five hundred thousand dollars to the department to provide advanced placement course examination fee remittance pursuant to section 261E.5. If the funds appropriated for purposes of section 261E.5 are insufficient to distribute the amounts set out in section 261E.5, subsection 3, to school districts, the department shall prorate the amount distributed to school districts based on the amount appropriated.

2. Notwithstanding section 8.33, any moneys remaining unencumbered or unobligated

from the moneys allocated under this section shall not revert but shall remain available in the succeeding fiscal year for expenditure for the purposes designated. The department shall annually inform the general assembly of the amount of moneys allocated, but unspent. The provisions of section 8.39 shall not apply to the funds allocated pursuant to this section.

2008 Acts, ch 1181, §63; 2009 Acts, ch 41, §173, 264

Referred to in §261E.5

CHAPTER 261F

EDUCATIONAL LOANS

261F.1	Definitions.	261F.6	Standards for preferred lender lists.
261F.2	Code of conduct.	261F.7	Disclosure requirements.
261F.3	Prohibitions — report.	261F.8	Penalties.
261F.4	Misleading identification — covered institution — lending institutions' employees.	261F.9	Rules — investigation authority — enforcement.
261F.5	Loan disclosure — loan bundling — prohibitions.	261F.10	Student lending education fund.
		261F.11	Effect on other laws or regulations.

261F.1 Definitions.

As used in this chapter, unless otherwise specified:

1. “*Borrower*” means a student attending a covered institution in this state, or a parent or person in parental relation to such student, who obtains an educational loan from a lending institution to pay for or finance a student’s higher education expenses.

2. “*Covered institution*” means any educational institution that offers a postsecondary educational degree, certificate, or program of study and receives any Tit. IV funds under the federal Higher Education Act of 1965, as amended, or state funding or assistance. “*Covered institution*” includes an authorized agent of the educational institution, including an alumni association, booster club, or other organization directly or indirectly associated with or authorized by the institution or an employee of the institution.

3. “*Covered institution employee*” means any employee, agent, contract employee, director, officer, or trustee of a covered institution.

4. “*Educational loan*” means any loan that is made, insured, or guaranteed under Tit. IV of the federal Higher Education Act of 1965, as amended, directly to a borrower solely for educational purposes, or any private educational loan.

5. “*Gift*” means any gratuity, favor, discount, entertainment, hospitality, loan, or other item having a monetary value of more than a de minimus amount. “*Gift*” includes a gift of services, transportation, lodging, or meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred. “*Gift*” does not include any of the following:

a. Standard material, activities, or programs on issues related to a loan, default aversion, default prevention, or financial literacy.

b. Food or refreshments furnished to an officer, employee, or agent of an institution as an integral part of a training session or conference that is designed to contribute to the professional development of the officer, employee, or agent of the institution.

c. Favorable terms, conditions, and borrower benefits on an educational loan provided to a borrower employed by the covered institution if such terms, conditions, or benefits are comparable to those provided to all students of the institution.

d. Philanthropic contributions to a covered institution from a lender, guarantor, or servicer of educational loans that are unrelated to educational loans, provided, as applicable, that the contributions are disclosed pursuant to section 261F.4, subsection 6.

e. State education grants, scholarships, or financial aid funds administered under chapter 261.

f. Toll-free telephone numbers for use by covered institutions or other toll-free telephone

numbers open to the public to obtain information about loans available under Tit. IV of the federal Higher Education Act of 1965, as amended, or private educational loans, or free data transmission service for use by a covered institution to electronically submit applicant loan processing information or student status confirmation data for loans available under Tit. IV of the federal Higher Education Act of 1965.

g. A reduced origination fee.

h. A reduced interest rate.

i. Payment of federal default fees.

j. Purchase of a loan made by another lender at a premium.

k. Other benefits to a borrower under a repayment incentive program that requires, at a minimum, one or more scheduled payments to receive or retain the benefit or under a loan forgiveness program for public service or other targeted purposes approved by the attorney general, provided these benefits are not marketed to secure loan applications or loan guarantees.

l. Items of nominal value to a covered institution, covered institution employee, covered institution-affiliated organization, or borrower that are offered as a form of generalized marketing or advertising, or to create goodwill.

m. Items of value which are offered to a borrower or to a covered institution employee that are also offered to the general public.

n. Other services as identified and approved by the attorney general through a public announcement, such as a notice on the attorney general's internet site.

6. "*Lender*" or "*lending institution*" means a creditor as defined in section 103 of the federal Truth in Lending Act, 15 U.S.C. §1602.

7. "*Postsecondary educational expenses*" means any of the expenses that are included as part of a student's cost of attendance as defined in Tit. IV, part F, of the federal Higher Education Act of 1965, as amended.

8. "*Preferred lender arrangement*" means an arrangement or agreement between a lender and a covered institution under which the lender provides or otherwise issues educational loans to borrowers and which relates to the covered institution recommending, promoting, or endorsing the educational loan product of the lender. "*Preferred lender arrangement*" does not include arrangements or agreements with respect to loans under part D or E of Tit. IV of the federal Higher Education Act of 1965, as amended.

9. "*Preferred lender list*" means a list of at least three recommended or suggested, unaffiliated lending institutions that a covered institution makes available for use, in print or any other medium or form, by borrowers, prospective borrowers, or others.

10. "*Private educational loan*" means a private loan provided by a lender that is not made, insured, or guaranteed under Tit. IV of the federal Higher Education Act of 1965, as amended, and is issued by a lender solely for postsecondary educational expenses to a borrower, regardless of whether the loan involves enrollment certification by the educational institution that the student for which the loan is made attends. "*Private educational loan*" does not include a private educational loan secured by a dwelling or under an open-end credit plan. For purposes of this subsection, "*dwelling*" and "*open-end credit plan*" have the meanings given such terms in section 103 of the federal Truth in Lending Act, 15 U.S.C. §1602.

11. "*Revenue sharing arrangement*" means an arrangement between a covered institution and a lender in which the lender provides or issues educational loans to persons attending the institution or on behalf of persons attending the institution and the covered institution recommends the lender or the educational loan products of the lender, in exchange for which the lender pays a fee or provides other material benefits, including revenue or profit sharing, to the institution or officers, employees, or agents of the institution. "*Revenue sharing arrangement*" does not include arrangements related solely to products which are not educational loans.

2008 Acts, ch 1132, §3; 2009 Acts, ch 41, §106

Referred to in §261F.4, 533A.1

261F.2 Code of conduct.

1. A covered institution shall do the following:
 - a. Develop, in consultation with the college student aid commission, a code of conduct governing educational loan activities with which the covered institution's officers, employees, and agents shall comply.
 - b. Publish the code of conduct developed in accordance with paragraph "a" prominently on its internet site.
 - c. Administer and enforce the code of conduct developed in accordance with paragraph "a".
2. The college student aid commission shall provide to covered institutions assistance and guidance relating to the development, administration, and monitoring of a code of conduct governing educational loan activities.
3. Except as provided in this section, the college student aid commission is not subject to the duties, restrictions, prohibitions, and penalties of this chapter.
2008 Acts, ch 1132, §4

261F.3 Prohibitions — report.

1. *Gift ban.* No officer, employee, or agent of a covered institution who is employed in the financial aid office of the institution, or who otherwise has direct responsibilities with respect to educational loans, shall solicit or accept any gift from a lender, guarantor, or servicer of educational loans. The attorney general shall investigate any reported violation of this subsection and shall annually submit a report to the general assembly by January 15 identifying all substantiated violations of this subsection, including the lenders and covered institutions involved in each such violation, for the preceding year.
2. *Gifts to family members or others.* For purposes of this section, a gift to a family member of an officer, employee, or agent of a covered institution, or a gift to any other individual based on that individual's relationship with the officer, employee, or agent, shall be considered a gift to the officer, employee, or agent if either of the following applies:
 - a. The gift is given with the knowledge and acquiescence of the officer, employee, or agent.
 - b. The officer, employee, or agent has reason to believe the gift was given because of the official position of the officer, employee, or agent.
3. *Contracting arrangements.* An officer, employee, or agent who is employed in the financial aid office of a covered institution, or who otherwise has direct responsibilities with respect to educational loans, shall not accept from any lender or affiliate of any lender any fee, payment, or other financial benefit including but not limited to the opportunity to purchase stock on other than free market terms, as compensation for any type of consulting arrangement or other contract to provide services to a lender or on behalf of a lender.
4. *Revenue sharing arrangements.* A covered institution shall not enter into any revenue sharing arrangement with any lender.
5. *Prohibition on offers of funds for private loans.* A covered institution shall not request or accept from any lender any offer of funds, including any opportunity pool, to be used for private educational loans to borrowers in exchange for the covered institution providing concessions or promises to the lender with respect to such institution providing the lender with a specified number of loans, a specified loan volume, or a preferred lender arrangement for any loan made, insured, or guaranteed under Tit. IV of the federal Higher Education Act of 1965, as amended, and a lender shall not make any such offer. For purposes of this subsection, "opportunity pool" means an educational loan made by a private lender to a borrower that is in any manner guaranteed by a covered institution, or that involves a payment, directly or indirectly, by such an institution of points, premiums, payments, additional interest, or other financial support to the lender for the purpose of that lender extending credit to the borrower.
6. *Participation on advisory councils.* An officer, employee, or agent who is employed in the financial aid office of a covered institution, or who otherwise has direct responsibilities with respect to educational loans, shall not serve on or otherwise participate with advisory councils of lenders or affiliates of lenders. Nothing in this subsection shall prohibit lenders from seeking advice from covered institutions or groups of covered institutions, including through telephonic or electronic means, or a meeting, in order to improve products and

services for borrowers, provided there are no gifts or compensation including but not limited to transportation, lodging, or related expenses, provided by lenders in connection with seeking such advice from the institutions. Nothing in this subsection shall prohibit an officer, employee, or agent of a covered institution from serving on the board of directors of a lender if required by law.

7. *Exceptions.*

a. Nothing in this section shall be construed as prohibiting any of the following:

(1) An officer, employee, or agent of a covered institution who is not employed in the institution's financial aid office, or who does not otherwise have direct responsibilities with respect to educational loans, from paid or unpaid service on a board of directors of a lender, guarantor, or servicer of educational loans.

(2) An officer, employee, or agent of a covered institution who is not employed in the financial aid office but who has direct responsibility with respect to educational loans as a result of a position held at the covered institution, from paid or unpaid service on a board of directors of a lender, guarantor, or servicer of educational loans, provided that the covered institution has a written conflict of interest policy that clearly sets forth that such an officer, employee, or agent must be recused from participating in any decision of the board with respect to any transaction regarding educational loans.

(3) An officer, employee, or agent of a lender, guarantor, or servicer of educational loans from serving on a board of directors or serving as a trustee of a covered institution, provided that the covered institution has a written conflict of interest policy that clearly sets forth the procedures to be followed in instances where such a board member's or trustee's personal or business interests with respect to educational loans may be advanced by an action of the board of directors or trustees, including a provision that such a board member or trustee may not participate in any decision to approve any transaction where such conflicting interests may be advanced.

b. Nothing in this chapter shall be construed to prohibit a covered institution from lowering educational loan costs for borrowers, including payments made by the covered institution to lending institutions on behalf of borrowers.

2008 Acts, ch 1132, §5, 15

261F.4 Misleading identification — covered institution — lending institutions' employees.

1. A lending institution shall prohibit an employee or agent of the lending institution from being identified to borrowers or prospective borrowers of a covered institution as an employee, representative, or agent of the covered institution.

2. A covered institution shall prohibit an employee or agent of a lending institution from being identified as an employee, representative, or agent of the covered institution.

3. An employee, representative, or agent of a lending institution included on a covered institution's preferred lending list shall not staff a covered institution's financial aid offices or call center and shall not prepare any of the covered institution's materials related to educational loans.

4. A covered institution that has entered into a preferred lender arrangement with a lender regarding private educational loans shall not agree to the lender's use of the name, emblem, mascot, or logo of the institution, or other words, pictures, or symbols readily identified with the institution, in the marketing of private educational loans to the students attending the institution in any way that implies that the institution endorses the private educational loans offered by the lender. However, the covered institution may allow the use of its name if it is part of the lending institution's legal name.

5. Nothing in this section shall prohibit a covered institution from requesting or accepting the following assistance from a lender related to any of the following:

a. Providing educational counseling materials, financial literacy materials, or debt management materials to borrowers, provided that such materials disclose to borrowers the identification of any lender that assisted in preparing or providing such materials.

b. Staffing services on a short-term, nonrecurring basis to assist the institution with financial aid-related functions during emergencies, including state-declared or federally

declared natural disasters, federally declared national disasters, and other localized disasters and emergencies identified by the attorney general.

6. The attorney general shall adopt rules providing for the disclosure, for lenders with a preferred lender arrangement, of philanthropic contributions made as specified in section 261F.1, subsection 5, paragraph “d”.

2008 Acts, ch 1132, §6

Referred to in §261F.1

261F.5 Loan disclosure — loan bundling — prohibitions.

1. A covered institution that has entered into a preferred lender arrangement with a lender regarding private educational loans shall inform the borrower or prospective borrower of all available state education financing options, and financing options under Tit. IV of the federal Higher Education Act of 1965, as amended, including information on any terms and conditions of available loans under such title that are more favorable to the borrower.

2. A covered institution shall prohibit the bundling of private educational loans in financial aid packages, unless the borrower is ineligible for financing, is not eligible for any additional funding, or has exhausted the limits of loan eligibility, under Tit. IV of the federal Higher Education Act of 1965, as amended, or has not filled out a free application for federal student aid, and the bundling of the private educational loans is clearly and conspicuously disclosed to the borrower prior to acceptance of the package by the borrower. The provisions of this subsection shall not apply if the borrower does not desire or refuses to apply for a loan under Tit. IV of the federal Higher Education Act of 1965.

3. A lending institution included on a covered institution’s preferred lender list shall disclose, clearly and conspicuously, in any application for a private educational loan, all of the following:

a. The rate of interest or the potential range of rates of interest applicable to the loan and whether such rates are fixed or variable.

b. Limitations, if any, on interest rate adjustments, both in terms of frequency and amount, or lack thereof.

c. Coborrower requirements, including changes in interest rates.

d. Any fees associated with the loan.

e. The repayment terms available on the loan.

f. The opportunity for deferment or forbearance in repayment of the loan, including whether the loan payments can be deferred if the borrower is in school.

g. Any additional terms and conditions applied to the loan, including any benefits that are contingent on the repayment behavior of the borrower.

h. Information comparing federal and private educational loans.

i. An example of the total cost of the educational loan over the life of the loan which shall be calculated using the following:

(1) A principal amount and the maximum rate of interest actually offered by the lender, or, if there is no maximum rate provided under the terms of the loan agreement or applicable state or federal law, a statement to that effect.

(2) Both with and without capitalization of interest, if that is an option for postponing interest payments.

j. The consequences for the borrower of defaulting on a loan, including any limitations on the discharge of an educational loan in bankruptcy.

k. Contact information for the lender.

4. Not later than January 31, 2009, the attorney general shall develop and make available to lenders a model disclosure form that is based on the requirements of subsection 3. Use of the model disclosure form by a lending institution in a manner consistent with this chapter shall constitute compliance with subsection 3.

2008 Acts, ch 1132, §7, 15

261F.6 Standards for preferred lender lists.

1. A covered institution may make available a list of preferred lenders, in print or any

other medium or form, for use by the covered institution's students or their parents, provided the list meets the following conditions:

- a. The list is not used to deny or otherwise impede a borrower's choice of lender.
 - b. The list contains at least three lenders that are not affiliated and will make loans to borrowers or students attending the school. For the purposes of this paragraph, a lender is affiliated with another lender if any of the following applies:
 - (1) The lenders are under the ownership or control of the same entity or individuals.
 - (2) The lenders are wholly or partly owned subsidiaries of the same parent company.
 - (3) The directors, trustees, or general partners, or individuals exercising similar functions, of one of the lenders constitute a majority of the persons holding similar positions with the other lender.
 - c. The list does not include lenders that have offered, or have offered in response to a solicitation by the covered institution, financial or other benefits to the covered institution in exchange for inclusion on the list or any promise that a certain number of loan applications will be sent to the lender by the covered institution or its students.
2. A covered institution that provides or makes available a preferred lender list shall do the following:
- a. Disclose to prospective borrowers, as part of the list, the method and criteria used by the covered institution in selecting any lender that it recommends or suggests.
 - b. Provide comparative information to prospective borrowers about interest rates and other benefits offered by the lenders.
 - c. Include a prominent statement in any information related to its preferred lender list advising prospective borrowers that the borrowers are not required to use one of the covered institution's recommended or suggested lenders.
 - d. For first-time borrowers, refrain from assigning, through award packaging or other methods, a borrower's loan to a particular lender.
 - e. Not cause unnecessary certification delays for borrowers who use a lender that is not included on the covered institution's preferred lender list.
 - f. Update the preferred lender list and any information accompanying the list at least annually.
3. If the servicer of a private educational loan is changed by a lending institution, the lending institution shall disclose the change to the affected borrower.
4. A lending institution shall not be placed on a covered institution's preferred lender list or in favored placement on a covered institution's preferred lender list for a particular type of loan, in exchange for benefits provided to the covered institution or to the covered institution's students in connection with a different type of loan.

2008 Acts, ch 1132, §8, 15

261F.7 Disclosure requirements.

Except for educational loans made, insured, or guaranteed by the federal government, a lending institution included on a covered institution's preferred lender list shall, upon receiving a request from a borrower, covered institution, or government entity, disclose to the requester in reasonable detail and form, the terms of private educational loans made to borrowers by that lending institution and the rates of interest charged to borrowers for private educational loans in the year preceding the disclosures.

2008 Acts, ch 1132, §9, 15

261F.8 Penalties.

1. If after providing notice and an opportunity for a hearing the attorney general determines that a covered institution or lending institution has violated a provision of this chapter, the covered institution or lending institution may be liable for a civil penalty of up to five thousand dollars per violation. In taking action against a covered institution or lending institution, consideration shall be given to the nature and severity of a violation of this chapter.

2. If after providing notice and an opportunity for a hearing the attorney general determines that a covered institution employee has violated a provision of this chapter,

the covered institution employee may be liable for a civil penalty of up to two thousand five hundred dollars per violation. In taking action against a covered institution employee, consideration shall be given to the nature and severity of a violation of this chapter.

3. If after providing notice and an opportunity for a hearing the attorney general determines that a lending institution has violated a provision of this chapter, such lending institution shall not be placed or remain on any covered institution's preferred lender list unless notice of such violation is provided to all potential borrowers of the covered institution. However, consideration shall be given to the nature and severity of a violation of this chapter in determining whether and for how long to ban a lender from a preferred lender list.

4. Nothing in this section shall prohibit the attorney general from reaching a settlement agreement with a covered institution, covered institution employee, or lending institution in order to effectuate the purposes of this section. Provided, however, if such settlement agreement is reached with a covered institution or lending institution, the attorney general shall provide notice of such action to the borrowers in a form and manner prescribed by the attorney general.

5. The attorney general shall deposit the funds generated pursuant to this section into the student lending education fund, created in section 261F.10.

6. Each individual incident of a violation of this chapter shall be considered a separate violation for the purpose of imposing civil penalties.

2008 Acts, ch 1132, §10

Referred to in §261F.10

261F.9 Rules — investigation authority — enforcement.

1. The attorney general shall administer this chapter and promulgate rules, pursuant to chapter 17A, necessary for the implementation of this chapter. Unless otherwise provided, all actions by the attorney general pursuant to this chapter shall be subject to the provisions of chapter 17A.

2. The attorney general is authorized to conduct an investigation to determine whether to initiate proceedings pursuant to this chapter to the same extent as the investigation authority granted the attorney general under section 714.16.

2008 Acts, ch 1132, §11

261F.10 Student lending education fund.

1. There is established in the state treasury a student lending education fund.

2. The fund shall consist of all revenues generated pursuant to section 261F.8 and all other moneys credited or transferred to the fund from any other fund or source pursuant to law.

3. Moneys in the fund shall be made available to the attorney general for the purpose of enforcing this chapter.

2008 Acts, ch 1132, §12

Referred to in §261F.8

261F.11 Effect on other laws or regulations.

This chapter shall not be interpreted to affect the liability of any person, covered institution, or lending institution under any other state statute or rule.

2008 Acts, ch 1132, §13

CHAPTER 261G

POSTSECONDARY DISTANCE EDUCATION — INTERSTATE RECIPROCITY

Referred to in §261.2, 261B.8, 261B.11B

261G.1	Purpose.	261G.4	Effect of agreement.
261G.2	Definitions.	261G.5	Postsecondary registration fees.
261G.3	Execution of duties.	261G.6	Enforcement.

261G.1 Purpose.

The purpose of this chapter is to authorize the college student aid commission to enter into or recognize agreements that will create interstate reciprocity in the regulation of postsecondary distance education for the purpose of encouraging cost savings for students and greater efficiencies and effectiveness for institutions of higher education providing distance education.

2014 Acts, ch 1063, §5

261G.2 Definitions.

1. “*Commission*” means the college student aid commission created pursuant to section 261.1.

2. “*Interstate reciprocity agreement*” means an interstate reciprocity agreement entered into and administered, or recognized, by the commission in accordance with section 261.2, subsection 12.

3. “*Participating institution*” means an institution that meets the definition of subsection 4 or 5.

4. “*Participating nonresident institution*” means a postsecondary institution without a physical presence in Iowa that is offering instructional programs or courses in Iowa leading to a degree, is a member in good standing in an interstate reciprocity agreement, and is registered with and regulated by a state agency or authority that is a member in good standing in an interstate reciprocity agreement.

5. “*Participating resident institution*” means a postsecondary institution located in Iowa that is a member in good standing in an interstate reciprocity agreement and is offering instructional programs or courses in Iowa leading to a degree, including but not limited to the following institutions:

a. A community college as defined in section 260C.2.

b. An institution of higher learning governed by the state board of regents.

c. An accredited private institution as defined in section 261.9.

d. A school or postsecondary educational institution that voluntarily registers with the commission pursuant to section 261B.11B in order to comply with this chapter or for purposes of institutional eligibility under 34 C.F.R. §600.9(a).

6. “*Physical presence*” means any of the following:

a. Establishing a physical location in Iowa for students to receive synchronous or asynchronous instruction.

b. Requiring students to physically meet in a location in Iowa for instructional purposes.

c. Establishing an administrative office in Iowa, for any of the following purposes:

(1) Providing information to prospective students or the general public about the institution, for enrolling students, or for providing services to enrolled students.

(2) Providing office space to instructional or noninstructional staff.

(3) Establishing an Iowa mailing address, street address, or telephone number.

2014 Acts, ch 1063, §6

Referred to in §261.2

261G.3 Execution of duties.

The commission shall only enter into or recognize an interstate reciprocity agreement if the agreement contains sufficient consumer protection provisions and is otherwise in the best interests of students enrolled in institutions of higher education in this state.

2014 Acts, ch 1063, §7

261G.4 Effect of agreement.

1. Notwithstanding any other provision of law to the contrary, a participating nonresident institution shall not be required to register under chapter 261B or to comply with the registration and disclosure requirements of chapter 261 or 261B or section 714.17, subsections 2 and 3, or sections 714.18, 714.20, 714.21, and 714.23, or section 714.24, subsections 1, 2, 3, 4, and 5, or section 714.25, if the provisions of an interstate reciprocity agreement prohibit such registration or compliance.

2. Notwithstanding any other provision of law to the contrary, a participating resident institution shall be required to register under chapter 261B or to comply with the registration and disclosure requirements of chapter 261 or 261B or section 714.17, subsections 2 and 3, or sections 714.18, 714.20, 714.21, and 714.23, or section 714.24, subsections 1, 2, 3, 4, and 5, or section 714.25, if the provisions of the interstate reciprocity agreement require such registration or compliance.

3. A participating institution offering instructional programs or courses under an interstate reciprocity agreement entered into or recognized by the commission must notify the commission of any change of status relating in any way to the interstate reciprocity agreement.

4. This chapter shall not be construed to prevent the commission or the state from requiring a school or other postsecondary educational institution to register under chapter 261B or from taking enforcement action against a participating institution in any of the following circumstances:

a. A participating nonresident institution leaves or otherwise ceases to be a member in good standing in an interstate reciprocity agreement.

b. The participating institution is physically or administratively housed in a state that does not join or ceases to be a member in good standing in an interstate reciprocity agreement entered into or recognized by the commission.

c. The discovery of acts or omissions subject to the enforcement action but which occurred prior to the commission's entering into or recognizing an interstate reciprocity agreement.

5. Students attending a participating nonresident institution are ineligible for state student financial aid programs established under chapter 261.

2014 Acts, ch 1063, §8; 2015 Acts, ch 107, §1, 3; 2016 Acts, ch 1073, §90

Referred to in §714.23

261G.5 Postsecondary registration fees.

1. The commission shall set by rule and collect a nonrefundable initial registration fee and a renewal of registration fee from each participating institution that voluntarily registers with the commission pursuant to section 261B.11B in order to comply with this chapter or for purposes of institutional eligibility under 34 C.F.R. §600.9(a).

2. Fees shall be set by rule not more than once each year and shall be based upon the costs of administering this chapter.

3. Fees collected under this section shall be deposited in a separate account in the postsecondary registration fund created pursuant to section 261B.8, subsection 3, and shall be used for purposes of administering this chapter.

2014 Acts, ch 1063, §9

261G.6 Enforcement.

This chapter shall not be construed to affect the authority of the attorney general pursuant to section 714.16.

2014 Acts, ch 1063, §10

CHAPTER 261H

SPEECH AND EXPRESSION — PUBLIC INSTITUTIONS OF HIGHER EDUCATION

261H.1	Definitions.	261H.4	Public forums on campus — freedom of association.
261H.2	Policy adoption.	261H.5	Remedies — statute of limitations — immunity.
261H.3	Protected activities.		

261H.1 Definitions.

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

1. “*Benefit*” with respect to a student organization at a public institution of higher education means any of the following:

- a. Recognition.
- b. Registration.
- c. Use of facilities for meetings or speaking purposes.
- d. Use of channels of communication.
- e. Access to funding sources that are otherwise available to other student groups.

2. “*Campus community*” means students, administrators, faculty, and staff at a public institution of higher education and guests invited to a public institution of higher education by the institution’s students, administrators, faculty, or staff.

3. “*Materially and substantially disrupts*” means when a person, with the intent to or with knowledge of doing so, engages in violent or other disorderly conduct that significantly hinders a previously scheduled or reserved activity occurring on university grounds, buildings, and facilities. “*Materially and substantially disrupts*” does not include conduct that is protected under the first amendment to the Constitution of the United States, including but not limited to lawful protests and counterprotests.

4. “*Outdoor areas of campus*” means the generally accessible outside areas of campus where students, administrators, faculty, and staff at a public institution of higher education are commonly allowed, such as grassy areas, walkways, or other similar common areas and does not include areas outside health care facilities including both stand-alone facilities and mixed-use facilities that are embedded within another facility, veterinary medicine facilities, a facility or outdoor area used by the institution’s athletics program or teams, or other outdoor areas where access is restricted to a majority of the campus community. In recognition of the healing environment that is essential to its clinical purposes, the areas outside health care facilities, including both stand-alone facilities and mixed-use facilities that are embedded within another facility, are not designated public forums.

5. “*Public institution of higher education*” means a community college established under chapter 260C or an institution of higher learning governed by the state board of regents.

6. “*Student*” means an individual who is enrolled on a full-time or part-time basis at a public institution of higher education.

7. “*Student organization*” means a group officially recognized at or officially registered by a public institution of higher education, or a group seeking such official recognition or official registration, comprised of students who are admitted and in attendance at the public institution of higher education, and who receive, or are seeking to receive, student organization benefits or privileges through the public institution of higher education.

2019 Acts, ch 11, §1, 7

261H.2 Policy adoption.

The state board of regents and the board of directors of each community college shall adopt a policy that includes all of the following statements:

1. That the primary function of an institution of higher education is the discovery, improvement, transmission, and dissemination of knowledge by means of research, teaching, discussion, and debate. This statement shall provide that, to fulfill this function, the institution must strive to ensure the fullest degree of intellectual freedom and free expression allowed under the first amendment to the Constitution of the United States.

2. a. That it is not the proper role of an institution of higher education to shield

III-1107 SPEECH AND EXPRESSION — PUBLIC INSTITUTIONS OF HIGHER EDUCATION, §261H.3

individuals from speech protected by the first amendment to the Constitution of the United States, which may include ideas and opinions the individual finds unwelcome, disagreeable, or even offensive.

b. That it is the proper role of an institution of higher education to encourage diversity of thoughts, ideas, and opinions and to encourage, within the bounds of the first amendment to the Constitution of the United States, the peaceful, respectful, and safe exercise of first amendment rights.

3. That students and faculty have the freedom to discuss any problem that presents itself, assemble, and engage in spontaneous expressive activity on campus, within the bounds of established principles of the first amendment to the Constitution of the United States, and subject to reasonable time, place, and manner restrictions that are consistent with established first amendment principles.

4. That the outdoor areas of campus of an institution of higher education are public forums, open on the same terms to any invited speaker subject to reasonable time, place, and manner restrictions that are consistent with established principles of the first amendment to the Constitution of the United States.

2019 Acts, ch 11, §2, 7

261H.3 Protected activities.

1. Noncommercial expressive activities protected under the provisions of this chapter include but are not limited to any lawful oral or written means by which members of the campus community may communicate ideas to one another, including but not limited to all forms of peaceful assembly, protests, speeches including by invited speakers, distribution of literature, circulating petitions, and publishing, including publishing or streaming on an internet site, or audio or video recorded in outdoor areas of campus.

2. A member of the campus community who wishes to engage in noncommercial expressive activity in outdoor areas of campus shall be permitted to do so freely, subject to reasonable time, place, and manner restrictions, and as long as the member's conduct is not unlawful, does not impede others' access to a facility or use of walkways, and does not disrupt the functioning of the public institution of higher education, subject to the protections of subsection 1. The public institution of higher education may designate other areas of campus available for use by the campus community according to institutional policy, but in all cases access to designated areas of campus must be granted on a viewpoint-neutral basis within the bounds of established principles of the first amendment to the Constitution of the United States.

3. A public institution of higher education shall not deny benefits or privileges available to student organizations based on the viewpoint of a student organization or the expression of the viewpoint of a student organization by the student organization or its members protected by the first amendment to the Constitution of the United States. In addition, a public institution of higher education shall not deny any benefit or privilege to a student organization based on the student organization's requirement that the leaders of the student organization agree to and support the student organization's beliefs, as those beliefs are interpreted and applied by the organization, and to further the student organization's mission.

4. This section shall not be interpreted as limiting the right of student expression in a counter demonstration held in an outdoor area of campus as long as the conduct at the counter demonstration is not unlawful, does not materially and substantially prohibit the free expression rights of others in an outdoor area of campus or disrupt the functioning of the public institution of higher education, and does not impede others' access to a facility or use of walkways, subject to reasonable time, place, and manner restrictions that are consistent with established principles of the first amendment to the Constitution of the United States.

5. This chapter shall not be interpreted as preventing public institutions of higher education from prohibiting, limiting, or restricting expression that the first amendment to the Constitution of the United States does not protect, including but not limited to a threat of serious harm and expression directed or likely directed to provoke imminent unlawful actions; or from prohibiting harassment, including but not limited to expression

which is so severe, pervasive, and subjectively and objectively offensive that the expression unreasonably interferes with an individual's access to educational opportunities or benefits provided by a public institution of higher education.

2019 Acts, ch 11, §3, 7; 2019 Acts, ch 89, §12, 22, 25

261H.4 Public forums on campus — freedom of association.

1. The outdoor areas of campuses of public institutions of higher education in this state shall be deemed public forums. Public institutions of higher education may maintain and enforce clear, published, reasonable viewpoint-neutral time, place, and manner restrictions that are narrowly tailored in furtherance of a significant institutional interest, but shall allow members of the campus community to engage in spontaneous expressive activity and to distribute literature. Restrictions instituted by a public institution of higher education under this section shall provide for ample alternative means of expression.

2. Except as provided in this chapter, and subject to reasonable time, place, and manner restrictions, a public institution of higher education shall not designate any area of campus a free-speech zone or otherwise create policies restricting expressive activities to a particular outdoor area of campus.

3. Nothing in this chapter shall be construed to grant individuals the right to engage in conduct that intentionally, materially, and substantially disrupts the expressive activity of a person or student organization if the public institution of higher education has reserved space in an outdoor area of campus for activity by the person or student organization in accordance with this chapter.

2019 Acts, ch 11, §4, 7

261H.5 Remedies — statute of limitations — immunity.

1. A member of the campus community aggrieved by a violation of this chapter may file a complaint with the governing body of the public institution of higher education.

2. A member of the campus community aggrieved by a violation of this chapter may assert such violation as a defense or counterclaim in a disciplinary action or in a civil or administrative proceeding brought against the member of the campus community.

3. A member of the campus community shall bring a claim for violation of this chapter pursuant to this section not later than one year after the day the cause of action accrues.

4. This section shall not be interpreted to limit any other remedies available to a member of the campus community.

5. Nothing in this section shall be construed to make any administrator, officer, employee, or agent of a public institution of higher education personally liable for acts taken pursuant to the individual's official duties.

2019 Acts, ch 11, §5, 7

SUBTITLE 4

REGENTS INSTITUTIONS

CHAPTER 262

BOARD OF REGENTS

Referred to in §7D.34, 8A.402, 8E.104, 12B.10B, 12B.10C, 261.7, 419.1, 432.13, 459.318, 459A.102, 554D.120, 573.14, 724.8A

	SUBCHAPTER I		
	GENERAL PROVISIONS		
262.1	Membership.	262.29	Expenses — filing and audit. Repealed by 2006 Acts, ch 1051, §10.
262.2	Appointment — term of office.	262.30	Contracts for practitioner preparation.
262.3	Reserved.	262.31	Payment.
262.4	Removals.	262.32	Contract — time limit.
262.5	Suspension.	262.33	Fire protection contracts.
262.6	Vacancies.	262.33A	Fire and environmental safety — report — expenditures.
262.7	Institutions governed.	262.34	Improvements — advertisement for bids — disclosures — payments.
262.8	Meetings.	262.34A	Bid requests and targeted small business procurement.
262.9	Powers and duties.	262.34B	Student fee committee.
262.9A	Prohibition of controlled substances.		
262.9B	Cooperative purchasing.		
262.9C	Span of control policy.		
262.9D	Limitation on authority — nonprojectile high-voltage pulse weapons designed to immobilize.		
262.10	Purchases — prohibitions.		SUBCHAPTER II
262.11	Record — acts affecting property.		DORMITORIES
262.12	Committees and administrative offices under board.	262.35	Dormitories at state educational institutions.
262.13	Peace officers at institutions.	262.36	Purchase or condemnation of property.
262.14	Loans — conditions — other investments.	262.37	Title to property.
262.15	Foreclosures and collections.	262.38	Borrowing money and mortgaging property.
262.16	Satisfaction of mortgages.	262.39	Nature of obligation — discharge.
262.17	Bidding in property.	262.40	Limitation on discharging obligations.
262.18	Deeds in trust.	262.41	Exemption from taxation.
262.19	Actions not barred.	262.42	Limitation on funds.
262.20	Business offices — visitation.		
262.21	Annuity contracts.		SUBCHAPTER III
262.22	Director's report.		TUITION TO LOCAL SCHOOLS
262.23	Duties of treasurer.		
262.24	Reports of executive officers. Repealed by 2020 Acts, ch 1045, §25.	262.43	Students residing on state-owned land.
262.25	Reports of secretarial officers. Repealed by 2020 Acts, ch 1045, §25.		
262.25A	Purchase of automobiles.		SUBCHAPTER IV
262.25B	Purchase of biobased hydraulic fluids, greases, and other industrial lubricants.		SELF-LIQUIDATING FACILITIES OTHER THAN DORMITORIES
262.25C	Purchase of designated biobased products.	262.44	Areas set aside for improvement.
262.26	Report of board.	262.45	Purchase or condemnation of real estate.
262.27	Colonel of cadets — governor's award.	262.46	Title in name of state.
262.28	Appropriations — monthly installments.	262.47	Fees and charges from students.
		262.48	Borrowing money and pledge of revenue.

262.49	No obligation against state.		SUBCHAPTER X
262.50	Prohibited use of funds.		EARLY DEVELOPMENT EDUCATION
262.51	Tax exemption.		
262.52	No state funds loaned.	262.71	Center for early development education.
262.53	Construction of statutes.	262.72	through 262.74 Reserved.
	SUBCHAPTER V		SUBCHAPTER XI
	COMPUTER SALES		TEACHER EDUCATION PROGRAMS — INCENTIVES
262.54	Computer sales.	262.75	Incentives for cooperating teachers.
	SUBCHAPTER VI	262.76	and 262.77 Reserved.
	SELF-LIQUIDATING DORMITORIES		SUBCHAPTER XII
262.55	Definitions.		AGRICULTURAL HEALTH AND SAFETY
262.56	Authorization — contracts — title.	262.78	Center for agricultural health and safety.
262.57	Bonds or notes.	262.79	and 262.80 Reserved.
262.58	Rates and terms of bonds or notes.		SUBCHAPTER XIII
262.59	Refunding.		REGENTS' MINORITY AND WOMEN EDUCATORS ENHANCEMENT
262.60	Rates, fees and rentals — pledge.	262.81	Legislative intent.
262.61	Accounts.	262.82	Regents' minority and women educators enhancement program.
262.62	No obligation against state.	262.83	through 262.90 Reserved.
262.63	Who may invest.		SUBCHAPTER XIV
262.64	Federal or other aid accepted.		COLLEGE-BOUND PROGRAM
262.64A	Reports to general assembly. Repealed by 2005 Acts, ch 179, §160.	262.91	Legislative intent.
262.65	Alternative method.	262.92	College-bound program.
262.66	Prior action legalized.		SUBCHAPTER XV
	SUBCHAPTER VII		REPORTS
	EASEMENTS	262.93	Reports to general assembly.
262.67	Approval of executive council. Repealed by 2005 Acts, ch 179, §160.		SUBCHAPTER XVI
	SUBCHAPTER VIII		COLLEGE READINESS AND AWARENESS PROGRAMS
	SPEED LIMITS	262.94	College readiness and awareness programs.
262.68	Speed limit on institutional grounds.	262.95	through 262.99 Reserved.
262.69	Traffic control and parking.		SUBCHAPTER XVII
	SUBCHAPTER IX		INNOVATIVE SCHOOL CALENDAR PILOT PROJECT
	MENTAL HEALTH PROGRAMS	262.100	Innovative school calendar pilot program — school for the deaf. Repealed by its own terms; 2002 Acts, ch 1171, §86.
262.70	Education, prevention, and research programs in mental health and disability services.		

SUBCHAPTER I

GENERAL PROVISIONS

262.1 Membership.

The state board of regents consists of nine members, eight of whom shall be selected from the state at large solely with regard to their qualifications and fitness to discharge the duties of

the office. The ninth member shall be a student enrolled on a full-time basis in good standing at either the graduate or undergraduate level at one of the institutions listed in section 262.7, subsection 1, 2, or 3, at the time of the member's appointment. Not more than five members shall be of the same political party.

[S13, §2682-c, -d; C24, 27, 31, 35, 39, §3912; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §262.1]

88 Acts, ch 1260, §1

Referred to in §262.2, 262.6

262.2 Appointment — term of office.

The members shall be appointed by the governor subject to confirmation by the senate. Prior to appointing the ninth member as specified in section 262.1, the governor shall consult with the appropriate student body government at the institution at which the proposed appointee is enrolled. The term of each member of the board shall be for six years, unless the ninth member, appointed in accordance with section 262.1, graduates or is no longer enrolled at an institution of higher education under the board's control, at which time the term of the ninth member shall expire one year from the date on which the member graduates or is no longer enrolled in an institution of higher education under the board's control. However, if within that year the ninth member reenrolls in any institution of higher education under the board's control on a full-time basis and is a student in good standing at either the graduate or undergraduate level, the term of the ninth member shall continue in effect. The terms of three members of the board shall begin and expire in each odd-numbered year as provided in section 69.19.

[S13, §2682-d; C24, 27, 31, 35, 39, §3913, 3914; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, §262.2, 262.3; C81, §262.2; 81 Acts, ch 86, §1]

2004 Acts, ch 1047, §1

Confirmation, see §2.32

262.3 Reserved.

262.4 Removals.

The governor, with the approval of a majority of the senate during a session of the general assembly, may remove any member of the board for malfeasance in office, or for any cause which would render the member ineligible for appointment or incapable or unfit to discharge the duties of office, and the member's removal, when so made, shall be final.

[S13, §2682-d; C24, 27, 31, 35, 39, §3916; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §262.4]

262.5 Suspension.

When the general assembly is not in session, the governor may suspend any member so disqualified and shall appoint another to fill the vacancy thus created, subject to the approval of the senate when next in session.

[S13, §2682-d; C24, 27, 31, 35, 39, §3917; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §262.5]

262.6 Vacancies.

Vacancies shall be filled in the same manner in which regular appointments are required to be made. If the ninth member resigns prior to the expiration of the term, the individual appointed to fill the vacancy shall meet the requirements for the ninth member specified in section 262.1. Other vacancies occurring prior to the expiration of the ninth member's term shall be filled in the same manner as the original appointments for those vacancies.

[S13, §2682-d; C24, 27, 31, 35, 39, §3918; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §262.6]

88 Acts, ch 1260, §2

262.7 Institutions governed.

The state board of regents shall govern the following institutions:

1. The state university of Iowa, including the university of Iowa hospitals and clinics.
 2. The Iowa state university of science and technology, including the agricultural experiment station.
 3. The university of northern Iowa.
 4. The Iowa braille and sight saving school.
 5. The Iowa school for the deaf.
 6. The Oakdale campus.
 7. The university of Iowa hospitals and clinics' center for disabilities and development.
- [R60, §2157, 2158; C73, §1685, 1686; C97, §2723; S13, §2682-c; C24, 27, 31, 35, 39, §3919; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §262.7]

2001 Acts, ch 181, §15; 2006 Acts, ch 1051, §3; 2020 Acts, ch 1102, §12

Referred to in §8.6, 11.1, 262.1, 262.34B, 262.71

Subsection 5 amended

262.8 Meetings.

The board shall meet four times a year. Special meetings may be called by the board, by the president of the board, or by the executive director of the board upon written request of any five members thereof.

[S13, §2682-e; C24, 27, 31, 35, 39, §3920; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §262.8]

2006 Acts, ch 1051, §4

262.9 Powers and duties.

The board shall:

1. Each even-numbered year elect, from its members, a president of the board, who shall serve for two years and until a successor is elected and qualified.
2. Elect a president of each of the institutions of higher learning; a superintendent of each of the other institutions; a treasurer and a secretarial officer for each institution annually; professors, instructors, officers, and employees; and fix their compensation. Sections 279.12 through 279.19 and section 279.27 apply to employees of the Iowa braille and sight saving school and the Iowa school for the deaf, who are licensed pursuant to chapter 272. In following those sections in chapter 279, the references to boards of directors of school districts shall be interpreted to apply to the board of regents.
3. Make rules for admission to and for the government of said institutions, not inconsistent with law.
4. Manage and control the property, both real and personal, belonging to the institutions.
5. Purchase or require the purchase of, when the price is reasonably competitive and the quality as intended, soybean-based inks. All inks purchased that are used internally or are contracted for by the board shall be soybean-based to the extent formulations for such inks are available.
 - a. The department of natural resources shall review the procurement specifications currently used by the board to eliminate, wherever possible, discrimination against the procurement of products manufactured with soybean-based inks.
 - b. The department of natural resources shall assist the board in locating suppliers of recycled content products and soybean-based inks and collecting data on recycled content and soybean-based ink purchases.
 - c. The board, in conjunction with the department of natural resources, shall adopt rules to carry out the provisions of this subsection.
 - d. The department of natural resources shall cooperate with the board in all phases of implementing this subsection.
6. The board shall, whenever technically feasible, purchase and use degradable loose foam packing material manufactured from grain starches or other renewable resources, unless the cost of the packing material is more than ten percent greater than the cost of packing material made from nonrenewable resources. For the purposes of this subsection, "packing material" means material, other than an exterior packing shell, that is used to stabilize, protect, cushion, or brace the contents of a package.

7. Purchase and use recycled printing and writing paper, with the exception of specialized paper when no recyclable product is available, in accordance with the schedule established in section 8A.315; establish a wastepaper recycling program for all institutions governed by the board in accordance with recommendations made by the department of natural resources and the requirements of section 8A.329; shall, in accordance with the requirements of section 8A.311, require product content statements and compliance with requirements regarding procurement specifications; and shall comply with the requirements for the purchase of lubricating oils and industrial oils as established pursuant to section 8A.316.

8. Acquire real estate for the proper uses of institutions under its control, and dispose of real estate belonging to the institutions when not necessary for their purposes. The disposal of real estate shall be made upon such terms, conditions, and consideration as the board may recommend. If real estate subject to sale has been purchased or acquired from appropriated funds, the proceeds of such sale shall be deposited with the treasurer of state and credited to the general fund of the state. There is hereby appropriated from the general fund of the state a sum equal to the proceeds so deposited and credited to the general fund of the state to the state board of regents, which may be used to purchase other real estate and buildings and for the construction and alteration of buildings and other capital improvements. All transfers shall be by state patent in the manner provided by law. The board is also authorized to grant easements for rights-of-way over, across, and under the surface of public lands under its jurisdiction when in the board's judgment such easements are desirable and will benefit the state of Iowa.

9. Accept and administer trusts and may authorize nonprofit foundations acting solely for the support of institutions governed by the board to accept and administer trusts deemed by the board to be beneficial. Notwithstanding the provisions of section 633.63, the board and such nonprofit foundations may act as trustee in such instances.

10. Direct the expenditure of all appropriations made to institutions under the control of the board, and of any other moneys belonging to those institutions, but in no event shall the perpetual funds of the Iowa state university of science and technology, nor the permanent funds of the state university of Iowa derived under Acts of Congress, be diminished.

11. Collect the highest rate of interest, consistent with safety, obtainable on daily balances in the hands of the treasurer of each institution.

12. With consent of the inventor and in the discretion of the board, secure letters patent or copyright on inventions of students, instructors, and officials, or take assignment of such letters patent or copyright and may make all necessary expenditures in regard thereto. The letters patent or copyright on inventions when so secured shall be the property of the state, and the royalties and earnings thereon shall be credited to the funds of the institution in which such patent or copyright originated.

13. Perform all other acts necessary and proper for the execution of the powers and duties conferred by law upon it.

14. Grant leaves of absence with full or partial compensation to staff members to undertake approved programs of study, research, or other professional activity which in the judgment of the board will contribute to the improvement of the institutions. Any staff member granted such leave shall agree either to return to the institution granting such leave for a period of not less than two years or to repay to the state of Iowa such compensation as the staff member shall have received during such leave.

15. Lease properties and facilities, either as lessor or lessee, for the proper use and benefit of institutions under the control of the board upon such terms, conditions, and considerations as the board deems advantageous, including leases with provisions for ultimate ownership by the state of Iowa, and to pay the rentals from funds appropriated to the institution for operating expenses thereof or from such other funds as may be available therefor.

16. In its discretion, employ or retain attorneys or counselors to provide legal counsel or legal advice, notwithstanding section 13.7, provided that the provisions of section 13.7 shall govern the retention of attorneys in any action or proceeding that is brought in any court or tribunal.

17. a. In its discretion, adopt rules relating to the classification of students enrolled in

institutions of higher education under the board who are residents of Iowa's sister states as residents or nonresidents for fee purposes.

b. (1) Adopt rules to classify as residents for purposes of undergraduate tuition and mandatory fees, qualified veterans and qualified military persons and their spouses and dependent children who are domiciled in this state while enrolled in an institution of higher education under the board. A spouse or dependent child of a military person or veteran shall not be deemed a resident under this paragraph "b" unless the qualified military person or qualified veteran meets the requirements of subparagraph (2), subparagraph division (b) or (c), as appropriate.

(2) For purposes of this paragraph "b", unless the context otherwise requires:

(a) "*Dependent child*" means a student who was claimed by a qualified military person or qualified veteran as a dependent on the qualified military person's or qualified veteran's internal revenue service tax filing for the previous tax year.

(b) "*Qualified military person*" means a person on active duty in the military service of the United States who is stationed in this state or at the Rock Island arsenal. If the qualified military person is transferred, deployed, or restationed while the person's spouse or dependent child is enrolled in an institution of higher education under the control of the board, the spouse or dependent child shall continue to be classified as a resident provided the spouse or dependent child maintains continuous enrollment.

(c) "*Qualified veteran*" means a person who meets the following requirements:

(i) Is eligible for benefits, or has exhausted the benefits, under the federal Post-9/11 Veterans Educational Assistance Act of 2008.

(ii) Is domiciled in this state, or has resided in this state for at least one year or sufficient time to have filed an Iowa tax return in the preceding twelve months.

18. In issuing bonds or notes under this chapter, chapter 262A, chapter 263A, or other provision of law, select and fix the compensation for, through a competitive selection procedure, attorneys, accountants, financial advisors, banks, underwriters, insurers, and other employees and agents which in the board's judgment are necessary to carry out the board's intention. Prior to the initial selection, the board shall establish a procedure which provides for a fair and open selection process including but not limited to the opportunity to present written proposals and personal interviews. The board shall maintain a list of firms which have requested to be notified of requests for proposal. The selection criteria shall take into consideration, but are not limited to, compensation, expenses, experience with similar issues, scheduling, ability to provide the services of individuals with specific knowledge in the relevant subject matter and length of engagement. The board may waive the requirements for a competitive selection procedure for any specific employment upon adoption of a resolution of the board stating why the waiver is in the public interest and shall provide the executive council with written notice of the granting of any such waiver.

19. a. Not less than thirty days prior to action by the board on any proposal to increase tuition, fees, or charges at one or more of the institutions of higher education under its control, send written notification of the amount of the proposed increase including a copy of the proposed tuition increase docket memorandum prepared for its consideration to the presiding officers of the student government organization of the affected institutions. The final decision on an increase in tuition or mandatory fees charged to all students at an institution for a fiscal year shall be made at a regular meeting and shall be reflected in a final docket memorandum that states the estimated total cost of attending each of the institutions of higher education under the board's control. The regular meeting shall be held in Ames, Cedar Falls, or Iowa City and shall not be held during a period in which classes have been suspended for university holiday or break.

b. Authorize, at its discretion, each institution of higher education to retain the student fees and charges it collects to further the institution's purposes as authorized by the board. Notwithstanding any provision to the contrary, student fees and charges, as defined in section 262A.2, shall not be considered repayment receipts as defined in section 8.2.

c. Prohibit the designation of a portion of the tuition moneys collected from resident undergraduate students by institutions of higher education governed by the board for use

for student aid purposes. However, such institutions may designate that a portion of the tuition moneys collected from nonresident students be used for such purposes.

20. Adopt policies and procedures for the use of telecommunications as an instructional tool at its institutions. The policies and procedures shall include but not be limited to policies and procedures relating to programs, educational policy, practices, staff development, use of pilot projects, and the instructional application of the technology.

21. Establish a hall of fame for distinguished graduates at the Iowa braille and sight saving school and at the Iowa school for the deaf.

22. Direct the administration of the Iowa minority academic grants for economic success program as established in section 261.101 for the institutions under its control.

23. Develop a policy and adopt rules relating to the establishment of tuition rates which provide a predictable basis for assessing and anticipating changes in tuition rates.

24. Develop a policy requiring oral communication competence of persons who provide instruction to students attending institutions under the control of the board. The policy shall include a student evaluation mechanism which requires student evaluation of persons providing instruction on at least an annual basis. However, the board shall establish criteria by which an institution may discontinue annual evaluations of a specific person providing instruction. The criteria shall include receipt by the institution of two consecutive positive annual evaluations from the majority of students evaluating the person.

25. Develop a policy relating to the teaching proficiency of teaching assistants which provides a teaching proficiency standard, instructional assistance to, and evaluation of persons who provide instruction to students at the higher education institutions under the control of the board.

26. Explore, in conjunction with the department of education, the need for coordination between school districts, area education agencies, state board of regents institutions, and community colleges for purposes of delivery of courses, use of telecommunications, transportation, and other similar issues. Coordination may include but is not limited to coordination of calendars, programs, schedules, or telecommunications emissions. The state board shall develop recommendations as necessary, which shall be submitted in a report to the general assembly on a timely basis.

27. Develop and implement a written policy, which is disseminated during registration or orientation, addressing the following four areas relating to sexual abuse:

- a. Counseling.
- b. Campus security.
- c. Education, including prevention, protection, and the rights and duties of students and employees of the institution.
- d. Facilitating the accurate and prompt reporting of sexual abuse to the duly constituted law enforcement authorities.

28. Authorize the institutions of higher learning under the board to charge an interest rate, not to exceed the prime rate plus six percent, on delinquent bills. However, the board shall prohibit the institutions from charging interest on late tuition payments and room and board payments if financial aid payments to students enrolled in the institutions are delayed by the lending institution.

29. Direct the institutions of higher education under its control to adopt a policy to offer not less than the following options to a student who is a member, or the spouse of a member if the member has a dependent child as defined in subsection 17, paragraph "b", subparagraph (2), subparagraph division (a), of the Iowa national guard or reserve forces of the United States and who is ordered to national guard duty or federal active duty:

- a. Withdraw from the student's entire registration and receive a full refund of tuition and mandatory fees.
- b. Make arrangements with the student's instructors for course grades, or for incompletes that shall be completed by the student at a later date. If such arrangements are made, the student's registration shall remain intact and tuition and mandatory fees shall be assessed for the courses in full.
- c. Make arrangements with only some of the student's instructors for grades, or for incompletes that shall be completed by the student at a later date. If such arrangements are

made, the registration for those courses shall remain intact and tuition and mandatory fees shall be assessed for those courses. Any course for which arrangements cannot be made for grades or incompletes shall be considered dropped and the tuition and mandatory fees for the course refunded.

30. Develop a policy, not later than August 1, 2003, that each institution of higher education under the control of the board shall approve, institute, and enforce, which prohibits students, faculty, and staff from harassing or intimidating a student or any other person on institution property who is wearing the uniform of, or a distinctive part of the uniform of, the armed forces of the United States. A policy developed in accordance with this subsection shall not prohibit an individual from wearing such a uniform on institution property if the individual is authorized to wear the uniform under the laws of a state or the United States. The policy shall provide for appropriate sanctions.

31. Establish a research triangle, defined by the three institutions of higher learning under the board's control, and clearinghouse for purposes of sharing the projects and results of kindergarten through grade twelve education technology initiatives occurring in Iowa's school districts, area education agencies, community colleges, and other higher education institutions, with the education community within and outside of the state. Dissemination of and access to information regarding planning, financing, curriculum, professional development, preservice training, project implementation strategies, and results shall be centralized to allow school districts from across the state to gain ideas from each other regarding the integration of technology in the classroom.

32. In consultation with the state board of education, establish and enter into a collective statewide articulation agreement with the community colleges established pursuant to chapter 260C, which shall provide for the seamless transfer of academic credits from a completed associate of arts or associate of science degree program offered by a community college to a baccalaureate degree program offered by an institution of higher education governed by the board. The board shall also do the following:

a. Require each of the institutions of higher education governed by the board to identify a transfer and articulation contact office or person, publicize transfer and articulation information and the contact office or person, and submit the contact information to the board for publication on its articulation internet site.

b. Develop, in collaboration with the boards of directors of the community colleges, a systematic process for expanding academic discipline and meetings between the community college faculty and faculty of the institutions of higher education governed by the board. The board shall conduct and jointly administer with the boards of directors of the community colleges four program and academic discipline meetings each academic year for the purpose of enhancing alignment between course content and expectations at the community colleges and institutions of higher education governed by the state board of regents.

c. Develop criteria to prioritize core curriculum areas and create or review transition guides for the core curriculum areas.

d. Include on its articulation internet site course equivalency and transition guides for each of the institutions of higher education governed by the board.

e. Jointly, with the boards of directors of the community colleges, select academic departments in which to articulate first-year and second-year courses through faculty-to-faculty meetings in accordance with paragraph "b". However, course-to-course equivalencies need not occur in an academic discipline when the board and the community colleges jointly determine that course content is incompatible.

f. Promote greater awareness of articulation-related activities, including the articulation internet site maintained by the board and articulation agreements in which the institutions participate.

g. Facilitate additional opportunities for individual institutions to pursue program articulation agreements for community college career and technical education programs and programs of study offered by the institutions of higher education governed by the board.

h. Develop and implement by January 1, 2012, a process to examine a minimum of eight new community college associate of applied science degree programs for which articulation agreements between the community colleges and the institutions of higher education

governed by the board would serve students' continued academic success in those degree programs.

i. Prepare, jointly with the department of education and the liaison advisory committee on transfer students, and submit by January 15 annually to the general assembly, an update on the articulation efforts and activities implemented by the community colleges and the institutions of higher education governed by the board.

33. Submit its annual budget request broken down by budget unit.

34. Annually, by October 1, submit in a report to the general assembly the following information for the previous fiscal year:

a. Total revenue received from each local school district as a result of high school students enrolled in courses under the postsecondary enrollment options program at the institutions of higher learning under the board's control.

b. Unduplicated headcount of high school students enrolled in courses under the postsecondary enrollment options program at the institutions of higher learning under the board's control.

c. Total credits earned by high school students enrolled in courses under the postsecondary enrollment options program at the institutions of higher learning under the board's control, broken down by degree program.

d. The compensation and benefits paid to the members of the board pursuant to section 7E.6.

e. The contracted salary and benefits and any other expenses related to support for governmental affairs efforts, including expenditures for liaisons and lobbying activities for the board and its institutions.

f. The contracted salaries, including but not limited to bonus wages and benefits, including but not limited to annuity payments or any other benefit covered using state funds of any kind for administrators of the institutions governed by the board.

35. Implement continuous improvement in undergraduate programs offered by an institution of higher education governed by the board. A continuous improvement plan shall be developed and implemented built upon the results of the institution's student outcomes assessment program for courses with typical annual enrollments of one hundred or more students, whether in one or multiple sections. In developing and implementing the continuous improvement plan for each course, the instructor or instructors for such a course shall each year evaluate the results of the instructors' students' performances in comparison with established course goals and shall formulate recommendations for future goals and methods to achieve improved student performance. The board shall annually evaluate the effectiveness of the plans and shall submit an executive summary of its findings and recommendations in its annual strategic plan progress report, a copy of which shall be submitted to the general assembly.

36. Develop and implement a consistent written policy for an employee who in the scope of the person's employment responsibilities examines, attends, counsels, or treats a child to report suspected physical or sexual abuse. The policy shall include an employee's reporting responsibilities. The reporting responsibilities shall designate the time, circumstances, and method for reporting suspected child abuse to the administration of the institution of higher learning and reporting to law enforcement. Nothing in the policy shall prohibit an employee from reporting suspected child abuse in good faith to law enforcement.

37. a. Beginning December 15, 2015, annually file a report with the governor and the general assembly providing information and statistics for the previous five academic years on the number of students who are veterans per year who received education credit for military education, training, and service, that number as a percentage of veterans known to be enrolled at the institution, the average number of credits received by students, and the average number of credits applied towards the award or completion of a course of instruction, postsecondary diploma, degree, or other evidences of distinction.

b. For purposes of this subsection, "veteran" means a veteran as defined in section 35.1 or a member of the reserve forces of the United States or the national guard as defined in section 29A.1 who has served at least one year of the member's commitment and is eligible

for or has exhausted federal veterans education benefits under 38 U.S.C. ch. 30, 32, 33, or 36 or 10 U.S.C. ch. 1606 or 1607, respectively.

38. Prohibit an institution of higher education under its control from imposing any of the following disciplinary sanctions against a student for possession or consumption of alcohol if the student is immune from charge or prosecution pursuant to section 701.12:

- a. Removal from a course.
- b. Enrollment restrictions in a course or program.
- c. Suspension or expulsion from the university.
- d. Eviction or exclusion from student housing.

1. [S13, §2682-f; C24, 27, 31, 35, 39, §3921; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §262.9]

2. [R60, §1739, 2157, 2158, 2162; C73, §1614, 1685, 1686, 1690; C97, §2654, 2676, 2723; S13, §2682-f; C24, 27, 31, 35, 39, §3921; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §262.9]

3. [C97, §2676; S13, §2682-f; C24, 27, 31, 35, 39, §3921; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §262.9]

4. [S13, §2682-f; C24, 27, 31, 35, 39, §3921; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §262.9]

6. [S13, §2682-f; C24, 27, 31, 35, 39, §3921; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §262.9]

7. [S13, §2682-f; C24, 27, 31, 35, 39, §3921; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §262.9]

8. [C51, §1017, 1018; R60, §1938; C73, §1599, 1617; C97, §2638, 2666; S13, §2682-f; C24, 27, 31, 35, 39, §3921; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §262.9]

9. [C24, 27, 31, 35, 39, §3921; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §262.9]

10. [S13, §2682-j; C24, 27, 31, 35, 39, §3921; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §262.9]

11. [C35, 39, §3921; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §262.9]

12. [S13, §2682-f; C24, 27, 31, 35, 39, §3921; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §262.9]

13. [C66, 71, 73, 75, 77, 79, 81, §262.9]

14. [C66, 71, 73, 75, 77, 79, 81, §262.9]

15. [C79, 81, §262.9]

86 Acts, ch 1245, §844; 86 Acts, ch 1246, §125; 87 Acts, ch 191, §1; 87 Acts, ch 207, §6; 87 Acts, ch 233, §464, 465; 88 Acts, ch 1185, §2; 88 Acts, ch 1284, §64; 89 Acts, ch 265, §40; 89 Acts, ch 272, §23; 89 Acts, ch 319, §59; 90 Acts, ch 1237, §2, 3; 90 Acts, ch 1253, §24; 91 Acts, ch 29, §1; 91 Acts, ch 97, §36; 92 Acts, ch 1095, §2; 92 Acts, ch 1106, §2, 4; 92 Acts, ch 1246, §35; 93 Acts, ch 176, §39; 94 Acts, ch 1091, §16 – 20; 94 Acts, ch 1193, §21; 95 Acts, ch 44, §2; 95 Acts, ch 62, §3; 96 Acts, ch 1215, §41 – 43; 97 Acts, ch 212, §28; 99 Acts, ch 114, §16; 99 Acts, ch 121, §9; 2001 Acts, ch 39, §3; 2003 Acts, ch 145, §230; 2003 Acts, ch 179, §115; 2003 Acts, ch 180, §13; 2003 Acts, 1st Ex, ch 1, §94, 133

[2003 Acts, 1st Ex, ch 1, §94, 133 amendment adding subsection 31 stricken pursuant to *Rants v. Vilsack*, 684 N.W.2d 193]

2004 Acts, ch 1086, §57; 2004 Acts, ch 1129, §1; 2005 Acts, ch 144, §1; 2005 Acts, ch 179, §82, 149, 150; 2006 Acts, ch 1152, §54, 57; 2007 Acts, ch 214, §32, 44; 2009 Acts, ch 133, §102; 2009 Acts, ch 158, §2; 2009 Acts, ch 168, §3; 2009 Acts, ch 177, §30; 2010 Acts, ch 1169, §5 – 7; 2010 Acts, ch 1183, §25; 2011 Acts, ch 20, §13; 2012 Acts, ch 1040, §6; 2012 Acts, ch 1072, §36; 2012 Acts, ch 1119, §27; 2013 Acts, ch 90, §257; 2013 Acts, ch 141, §17, 18; 2014 Acts, ch 1116, §33; 2015 Acts, ch 8, §3; 2019 Acts, ch 24, §34; 2020 Acts, ch 1045, §9, 10; 2020 Acts, ch 1063, §105; 2020 Acts, ch 1080, §4; 2020 Acts, ch 1102, §13; 2020 Acts, ch 1121, §127

Referred to in §15.108, 260C.14

Subsections 2, 10, 15, and 16 amended

Subsection 22 stricken and former subsections 23 – 35 renumbered as 22 – 34

Former subsection 36 amended and renumbered as 35

Former subsections 37 and 38 renumbered as 36 and 37

NEW subsection 38

262.9A Prohibition of controlled substances.

The state board of regents shall adopt a policy that prohibits unlawful possession, use, or distribution of controlled substances by students and employees on property owned or leased by an institution or in conjunction with activities sponsored by an institution governed by the board. Each institution shall provide information about the policy to all students and employees. The policy shall include a clear statement of sanctions for violation of the policy and information about available drug or alcohol counseling and rehabilitation programs. In carrying out this policy, the institutions shall provide substance abuse prevention programs for students and employees.

91 Acts, ch 267, §235

262.9B Cooperative purchasing.

1. *Overview.* The state board of regents for institutions under its control shall coordinate interagency cooperation with state agencies, as defined in section 8A.101, in the area of purchasing and information technology with the goal of annually increasing the amount of joint purchasing. The board and the institutions under the control of the board shall engage the department of administrative services, the chief information officer of the state, and other state agencies authorized to purchase goods and services in pursuing mutually beneficial activities relating to purchasing items and acquiring information technology. The board and the institutions shall explore ways to leverage resources, identify cost savings, implement efficiencies, and improve effectiveness without compromising the mission of the board and the institutions under the control of the board relative to students and research commitments.

2. *Purchasing.*

a. The board shall direct the institutions under its control to cooperate with the department of administrative services and other state agencies authorized to purchase goods and services in efforts to collaboratively purchase goods and services that result in mutual cost savings and efficiency improvements.

b. The board and the institutions under its control shall assist the department of administrative services by doing the following:

(1) Identifying best practices that produce cost savings and improve state government processes.

(2) Exploring joint purchases of general use items that result in mutual procurement of quality goods and services at the lowest reasonable cost.

(3) Exploring flexibility, administrative relief, and transformational changes through procurement technology.

c. The board shall convene at least quarterly an interagency purchasing group meeting including the institutions under its control, the department of administrative services, the department of transportation, and any other state agency authorized to purchase goods and services, for the purposes of timely cooperation in purchasing goods and services and for the identification of practical measures that improve state agency performance of programs and operations, reduce total costs of state government operations, increase productivity, improve services and make state government more responsive and accountable to the public.

3. *Information technology.*

a. The board shall direct institutions under its control to cooperate with the chief information officer of the state in efforts to cooperatively obtain information technology and related services that result in mutual cost savings and efficiency improvements, and shall seek input from the chief information officer of the state regarding specific areas of potential cooperation between the institutions under the control of the board and the office of the chief information officer.

b. The board shall convene at least quarterly an interagency information technology group meeting including the institutions under its control, the state chief information officer and any other agency authorized to purchase goods and services, for purposes of timely cooperation in obtaining information technology and related services.

4. *Cooperative purchasing plan.* The board shall, before July 1 of each year, prepare a plan that identifies specific areas of cooperation between the institutions under its control, the department of administrative services, and the chief information officer of the state that

will be addressed for the next fiscal year including timelines for implementing, analyzing, and evaluating each of the areas of cooperation. The plan shall also identify the potential for greater interinstitutional cooperation in areas that would result in a net cost savings.

2010 Acts, ch 1031, §70; 2013 Acts, ch 129, §29; 2020 Acts, ch 1045, §11

Referred to in §8A.312
Subsection 5 stricken

262.9C Span of control policy.

1. The state board of regents shall develop and maintain a policy regarding the aggregate ratio of the number of employees per supervisory employee at each of the institutions under the control of the board subject to the requirements of this section.

2. The target span of control aggregate ratio of supervisory employees to other employees shall be one to fifteen. The target span of control ratio shall not apply to employees involved with direct patient care, faculty, and employees in other areas of the institutions that must maintain different span of control ratios due to federal or state regulations.

3. For the purposes of this section, “*supervisory employee*” means a public employee who is not a member of a collective bargaining unit and who has authority, in the interest of a public employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other public employees, to direct such public employees, or to adjust the grievances of such public employees, or to effectively recommend any such action.

4. The policy shall allow departments within an institution under the control of the state board of regents with twenty-eight or fewer full-time equivalent employee positions to be granted an exception to the policy by the board. Departments applying for an exception shall file a statement of need with the applicable institutional human resources office and the office shall make a recommendation to the state board of regents.

5. The state board of regents shall present an interim report to the governor and general assembly on or before April 1, 2010, with annual updates detailing the effects of the policy on the composition of the workforce, cost savings, efficiencies, and outcomes. In addition, the report and annual updates shall identify those departments within each institution under the control of the board granted an exception by the board to the policy as provided in this section.

2010 Acts, ch 1031, §68, 69

262.9D Limitation on authority — nonprojectile high-voltage pulse weapons designed to immobilize.

The state board of regents shall comply with the requirements of section 724.8A regarding policies and rules relating to the carrying, transportation, or possession of a dangerous weapon that directs an electric current, impulse, wave, or beam that produces a high-voltage pulse designed to immobilize a person in the buildings or on the grounds of a university under the control of the state board of regents, as long as such a dangerous weapon does not generate a projectile that directs an electric current, impulse, wave, or beam that produces a high-voltage pulse designed to immobilize a person, and such a dangerous weapon is not used in the commission of a public offense.

2019 Acts, ch 94, §2

262.10 Purchases — prohibitions.

1. No sale or purchase of real estate shall be made save upon the order of the board, made at a regular meeting, or one called for that purpose, and then in such manner and under such terms as the board may prescribe. No member of the board or any of its committees, offices or agencies, nor any officer of any institution, shall be directly or indirectly interested in such purchase or sale.

2. Purchases of real estate may be made on written contracts providing for payment over a period of years but the obligations thereon shall not constitute a debt or charge against the state of Iowa nor against the funds of the board or the funds of the institution for which said purchases are made. Purchase payments may be made from appropriated capital funds or from other funds lawfully available for that purpose and allocated therefor by the board, or from any combination of the foregoing, but not from appropriated operating funds. All state

appropriated capital funds used for any one purchase contract shall be taken entirely from a single capital appropriation and shall be set aside for that purpose. In event of default, the only remedy of the seller shall be against the property itself and the rents and profits thereof, and in no event shall any deficiency judgment be entered or enforced against the state of Iowa, the board, or the institution for which the purchase was made. Provided, however, that no part of the tuition fees shall be used in the purchase of such real estate.

[C24, 27, 31, 35, 39, §3922; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §262.10]
2005 Acts, ch 179, §151

262.11 Record — acts affecting property.

All acts of the board relating to the management, purchase, disposition, or use of lands and other property of said institutions shall be entered of record, which shall show the members present, and how each voted upon each proposition. The board may, in its discretion, delegate to each university the authority to approve leases.

[S13, §2682-h; C24, 27, 31, 35, 39, §3923; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §262.11]

2006 Acts, ch 1051, §5

262.12 Committees and administrative offices under board.

The board of regents shall also have and exercise all the powers necessary and convenient for the effective administration of its office and of the institutions under its control, and to this end may create such committees, offices and agencies from its own members or others, and employ persons to staff the same, fix their compensation and tenure and delegate thereto, or to the administrative officers and faculty of the institutions under its control, such part of the authority and duties vested by statute in the board, and shall formulate and establish such rules, outline such policies and prescribe such procedures therefor, all as may be desired or determined by the board as recorded in their minutes.

[S13, §2682-h; C24, 27, 31, 35, 39, §3924; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §262.12]

262.13 Peace officers at institutions.

The board may authorize any institution under its control to commission one or more of its employees as peace officers. Such officers shall have the same powers, duties, privileges, and immunities as conferred on regular peace officers. The board shall provide as rapidly as practicable for the adequate training and certification of such peace officers at the Iowa law enforcement academy or at a law enforcement training school approved by the academy, unless the peace officers are already certified by the Iowa law enforcement academy or by an approved law enforcement training school.

[C71, 73, 75, 77, 79, 81, §262.13]

2011 Acts, ch 132, §16, 106

Referred to in §97B.49B, 321.89, 801.4

262.14 Loans — conditions — other investments.

The board may invest funds belonging to the institutions, subject to chapters 12F, 12H, and 12J and the following regulations:

1. Each loan shall be secured by a mortgage paramount to all other liens upon approved farm lands in this state, accompanied by abstract showing merchantable title in the borrower. The loan shall not exceed sixty-five percent of the cash value of the land, exclusive of buildings.

2. Each such loan if for a sum more than one-fourth of the value of the farm shall be on the basis of stipulated annual principal reductions.

3. a. Any portion of the funds may be invested by the board. In the investment of the funds, the board shall exercise the judgment and care, under the circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in their own affairs as provided in chapter 633A, subchapter IV, part 3.

b. The board shall give appropriate consideration to those facts and circumstances that

the board knows or should know are relevant to the particular investment involved, including the role the investment plays in the total value of the board's funds.

c. For the purposes of this subsection, appropriate consideration includes, but is not limited to, a determination by the board that the particular investment is reasonably designed to further the purposes prescribed by law to the board, taking into consideration the risk of loss and the opportunity for gain or other return associated with the investment and consideration of the following factors as they relate to the funds of the board:

- (1) The composition of the funds of the board with regard to diversification.
- (2) The liquidity and current return of the investments relative to the anticipated cash flow requirements.
- (3) The projected return of the investments relative to the funding objectives of the board.

d. The board shall have a written investment policy, the goal of which is to provide for the financial health of the institutions governed by the board. The board shall establish investment practices that preserve principal, provide for liquidity sufficient for anticipated needs, and maintain purchasing power of investable assets of the board and its institutions. The policy shall also include a list of authorized investments, maturity guidelines, procedures for selecting and approving investment managers and other investment professionals as described in section 11.2, subsection 3, and provisions for regular and frequent oversight of investment decisions by the board, including audit. The board shall make available to the auditor of state and treasurer of state the most recent annual report of any investment entity or investment professional employed by an institution governed by the board. The investment policy shall cover investments of endowment and nonendowment funds.

e. Consistent with this subsection, investments made under this subsection shall be made in a manner that will enhance the economy of this state, and in particular, will result in increased employment of the residents of this state.

f. Funds belonging to an institution governed by the board may be invested in private enterprises if such investment is made in furtherance of the institution's mission. The board shall annually, on or before November 1, submit a report to the general assembly providing information regarding how the board invested any funds in accordance with this paragraph, including the amount invested, how long the board has invested such funds, and the percentage of equity in each private enterprise held by the board.

4. Any gift accepted by the Iowa state board of regents for the use and benefit of any institution under its control may be invested in securities designated by the donor, but whenever such gifts are accepted and the money invested according to the request of the said donor, neither the state, the Iowa state board of regents, nor any member thereof, shall be liable therefor or on account thereof.

5. A register containing a complete abstract of each loan and investment, and showing its actual condition, shall be kept by the board and be at all times open to inspection.

6. All loans made under the provisions of this section shall have an interest rate of not less than three and one-half percent per annum.

1. [C51, §1018; R60, §1938; C73, §1599; C97, §2638; S13, §2682-s; C24, 27, 31, 35, 39, §3926; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §262.14]

2. [S13, §2682-s; C24, 27, 31, 35, 39, §3926; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §262.14]

3. [R60, §1938; C73, §1599, 1617; C97, §2638, 2666; C24, 27, 31, 35, 39, §3926; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §262.14]

4. [C31, 35, 39, §3926; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §262.14]

5. [S13, §2682-s; C24, 27, 31, 35, 39, §3926; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §262.14]

6. [C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §262.14]

85 Acts, ch 190, §4; 85 Acts, ch 227, §8; 92 Acts, ch 1156, §10; 94 Acts, ch 1001, §4; 99 Acts, ch 125, §103, 109; 2005 Acts, ch 38, §55; 2007 Acts, ch 39, §11; 2011 Acts, ch 82, §11; 2017 Acts, ch 29, §81; 2020 Acts, ch 1045, §12

Subsection 3, NEW paragraph f

262.15 Foreclosures and collections.

The board shall have charge of the foreclosure of all mortgages and of all collections from delinquent debtors to said institutions. All actions shall be in the name of the state board of regents, for the use and benefit of the appropriate institution.

[SS15, §2682-t; C24, 27, 31, 35, 39, §3927; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §262.15]

262.16 Satisfaction of mortgages.

When loans are paid, the board shall release mortgages securing the same as follows:

1. By a satisfaction piece signed and acknowledged by the treasurer of the institution to which the loan belongs, which shall be recorded in the office of the recorder of the county where said mortgage is of record; or

2. By entering a satisfaction thereof on the margin of the record of said mortgage, dated, and signed by the treasurer of the institution to which the loan belongs.

[SS15, §2682-t; C24, 27, 31, 35, 39, §3928; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §262.16]

262.17 Bidding in property.

In case of a sale upon execution, the premises may be bid off in the name of the board of regents, for the benefit of the institution to which the loan belongs.

[SS15, §2682-t; C24, 27, 31, 35, 39, §3929; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §262.17]

262.18 Deeds in trust.

Deeds for premises so acquired shall be held for the benefit of the appropriate institution and such lands shall be subject to lease or sale the same as other lands.

[SS15, §2682-t; C24, 27, 31, 35, 39, §3930; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §262.18]

262.19 Actions not barred.

No lapse of time shall be a bar to any action to recover on any loan made on behalf of any institution.

[C97, §2637; C24, 27, 31, 35, 39, §3931; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §262.19]

262.20 Business offices — visitation.

A business office shall be maintained at each of the institutions of higher learning, with such organizations, powers and duties as the board may prescribe and delegate.

[S13, §2682-k; C24, 27, 31, 35, 39, §3932; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §262.20]

262.21 Annuity contracts.

1. As used in this section, unless the context otherwise requires, "annuity contract" includes any custodial account which meets the requirements of section 403(b)(7) of the Internal Revenue Code, as defined in section 422.3.

2. At the request of an employee through contractual agreement the board may arrange for the purchase of group or individual annuity contracts for any of its employees, which annuity contracts are issued by a nonprofit corporation issuing retirement annuities exclusively for educational institutions and their employees or are purchased from any company the employee chooses that is authorized to do business in this state or through an Iowa-licensed salesperson that the employee selects, on a group or individual basis, for retirement or other purposes, and may make payroll deductions in accordance with the arrangements for the purpose of paying the entire premium due and to become due under the contract. The deductions shall be made in the manner which will qualify the annuity premiums for the benefits under section 403(b) of the Internal Revenue Code, as defined in section 422.3. The employee's rights under the annuity contract are nonforfeitable except for the failure to pay premiums.

3. Whenever an existing tax-sheltered annuity contract is to be replaced by a new contract the agent or representative of the company shall submit a letter of intent to the company being replaced, to the commissioner of insurance, and to the agent's or representative's own company at least thirty days prior to any action. Each required letter of intent shall be sent by registered mail. This letter of intent shall contain the policy number and description of the contract being replaced and a description of the replacement contract.

[C75, 77, 79, 81, §262.21]

86 Acts, ch 1213, §4; 91 Acts, ch 40, §2; 94 Acts, ch 1183, §62; 2018 Acts, ch 1026, §81

262.22 Director's report.

The director of the department of administrative services shall include in the director's report to the governor the amount paid for services and expenses of officers and employees of the board of regents and to whom paid.

[S13, §2682-q; C24, 27, 31, 35, 39, §3934; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §262.22]

2003 Acts, ch 145, §286

262.23 Duties of treasurer.

The treasurer of each of the institutions under the control of the board shall:

1. Receive all appropriations made by the general assembly for the institution, and all other funds from all other sources, belonging to the institution.

2. Pay out funds on order of the board of regents, or of such committee or official as the board of regents designates, on bills duly audited in accordance with the rules prescribed by the board.

3. Retain all bills paid by the treasurer, with receipts for their payment as vouchers.

4. Keep an accurate account of all revenue and expenditures of the institution, so that the receipts and disbursements of each of the institution's several departments shall be apparent at all times.

5. Annually, and at such other times as the board may require, report to the board all receipts and disbursements in detail.

[R60, §1739, 1937; C73, §1593, 1614; C97, §2637, 2654; C24, 27, 31, 35, 39, §3935; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §262.23]

2020 Acts, ch 1063, §106

Section amended

262.24 Reports of executive officers. Repealed by 2020 Acts, ch 1045, §25.

For proposed amendments by 2020 Acts, ch 1063, §107, see Code editor's note on simple harmonization at the beginning of this Code volume

262.25 Reports of secretarial officers. Repealed by 2020 Acts, ch 1045, §25.

262.25A Purchase of automobiles.

1. Institutions under the control of the state board of regents shall purchase only new automobiles which have at least the fuel economy required for purchase of new automobiles by the director of the department of administrative services under section 8A.362, subsection 4. This subsection does not apply to automobiles purchased for law enforcement purposes.

2. A gasoline-powered motor vehicle purchased by the institutions shall not operate on gasoline other than ethanol blended gasoline as defined in section 214A.1, unless under emergency circumstances or if to do so would result in the use of a percentage of ethanol blended gasoline higher than recommended by the vehicle manufacturer or would result in a violation of the vehicle's manufacturer warranty. A diesel-powered motor vehicle purchased by the institutions shall not operate on diesel fuel other than biodiesel fuel as defined in section 214A.1, if commercially available, unless to do so would result in the use of a percentage of biodiesel not recommended by the vehicle manufacturer or would result in violation of the vehicle's manufacturer warranty, or under emergency circumstances. A state-issued credit card shall not be used to purchase gasoline other than ethanol blended gasoline if commercially available or to purchase diesel fuel other than biodiesel fuel if

commercially available. The motor vehicle shall also be affixed with a brightly visible sticker which notifies the traveling public that the motor vehicle is being operated on ethanol blended gasoline or biodiesel fuel, as applicable. However, the sticker is not required to be affixed to an unmarked vehicle used for purposes of providing law enforcement or security.

3. a. Of all new passenger vehicles and light pickup trucks purchased by or under the direction of the state board of regents, a minimum of ten percent of all such vehicles and trucks purchased shall be equipped with engines which utilize alternative methods of propulsion, including but not limited to any of the following:

(1) A flexible fuel which is any of the following:

(a) E-85 gasoline as provided in section 214A.2.

(b) B-20 biodiesel blended fuel as provided in section 214A.2.

(c) A renewable fuel approved by the office of renewable fuels and coproducts pursuant to section 159A.3.

(2) Compressed or liquefied natural gas.

(3) Propane gas.

(4) Solar energy.

(5) Electricity.

b. The provisions of this subsection do not apply to vehicles and trucks purchased and directly used for law enforcement or off-road maintenance work.

89 Acts, ch 297, §4; 91 Acts, ch 254, §15; 93 Acts, ch 26, §4; 94 Acts, ch 1119, §26; 94 Acts, ch 1199, §65; 98 Acts, ch 1119, §25; 98 Acts, ch 1164, §40; 2003 Acts, ch 145, §231; 2006 Acts, ch 1142, §63, 64; 2007 Acts, ch 22, §63; 2008 Acts, ch 1169, §38, 42

262.25B Purchase of biobased hydraulic fluids, greases, and other industrial lubricants.

The state board of regents and institutions under the control of the board purchasing hydraulic fluids, greases, and other industrial lubricants shall give preference to purchasing biobased hydraulic fluids, greases, and other industrial lubricants as provided in section 8A.316.

98 Acts, ch 1082, §5; 2000 Acts, ch 1109, §5; 2003 Acts, ch 145, §232; 2011 Acts, ch 25, §22

262.25C Purchase of designated biobased products.

The state board of regents and institutions under the control of the board purchasing products shall give preference to purchasing designated biobased products in the same manner as provided in section 8A.317.

2008 Acts, ch 1104, §5

262.26 Report of board.

The board shall report to the governor and the legislature such facts, observations, and conclusions respecting each of the institutions under its control as in the judgment of the board should be considered by the legislature. Such report shall contain an itemized account of the receipts and expenditures of the board, and also the reports made to the board by the executive officers of the several institutions or a summary thereof, and shall submit budgets for biennial appropriations deemed necessary and proper to be made for the support of the several institutions and for the extraordinary and special expenditures for buildings, betterments, and other improvements.

[R60, §1939; C73, §1600, 1601; C97, §2641, 2680; S13, §2641, 2680, 2682-u; C24, 27, 31, 35, 39, §3938; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §262.26]

2020 Acts, ch 1045, §13

Section amended

262.27 Colonel of cadets — governor's award.

1. The commandant and instructor of military science and tactics at each of the institutions for higher learning is given the rank of colonel of cadets, and the governor shall issue such commission upon the request of the president of such institution.

2. The governor of Iowa is hereby authorized to annually confer an appropriate award to

any outstanding reserve officer training corps cadet or cadets at each university. Such award shall be on behalf of the people of the state of Iowa.

[S13, §2644-c; C24, 27, 31, 35, 39, §3939; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §262.27]

262.28 Appropriations — monthly installments.

All appropriations made payable annually to each of the institutions under the control of the board of regents shall be paid in twelve equal monthly installments on the last day of each month on order of said board.

[S13, §2682-y; C24, 27, 31, 35, 39, §3940; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §262.28]

2014 Acts, ch 1135, §20; 2020 Acts, ch 1045, §14

Section amended

262.29 Expenses — filing and audit. Repealed by 2006 Acts, ch 1051, §10.

262.30 Contracts for practitioner preparation.

The board of directors of any school district in the state of Iowa may enter into contract with the state board of regents for furnishing instruction to pupils of such school district, and for practitioner preparation for the schools of the state in such particular lines of demonstration and instruction as are deemed necessary for the efficiency of the university of northern Iowa, state university of Iowa, and Iowa state university of science and technology as training schools for practitioners.

[C24, 27, 31, 35, 39, §3942; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §262.30]

2011 Acts, ch 34, §69

Referred to in §262.31, 262.32

262.31 Payment.

The contract for instruction under section 262.30 shall authorize the payment for services furnished to the school district, or for services furnished to the state, and the amount to be agreed upon by the state board of regents and the board of the school district thus cooperating.

[C24, 27, 31, 35, 39, §3943; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §262.31]

2020 Acts, ch 1063, §108

Section amended

262.32 Contract — time limit.

A contract for instruction under section 262.30 shall be in writing and shall extend over a period of not to exceed two years. A copy of the contract shall be filed in the office of the administrator of the area education agency.

[C24, 27, 31, 35, 39, §3944; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §262.32]

2020 Acts, ch 1063, §109

Section amended

262.33 Fire protection contracts.

The state board of regents shall have power to enter into contracts with the governing body of any city or other municipal corporation for the protection from fire of any property under the control of the board, located in any such municipal corporation or in territory contiguous thereto, upon such terms as may be agreed upon.

[C31, 35, §3944-d1; C39, §3944.1; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §262.33]

262.33A Fire and environmental safety — report — expenditures.

It is the intent of the general assembly that each institution of higher education under the control of the state board of regents shall, in consultation with the state fire marshal, identify and correct all critical fire and environmental safety deficiencies. Commencing July 1, 1993, each institution under the control of the state board of regents shall expend annually for fire safety and deferred maintenance at least the amount budgeted for these purposes for the

fiscal year beginning July 1, 1992, in addition to any moneys appropriated from the general fund for these purposes in succeeding years.

93 Acts, ch 179, §23; 2005 Acts, ch 179, §152

262.34 Improvements — advertisement for bids — disclosures — payments.

1. When the estimated cost of construction, repairs, or improvement of buildings or grounds under charge of the state board of regents, including construction, renovation, or repairs by a private party of a property to be lease-purchased by the board, exceeds one hundred thousand dollars, the board shall advertise for bids for the contemplated improvement or construction and shall let the work to the lowest responsible bidder. However, if in the judgment of the board bids received are not acceptable, the board may reject all bids and proceed with the construction, repair, or improvement by a method as the board may determine. All plans and specifications for repairs or construction, together with bids on the plans or specifications, shall be filed by the board and be open for public inspection. All bids submitted under this section shall be accompanied by a deposit of money, a certified check, or a credit union certified share draft in an amount as the board may prescribe.

2. Notwithstanding subsection 1, when a delay in undertaking a repair, restoration, or reconstruction of a public improvement might cause serious loss or injury at an institution under the control of the state board of regents, the executive director of the board, or the board, shall make a finding of the need to institute emergency procedures under this subsection. The board by separate action shall approve the emergency procedures to be employed.

3. A bidder awarded a contract shall disclose the names of all subcontractors, who will work on the project being bid, within forty-eight hours after the award of the contract. If a subcontractor named by a bidder awarded a contract is replaced, or if the cost of work to be done by a subcontractor is reduced, the bidder shall disclose the name of the new subcontractor or the amount of the reduced cost.

4. Payments made by the board for the construction of public improvements shall be made in accordance with the provisions of chapter 573 except that:

a. Payments may be made without retention until ninety-five percent of the contract amount has been paid. The remaining five percent of the contract amount shall be paid as provided in section 573.14, except that:

(1) At any time after all or any part of the work is substantially completed in accordance with paragraph “c”, the contractor may request the release of all or part of the retainage owed. Such request shall be accompanied by a waiver of claim rights under the provisions of chapter 573 from any person, firm, or corporation who has, under contract with the principal contractor or with subcontractors, performed labor, or furnished materials, service, or transportation in the construction of that portion of the work for which release of the retainage is requested.

(2) Upon receipt of the request, the board shall release all or part of the unpaid funds. Retainage that is approved as payable shall be paid at the time of the next monthly payment or within thirty days, whichever is sooner. If partial retainage is released pursuant to a contractor’s request, no retainage shall be subsequently held based on that portion of the work. If within thirty days of when payment becomes due the board does not release the retainage due, interest shall accrue on the retainage amount due as provided in section 573.14 until that amount is paid.

(3) If at the time of the request for the retainage there are remaining or incomplete minor items, an amount equal to two hundred percent of the value of each remaining or incomplete item, as determined by the board’s authorized contract representative, may be withheld until such item or items are completed.

(4) An itemization of the remaining or incomplete items, or the reason that the request for release of the retainage was denied, shall be provided to the contractor in writing within thirty calendar days of the receipt of the request for release of retainage.

b. For purposes of this section, “*authorized contract representative*” means the architect or engineer who is in charge of the project and chosen by the board to represent its interests,

or if there is no architect or engineer, then such other contract representative or officer as designated in the contract documents as the party representing the board's interest regarding administration and oversight of the project.

c. For purposes of this section, “*substantially completed*” means the first date on which any of the following occurs:

(1) Completion of the project or when the work has been substantially completed in general accordance with the terms and provisions of the contract.

(2) The work or the portion designated is sufficiently complete in accordance with the requirements of the contract so the board can occupy or utilize the work for its intended purpose.

(3) The project is certified as having been substantially completed by either of the following:

(a) The architect or engineer authorized to make such certification.

(b) The contracting authority representing the board.

5. The contractor shall release retained funds to the subcontractor or subcontractors in the same manner as retained funds are released to the contractor by the board. Each subcontractor shall pass through to each lower tier subcontractors all retained fund payments from the contractor.

[C24, 27, 31, 35, 39, §3945; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §262.34; 81 Acts, ch 28, §6]

84 Acts, ch 1055, §5; 90 Acts, ch 1161, §2; 2005 Acts, ch 179, §153; 2006 Acts, ch 1017, §24, 42, 43; 2009 Acts, ch 100, §7, 21; 2018 Acts, ch 1075, §6, 12, 13; 2018 Acts, ch 1172, §71, 72; 2019 Acts, ch 24, §35

Referred to in §262.56, 262A.4, 263A.2, 314.1

2018 amendment to subsection 1 applies to lease-purchase contracts entered into on or after April 4, 2018; 2018 Acts, ch 1075, §12, 13; 2018 Acts, ch 1172, §71, 72

262.34A Bid requests and targeted small business procurement.

1. The state board of regents shall request bids and proposals for materials, products, supplies, provisions, and other needed articles to be purchased at public expense, from Iowa state industries as defined in section 904.802, subsection 2, when the articles are available in the requested quantity and at comparable prices and quality.

2. Notwithstanding section 73.16, subsection 2, and due to the high volume of bids issued by the board and the need to coordinate bidding of three institutions of higher learning, the board shall issue electronic bid notices for distribution to the targeted small business internet site through internet links to each of the regents institutions.

3. Notwithstanding section 73.17, the board shall notify the director of the economic development authority of regents institutions' targeted small business purchases on an annual basis.

92 Acts, ch 1246, §38; 2006 Acts, ch 1051, §6; 2007 Acts, ch 207, §11, 18; 2011 Acts, ch 118, §85, 89

262.34B Student fee committee.

1. A student fee committee composed of five students and five university employees shall be established at each of the universities governed by the board as identified in section 262.7, subsections 1 through 3. The five student members of the student fee committee of each university shall be appointed by the recognized student government organization of each university. The five university employees shall be appointed by the president of the university.

2. The student fee committee shall consider any proposed student activity changes at the university and shall make recommendations concerning student activity fee changes to the president of the affected university for review no later than April 15 of the year which includes the subsequent academic period in which the proposed fee change will take effect. The student fee committee shall provide a copy of its recommendations to the recognized student government organizations at each university and those organizations may review the recommendations and provide comment to the president of the university and the state board of regents. The president of the university shall transmit the recommendations of the student fee committee and the president's endorsement or recommendation to the state

board of regents for consideration. The president of the university shall transmit a copy of the president's endorsement or recommendation to the recognized student government organizations for the university.

3. The state board of regents shall make the final decision on student activity fee changes. The state board of regents shall forward a copy of the committee's recommendations, the president's endorsement or recommendation, the recognized student government organization's comments, and its decision regarding student activity fee changes to the chairpersons and ranking members of the joint education appropriations subcommittee.

4. This section does not apply to fees charged for purposes of acquisition or construction of self-liquidating and revenue-producing buildings and facilities under sections 262.35 through 262.42, 262.44 through 262.53, and 262.55 through 262.66; or acquiring, purchasing, leasing, or constructing buildings and facilities under chapter 262A.

92 Acts, ch 1246, §39

SUBCHAPTER II DORMITORIES

262.35 Dormitories at state educational institutions.

The state board of regents is authorized to:

1. Erect from time to time at any of the institutions under its control such dormitories as may be required for the good of the institutions.

2. Rent the rooms in such dormitories to the students, officers, guests, and employees of said institutions at such rates as will insure a reasonable return upon the investment.

3. Exercise full control and complete management over such dormitories.

[C27, 31, 35, §3945-a1; C39, §3945.1; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §262.35]
Referred to in §262.34B, 262A.2

262.36 Purchase or condemnation of property.

The erection of such dormitories is a public necessity and said board is vested with full power to purchase or condemn at said institutions, or convenient thereto, all real estate necessary to carry out the powers herein granted.

[C27, 31, 35, §3945-a2; C39, §3945.2; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §262.36]
Referred to in §262.34B, 262.37, 262A.2

262.37 Title to property.

The title to all real estate acquired under section 262.36 and the improvements erected on that real estate shall be taken and held in the name of the state.

[C27, 31, 35, §3945-a3; C39, §3945.3; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §262.37]
2020 Acts, ch 1063, §110
Referred to in §262.34B, 262A.2
Section amended

262.38 Borrowing money and mortgaging property.

In carrying out the powers enumerated in this subchapter, the board may:

1. Borrow money.

2. Mortgage any real estate so acquired and the improvements erected thereon in order to secure necessary loans.

3. Pledge the rents, profits, and income received from any such property for the discharge of mortgages so executed.

[C27, 31, 35, §3945-a4; C39, §3945.4; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §262.38]
2020 Acts, ch 1063, §111
Referred to in §262.34B, 262A.2
Unnumbered paragraph 1 amended

262.39 Nature of obligation — discharge.

An obligation created under this subchapter shall never be nor become a charge against the state of Iowa but all such obligations, including principal and interest, shall be payable solely:

1. From the net rents, profits, and income arising from the property so pledged or mortgaged,
2. From the net rents, profits, and income which has not been pledged for other purposes arising from any other dormitory or like improvement under the control and management of said board, or
3. From the income derived from gifts and bequests made to the institutions under the control of said board for dormitory purposes.

[C27, 31, 35, §3945-a5; C39, §3945.5; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §262.39]
2020 Acts, ch 1063, §112
Referred to in §262.34B, 262.40, 262A.2
Unnumbered paragraph 1 amended

262.40 Limitation on discharging obligations.

In discharging obligations under section 262.39 the dormitories at each of said institutions shall be considered as a unit and the rents, profits, and income available for dormitory purposes at one institution shall not be used to discharge obligations created for dormitories at another institution.

[C27, 31, 35, §3945-a6; C39, §3945.6; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §262.40]
Referred to in §262.34B, 262A.2

262.41 Exemption from taxation.

All obligations created under this subchapter shall be exempt from taxation.

[C27, 31, 35, §3945-a7; C39, §3945.7; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §262.41]
2020 Acts, ch 1063, §113
Referred to in §262.34B, 262A.2, 422.7(2)(n)
Section amended

262.42 Limitation on funds.

State funds shall not be loaned or used for the purposes of this subchapter. This prohibition shall not apply to funds derived from the net earnings of dormitories owned by the state.

[C27, 31, 35, §3945-a8; C39, §3945.8; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §262.42]
2020 Acts, ch 1063, §114
Referred to in §262.34B, 262A.2
Section amended

SUBCHAPTER III

TUITION TO LOCAL SCHOOLS

262.43 Students residing on state-owned land.

The state board of regents shall pay to the local school boards the tuition payments and transportation costs, as otherwise authorized by statutes for the elementary or high school education of students residing on land owned by the state and under the control of the state board of regents. Such payments for the three institutions of higher learning, the state university of Iowa, the Iowa state university of science and technology, and the university of northern Iowa, shall be made from the funds of the respective institutions other than state appropriations, and for the two noncollegiate institutions, the Iowa braille and sight saving school and the Iowa school for the deaf, the payments and costs shall be paid from moneys appropriated to the state board of regents.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §262.43]
91 Acts, ch 267, §236; 2020 Acts, ch 1102, §14
Section amended

SUBCHAPTER IV

SELF-LIQUIDATING FACILITIES OTHER THAN DORMITORIES

262.44 Areas set aside for improvement.

The state board of regents is authorized to:

1. Set aside and use portions of the respective campuses of the institutions of higher education under its control, namely, the state university of Iowa, the Iowa state university of science and technology, and the university of northern Iowa, as the board determines are suitable for the acquisition or construction of self-liquidating and revenue producing buildings and facilities which the board deems necessary for the students and suitable for the purposes for which the institutions were established including without limitation:

a. Student unions, recreational buildings, auditoriums, stadiums, field houses, and athletic buildings and areas.

b. Parking structures and areas.

c. Electric, heating, sewage treatment, and communication utilities.

d. Research equipment.

e. Additions to or alterations of existing buildings or structures.

2. Acquire by any lawful means additional land deemed by the board to be desirable and suitable for any or all of the aforesaid purposes.

3. Construct, equip, furnish, maintain, operate, manage, and control any or all of the buildings, structures, facilities, areas, additions, or improvements hereinbefore enumerated.

[C62, 66, 71, 73, 75, 77, 79, 81, §262.44]

86 Acts, ch 1246, §126; 87 Acts, ch 233, §466, 467; 2015 Acts, ch 30, §91

Referred to in §262.34B, 262A.2, 265.3

262.45 Purchase or condemnation of real estate.

The erection of the buildings, improvements, and facilities for the educational institutions of higher learning in this state is a public necessity and the board is vested with full power to purchase or condemn at those institutions, or convenient to those institutions, all real estate necessary to carry out the powers herein granted.

[C62, 66, 71, 73, 75, 77, 79, 81, §262.45]

2020 Acts, ch 1063, §115

Referred to in §262.34B, 262A.2, 265.3

Section amended

262.46 Title in name of state.

The title to all real estate acquired under this subchapter and the improvements erected on that real estate shall be taken and held in the name of the state.

[C62, 66, 71, 73, 75, 77, 79, 81, §262.46]

2020 Acts, ch 1063, §116

Referred to in §262.34B, 262A.2, 265.3

Section amended

262.47 Fees and charges from students.

When in the opinion of the board of regents, any of the buildings, structures, facilities, property, improvements, equipment, additions or alterations as above authorized are deemed necessary by said board for the comfort, convenience and welfare of the student body as a whole, or for any specified class or part thereof, the board of regents shall have authority to charge and collect, from all students in attendance at the university, college or institution, or from any specified class or part thereof for which such facilities are so deemed necessary, fees and charges for the use and availability of such buildings, facilities, improvements and for the services and benefits made available therefrom. The fees and charges if established shall be applied to the costs of acquisition, construction, maintenance and financing of such improvements.

[C62, 66, 71, 73, 75, 77, 79, 81, §262.47]

Referred to in §262.34B, 262A.2, 265.3

262.48 Borrowing money and pledge of revenue.

In carrying out the powers enumerated in this subchapter, the board may:

1. Borrow money on the credit of the income and revenues to be derived from the operation or use of the building, structure, facility, area or improvement and from fees or charges made by said board to students for whom such facilities are made available and to issue notes, bonds, or other evidence of indebtedness in anticipation of the collection of such income, revenues, fees and charges.

2. Mortgage any real estate acquired under this subchapter and the improvements erected on that real estate in order to secure necessary loans.

3. Pledge the rents, profits and income received from any such property for the discharge of the indebtedness.

4. Pledge the proceeds of all fees and charges to students attending the institution for the use or availability of such buildings, structures, areas or facilities for the discharge of the indebtedness.

[C62, 66, 71, 73, 75, 77, 79, 81, §262.48]

2020 Acts, ch 1063, §117, 118

Referred to in §262.34B, 262A.2, 265.3

Unnumbered paragraph 1 amended

Subsection 2 amended

262.49 No obligation against state.

An obligation created under this subchapter shall never be nor become a charge against the state of Iowa but all such obligations, including principal and interest, shall be payable solely from any of the following:

1. The net rents, profits, and income arising from the property so pledged or mortgaged.

2. The net rents, profits, and income which has not been pledged for other purposes arising from any similar building, facility, area, or improvement under the control and management of said board.

3. The fees or charges established by said board for students attending the institution for the use or availability of the building, structure, area, facility, or improvement for which the obligation was incurred.

4. The income derived from gifts and bequests made to the institutions under the control of said board for such purposes.

[C62, 66, 71, 73, 75, 77, 79, 81, §262.49]

2015 Acts, ch 30, §92; 2020 Acts, ch 1063, §119

Referred to in §262.34B, 262.50, 262A.2, 265.3

Unnumbered paragraph 1 amended

262.50 Prohibited use of funds.

In discharging the obligations under section 262.49 the buildings, structures, areas, facilities and improvements at each of said institutions shall be considered as a unit and the rents, profits and other income available for such purposes at one institution shall not be used to discharge obligations created for similar purposes at another institution.

[C62, 66, 71, 73, 75, 77, 79, 81, §262.50]

Referred to in §262.34B, 262A.2, 265.3

262.51 Tax exemption.

All obligations created under this subchapter shall be exempt from taxation, together with the interest on the obligations.

[C62, 66, 71, 73, 75, 77, 79, 81, §262.51]

2020 Acts, ch 1063, §120

Referred to in §262.34B, 262A.2, 265.3, 422.7(2)(n)

Section amended

262.52 No state funds loaned.

State funds shall not be loaned for the purposes of this subchapter. This prohibition shall not apply to funds derived from the net earnings of buildings, structures, areas, and facilities owned by the state or to funds received from student fees or charges.

[C62, 66, 71, 73, 75, 77, 79, 81, §262.52]

2020 Acts, ch 1063, §121

Referred to in §262.34B, 262A.2, 265.3

Section amended

262.53 Construction of statutes.

This subchapter shall not be construed to repeal, modify or amend any law of this state now in force, but shall be deemed as supplemental thereto, nor shall it prevent the making of state appropriations, in whole or in part, for any of the purposes of this subchapter.

[C62, 66, 71, 73, 75, 77, 79, 81, §262.53]

2014 Acts, ch 1026, §143

Referred to in §262.34B, 262A.2, 265.3

SUBCHAPTER V COMPUTER SALES

262.54 Computer sales.

Sales, by an institution under the control of the board of regents, of computer equipment, computer software, and computer supplies to students and faculty at the institution are retail sales under chapter 423.

90 Acts, ch 1272, §67; 2003 Acts, 1st Ex, ch 2, §159, 205

SUBCHAPTER VI SELF-LIQUIDATING DORMITORIES

262.55 Definitions.

The following words or terms, as used in this subchapter, shall have the respective meanings as stated:

1. “*Board*” shall mean the state board of regents.
2. “*Bonds or notes*” shall mean revenue bonds or revenue notes which are payable solely and only from net rents, profits and income derived from the operation of residence halls, dormitories, facilities therefor and additions thereto.
3. “*Institution*” or “*institutions*” shall mean the state university of Iowa, the Iowa state university of science and technology and the university of northern Iowa.
4. “*Project*” shall mean the acquisition by purchase, lease or construction of buildings for use as student residence halls and dormitories, including dining and other incidental facilities therefor, and additions to such buildings, the reconstruction, completion, equipment, improvement, repair or remodeling of residence halls, dormitories, or additions thereto or facilities therefor, and the acquisition of property therefor of every kind and description, whether real, personal or mixed, by gift, purchase, lease, condemnation or otherwise and the improvement of the same.

[C66, 71, 73, 75, 77, 79, 81, §262.55]

2014 Acts, ch 1026, §143

Referred to in §262.34B, 262.56, 262A.2

262.56 Authorization — contracts — title.

Subject to and in accordance with the provisions of this subchapter the state board of regents is hereby authorized to undertake and carry out any project as defined in section 262.55 at the state university of Iowa, Iowa state university of science and technology, and the university of northern Iowa and to operate, control, maintain and manage student residence

halls and dormitories, including dining and other incidental facilities, and additions to such buildings at each of said institutions. All contracts for the construction, reconstruction, completion, equipment, improvement, repair or remodeling of any buildings, additions or facilities shall be let in accordance with the provisions of section 262.34. The title to all real estate acquired under the provisions of this subchapter and the improvements erected thereon shall be taken and held in the name of the state of Iowa. The board is authorized to rent the rooms in such residence halls and dormitories to the students, officers, guests and employees of said institutions at such rates, fees or rentals as will provide a reasonable return upon the investment, but which will in any event produce net rents, profits and income sufficient to insure the payment of the principal of and interest on all bonds or notes issued to pay any part of the cost of any project and refunding bonds or notes issued pursuant to the provisions of this subchapter.

[C66, 71, 73, 75, 77, 79, 81, §262.56]

2014 Acts, ch 1026, §143; 2018 Acts, ch 1026, §82

Referred to in §262.34B, 262A.2

262.57 Bonds or notes.

1. To pay all or any part of the cost of carrying out any project at any institution the board is authorized to borrow money and to issue and sell negotiable bonds or notes and to refund and refinance bonds or notes issued for any project or for refunding purposes at a lower rate, the same rate, or a higher rate or rates of interest and from time to time as often as the board shall find it to be advisable and necessary so to do. Such bonds or notes may be sold by the board at public sale in the manner prescribed by chapter 75, but if the board finds it to be advantageous and in the public interest to do so, such bonds or notes may be sold by the board at private sale without published notice of any kind and without regard to the requirements of chapter 75 in such manner and upon such terms as may be prescribed by the resolution authorizing the same. Bonds or notes issued to refund other bonds or notes issued by the board for residence hall or dormitory purposes at any institution, including dining or other facilities and additions, or issued for refunding purposes, may either be sold in the manner specified in this subchapter and the proceeds thereof applied to the payment of the obligations being refunded, or the refunding bonds or notes may be exchanged for and in payment and discharge of the obligations being refunded, and a finding by the board in the resolution authorizing the issuance of such refunding bonds or notes that the bonds or notes being refunded were issued for a purpose specified in this subchapter and constitute binding obligations of the board shall be conclusive and may be relied upon by any holder of any refunding bond or note issued under the provisions of this subchapter. The refunding bonds or notes may be sold or exchanged in installments at different times or an entire issue or series may be sold or exchanged at one time. Any issue or series of refunding bonds or notes may be exchanged in part or sold in parts in installments at different times or at one time. The refunding bonds or notes may be sold or exchanged at any time on, before, or after the maturity of any of the outstanding notes, bonds, or other obligations to be refinanced thereby and may be issued for the purpose of refunding a like or greater principal amount of bonds or notes, except that the principal amount of the refunding bonds or notes may exceed the principal amount of the bonds or notes to be refunded to the extent necessary to pay any premium due on the call of the bonds or notes to be refunded or to fund interest in arrears or about to become due.

2. All bonds or notes issued under the provisions of this subchapter shall be payable solely and only from and shall be secured by an irrevocable pledge of a sufficient portion of the net rents, profits, and income derived from the operation of residence halls, dormitories, dining or other incidental facilities and additions, including necessary real and personal property, acquired or improved in whole or in part with the proceeds of such bonds or notes, regardless of the manner of such acquisition or improvement, and the net rents, profits, and income not pledged for other purposes derived from the operation of any other residence halls or dormitories, including dining or other incidental facilities and additions, at the particular

institution. All bonds or notes issued under the provisions of this subchapter shall have all the qualities of negotiable instruments under the laws of this state.

[C66, 71, 73, 75, 77, 79, 81, §262.57]

2005 Acts, ch 179, §154; 2014 Acts, ch 1026, §72; 2015 Acts, ch 30, §93; 2019 Acts, ch 59, §75

Referred to in §262.34B, 262A.2

262.58 Rates and terms of bonds or notes.

Such bonds or notes may bear such date or dates, may bear interest at such rate or rates, payable semiannually, may mature at such time or times, may be in such form, carry such registration privileges, may be payable at such place or places, may be subject to such terms of redemption prior to maturity with or without premium, if so stated on the face thereof, and may contain such terms and covenants all as may be provided by the resolution of the board authorizing the issuance of the bonds or notes. In addition to the estimated cost of construction, the cost of the project shall be deemed to include interest upon the bonds or notes during construction and for six months after the estimated completion date, the compensation of a fiscal agent or adviser, and engineering, administrative and legal expenses. Such bonds or notes shall be executed by the president of the state board of regents and attested by the executive director of the state board of regents, secretary, or other official thereof performing the duties of the executive director of the state board of regents, and the coupons thereto attached shall be executed with the original or facsimile signatures of said president, executive director, secretary, or other official. Any bonds or notes bearing the signatures of officers in office on the date of the signing thereof shall be valid and binding for all purposes, notwithstanding that before delivery thereof any or all such persons whose signatures appear thereon shall have ceased to be such officers. Each such bond or note shall state upon its face the name of the institution on behalf of which it is issued, that it is payable solely and only from the net rents, profits and income derived from the operation of residence halls or dormitories, including dining and other incidental facilities, at such institution as hereinbefore provided, and that it does not constitute a charge against the state of Iowa within the meaning or application of any constitutional or statutory limitation or provision. The issuance of such bonds or notes shall be recorded in the office of the treasurer of the institution on behalf of which the same are issued, and a certificate by such treasurer to this effect shall be printed on the back of each such bond or note.

[C66, 71, 73, 75, 77, 79, 81, §262.58]

2006 Acts, ch 1051, §7; 2007 Acts, ch 126, §49

Referred to in §262.34B, 262A.2

262.59 Refunding.

Upon the determination by the state board of regents to undertake and carry out any project or to refund outstanding bonds or notes, said board shall adopt a resolution describing generally the contemplated project and setting forth the estimated cost thereof, or describing the obligations to be refunded, fixing the amount of bonds or notes to be issued, the maturity or maturities, the interest rate or rates and all details in respect thereof. Such resolution shall contain such covenants as may be determined by the board as to the issuance of additional bonds or notes that may thereafter be issued payable from the net rents, profits and income of the residence halls or dormitories, the amendment or modification of the resolution authorizing the issuance of any bonds or notes, the manner, terms and conditions and the amount or percentage of assenting bonds or notes necessary to effectuate such amendment or modification, and such other covenants as may be deemed necessary or desirable. In the discretion of the board any bonds or notes issued under the terms of this subchapter may be secured by a trust indenture by and between the board and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the boundaries of the state of Iowa, but no such trust indenture shall convey or mortgage the buildings or facilities or any part thereof. The provisions of this subchapter and of any resolution or other proceedings authorizing the issuance of bonds or notes and providing for the establishment and maintenance of adequate rates, fees

or rentals and the application of the proceeds thereof shall constitute a contract with the holders of such bonds or notes.

[C66, 71, 73, 75, 77, 79, 81, §262.59]

2014 Acts, ch 1026, §143

Referred to in §262.34B, 262A.2

262.60 Rates, fees and rentals — pledge.

Whenever bonds or notes are issued by the state board of regents, it shall be the duty of said board to establish, impose and collect rates, fees or rentals for the use of and services provided by the residence halls and dormitories, including dining and other incidental facilities therefor, at the institution on behalf of which such bonds or notes are issued, and to adjust such rates, fees or rentals from time to time, in order to always provide net amounts sufficient to pay the principal of and interest on such bonds or notes as the same become due and to maintain a reserve therefor, and said board is authorized to pledge a sufficient amount of the net rents, profits and income derived from the operation of residence halls and dormitories, including dining and other facilities therefor, at such institution for this purpose. Rates, fees or rentals collected at one institution shall not be used to discharge bonds or notes issued for or on account of another institution. All bonds or notes issued under the terms of this subchapter shall be exempt from taxation by the state of Iowa and the interest thereon shall be exempt from the state income tax.

[C66, 71, 73, 75, 77, 79, 81, §262.60]

2014 Acts, ch 1026, §143

Referred to in §262.34B, 262A.2, 422.7(2)(n)

262.61 Accounts.

1. A certified copy of each resolution providing for the issuance of bonds or notes under this subchapter shall be filed with the treasurer of the institution on behalf of which the bonds or notes are issued and it shall be the duty of said treasurer to keep and maintain separate accounts for each issue of bonds or notes in accordance with the covenants and directions set out in the resolution providing for the issuance thereof. All rates, fees or rentals collected for the use of and services provided by the residence halls and dormitories, including dining and other incidental facilities therefor, at each institution shall be held in trust by the treasurer thereof, separate and apart from all other funds, to be used solely and only for the purposes specified in this subchapter and as may be required and provided for by the proceedings of the board authorizing the issuance of bonds or notes. It shall be the duty of the treasurer of each institution to disburse funds from the proper account for the payment of the principal of and interest on the bonds or notes in accordance with the directions and covenants of the resolution authorizing the issuance thereof.

2. If the amount of bonds or notes issued under this chapter exceeds the actual costs of the projects for which the bonds or notes were issued, the amount of the difference shall be used to pay the principal and interest due on bonds or notes issued under this chapter.

[C66, 71, 73, 75, 77, 79, 81, §262.61]

87 Acts, ch 233, §468; 2014 Acts, ch 1026, §73

Referred to in §262.34B, 262A.2

262.62 No obligation against state.

Under no circumstances shall any bonds or notes issued under the terms of this subchapter be or become or be construed to constitute a charge against the state of Iowa within the purview of any constitutional or statutory limitation or provision. No taxes, appropriations or other funds of the state of Iowa may be pledged for or used to pay such bonds or notes or the interest thereon but any such bonds or notes shall be payable solely and only as to both principal and interest from the net rents, profits and income derived from the operation of residence halls and dormitories, including dining and other incidental facilities therefor, at the institutions of higher learning under the control of the state board of regents as hereinbefore provided, and the sole remedy for any breach or default of the terms of any such bonds or notes or proceedings for their issuance shall be a proceeding either in law or in equity by

suit, action or mandamus to enforce and compel performance of the duties required by this subchapter and the terms of the resolution under which such bonds or notes are issued.

[C66, 71, 73, 75, 77, 79, 81, §262.62]

2014 Acts, ch 1026, §143

Referred to in §262.34B, 262A.2

262.63 Who may invest.

All banks, trust companies, savings associations, investment companies, and other persons carrying on an investment business, all insurance companies, insurance associations, and other persons carrying on an insurance business, and all executors, administrators, guardians, trustees, and other fiduciaries may legally invest any sinking funds, moneys, or other funds belonging to them or within their control in any bonds or notes issued pursuant to this subchapter; provided, however, that nothing contained in this section may be construed as relieving any persons from any duty of exercising reasonable care in selecting securities for purchase or investment.

[C66, 71, 73, 75, 77, 79, 81, §262.63]

2012 Acts, ch 1017, §68; 2014 Acts, ch 1026, §143

Referred to in §262.34B, 262A.2

262.64 Federal or other aid accepted.

The state board of regents is authorized to apply for and accept federal aid or nonfederal gifts or grants of funds and to use the same to pay all or any part of the cost of carrying out any project at any institution under the terms of this subchapter or to pay any bonds and interest thereon issued for any of the purposes specified in this subchapter.

[C66, 71, 73, 75, 77, 79, 81, §262.64]

2014 Acts, ch 1026, §143

Referred to in §262.34B, 262A.2

262.64A Reports to general assembly. Repealed by 2005 Acts, ch 179, §160.

262.65 Alternative method.

This subchapter shall be construed as providing an alternative and independent method for carrying out any project at any institution of higher learning under the control of the state board of regents, for the issuance and sale or exchange of bonds or notes in connection therewith and for refunding bonds or notes pertinent thereto, without reference to any other statute, and shall not be construed as an amendment of or subject to the provisions of any other law, and no publication of any notice, whether under section 73A.12 or otherwise, and no other or further proceeding in respect to the issuance or sale or exchange of bonds or notes under this subchapter, shall be required except such as are prescribed by this subchapter, any provisions of other statutes of the state to the contrary notwithstanding.

[C66, 71, 73, 75, 77, 79, 81, §262.65]

2014 Acts, ch 1026, §143

Referred to in §262.34B, 262A.2

262.66 Prior action legalized.

All rights acquired prior to April 29, 1963, in connection with the financing of any project at any institution are hereby preserved and all acts and proceedings taken by the board preliminary to and in connection with the authorization and issuance of any notes or other obligations for any project issued and outstanding prior to April 29, 1963, are hereby legalized, validated, and confirmed and said notes or obligations are hereby declared to be legal and to constitute valid and binding obligations of the board according to their terms and payable solely and only from the sources referred to in the notes or obligations.

[C66, 71, 73, 75, 77, 79, 81, §262.66]

2019 Acts, ch 59, §76

Referred to in §262.34B, 262A.2

SUBCHAPTER VII
EASEMENTS

262.67 Approval of executive council. Repealed by 2005 Acts, ch 179, §160. See §262.9(8).

SUBCHAPTER VIII
SPEED LIMITS

262.68 Speed limit on institutional grounds.

1. The maximum speed limit of all vehicles on institutional roads at institutions under the control of the state board of regents shall be forty-five miles per hour. All driving shall be confined to driveways designated by the state board.

2. Whenever the state board shall determine that the speed limit set forth in subsection 1 is greater than is reasonable or safe under the conditions found to exist at any place of congestion or upon any part of its institutional roads, the board shall determine and declare a reasonable and safe speed limit, which shall be effective when appropriate signs giving notice of the speed limit are erected at such places of congestion or other parts of its institutional roads.

3. Any person violating the speed limits established in subsections 1 and 2 shall be guilty of a simple misdemeanor.

[C66, 71, 73, 75, 77, 79, 81, §262.68]

2020 Acts, ch 1063, §122

Referred to in §321.285

Section amended

262.69 Traffic control and parking.

1. The state board of regents may make such rules as it deems necessary and proper to provide for the policing, control, and regulation of traffic and parking of vehicles and bicycles on the property of any institution under its control. The rules may provide for the use of institutional roads, driveways, and grounds, registration of vehicles and bicycles, the designation of parking areas, the erection and maintenance of signs designating prohibitions or restrictions, the installation and maintenance of parking control devices, and assessment, enforcement, and collection of reasonable sanctions for the violation of the rules.

2. Any rules made pursuant to this section may be enforced under procedures adopted by the board for each institution under its control. Sanctions may be imposed upon students, faculty, and staff for violation of the rules, including but not limited to a reasonable monetary sanction which may be deducted from student deposits and faculty or staff salaries or other funds in the possession of the institution, or added to student tuition bills. The rules made pursuant to this section may also be enforced by the impoundment of vehicles and bicycles parked in violation of the rules, and a reasonable fee may be charged for the cost of impoundment and storage, prior to the release of the vehicles and bicycles to their owners. Each institution under the control of the board shall establish procedures for the determination of controversies in connection with imposition of sanctions. The procedures shall require giving notice of the violation and the sanction involved and provide an opportunity for an administrative hearing. Judicial review of the administrative ruling may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A.

3. Notwithstanding the provisions of chapter 17A, a proceeding conducted by the state board of regents or an institution governed by the state board of regents to determine the validity of an assessment of a violation of traffic control and parking rules is not a contested case as defined in section 17A.2, subsection 5.

[C73, 75, 77, 79, 81, §262.69; 82 Acts, ch 1141, §1]

2003 Acts, ch 44, §114; 2017 Acts, ch 54, §76

SUBCHAPTER IX
MENTAL HEALTH PROGRAMS

262.70 Education, prevention, and research programs in mental health and disability services.

The division of mental health and disability services of the department of human services may contract with the board of regents or any institution under the board's jurisdiction to establish and maintain programs of education, prevention, and research in the fields of mental health, intellectual disability, developmental disabilities, and brain injury. The board may delegate responsibility for these programs to the state psychiatric hospital, the university hospital, or any other appropriate entity under the board's jurisdiction.

[81 Acts, ch 78, §20, 46]

94 Acts, ch 1170, §51; 2006 Acts, ch 1115, §31; 2012 Acts, ch 1019, §111

SUBCHAPTER X
EARLY DEVELOPMENT EDUCATION

262.71 Center for early development education.

The board of regents shall develop a center for early development education at one of the regents institutions specified in section 262.7, subsections 1 through 3. The center's programs shall be conducted in a laboratory school setting to serve as a model for early childhood education. The programs shall include, but not be limited to, programs designed to accommodate the needs of at-risk children. The teacher education programs at all three state universities shall cooperate in developing the center and its programs. The center's programs shall take a holistic approach and the center shall, in developing its programs, consult with representatives from each of the following agencies, institutions, or groups:

1. The university of northern Iowa.
2. Iowa state university.
3. The university of Iowa.
4. The division of child and family services of the department of human services.
5. The department of public health.
6. The department of human services.
7. An early childhood development specialist from an area education agency.
8. A parent of a child in a head start program.
9. The department of education.
10. The child development coordinating council.

88 Acts, ch 1114, §3; 91 Acts, ch 109, §7

262.72 through 262.74 Reserved.

SUBCHAPTER XI
TEACHER EDUCATION PROGRAMS — INCENTIVES

262.75 Incentives for cooperating teachers.

1. A cooperating teacher incentive program is established to encourage experienced teachers to serve as cooperating teachers for student teachers enrolled in the institutions of higher education under the control of the board.

2. An individual who submits evidence to an institution that the individual has satisfactorily served as a cooperating teacher for a student teacher from any of the institutions of higher education under the control of the board for the duration of the student teaching experience shall receive from the institution either a monetary recompense or a

reduction in tuition for graduate hours of coursework equivalent to the value of the monetary recompense, rounded to the nearest whole credit hour.

a. If, because of a policy adopted by the board of directors employing the teacher, the amount of the monetary recompense is not made available to the teacher for the teacher's own personal use or the salary paid to the cooperating teacher by the employing board is correspondingly reduced, the institution shall grant the teacher the reduction in tuition pursuant to this section in lieu of the monetary recompense.

b. In lieu of the payment of monetary recompense to a cooperating teacher, the cooperating teacher may direct that the monetary recompense be paid by the institution directly into a scholarship fund which has been established jointly by the board of directors of the school district that employs the teacher and the local teachers' association. In such cases, the cooperating teacher shall receive neither monetary recompense nor any reduction in tuition at the institution.

88 Acts, ch 1266, §4; 95 Acts, ch 173, §1; 2018 Acts, ch 1041, §70

262.76 and 262.77 Reserved.

SUBCHAPTER XII

AGRICULTURAL HEALTH AND SAFETY

262.78 Center for agricultural health and safety.

1. The board of regents shall establish a center for agricultural health and safety at the university of Iowa. The center shall be a joint venture by the university of Iowa and Iowa state university of science and technology. The center shall establish farm health and safety programs designed to reduce the incidence of disabilities suffered by persons engaged in agriculture which results from disease or injury. The university of Iowa is primarily responsible for the management of agricultural health and injury programs at the center. Iowa state university of science and technology is primarily responsible for the management of the agricultural safety programs of the center.

2. The center shall cooperate with the center for rural health and primary care, established under section 135.107, the center for health effects of environmental contamination established pursuant to section 263.17, and the department of agriculture and land stewardship. The agencies shall coordinate programs to the extent practicable.

3. The president of the university of Iowa, in consultation with the president of Iowa state university of science and technology, shall employ a full-time director of the center. The center may employ staff to carry out the center's purpose. The director shall coordinate the agricultural health and safety programs of the center. The director shall regularly meet and consult with the center for rural health and primary care. The director shall provide the board of regents with relevant information regarding the center.

4. The center may solicit, accept, and administer moneys contributed to the center by any source, and may enter into contracts with public or private agencies in order to carry out its purposes.

5. The center shall cooperate with public and private entities to provide support to programs emphasizing agricultural health, safety, and rehabilitation for farm families.

90 Acts, ch 1207, §3; 2005 Acts, ch 179, §155; 2019 Acts, ch 85, §71

Referred to in §135.107, 263.17

262.79 and 262.80 Reserved.

SUBCHAPTER XIII

REGENTS' MINORITY AND WOMEN EDUCATORS ENHANCEMENT

262.81 Legislative intent.

The general assembly recognizes that educational programs designed to enhance the interrelation and cooperation among cultural, racial, and ethnic groups in society require the contribution and active participation of all ethnic and racial groups. The general assembly also recognizes that failure to include minority representation at the faculty level at the state universities contributes to cultural, racial, and ethnic isolation of minority students and does not reflect the realities of a multicultural and diverse society. Therefore, the "Regents' Minority and Women Educators Enhancement" program is established to assist in the recruitment and retention of faculty that more adequately represents the diverse cultural, racial, and ethnic makeup of society and to improve the education of all students.

89 Acts, ch 319, §61

262.82 Regents' minority and women educators enhancement program.

1. The board of regents shall establish a program to recruit minority educators to faculty positions in the universities under the board's control. The program shall include but is not limited to the creation of faculty positions in all areas of academic pursuit.

2. The board of regents shall also establish a program to create faculty opportunities for women educators at the universities under the board's control. The program shall include but is not limited to the creation of faculty positions in targeted shortage areas. The board of regents shall also develop and implement, in consultation with appropriate faculty representatives, tenure, promotion, and hiring policies that recognize the unique needs of faculty members who are principal caregivers to dependents.

3. As used in this section, "*minority educator*" means an educator who is a minority person as defined in section 261.102.

89 Acts, ch 319, §62; 2017 Acts, ch 54, §76

Referred to in §262.93

262.83 through 262.90 Reserved.

SUBCHAPTER XIV

COLLEGE-BOUND PROGRAM

262.91 Legislative intent.

The general assembly recognizes that universities must provide an environment that enables all students to have an equal opportunity to succeed. The general assembly also recognizes that, because of inequalities in educational preparation, economic factors, and social circumstances, not all young Iowans have the same degree of access to Iowa's higher education system. The general assembly further acknowledges that an early intervention system using public school districts, community agencies, and other state institutions can be useful in preparing young students to succeed in college. Therefore, the "College-bound" program is established to ensure that the state's universities and students' local communities become involved early in a student's life by promoting and informing students about the opportunities in higher education, so that lack of adequate personal resources is not a barrier to attending college for young Iowans.

89 Acts, ch 319, §63

262.92 College-bound program.

1. The board of regents shall establish or contract to establish college-bound programs to provide Iowa minority students with information and experiences relating to opportunities offered at the regents' universities. Programs developed may include, but are not limited to, the following elements:

a. Reinforcement of efforts to attract undergraduate students from age groups currently served by traditional methods of outreach which use high school and community college services.

b. Extension of traditional student recruitment methods which are designed to encourage minority students in grades seven through twelve to pursue postsecondary academic courses of study.

c. Identification, at each of the regents' universities, of courses of study to be targeted for the recruitment of minority students.

d. Offerings at the regents' universities of innovative programs, which are experience oriented, for families with minority children.

2. The board of regents shall establish a voucher program for students in grades seven through twelve. Vouchers may be obtained by any qualified secondary student at any regents' university upon completion of a college-bound program provided under subsection 1. Students may receive one voucher for each program. One or more vouchers entitle a student to priority over other persons applying for grants under the Iowa minority academic grants for economic success program established in section 261.101. Vouchers shall be submitted with the grant application within one year after a student graduates from high school at any higher education institution which offers grants under the Iowa minority academic grants for economic success program. Vouchers earned can only be used by the person who participated in the college-bound voucher program and are not transferable. Vouchers issued by a university under this program shall be signed by the president of the university.

3. The board of regents shall adopt rules to establish program guidelines for the universities under the board's control and for the administration and coordination of program efforts. Rules adopted shall include methods of recording data relating to voucher recipients and making the data available to the college student aid commission.

89 Acts, ch 319, §64

Referred to in §261.103, 261.104, 262.93

SUBCHAPTER XV

REPORTS

262.93 Reports to general assembly.

The college student aid commission and the state board of regents each shall submit to the general assembly, by January 15 of each year, a report on the progress and implementation of the programs which they administer under sections 261.102 through 261.105 and 262.92. By January 31 of each year, the state board of regents shall submit a report to the general assembly regarding the progress and implementation of the program administered pursuant to section 262.82. The reports shall include but are not limited to the numbers of students and educators participating in the programs and allocation of funds appropriated for the programs.

89 Acts, ch 319, §65; 2010 Acts, ch 1183, §26; 2012 Acts, ch 1138, §118

SUBCHAPTER XVI

COLLEGE READINESS AND AWARENESS PROGRAMS

262.94 College readiness and awareness programs.

The state board of regents may establish or contract to establish programs designed to increase college readiness and college awareness in potential first-generation college students and underrepresented populations. The programs may include but shall not be limited to college go center programs and science bound programs.

2012 Acts, ch 1119, §28

262.95 through 262.99 Reserved.

SUBCHAPTER XVII
 INNOVATIVE SCHOOL CALENDAR PILOT PROJECT

262.100 Innovative school calendar pilot program — school for the deaf. Repealed by its own terms; 2002 Acts, ch 1171, §86.

CHAPTER 262A
 UNIVERSITY BUILDINGS, FACILITIES,
 AND SERVICES — REVENUE BONDS

Referred to in §8.57, 262.9, 262.34B

<p>262A.1 Declaration of insufficient state revenue.</p> <p>262A.2 Definitions.</p> <p>262A.3 Five-year program and two-year bond proposal submitted each year. Repealed by 2005 Acts, ch 179, §160.</p> <p>262A.4 Authorization of general assembly and governor.</p> <p>262A.5 Borrowing money and issuing bonds.</p> <p>262A.6 Form and condition of bonds.</p>	<p>262A.6A Iowa college super savings plan. Repealed by 2005 Acts, ch 179, §160.</p> <p>262A.7 Resolution of board and covenants undertaken.</p> <p>262A.8 Student fees to pay bonds.</p> <p>262A.9 Bond fund account.</p> <p>262A.10 Bonds not state obligation.</p> <p>262A.11 Bonds as security for investments.</p> <p>262A.12 Application for gifts, loans, or grants.</p> <p>262A.13 Reports to general assembly.</p> <p>262A.14 Alternative and independent method.</p>
--	--

262A.1 Declaration of insufficient state revenue.

The general assembly hereby determines that the annual revenues of the state are insufficient to finance the immediate building requirements and other facilities and utilities services requirements of the institutions of higher learning under the jurisdiction of the state board of regents and in order to provide these buildings, facilities and utilities services when they are needed, it is necessary to authorize the issuance of revenue bonds by the state board of regents, subject to the restrictions and limitations hereinafter set forth. It is the intent of the general assembly that revenue bonds issued for academic and administrative buildings and facilities and utilities services shall supplement and not supplant legislative appropriations for the same or similar purposes.

[C71, 73, 75, 77, 79, 81, §262A.1]

262A.2 Definitions.

The following words or terms, as used in this chapter, shall have the respective meanings as stated:

1. “Board” shall mean the state board of regents.
2. “Bonds” shall mean revenue bonds which are payable solely and only from student fees and charges and institutional income received by the institution at which the project is being undertaken.
3. “Buildings and facilities” shall mean those academic buildings and other facilities used primarily for instructional and research purposes, including libraries, and such other administrative and service buildings and facilities as are deemed necessary by the board to provide supporting services to the instructional and research programs and activities of the institutions, including, without limiting the generality of the foregoing, administrative offices, facilities for business services, auditoriums and concert halls, student services

and extension and continuing education services, off-street parking areas and structures incidental to other buildings and facilities which are not primarily for parking purposes, garages, and storage and warehouse facilities, or any combination thereof. This phrase shall also include works and facilities deemed necessary by the board for furnishing utilities services to any buildings or structures operated by the institutions, including, without limiting the generality of the foregoing, water, electric, gas, communications, sewer and heating facilities, together with all necessary structures, buildings, tunnels, lines, reservoirs, mains, filters, pipes, sewers, boilers, generators, fixtures, wires, poles, equipment, treatment facilities and all other appurtenances in connection therewith, or any combination of the foregoing.

4. “*Institution*” or “*institutions*” shall mean the state university of Iowa, the Iowa state university of science and technology, the university of northern Iowa, and any other institution of higher learning under the jurisdiction of the state board of regents which offers a college program of four years or more, including any such institution the creation of which is hereafter authorized by the general assembly or which is placed under the jurisdiction of said board.

5. “*Institutional income*” shall mean income received by an institution from sources other than the following:

a. Student fees and charges.

b. Rates, fees, rentals, or charges imposed and collected under the provisions of sections 262.35 through 262.42, sections 262.44 through 262.53, and sections 262.55 through 262.66.

c. State appropriations.

d. “*Hospital income*”, as that term is defined in section 263A.1.

6. “*Project*” shall mean the acquisition by gift, purchase, lease, or construction of buildings and facilities which are deemed necessary by the board for the proper performance of the instructional, research and service functions of the institutions, and additions to buildings and facilities, the reconstruction, completion, equipment, improvement, repair or remodeling of buildings and facilities, including the demolition of existing buildings and facilities which are to be replaced, the acquisition of air rights and the construction of projects thereon, and the acquisition of property of every kind and description, whether real, personal or mixed, for buildings and facilities by gift, purchase, lease, condemnation or otherwise and the improvement of the same, or any combination of the foregoing.

7. “*Student fees and charges*” shall mean all tuitions, fees, and charges for general or special purposes levied against and collected from students attending the institutions except rates, fees, rentals, or charges imposed and collected under any of the following provisions:

a. Sections 262.35 through 262.42.

b. Sections 262.44 through 262.53.

c. Sections 262.55 through 262.66.

[C71, 73, 75, 77, 79, 81, §262A.2]

2009 Acts, ch 101, §1; 2010 Acts, ch 1061, §46; 2015 Acts, ch 30, §94

Referred to in §262.9

262A.3 Five-year program and two-year bond proposal submitted each year. Repealed by 2005 Acts, ch 179, §160.

262A.4 Authorization of general assembly and governor.

Subject to and in accordance with the provisions of this chapter, the state board of regents after authorization by a constitutional majority of each house of the general assembly and approval by the governor may undertake and carry out any project as defined in this chapter at the institutions now or hereafter under the jurisdiction of the board. The state board of regents is authorized to operate, control, maintain, and manage buildings and facilities and additions to such buildings and facilities at each of said institutions. All contracts for the construction, reconstruction, completion, equipment, improvement, repair or remodeling of any buildings, additions, or facilities shall be let in accordance with the provisions of section

262.34. The title to all real estate acquired under the provisions of this chapter and the improvements erected thereon shall be taken and held in the name of the state of Iowa.

[C71, 73, 75, 77, 79, 81, §262A.4]

Referred to in §3.7

262A.5 Borrowing money and issuing bonds.

The board is authorized to borrow money under this chapter, and the board may issue and sell negotiable bonds to pay all or any part of the cost of carrying out any project at any institution and may refund and refinance bonds issued for any project or for refunding purposes at the same rate or at a higher or lower rate or rates of interest. Bonds issued under the provisions of this chapter shall be sold by said board at public sale on the basis of sealed proposals received pursuant to a notice specifying the time and place of sale and the amount of bonds to be sold which shall be published at least once not less than seven days prior to the date of sale in a newspaper published in the state of Iowa and having a general circulation in said state. The provisions of chapter 75 shall apply to bonds issued under authority contained in this chapter to the extent not in conflict with this chapter. Bonds issued to refund other bonds issued under the provisions of this chapter may either be sold in the manner hereinbefore specified and the proceeds thereof applied to the payment of the obligations being refunded, or the refunding bonds may be exchanged for and in payment and discharge of the obligations being refunded. The refunding bonds may be sold or exchanged in installments at different times or an entire issue or series may be sold or exchanged at one time. Any issue or series of refunding bonds may be exchanged in part or sold in parts in installments at different times or at one time. The refunding bonds may be sold or exchanged at any time on, before, or after the maturity of any of the outstanding bonds or other obligations to be refinanced thereby and may be issued for the purpose of refunding a like or greater principal amount of bonds, except that the principal amount of the refunding bonds may exceed the principal amount of the bonds to be refunded to the extent necessary to pay any premium due on the call of the bonds to be refunded or to fund interest in arrears or which is to become due.

All bonds issued under the provisions of this chapter shall be payable solely and only from and shall be secured by an irrevocable pledge of a sufficient portion of the student fees and charges and institutional income received by the particular institution. All bonds issued under the provisions of this chapter shall have all the qualities of a negotiable investment security under the laws of this state.

[C71, 73, 75, 77, 79, 81, §262A.5]

86 Acts, ch 1246, §128; 2005 Acts, ch 179, §156

262A.6 Form and condition of bonds.

Such bonds may bear such date or dates, may bear interest at such rate or rates, payable semiannually, may mature at such time or times, may be in such form and denominations, may carry such registration privileges, may be payable at such place or places, may be subject to such terms of redemption prior to maturity with or without premium, if so stated on the face thereof, and may contain such terms and covenants, including the establishment of reserves, all as may be provided by the resolution of the board authorizing the issuance of the bonds. In addition to the estimated cost of construction, including site costs, the cost of the project may include interest upon the bonds during construction and for six months after the estimated completion date, the compensation of a fiscal agent or adviser, engineering, architectural, administrative and legal expenses and provision for contingencies. Such bonds shall be executed by the president of the state board of regents and attested by the executive director, secretary or other official thereof performing the duties of executive director, and the coupons thereto attached shall be executed with the original or facsimile signatures of said president, executive director, secretary or other official; provided, however, that the facsimile signature of either of such officers executing such bonds may be imprinted on the face of the bonds in lieu of the manual signature of such officer, but at least one of the signatures appearing on the face of each bond shall be a manual signature. Any bonds bearing the signatures of officers in office on the date of the signing thereof shall

be valid and binding for all purposes, notwithstanding that before delivery thereof any or all such persons whose signatures appear thereon shall have ceased to be such officers. Each such bond shall state upon its face the name of the institution on behalf of which it is issued, that it is payable solely and only from the student fees and charges and institutional income received by such institution as hereinbefore provided, and that it does not constitute a debt of or charge against the state of Iowa within the meaning or application of any constitutional or statutory limitation or provision. The issuance of such bonds shall be recorded in the office of the treasurer of the institution on behalf of which the same are issued, and a certificate by such treasurer to this effect shall be printed on the back of each such bond.

[C71, 73, 75, 77, 79, 81, §262A.6]

2006 Acts, ch 1051, §8

262A.6A Iowa college super savings plan. Repealed by 2005 Acts, ch 179, §160.

262A.7 Resolution of board and covenants undertaken.

Upon the determination by the state board of regents to undertake and carry out any project or to refund outstanding bonds, said board shall adopt a resolution describing generally the contemplated project and setting forth the estimated cost thereof, or describing the obligations to be refunded, fixing the amount of bonds to be issued, the maturity or maturities, the interest rate or rates and all details in respect thereof. Such resolution shall contain such covenants as may be determined by the board as to the issuance of additional bonds that may thereafter be issued payable from the student fees and charges and institutional income received by the particular institution, the amendment or modification of the resolution authorizing the issuance of any bonds, the manner, terms, and conditions and the amount or percentage of assenting bonds necessary to effectuate such amendment or modification, and such other covenants as may be deemed necessary or desirable. In the discretion of the board any bonds issued under the terms of this chapter may be secured by a trust indenture by and between the board and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the boundaries of the state of Iowa, but no such trust indenture shall convey or mortgage the buildings and facilities or any part thereof. The provisions of this chapter and of any resolution or other proceedings authorizing the issuance of bonds and providing for the establishment and maintenance of adequate student fees and charges and the application of the proceeds thereof, together with institutional income, shall constitute a contract with the holders of such bonds.

[C71, 73, 75, 77, 79, 81, §262A.7]

262A.8 Student fees to pay bonds.

Whenever bonds are issued by the state board of regents, it shall be the duty of said board to establish, impose, and collect student fees and charges at the institution on behalf of which such bonds are issued, and to adjust such student fees and charges from time to time, in order always to provide amounts which, together with the institutional income, will be sufficient to pay the principal of and interest on such bonds as the same become due and to maintain a reserve therefor, and said board is authorized to pledge a sufficient amount of the student fees and charges and institutional income received by such institution for this purpose. Student fees and charges and institutional income received by one institution shall not be used to discharge bonds issued for or on account of another institution. All bonds issued under the terms of this chapter shall be exempt from taxation by the state of Iowa and the interest thereon shall be exempt from the state income tax.

[C71, 73, 75, 77, 79, 81, §262A.8]

Referred to in §422.7(2)(n)

262A.9 Bond fund account.

A certified copy of each resolution providing for the issuance of bonds under this chapter shall be filed with the treasurer of the institution on behalf of which the bonds are issued and it shall be the duty of said treasurer to keep and maintain separate accounts for each issue

of bonds in accordance with the covenants and directions set out in the resolution providing for the issuance thereof. A sufficient portion of the student fees and charges and institutional income received by each institution shall be held in trust by the treasurer thereof, separate and apart from all other funds, to be used solely and only for the purposes specified in this chapter and as may be required and provided for by the proceedings of the board authorizing the issuance of bonds. It shall be the duty of the treasurer of each institution to disburse funds from the proper account for the payment of the principal of and interest on the bonds in accordance with the directions and covenants of the resolution authorizing the issuance thereof.

If the amount of bonds issued under this chapter exceeds the actual costs of the projects for which bonds were issued, the amount of the difference shall be used to pay the principal and interest due on bonds issued under this chapter.

[C71, 73, 75, 77, 79, 81, §262A.9]

87 Acts, ch 233, §469

262A.10 Bonds not state obligation.

Under no circumstances shall any bonds issued under the terms of this chapter be or become or be construed to constitute a debt of or a charge against the state of Iowa within the purview of any constitutional or statutory limitation or provision. No taxes, appropriations, or other funds of the state of Iowa may be pledged for or used to pay such bonds or the interest thereon but any such bonds shall be payable solely and only as to both principal and interest from the student fees and charges and institutional income received by the institutions of higher learning under the control of the state board of regents as provided in this chapter, and the sole remedy for any breach or default of the terms of any such bonds or proceedings for their issuance shall be a proceeding either in law or in equity by suit, action, or mandamus to enforce and compel performance of the duties required by this chapter and the terms of the resolution under which such bonds are issued.

[C71, 73, 75, 77, 79, 81, §262A.10]

262A.11 Bonds as security for investments.

All banks, trust companies, bankers, savings associations, investment companies, and other persons carrying on a banking or investment business, all insurance companies, insurance associations, and other persons carrying on an insurance business, and all executors, administrators, guardians, trustees, and other fiduciaries may legally invest any sinking funds, moneys, or other funds belonging to them or within their control in any bonds issued pursuant to this chapter; provided, however, that nothing contained in this section may be construed as relieving any persons from any duty of exercising reasonable care in selecting securities for purchase or investment.

[C71, 73, 75, 77, 79, 81, §262A.11]

2012 Acts, ch 1017, §69

262A.12 Application for gifts, loans, or grants.

The state board of regents is authorized to apply for and accept federal or nonfederal gifts, loans, or grants of funds and to use the same to pay all or any part of the cost of carrying out any project at any institution under the terms of this chapter or to use the same, together with student fees and charges and institutional income, for the payment of debt service on bonds issued and to be issued by the board pursuant to authority contained in this chapter, in such manner as may be provided in the resolution authorizing the issuance of the bonds, which grants of funds or other aid shall be considered to constitute and may be commingled with student fees and charges and institutional income and may, together with such student fees and charges and institutional income, be pledged by the board in accordance with the provisions of this chapter and the bond resolution to the payment of debt service on bonds issued by the board under the authority contained in this chapter.

[C71, 73, 75, 77, 79, 81, §262A.12]

262A.13 Reports to general assembly.

1. The state board of regents shall determine, in consultation with the legislative services agency, the financial information to be included in line item budget information for projects funded by the issuance of bonds or notes under this chapter and shall submit the line item budget information to the general assembly as requested. The state board of regents shall submit quarterly reports to the general assembly concerning the projects funded by the issuance of bonds or notes under this chapter as follows:

- a. Identification of both undercharges and overcharges for line items of projects.
- b. Identification of contracts in which any line item for a project exceeds the adopted budget for that line item by ten percent or more.
- c. Identification of complaints received by an institution regarding the construction of a project.

2. If the state board of regents approves a change in the amount of the line item of a budget for a project, the change shall be transmitted to the appropriations committees of the house of representatives and senate, while the general assembly is in session, and to the legislative council, when the general assembly is not in session, for review.

86 Acts, ch 1246, §129; 2003 Acts, ch 35, §45, 49; 2010 Acts, ch 1061, §180

262A.14 Alternative and independent method.

This chapter shall be construed as providing an alternative and independent method for carrying out any project at any institution of higher learning under the control of the state board of regents, for the issuance and sale or exchange of bonds in connection therewith and for refunding bonds pertinent thereto, without reference to any other statute, and shall not be construed as an amendment of or subject to the provisions of any other law, and no publication of any notice, whether under section 73A.12 or otherwise, and no other or further proceedings in respect to the issuance or sale or exchange of bonds under this chapter shall be required except such as are prescribed by this chapter, any provisions of other statutes of the state to the contrary notwithstanding.

[C71, 73, 75, 77, 79, 81, §262A.13]
C87, §262A.14

CHAPTER 262B

COMMERCIALIZATION OF RESEARCH

SUBCHAPTER I	262B.13	through 262B.20	Reserved.
GENERAL PROVISIONS			SUBCHAPTER II
			RESEARCH AND DEVELOPMENT PLATFORMS
262B.1	Title.		
262B.2	Legislative intent.		
262B.3	Duties and responsibilities.	262B.21	Research and development
262B.4	and 262B.5 Repealed by 2005 Acts, ch 150, §33.	262B.22	platforms. Technology and
262B.6	through 262B.10 Reserved.		commercialization resource
262B.11	Reserved.		organization. Repealed by
262B.12	Appropriation. Repealed by 2005 Acts, ch 150, §33.	262B.23	2007 Acts, ch 122, §6. Endowed chairs and salaries.

SUBCHAPTER I

GENERAL PROVISIONS

262B.1 Title.

This chapter shall be known and may be cited as the “*Commercialization of Research for Iowa Act*”.

88 Acts, ch 1268, §9; 2003 Acts, 1st Ex, ch 1, §95, 133

[2003 Acts, 1st Ex, ch 1, §95, 133 amendment to section text rescinded pursuant to *Rants v. Vilsack*, 684 N.W.2d 193]
2005 Acts, ch 150, §30

262B.2 Legislative intent.

It is the intent of the general assembly that the three universities under the control of the state board of regents have as part of their missions the use of their universities' expertise to expand and stimulate economic growth across the state. This activity may be accomplished through a wide variety of partnerships, public and private joint ventures, and cooperative endeavors, primarily, but not exclusively, in the area of high technology, and may result in investments by the private sector for commercialization of the technology and job creation. It is imperative that whenever possible, the investments and job creation be in Iowa but need not be in the proximity of the universities. The purpose of the investments and job creation shall be to expand and stimulate Iowa's economy, increase the wealth of Iowans, and increase the population of Iowa, which may be accomplished through research conducted within the state that will competitively position Iowa on an economic basis with other states and create high-wage, high-growth employers and jobs. Accredited private universities located in the state are encouraged to incorporate the intent of this section into the mission of their universities.

88 Acts, ch 1268, §10; 2003 Acts, 1st Ex, ch 1, §96, 133

[2003 Acts, 1st Ex, ch 1, §96, 133 amendment to this section rescinded pursuant to *Rants v. Vilsack*, 684 N.W.2d 193]
2005 Acts, ch 150, §31

262B.3 Duties and responsibilities.

1. The state board of regents, as part of its mission and strategic plan, shall establish mechanisms for the purpose of carrying out the intent of this chapter. In addition to other board initiatives, the board shall work with the economic development authority, other state agencies, and the private sector to facilitate the commercialization of research.

2. The state board of regents, in cooperation with the economic development authority, shall implement this chapter through any of the following activities:

- a. Developing strategies to market and disseminate information on university research for commercialization in Iowa.
- b. Evaluating university research for commercialization potential, where relevant.
- c. Developing a plan to improve private sector access to the university licenses and patent information and the transfer of technology from the university to the private sector.
- d. Identifying research and technical assistance needs of existing Iowa businesses and start-up companies and recommending ways in which the universities can meet these needs.
- e. Linking research and instruction activities to economic development.
- f. Reviewing and monitoring activities related to technology transfer.
- g. Coordinating activities to facilitate a focus on research in the state's targeted industry clusters.
- h. Surveying similar activities in other states and at other universities.
- i. Establishing a single point of contact to facilitate commercialization of research.
- j. Sustaining faculty and staff resources needed to implement commercialization.
- k. Implementing programs to provide public recognition of university faculty and staff who demonstrate success in technology transfer and commercialization.
- l. Implementing rural entrepreneurial and regional development assistance programs.
- m. Providing market research ranging from early stage feasibility to extensive market research.
- n. Creating real or virtual research parks that may or may not be located near universities, but with the goal of providing economic stimulus to the entire state.
 - o. Capacity building in key biosciences platform areas.
 - p. Encouraging biosciences entrepreneurship by faculty.
 - q. Providing matching grants for joint biosciences projects involving public and private entities.

r. Encouraging biosciences entrepreneurship by faculty using faculty research and entrepreneurship grants.

s. Pursuing bioeconomy initiatives in key platform areas as recommended by a consultant report on bioeconomy issues contracted for by the economic development authority.

3. Each January 15, the state board of regents shall submit a written report to the general assembly detailing the patents and licenses held by each institution of higher learning under the control of the state board of regents and by nonprofit foundations acting solely for the support of institutions governed by the state board of regents.

88 Acts, ch 1268, §11; 2003 Acts, 1st Ex, ch 1, §97, 133

[2003 Acts, 1st Ex, ch 1, §97, 133 amendments to this section rescinded pursuant to *Rants v. Vilsack*, 684 N.W.2d 193]

2005 Acts, ch 150, §32; 2011 Acts, ch 118, §85, 89

Technology commercialization specialist, committee, and officer; §15.115 – 15.117

262B.4 and 262B.5 Repealed by 2005 Acts, ch 150, §33.

262B.6 through 262B.10 Reserved.

262B.11 Reserved.

262B.12 Appropriation. Repealed by 2005 Acts, ch 150, §33.

262B.13 through 262B.20 Reserved.

SUBCHAPTER II

RESEARCH AND DEVELOPMENT PLATFORMS

262B.21 Research and development platforms.

1. For purposes of this section and section 262B.23, “*core platform areas*” means the areas of advanced manufacturing, biosciences, information solutions, and financial services.

2. The state board of regents shall do all of the following:

a. Recruit employees, build capacity, and invest moneys to ensure rapid scientific progress in the core platform areas.

b. Create endowed chair positions and employ persons with entrepreneurial expertise.

c. Invest in technology development infrastructure to strengthen and accelerate the scientific and commercialization work in the core platform areas.

d. Provide financial assistance in the form of grants for purposes of accelerating the transformation of new and ongoing research and development initiatives in the core platform areas into commercial opportunities.

e. Actively participate in advisory groups dedicated to the areas of bioscience advanced manufacturing, and information solutions.

2006 Acts, ch 1179, §48; 2007 Acts, ch 122, §5

262B.22 Technology and commercialization resource organization. Repealed by 2007 Acts, ch 122, §6.

262B.23 Endowed chairs and salaries.

The state board of regents may use for salaries and may create endowed chair positions at each of the regents universities using, in part, moneys appropriated to the state board of regents for purposes of implementing recommendations provided in separate consultant reports on bioscience, advanced manufacturing, and information technology submitted to the department of economic development in the calendar years 2004 and 2005. Such moneys may only be used to partially fund an endowed chair position if significant private contributions and contributions from governmental entities other than the state and political subdivisions

of the state are used to fund the position. Not more than fifty percent of the cost of funding an endowed chair position shall be paid with such moneys. The endowed chair positions shall be used to attract scholars recruited nationally and internationally who can bring with them related start-up business ventures or a concept for near-term commercialization.

2006 Acts, ch 1179, §50

Referred to in §262B.21

CHAPTER 263 UNIVERSITY OF IOWA

Referred to in §27.1, 256B.2

	SUBCHAPTER I	263.10	Persons admitted.
	GENERAL PROVISIONS	263.11	Definition.
263.1	Objects — departments.	263.12	Payment by counties.
263.2	Degrees.	263.13	Gifts accepted.
263.3	Cabinet of natural history.	263.14	through 263.16 Reserved.
263.4	Homeopathic materia medica and therapeutics. Repealed by 2017 Acts, ch 172, §43.		
263.5	Institute of child behavior and development. Repealed by 2017 Acts, ch 172, §43.		SUBCHAPTER III
263.6	Management. Repealed by 2017 Acts, ch 172, §43.		CENTER FOR HEALTH EFFECTS OF ENVIRONMENTAL CONTAMINATION
263.7	State hygienic laboratory — investigations.	263.17	Center for health effects of environmental contamination.
263.8	Reports — tests.		SUBCHAPTER IV
263.8A	International center for talented and gifted education — Iowa online advanced placement academy science, technology, engineering, and mathematics initiative.		HOSPITALS AND CLINICS — PATIENT CARE
263.8B	Interest earnings.	263.18	Treatment of patients — use of earnings for new facilities.
263.8C	Advanced placement summer program.	263.19	Purchases.
	SUBCHAPTER II	263.20	Collecting and settling claims for care.
	CENTER FOR DISABILITIES AND DEVELOPMENT	263.21	Transfer of patients from state institutions.
263.9	Establishment and objectives.	263.22	Medical care for parolees and persons on work release.
		263.23	Obligations to indigent patients.

SUBCHAPTER I GENERAL PROVISIONS

263.1 Objects — departments.

The university of Iowa shall never be under the control of any religious denomination. Its object shall be to provide the best and most efficient means of imparting to men and women, upon equal terms, a liberal education and thorough knowledge of the different branches of literature and the arts and sciences, with their varied applications. It shall include colleges of liberal arts, law, medicine, and such other colleges and departments, with such courses of instruction and elective studies as the state board of regents may determine from time to time. If a practitioner preparation program as defined in section 272.1 is established by the

board, it shall include the subject of physical education. Instruction in the liberal arts college shall begin, so far as practicable, at the points where the same is completed in high schools.

[C51, §1020; R60, §1927, 1930, 1933; C73, §1585, 1586, 1589; C97, §2640; C24, 27, 31, 35, 39, §3946; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §263.1]

2011 Acts, ch 34, §70

263.2 Degrees.

1. A person shall not be admitted to courses of instruction in the university if the person has not completed the elementary instruction in such branches as are taught in the public or accredited nonpublic schools throughout the state.

2. Graduates of the university shall receive degrees or diplomas, or other evidences of distinction such as are usually conferred and granted by universities and are authorized by the state board of regents.

[R60, §1933; C73, §1585, 1589; C97, §2640; C24, 27, 31, 35, 39, §3947; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §263.2]

2018 Acts, ch 1026, §83

263.3 Cabinet of natural history.

For the purpose of supplying a cabinet of natural history, all geological and mineralogical specimens which are collected by the state geologists, or by others appointed by the state to investigate its natural history and physical resources, shall belong to and be the property of the university, under the charge of the professors of those departments.

[R60, §1931, 1935; C73, §1597, 1598; C97, §2639; C24, 27, 31, 35, 39, §3948; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §263.3]

263.4 Homeopathic materia medica and therapeutics. Repealed by 2017 Acts, ch 172, §43.

263.5 Institute of child behavior and development. Repealed by 2017 Acts, ch 172, §43.

263.6 Management. Repealed by 2017 Acts, ch 172, §43.

263.7 State hygienic laboratory — investigations.

The state hygienic laboratory shall be a permanent part of the state university of Iowa. It shall make or cause to be made microbiological and chemical examinations and other necessary investigations by both laboratory and field work in the determination of the causes of disease, shall suggest methods of overcoming and preventing the recurrence of the disease, and shall evaluate environmental effects and scientific needs, whenever requested to do so by any state agency, state institution, or local board of health when the investigation or evaluation is necessary in the interest of environmental quality and public health and for the purpose of preventing epidemics of disease.

[S13, §2575-a8; SS15, §2575-a7; C24, 27, 31, 35, 39, §3953; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §263.7]

263.8 Reports — tests.

1. Charges may be assessed for transportation of specimens and cost of examination. Reports of epidemiological examinations and investigations shall be sent to the responsible agency.

2. In addition to its regular work, the state hygienic laboratory shall perform without charge all bacteriological, serological, and epidemiological examinations and investigations which may be required by the Iowa department of public health and the department shall adopt rules pursuant to chapter 17A therefor. The laboratory shall also provide, those laboratory, scientific field measurement, and environmental quality services which, by contract, are requested by the other agencies of government.

3. The state hygienic laboratory is authorized to perform such other laboratory determinations as may be requested by any state institution, citizen, school, municipality or

local board of health, and the laboratory is authorized to charge fees covering transportation of samples and the costs of examinations performed upon their request.

[S13, §2575-e8; SS15, §2575-a7,-a9; C24, 27, 31, 35, 39, §3953; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §263.8]

2015 Acts, ch 30, §95

Duties of department of public health, §135.11

263.8A International center for talented and gifted education — Iowa online advanced placement academy science, technology, engineering, and mathematics initiative.

1. *a.* The state board of regents shall establish and maintain at Iowa City as an integral part of the state university of Iowa the international center for talented and gifted education. The international center shall provide programs to assist classroom teachers to teach gifted and talented students in regular classrooms, provide programs to enhance the learning experiences of gifted and talented students, serve as a center for national and international symposiums and policy forums for enhancing the teaching of gifted and talented students, and undertake other appropriate activities to enhance the programs of the center, including, but not limited to, coordinating and working with the world council for gifted and talented children, incorporated.

b. An international center endowment fund is established at the state university of Iowa and gifts and grants to the international center and investment earnings and returns on the endowment fund shall be deposited in the fund and may be expended by the state university of Iowa for the purposes for which the international center was established.

2. The Iowa online advanced placement academy science, technology, engineering, and mathematics initiative is established within the international center for talented and gifted education at the state university of Iowa to deliver, with an emphasis on science, technology, engineering, and mathematics coursework, preadvanced placement and advanced placement courses to high school students throughout the state, provide training opportunities for teachers to learn how to teach advanced placement courses in Iowa's high schools, and provide preparation for middle school students to ensure success in high school.

88 Acts, ch 1284, §44; 96 Acts, ch 1184, §3; 2011 Acts, ch 132, §17, 106

Referred to in §257B.1B

263.8B Interest earnings.

If the interest earned on moneys accumulated by campus organizations at the university of Iowa is not available for expenditure by those respective campus organizations, the university of Iowa shall allocate that interest to campus improvements that are of benefit to students and have been accepted by the student government or to the student financial aid office to be used for the work-study program.

89 Acts, ch 319, §67

263.8C Advanced placement summer program.

An advanced placement summer program is established at the state university of Iowa for purposes of training advanced placement instructors at the secondary level and of providing intensive course work for secondary students. The state university of Iowa shall be responsible for the development of appropriate curricula, course offerings, provision of qualified instructors, and the selection of participants for the program. If funds are appropriated for the program, those funds shall be used to pay for the cost of providing instructors, counselors, room and board for students and teachers attending the program, materials, and for the cost of the development of a summer advanced placement exam. If funds are appropriated and those funds are not sufficient to meet program participation demands, the university shall give priority to the needs of students or teachers from schools which do not have advanced placement programs.

91 Acts, ch 115, §1

SUBCHAPTER II
CENTER FOR DISABILITIES AND DEVELOPMENT

263.9 Establishment and objectives.

The state board of regents is hereby authorized to establish and maintain in reasonable proximity to Iowa City and in conjunction with the state university of Iowa and the university hospitals and clinics, a center for disabilities and development having as its objects the education and treatment of children with severe disabilities. The center shall be conducted in conjunction with the activities of the university of Iowa children's hospital. Insofar as is practicable, the facilities of the university children's hospital shall be utilized.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §263.9]

96 Acts, ch 1129, §72; 2001 Acts, ch 181, §17; 2002 Acts, ch 1050, §28

263.10 Persons admitted.

Every resident of the state who is not more than twenty-one years of age, who has such severe disabilities as to be unable to acquire an education in the public or accredited nonpublic schools, and every such person who is twenty-one and under thirty-five years of age who has the consent of the state board of regents, shall be entitled to receive an education, care, and training in the university of Iowa hospitals and clinics center for disabilities and development, and nonresidents similarly situated may be entitled to an education and care at the center upon such terms as may be fixed by the state board of regents. The fee for nonresidents shall be not less than the average expense of resident pupils and shall be paid in advance. Residents and persons under the care and control of a director of a division of the department of human services who have severe disabilities may be transferred to the center upon such terms as may be agreed upon by the state board of regents and the director.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §263.10]

83 Acts, ch 96, §157, 159; 96 Acts, ch 1129, §73; 2001 Acts, ch 181, §18; 2002 Acts, ch 1050, §29; 2018 Acts, ch 1026, §84

263.11 Definition.

The term "*severe disabilities*" shall be interpreted for the purpose of this subchapter as referring to persons who meet both of the following requirements:

1. Persons who are educable but have severe physical and educational disabilities as a result of cerebral palsy, muscular dystrophy, spina bifida, arthritis, poliomyelitis, or other severe physically disabling conditions.

2. Persons who are not eligible for admission to the schools already established for persons with an intellectual disability or epilepsy or persons who are deaf or hard of hearing or blind.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §263.11]

84 Acts, ch 1219, §12; 96 Acts, ch 1129, §74; 2012 Acts, ch 1019, §112; 2014 Acts, ch 1026, §143; 2020 Acts, ch 1102, §15

Subsection 2 amended

263.12 Payment by counties.

The provisions of sections 270.4 and 270.8 are applicable to the university of Iowa hospitals and clinics' center for disabilities and development.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §263.12]

2001 Acts, ch 181, §19; 2020 Acts, ch 1045, §15

Referred to in §331.424

Section amended

263.13 Gifts accepted.

The state board of regents is authorized to accept, for the benefit of the university of Iowa hospitals and clinics' center for disabilities and development, gifts, devises, or bequests of property, real or personal, including grants from the federal government. The state board

of regents may exercise such powers with reference to the management, sale, disposition, investment, or control of property so given, devised, or bequeathed as may be deemed essential to its preservation and the purposes for which made. No contribution or grant shall be received or accepted if any condition is attached as to its use or administration other than it be used for aid to the center as provided in this subchapter.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §263.13]

2001 Acts, ch 181, §20; 2002 Acts, ch 1050, §30; 2014 Acts, ch 1026, §143

263.14 through 263.16 Reserved.

SUBCHAPTER III

CENTER FOR HEALTH EFFECTS OF ENVIRONMENTAL CONTAMINATION

263.17 Center for health effects of environmental contamination.

1. The state board of regents shall establish and maintain at Iowa City as an integral part of the state university of Iowa the center for health effects of environmental contamination, having as its object the determination of the levels of environmental contamination which can be specifically associated with human health effects.

2. *a.* The center shall be a cooperative effort of representatives of the following organizations:

- (1) The state university of Iowa department of occupational and environmental health.
- (2) The department of pediatrics of the university of Iowa college of medicine.
- (3) The state hygienic laboratory.
- (4) The institute of rural and environmental health.
- (5) The university of Iowa Holden comprehensive cancer center.
- (6) The department of civil and environmental engineering.
- (7) Appropriate clinical and basic science departments.
- (8) The college of law.
- (9) The college of liberal arts and sciences.
- (10) The Iowa department of public health.
- (11) The department of natural resources.
- (12) The department of agriculture and land stewardship.

b. The active participation of the national cancer institute, the agency for toxic substances and disease registry, the national centers for disease control and prevention, the United States environmental protection agency, and the United States geological survey, shall also be sought and encouraged.

3. The center may:

a. Assemble all pertinent laboratory data on the presence and concentration of contaminants in soil, air, water, and food, and develop a data retrieval system to allow the findings to be easily accessed by exposed populations.

b. Make use of data from the existing cancer and birth defect statewide recording systems and develop similar recording systems for specific organ diseases which are suspected to be caused by exposure to environmental toxins.

c. Develop registries of persons known to be exposed to environmental hazards so that the health status of these persons may be examined over time.

d. Develop highly sensitive biomedical assays which may be used in exposed persons to determine early evidence of adverse health effects.

e. Perform epidemiologic studies to relate occurrence of a disease to contaminant exposure and to ensure that other factors known to cause the disease in question can be ruled out.

f. Foster relationships and ensure the exchange of information with other teaching institutions or laboratories in the state which are concerned with the many forms of environmental contamination.

g. Implement programs of professional education and training of medical students,

physicians, nurses, scientists, and technicians in the causes and prevention of environmentally induced disease.

h. Implement public education programs to inform persons of research results and the significance of the studies.

i. Respond as requested to any branch of government for consultation in the drafting of laws and regulations to reduce contamination of the environment.

4. An advisory committee consisting of one representative of each of the organizations enumerated in subsection 2, paragraph “a”, is established. The advisory committee shall employ, as a state employee, a full-time director to operate the center. The director shall coordinate the efforts of the heads of each of the major divisions of laboratory analysis, epidemiology and biostatistics, biomedical assays, and exposure modeling and shall also coordinate the efforts of professional and support staff in the operation of the center.

5. The center shall maintain the confidentiality of any information obtained from existing registries and from participants in research programs. Specific research projects involving human subjects shall be approved by the state university of Iowa institutional review board.

6. The center may solicit, accept, and administer moneys appropriated to the center by a public or private agency.

7. The center shall cooperate with the center for rural health and primary care, established under section 135.107, the center for agricultural health and safety established under section 262.78, and the department of agriculture and land stewardship. The agencies shall coordinate programs to the extent practicable.

87 Acts, ch 225, §228; 88 Acts, ch 1169, §3; 90 Acts, ch 1207, §4; 2000 Acts, ch 1058, §31; 2001 Acts, ch 74, §19; 2018 Acts, ch 1041, §71; 2020 Acts, ch 1045, §16

Referred to in §135.107, 262.78
Subsection 4 amended

SUBCHAPTER IV

HOSPITALS AND CLINICS — PATIENT CARE

263.18 Treatment of patients — use of earnings for new facilities.

1. The university of Iowa hospitals and clinics authorities may at their discretion receive patients into the hospital for medical, obstetrical, or surgical treatment or hospital care. The university of Iowa hospitals and clinics ambulances and ambulance personnel may be used for the transportation of such patients at a reasonable charge if specialized equipment is required.

2. The university of Iowa hospitals and clinics authorities shall collect from the person or persons liable for support of such patients reasonable charges for hospital care and service and deposit payment of the charges with the treasurer of the university for the use and benefit of the university of Iowa hospitals and clinics.

3. Earnings of the university of Iowa hospitals and clinics shall be administered so as to increase, to the greatest extent possible, the services available for patients, including acquisition, construction, reconstruction, completion, equipment, improvement, repair, and remodeling of medical buildings and facilities, additions to medical buildings and facilities, and the payment of principal and interest on bonds issued to finance the cost of medical buildings and facilities as authorized by the provisions of chapter 263A.

4. The physicians and surgeons on the staff of the university of Iowa hospitals and clinics who care for patients provided for in this section may charge for the medical services provided under such rules, regulations, and plans approved by the state board of regents.

2005 Acts, ch 167, §47, 66; 2010 Acts, ch 1134, §2; 2013 Acts, ch 138, §125, 127

263.19 Purchases.

Any purchase of materials, appliances, instruments, or supplies by the university of Iowa hospitals and clinics shall be made pursuant to open competitive quotations, and all contracts

for such purchases shall be in compliance with purchasing policies of the state board of regents.

2005 Acts, ch 167, §48, 66; 2012 Acts, ch 1138, §119

263.20 Collecting and settling claims for care.

Whenever a patient or person legally liable for the patient's care at the university of Iowa hospitals and clinics has insurance, an estate, a right of action against others, or other assets, the university of Iowa hospitals and clinics, through the facilities of the office of the attorney general, may file claims, institute or defend suit in court, and use other legal means available to collect accounts incurred for the care of the patient, and may compromise, settle, or release such actions under the rules and procedures prescribed by the president of the university and the office of the attorney general. If a county has paid any part of such patient's care, a pro rata amount collected, after deduction for cost of collection, shall be remitted to the county and the balance shall be credited to the hospital fund.

2005 Acts, ch 167, §49, 66

263.21 Transfer of patients from state institutions.

The director of the department of human services, in respect to institutions under the director's control, the administrator of any of the divisions of the department, in respect to the institutions under the administrator's control, the director of the department of corrections, in respect to the institutions under the department's control, and the state board of regents, in respect to the Iowa braille and sight saving school and the Iowa school for the deaf, may send any inmate, student, or patient of an institution, or any person committed or applying for admission to an institution, to the university of Iowa hospitals and clinics for treatment and care. The department of human services, the department of corrections, and the state board of regents shall respectively pay the traveling expenses of such patient, and when necessary the traveling expenses of an attendant for the patient, out of funds appropriated for the use of the institution from which the patient is sent.

2005 Acts, ch 167, §50, 66

Referred to in §263.23

263.22 Medical care for parolees and persons on work release.

The director of the department of corrections may send former inmates of the institutions provided for in section 904.102, while on parole or work release, to the university of Iowa hospitals and clinics for treatment and care. The director may pay the traveling expenses of any such patient, and when necessary the traveling expenses of an attendant of the patient, out of funds appropriated for the use of the department of corrections.

2005 Acts, ch 167, §51, 66

Referred to in §263.23

263.23 Obligations to indigent patients.

The university of Iowa hospitals and clinics shall continue the obligation existing on April 1, 2005, to provide care or treatment at the university of Iowa hospitals and clinics to indigent patients and to any inmate, student, patient, or former inmate of a state institution as specified in sections 263.21 and 263.22, with the exception of the specific obligation to committed indigent patients pursuant to section 255.16, Code 2005.

2006 Acts, ch 1184, §118

CHAPTER 263A
MEDICAL AND HOSPITAL BUILDINGS
AT UNIVERSITY OF IOWA

Referred to in §262.9, 263.18

263A.1	Definitions.	263A.9	Investment in bonds or notes by financial institutions.
263A.2	Authorization of general assembly and governor.	263A.10	Gifts, loans or grants accepted.
263A.3	Bonds or notes issued.	263A.11	Reports to general assembly.
263A.4	Bonds or notes provisions.		Repealed by 2005 Acts, ch 179, §160.
263A.5	Resolution adopted — terms and conditions of bonds or notes.	263A.12	Provisions independent of any other statute.
263A.6	Rates, fees and charges for services.	263A.13	Financial statement to general assembly.
263A.7	Accounts of all funds separate.		
263A.8	No obligation of the state on bonds or notes.		

263A.1 Definitions.

The following words or terms, as used in this chapter, shall have the respective meanings as stated:

1. “*Board*” shall mean the state board of regents.
2. “*Bonds or notes*” shall mean revenue bonds or revenue notes which are payable solely and only from hospital income.
3. “*Buildings and facilities*” shall mean buildings to be used primarily for service, clinical instructional and clinical research purposes in the field of medicine with particular emphasis on the family practice of medicine and such other facilities as are deemed necessary by the board to support and carry out the service, instructional, and research objectives of the hospitals, medical clinics, and medical service laboratories of the institution, including, without limiting the generality of the foregoing, hospital buildings, clinic buildings, laboratory buildings, clinical staff facilities, building for housing interns, resident physicians and nurses, and medical record and film storage buildings, or any combination thereof.
4. “*Hospital income*” shall mean the income and funds received by the hospitals, medical service clinics, and medical service laboratories of the state university of Iowa, including the proceeds of rates, fees, and charges for services rendered by said hospitals, clinics, and laboratories, but excluding state appropriations to the institution.
5. “*Institution*” shall mean the state university of Iowa.
6. “*Project*” shall mean the acquisition by gift, purchase, lease, or construction of buildings and facilities and additions to such buildings and facilities, the reconstruction, completion, equipment, improvement, repair, or remodeling of buildings and facilities, including the demolition of existing buildings and facilities which are to be replaced, and the acquisition of property of every kind and description, whether real, personal or mixed, for buildings and facilities by gift, purchase, lease, condemnation, or otherwise and the improvement of the same or any combination of the foregoing.

[C71, 73, 75, 77, 79, 81, §263A.1]

Referred to in §262A.2

263A.2 Authorization of general assembly and governor.

Subject to and in accordance with the provisions of this chapter, the state board of regents may undertake and carry out any project as defined in this chapter at the state university of Iowa. The state board of regents is authorized to operate, control, maintain, and manage buildings and facilities and additions to such buildings and facilities at said institution. All contracts for the construction, reconstruction, completion, equipment, improvement, repair, or remodeling of any buildings, additions, or facilities shall be let in accordance with the provisions of section 262.34. The title to all real estate acquired under the provisions of this

chapter and the improvements erected thereon shall be taken and held in the name of the state of Iowa.

[C71, 73, 75, 77, 79, 81, §263A.2]

2002 Acts, ch 1119, §37; 2009 Acts, ch 173, §16, 36

263A.3 Bonds or notes issued.

1. The board is authorized to borrow money and to issue and sell negotiable bonds or notes to pay all or any part of the cost of carrying out any project at the institution and to refund and refinance bonds or notes issued for any project or for refunding purposes at the same rate or at a lower rate. The bonds or notes issued under this chapter may be sold at public sale as provided in chapter 75, but if the board finds it advisable and in the public interest to do so, such bonds or notes may be sold by the board at private sale without published notice of any kind and without regard to the requirements of chapter 75. Bonds or notes issued to refund other bonds or notes issued under the provisions of this chapter may either be sold in the manner specified in this chapter and the proceeds thereof applied to the payment of the obligations being refunded, or the refunding bonds or notes may be exchanged for and in payment and discharge of the obligations being refunded. The refunding bonds or notes may be sold or exchanged in installments at different times or an entire issue or series may be sold or exchanged at one time. Any issue or series of refunding bonds or notes may be exchanged in part or sold in parts in installments at different times or at one time. The refunding bonds or notes may be sold or exchanged at any time on, before, or after the maturity of any of the outstanding notes, bonds, or other obligations to be refinanced thereby and may be issued for the purpose of refunding a like or greater principal amount of bonds or notes, except that the principal amount of the refunding bonds or notes may exceed the principal amount of the bonds or notes to be refunded to the extent necessary to pay any premium due on the call of the bonds or notes to be refunded or to fund interest in arrears or about to become due.

2. All bonds or notes issued under the provisions of this chapter shall be payable solely and only from and shall be secured by an irrevocable pledge of a sufficient portion of the hospital income of the institution. All bonds or notes issued under the provisions of this chapter shall have all the qualities of negotiable instruments under the laws of this state.

[C71, 73, 75, 77, 79, 81, §263A.3]

2009 Acts, ch 173, §17, 36

263A.4 Bonds or notes provisions.

Such bonds or notes may bear such date or dates, may bear interest at such rate or rates, payable semiannually, may mature at such time or times, may be in such form and denominations, carry such registration privileges, may be payable at such place or places, may be subject to such terms of redemption prior to maturity with or without premium, if so stated on the face thereof, and may contain such terms and covenants, including the establishment of reserves, all as may be provided by this chapter, section 76.17, and the resolution of the board authorizing the issuance of the bonds or notes. In addition to the estimated cost of construction, including site costs, the cost of the project may include interest upon the bonds or notes during construction and for six months after the estimated completion date, the compensation of a fiscal agent or adviser, engineering, architectural, administrative, and legal expenses and provision for contingencies. Such bonds or notes shall be executed by the president of the state board of regents and attested by the executive director, secretary, or other official thereof performing the duties of executive director, and the coupons thereto attached shall be executed with the original or facsimile signatures of said president, executive director, secretary, or other official; provided, however, that the facsimile signature of either of such officers executing such bonds may be imprinted on the face of the bonds in lieu of the manual signature of such officer, but at least one of the signatures appearing on the face of each bond shall be a manual signature. Any bonds or notes bearing the signatures of officers in office on the date of the signing thereof shall be valid and binding for all purposes, notwithstanding that before delivery thereof any or all such persons whose signatures appear thereon shall have ceased to be such officers. Each such bond or note shall state upon its face the name of the institution on behalf of which it is

issued, that it is payable solely and only from hospital income received by such institution as provided in this chapter, and that it does not constitute a debt of or charge against the state of Iowa within the meaning or application of any constitutional or statutory limitation or provision. The issuance of such bonds or notes shall be recorded in the office of the treasurer of the institution, and a certificate by such treasurer to this effect shall be printed on the back of each such bond or note.

[C71, 73, 75, 77, 79, 81, §263A.4]

2006 Acts, ch 1051, §9; 2009 Acts, ch 173, §18, 36

263A.5 Resolution adopted — terms and conditions of bonds or notes.

Upon the determination by the state board of regents to undertake and carry out any project or to refund outstanding bonds or notes, said board shall adopt a resolution describing generally the contemplated project and setting forth the estimated cost thereof, or describing the obligations to be refunded, fixing the amount of bonds or notes to be issued, the maturity or maturities, the interest rate or rates, and all details in respect thereof. Such resolution shall contain such covenants as may be determined by the board as to the issuance of additional bonds or notes that may thereafter be issued payable from the hospital income received by the institution, the amendment or modification of the resolution authorizing the issuance of any bonds or notes, the manner, terms, and conditions and the amount or percentage of assenting bonds or notes necessary to effectuate such amendment or modification, and such other covenants as may be deemed necessary or desirable. In the discretion of the board, any bonds or notes issued under the terms of this chapter may be secured by a trust indenture by and between the board and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the boundaries of the state of Iowa, but no such trust indenture shall convey or mortgage the buildings and facilities or any part thereof. The provisions of this chapter and of any resolution or other proceedings authorizing the issuance of bonds or notes and providing for the establishment and maintenance of adequate rates, fees, and charges for services rendered by the hospitals, medical clinics, and medical laboratories of the institution and the application of the proceeds thereof, together with other hospital income, shall constitute a contract with the holders of such bonds or notes.

[C71, 73, 75, 77, 79, 81, §263A.5]

263A.6 Rates, fees and charges for services.

Whenever bonds or notes are issued by the state board of regents, it shall be the duty of said board to establish, impose, and collect rates, fees, and charges for services rendered by the hospitals, medical clinics, and medical laboratories of the institution and to adjust such rates, fees, and charges from time to time, in order to always provide amounts which, together with other hospital income, will be sufficient to pay the principal of and interest on such bonds or notes as the same become due and to maintain a reserve therefor, and said board is authorized to pledge a sufficient amount of the hospital income received by such institution for this purpose. All bonds or notes issued under the terms of this chapter shall be exempt from taxation by the state of Iowa and the interest thereon shall be exempt from the state income tax.

[C71, 73, 75, 77, 79, 81, §263A.6]

Referred to in §422.7(2)(n)

263A.7 Accounts of all funds separate.

A certified copy of each resolution providing for the issuance of bonds or notes under this chapter shall be filed with the treasurer of the institution and it shall be the duty of said treasurer to keep and maintain separate accounts for each issue of bonds or notes in accordance with the covenants and directions set out in the resolution providing for the issuance thereof. A sufficient portion of the hospital income received by the institution shall be held in trust by the treasurer thereof, separate and apart from all other funds, to be used solely and only for the purposes specified in this chapter and as may be required and provided for by the proceedings of the board authorizing the issuance of bonds or notes. It

shall be the duty of the treasurer of the institution to disburse funds from the proper account for the payment of the principal of and interest on the bonds or notes in accordance with the directions and covenants of the resolution authorizing the issuance thereof.

If the amount of bonds or notes issued under this chapter exceeds the actual costs of the projects for which the bonds or notes were issued, the amount of the difference shall be used to pay the principal and interest due on bonds or notes issued under this chapter.

[C71, 73, 75, 77, 79, 81, §263A.7]

87 Acts, ch 233, §470

263A.8 No obligation of the state on bonds or notes.

Under no circumstances shall any bonds or notes issued under the terms of this chapter be or become or be construed to constitute a debt of or a charge against the state of Iowa within the purview of any constitutional or statutory limitation or provision. No taxes, or other funds of the state of Iowa appropriated to the institution may be pledged for or used to pay such bonds or notes or the interest thereon but any such bonds or notes shall be payable solely and only as to both principal and interest from the hospital income received by the institution as hereinbefore provided, and the sole remedy for any breach or default of the terms of any such bonds or notes or proceedings for their issuance shall be a proceeding either in law or in equity by suit, action, or mandamus to enforce and compel performance of the duties required by this chapter and the terms of the resolution under which such bonds or notes are issued.

[C71, 73, 75, 77, 79, 81, §263A.8]

263A.9 Investment in bonds or notes by financial institutions.

All banks, trust companies, bankers, savings associations, investment companies, and other persons carrying on a banking or investment business, all insurance companies, insurance associations, and other persons carrying on an insurance business, and all executors, administrators, guardians, trustees, and other fiduciaries may legally invest any sinking funds, moneys, or other funds belonging to them or within their control in any bonds or notes issued pursuant to this chapter; provided, however, that nothing contained in this section may be construed as relieving any persons from any duty of exercising reasonable care in selecting securities for purchase or investment.

[C71, 73, 75, 77, 79, 81, §263A.9]

2012 Acts, ch 1017, §70

263A.10 Gifts, loans or grants accepted.

The state board of regents is authorized to apply for and accept federal or nonfederal gifts, loans, or grants of funds and to use the same to pay all or any part of the cost of carrying out any project at the institution under the terms of this chapter or to pay any bonds or notes and interest thereon issued for any of the purposes specified in this chapter.

[C71, 73, 75, 77, 79, 81, §263A.10]

263A.11 Reports to general assembly. Repealed by 2005 Acts, ch 179, §160.

263A.12 Provisions independent of any other statute.

This chapter shall be construed as providing an alternative and independent method for carrying out any project related to the medical school and any project related to the hospital at the institution, for the issuance and sale or exchange of bonds or notes in connection therewith, and for refunding bonds or notes pertinent thereto, without reference to any other statute, and shall not be construed as an amendment of or subject to the provisions of any other law, and no publication of any notice, whether under section 73A.12 or otherwise, and no other or further proceedings in respect to the issuance or sale or exchange of bonds or notes under this chapter shall be required except such as are prescribed by this chapter, any provisions of other statutes of the state to the contrary notwithstanding.

[C71, 73, 75, 77, 79, 81, §263A.11]

C87, §263A.12

263A.13 Financial statement to general assembly.

The university of Iowa hospitals and clinics shall transmit to the general assembly its independently audited financial statement by January 15 of each fiscal year.

89 Acts, ch 319, §68; 2003 Acts, ch 35, §45, 49; 2010 Acts, ch 1069, §73; 2010 Acts, ch 1183, §27

CHAPTER 263B
STATE ARCHAEOLOGIST

Referred to in §216A.167

<p>263B.1 Appointment. 263B.2 Duties. 263B.3 Agreements with federal departments. 263B.4 Definitions. 263B.5 State department of transportation contracts.</p>	<p>263B.6 Federal funds. 263B.7 Ancient remains. 263B.8 Cemetery for ancient remains. 263B.9 Authority to deny permission to disinter human remains. 263B.10 Confidentiality of archaeological locations and information.</p>
--	---

263B.1 Appointment.

The state board of regents shall appoint a state archaeologist, who shall be a member of the faculty of the department of anthropology of the state university of Iowa.

[C62, 66, 71, 73, 75, 77, 79, 81, §305A.1]

C93, §263B.1

Referred to in §457A.1

263B.2 Duties.

The state archaeologist shall have the primary responsibility for the discovery, location and excavation of archaeological sites and for the recovery, restoration and preservation of archaeological remains in and for the state of Iowa, and shall coordinate all such activities through cooperation with the state department of transportation, the department of natural resources, and other state agencies concerned with archaeological salvage or the products thereof. The state archaeologist may publish educational and scientific reports relating to the responsibilities and duties of the office.

[C62, 66, 71, 73, 75, 77, 79, 81, §305A.2]

C93, §263B.2

263B.3 Agreements with federal departments.

The state archaeologist is authorized to enter into agreements and cooperative efforts with the federal highway administrator; the United States departments of commerce, interior, agriculture, and defense; and any other federal or state agencies concerned with archaeological salvage or the preservation of antiquities.

[C62, 66, 71, 73, 75, 77, 79, 81, §305A.3]

C93, §263B.3

2012 Acts, ch 1023, §157; 2013 Acts, ch 30, §63; 2013 Acts, ch 140, §61

263B.4 Definitions.

As used in sections 263B.5 and 263B.6:

1. “*Historical objects*” means archaeological and paleontological objects, including all ruins, sites, buildings, artifacts, fossils, or other objects of antiquity that have state and national significance from an historical or scientific standpoint for the inspiration and benefit of the people of the United States.

2. “*Salvage*” means the salvage of historical objects.

3. “Appropriate authority” means the federal or state authorities concerned with the preservation and study of historical objects.

[C66, 71, 73, 75, 77, 79, 81, §305A.4]
C93, §263B.4

263B.5 State department of transportation contracts.

1. The state department of transportation in letting contracts for road construction shall take action to see that historical objects will not be needlessly destroyed or if such destruction cannot be avoided reasonable action shall be taken to obtain all information concerning such objects prior to destruction. If it should appear that the proposed construction will result in the destruction of historical objects and it is determined by the appropriate authority that such objects cannot be reasonably removed or otherwise preserved, consideration shall be given to possible alternate locations of the highway.

2. If during the course of construction, historical objects are encountered, the appropriate authority shall be notified immediately and steps taken to excavate and preserve the objects if practicable or if preservation is impracticable, to permit the appropriate authority to obtain and record data relative thereto.

3. Agreements may be entered into with the appropriate authority to pay from federal highway funds the reasonable cost of salvage work. Extra work orders may be issued to the contractor where necessary and extra work orders may be issued in cases within the meaning of “subsurface or lateral conditions” or “unknown physical conditions” where such terms are used in the standard contract forms. Payment for salvage work shall be limited to that performed within the roadway prism and any location designated as a source of material. If the contractor’s operations are delayed because of salvage work such contractor shall be entitled to an appropriate extension of the contract time. If practicable, the operations shall be rescheduled to avoid the section where the historical material is, until the removal of it.

4. The cost of exploratory work prior to construction shall be borne by the appropriate authority. Costs of excavation of historical objects or recordation of data may be paid by the federal highway funds. Excavation costs may include costs of protecting and preservation during removal from the site but shall not include the expense of shipping historical objects from the site.

[C66, 71, 73, 75, 77, 79, 81, §305A.5]
C93, §263B.5
Referred to in §263B.4

263B.6 Federal funds.

Where federal funds are available to the state under federal statutes providing for archaeological and paleontological salvage, they shall be collected and credited as provided in section 307.44.

[C66, 71, 73, 75, 77, 79, 81, §305A.6]
C93, §263B.6
Referred to in §263B.4

263B.7 Ancient remains.

The state archaeologist has the primary responsibility for investigating, preserving, and reintering discoveries of ancient human remains. For the purposes of this section, ancient human remains are those remains found within the state which are more than one hundred fifty years old. The state archaeologist shall make arrangements for the services of a forensic osteologist in studying and interpreting ancient burials and may designate other qualified archaeologists to assist the state archaeologist in recovering physical and cultural information about the ancient burials. The state archaeologist shall file with the Iowa department of public health a written report containing both physical and cultural information regarding the remains at the conclusion of each investigation.

[C77, 79, 81, §305A.7]
91 Acts, ch 97, §41
C93, §263B.7

263B.8 Cemetery for ancient remains.

The state archaeologist shall establish, with the approval of the executive council, a cemetery on existing state lands for the reburial of ancient human remains found in the state. The cemetery shall not be open to the public. The state archaeologist in cooperation with the department of natural resources shall be responsible for coordinating interment in the cemetery.

[C77, 79, 81, §305A.8]
C93, §263B.8

263B.9 Authority to deny permission to disinter human remains.

The state archaeologist shall have the authority to deny permission to disinter human remains that the state archaeologist determines have state and national significance from an historical or scientific standpoint for the inspiration and benefit of the people of the United States.

[C79, 81, §305A.9]
C93, §263B.9

263B.10 Confidentiality of archaeological locations and information.

The state archaeologist shall comply with the requirements of section 22.7, subsection 20, regarding information pertaining to the nature and location of archaeological resources or sites. The state archaeologist shall consult with other public officers serving as lawful custodians of archaeological information to determine whether the information should be confidential or be released.

86 Acts, ch 1228, §2
C87, §305A.10
C93, §263B.10

CHAPTER 264

PERPETUATION OF COLLEGE CREDITS

264.1	Mandatory transfer of record of credits.	264.5	Fees.
264.2	Central depository.	264.6	Penalty.
264.3	Duty of depository.	264.7	Records of prior defunct institutions.
264.4	Transcripts.		

264.1 Mandatory transfer of record of credits.

The trustees or officers of any institution of higher learning, whether incorporated or not, upon going out of existence or ceasing to function as an educational institution must transfer to the office of the registrar of the state university of Iowa complete records of all grades attained by its students.

[C35, §3953-e1; C39, §3953.1; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §264.1]

264.2 Central depository.

The office of the registrar of the state university is hereby designated the central depository for the scholastic records of those educational institutions in this state which may hereafter cease to exist.

[C35, §3953-e2; C39, §3953.2; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §264.2]

264.3 Duty of depository.

The office of the registrar of the state university shall proceed to collect the scholastic records of those educational institutions which may become extinct, and the registrar shall have the supervision, care, custody, and control of said records.

[C35, §3953-e3; C39, §3953.3; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §264.3]

264.4 Transcripts.

The registrar of the state university shall prepare transcripts of such scholastic records and when requested to do so the registrar must furnish a copy of the said transcript to a former student. Whenever such transcript is made and after it has been compared with the original it shall be certified by the registrar of the state university, and thereafter it shall be considered and accepted as evidence for all purposes the same as the original would be.

[C35, §3953-e4; C39, §3953.4; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §264.4]
Referred to in §264.5

264.5 Fees.

For the preparation of a transcript in accordance with section 264.4, the state university may charge a nominal fee to compensate the institution for its actual costs, including but not limited to the labor involved in recording the credits and preparing a transcript, and postage.

[C35, §3953-e5; C39, §3953.5; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §264.5]
2009 Acts, ch 177, §31

264.6 Penalty.

The members of the board of trustees and the officers of an institution of higher learning who do not file, in accordance with the provisions of this chapter, the record of grades in the office of the registrar of the state university within twelve months after the said institution has been closed or has ceased to function as an educational institution, shall be guilty of a simple misdemeanor.

[C35, §3953-e6; C39, §3953.6; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §264.6]

264.7 Records of prior defunct institutions.

The office of the registrar of the state university is hereby designated the central depository for the records of any institution of higher learning which prior to the passage of this chapter may have ceased to exist, provided the custodian of the said records or former officials of the institution may wish to take advantage of the provisions of this chapter.

[C35, §3953-e7; C39, §3953.7; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §264.7]

CHAPTER 265**LABORATORY SCHOOLS**

Referred to in §282.18

265.1	Authority.	265.5	Allocations to debt retirement fund.
265.2	Buildings and facilities.	265.6	State aid applicable. Repealed by 2005 Acts, ch 179, §160.
265.3	Financing.	265.7	Debt limit provisions not applicable.
265.4	Purposes.		

265.1 Authority.

The state board of regents is authorized to establish and operate elementary and secondary laboratory schools at the institutions of higher education under its control. For the purpose of this chapter, laboratory school shall mean a school operated by an educational institution for the purpose of instructing students, training teachers, and advancing teaching methods.

[C66, 71, 73, 75, 77, 79, 81, §265.1]

265.2 Buildings and facilities.

Existing buildings and facilities now used for said purposes together with any additions to or alterations thereof and any new structures and facilities therefor, as the board shall

determine to be suitable and authorize for said purposes, shall be set aside as the area on the respective campuses constituting the laboratory school for all purposes of this chapter.

[C66, 71, 73, 75, 77, 79, 81, §265.2]

265.3 Financing.

A laboratory school at each institution where so established shall constitute a self-liquidating improvement unit to the extent funds are not appropriated by the general assembly and shall qualify for and may be financed as such under the provisions of sections 262.44 through 262.53.

[C66, 71, 73, 75, 77, 79, 81, §265.3]

265.4 Purposes.

For the purposes of this chapter, the state board of regents and the board of directors of any school district in the state of Iowa may enter into contracts for the laboratory schools to furnish instruction to the pupils of such school district and to train teachers on an agreed basis for tuition and other compensation to be paid by the school district. Such contracts shall be in writing and may extend for any stipulated period not to exceed fifteen years. During the agreed period, such contracts shall be obligatory on both the school district and the state board of regents.

[C66, 71, 73, 75, 77, 79, 81, §265.4]

265.5 Allocations to debt retirement fund.

The state board of regents may out of funds appropriated or otherwise available for the operation of the institution at which the laboratory school is located allocate an annual payment to the debt retirement fund for the buildings, areas, and facilities used by the institution for the laboratory school until such time as said improvement is fully paid. The board of regents may pledge said annual allotment together with the tuition received from school districts and all other income received from the operation of said laboratory school as security for the mortgage, bonds, or other debt by which said laboratory school is financed as authorized herein.

[C66, 71, 73, 75, 77, 79, 81, §265.5]

265.6 State aid applicable. Repealed by 2005 Acts, ch 179, §160.

265.7 Debt limit provisions not applicable.

The obligations of any school district on any contract between it and the state board of regents entered into pursuant to this chapter shall be payable only out of current receipts from taxes, tuition or other income available therefor each year, and shall not constitute a debt for the purposes of any statutory or constitutional provision limiting the obligations said school district may incur.

[C71, 73, 75, 77, 79, 81, §265.7]

CHAPTER 266

IOWA STATE UNIVERSITY OF SCIENCE AND TECHNOLOGY

	SUBCHAPTER I	266.6	Purnell Act.
	GENERAL PROVISIONS	266.7	Receiving agent.
266.1	Grants accepted.	266.8	Hazardous waste research program. Repealed by 2003 Acts, ch 179, §143.
266.2	Courses of study.	266.9	through 266.18 Reserved.
266.3	Investigation of mineral resources.	266.19	Renewable fuel — assistance.
266.4	Cooperative agricultural extension work.	266.20	Interest earnings.
266.5	State agency.	266.21	through 266.23 Reserved.

	SUBCHAPTER II		266.39A	Agricultural research.
	HOG-CHOLERA SERUM LABORATORY		266.39B	Research grants.
266.24	through 266.26 Repealed by 2003 Acts, ch 179, §143.		266.39C	The Iowa energy center. Repealed by 2017 Acts, ch 169, §47, 49.
			266.39D	Livestock producers assistance program. Repealed by 2004 Acts, ch 1175, §284.
	SUBCHAPTER III		266.39E	Beginning farmer center.
	SMITH-LEVER ACT		266.39F	Sale of dairy breeding research farm. Repealed by 2017 Acts, ch 29, §164.
266.27	Act accepted.			
266.28	Receipt of funds — work authorized.			
266.29	and 266.30 Reserved.			
				SUBCHAPTER V
				ODOR MITIGATION FOR LIVESTOCK OPERATIONS
	SUBCHAPTER IV		266.40	Definitions.
	RESEARCH AND EXTENSION SERVICES		266.41	Establishment.
266.31	Meat export research center established — director — assistants — salaries. Repealed by 2004 Acts, ch 1175, §283.		266.42	Purposes.
			266.43	Odor mitigation technologies and strategies — applied on-site research projects.
266.32	Acceptance of private funds. Repealed by 2005 Acts, ch 19, §125.		266.44	Odor mitigation technologies and strategies — basic and applied research projects.
266.33	Horticultural research.		266.45	Emerging technologies and strategies — basic research projects.
266.34	State extension fruit specialist.			
266.35	Crop research.		266.46	Information reporting.
266.36	Financial management services.		266.47	Research results — interim and final reports.
266.37	Use of corrections department institutional facilities and resources.		266.48	Cost-share program for livestock odor mitigation research efforts.
266.38	Soil test interpretation.			
266.39	Leopold center for sustainable agriculture.		266.49	Livestock odor mitigation evaluation effort.

SUBCHAPTER I

GENERAL PROVISIONS

266.1 Grants accepted.

Legislative assent is given to the purposes of the various congressional grants to the state for the endowment and support of an Iowa state university of science and technology, and an agricultural experiment station as a department thereof, upon the terms, conditions, and restrictions contained in all Acts of Congress relating thereto, and the state assumes the duties, obligations, and responsibilities thereby imposed. All moneys appropriated by the state because of the obligations thus assumed, and all funds arising from said congressional grants, shall be invested or expended in accordance with the provision of such grant, for the use and support of said university of science and technology located at Ames.

[R60, §1714; C73, §1604; C97, §2645; C24, 27, 31, 35, 39, §4031; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §266.1]

266.2 Courses of study.

There shall be adopted and taught at said university of science and technology practical courses of study, embracing in their leading branches such as relate to agriculture and mechanic arts, mines and mining, and ceramics, and such other branches as are best calculated to educate thoroughly the agricultural and industrial classes in the several pursuits and professions of life, including military tactics. If a practitioner preparation

program as defined in section 272.1 is established, it shall include the subject of physical education.

[R60, §1728; C73, §1621; C97, §2648; S13, §2674-d; C24, 27, 31, 35, 39, §4032; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §266.2]
2011 Acts, ch 34, §71

266.3 Investigation of mineral resources.

The said university of science and technology shall provide, as a part of its engineering experiment station work, for the investigation of clays, cement materials, fuels, and other mineral resources of the state with especial reference to their economic uses, and for the publication and dissemination of information useful to such industries, and for the testing of the products thereof.

[S13, §2674-e; C24, 27, 31, 35, 39, §4033; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §266.3]

266.4 Cooperative agricultural extension work.

The assent of the legislature of the state of Iowa is hereby given to the provisions and requirements of an Act of Congress approved May 8, 1914, providing for cooperative agricultural extension work between the agricultural colleges in the several states receiving the benefits of the Act of Congress approved July 2, 1862, and amendments thereto.

[SS15, §2682-y1; C24, 27, 31, 35, 39, §4034; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §266.4]

266.5 State agency.

The state board of regents is hereby authorized and empowered to receive the grants of money appropriated under said Act and to organize and conduct agricultural and home economics extension work, which shall be carried on in connection with the Iowa state university of science and technology in accordance with the terms and conditions expressed in the Act of Congress aforesaid.

[SS15, §2682-y1; C24, 27, 31, 35, 39, §4035; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §266.5]

266.6 Purnell Act.

The assent of the legislature of the state of Iowa is hereby given to the provisions and requirements of the congressional Act approved February 24, 1925, commonly known as the Purnell Act; and that, in accordance with the requirements thereof, the state agrees to devote the moneys thus received to the more complete endowment and maintenance of the agricultural experiment station of the Iowa state university of science and technology as provided in said Act.

[C27, 31, 35, §4035-b1; C39, §4035.1; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §266.6]

266.7 Receiving agent.

The treasurer of the Iowa state university of science and technology is hereby authorized and empowered to receive the grants of money appropriated under the said Act.

[C27, 31, 35, §4035-b2; C39, §4035.2; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §266.7]

266.8 Hazardous waste research program. Repealed by 2003 Acts, ch 179, §143.

266.9 through 266.18 Reserved.

266.19 Renewable fuel — assistance.

The university shall cooperate in assisting renewable fuel production facilities supporting livestock operations managed by persons receiving assistance pursuant to section 15.335B.

94 Acts, ch 1119, §27; 2009 Acts, ch 123, §30; 2011 Acts, ch 118, §86, 89; 2012 Acts, ch 1126, §24

266.20 Interest earnings.

If the interest earned on moneys accumulated by campus organizations at the Iowa state university of science and technology is not available for expenditure by those respective campus organizations, the Iowa state university of science and technology shall allocate that interest to campus improvements that are of benefit to students and have been accepted by the student government or to the student financial aid office to be used for the work-study program.

89 Acts, ch 319, §70

266.21 through 266.23 Reserved.

SUBCHAPTER II

HOG-CHOLERA SERUM LABORATORY

266.24 through 266.26 Repealed by 2003 Acts, ch 179, §143.

SUBCHAPTER III

SMITH-LEVER ACT

266.27 Act accepted.

The assent of the general assembly of the state of Iowa is hereby given to the provisions and requirements of the Smith-Lever Act, 38 Stat. 372 – 374, approved May 8, 1914, and any amendments to that Act, codified at 7 U.S.C. §341 – 349.

[C31, 35, §4044-c1; C39, §4044.1; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §266.27]
2006 Acts, ch 1030, §34; 2006 Acts, ch 1185, §120

266.28 Receipt of funds — work authorized.

The Iowa state board of regents is hereby authorized and empowered to receive the grants of money appropriated under the said Act; and to organize and conduct agricultural extension work which shall be carried on in connection with the Iowa state university of science and technology, in accordance with the terms and conditions expressed in the Act of Congress aforesaid.

[C31, 35, §4044-c2; C39, §4044.2; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §266.28]

266.29 and 266.30 Reserved.

SUBCHAPTER IV

RESEARCH AND EXTENSION SERVICES

266.31 Meat export research center established — director — assistants — salaries. Repealed by 2004 Acts, ch 1175, §283.

266.32 Acceptance of private funds. Repealed by 2005 Acts, ch 19, §125.

266.33 Horticultural research.

The Iowa agricultural experiment station at Iowa state university of science and technology shall conduct horticultural research to identify and improve fruits and vegetables which can be effectively grown in Iowa to provide more diversity for Iowa agriculture. The experiment station shall investigate production, marketing, and management techniques, adaptability,

and horticultural potential of the fruits and vegetables for both processing and for fresh market sale.

84 Acts, ch 1315, §16

266.34 State extension fruit specialist.

The Iowa cooperative extension service in agriculture and home economics shall employ a state extension fruit specialist to provide leadership in the development of a broader array of educational materials and field staff training. The materials on training should provide, in popular and practical terms, the available research at Iowa state university of science and technology and elsewhere that will enable area and county extension services to expand their efforts with existing and potential fruit growers for marketing in or outside of this state.

84 Acts, ch 1315, §18

266.35 Crop research.

The agricultural experiment station at Iowa state university of science and technology shall conduct research to identify crops, other than corn and soybeans, which can be effectively grown in Iowa either alone or in multiple cropping schemes to provide more diversity for Iowa agriculture. The experiment station shall investigate production and management techniques, adaptability, feasibility, marketability, and agronomic potential of the alternate crops.

84 Acts, ch 1315, §21

266.36 Financial management services.

The Iowa cooperative extension service in agriculture and home economics shall accelerate the development of computer software and field staff training to increase the extension service's ability to offer financial management and counseling services to individual farm operators and to increase the analysis and understanding of financial management, marketing and related subjects among farm operators.

84 Acts, ch 1315, §27

266.37 Use of corrections department institutional facilities and resources.

Iowa state university of science and technology shall use resources, including property, facilities, labor, and services, connected with institutions listed in section 904.102, under the authority of the Iowa department of corrections, to the extent practicable, for research, development, and testing of technological, horticultural, biological, and economic factors involved in improving the performance of Iowa agricultural products. However, use by the university is subject to the approval of the director of the department of corrections.

87 Acts, ch 139, §3

266.38 Soil test interpretation.

The Iowa cooperative extension service in agriculture and home economics shall develop and publish material on the interpretation of the results of soil tests. The material shall also feature the danger to groundwater quality from the overuse of fertilizers and pesticides. The material shall be available from the service at cost and any person providing soil tests for agricultural or horticultural purposes shall provide the material to the customer with the soil test results.

87 Acts, ch 225, §229

266.39 Leopold center for sustainable agriculture.

1. For the purposes of this section, "*sustainable agriculture*" means the appropriate use of crop and livestock systems and agricultural inputs supporting those activities which maintain economic and social viability while preserving the high productivity and quality of Iowa's land.

2. The Leopold center for sustainable agriculture is established in the Iowa agricultural and home economics experiment station at Iowa state university of science and technology. The center shall conduct and sponsor research to identify and reduce negative environmental

and socio-economic impacts of agricultural practices. The center also shall research and assist in developing emerging alternative practices that are consistent with a sustainable agriculture. The center shall develop in association with the Iowa cooperative extension service in agriculture and home economics an educational framework to inform the agricultural community and the general public of its findings.

3. a. An advisory board is established consisting of the following members:

(1) Three persons from Iowa state university of science and technology, appointed by its president.

(2) Two persons from the state university of Iowa, appointed by its president.

(3) Two persons from the university of northern Iowa, appointed by its president.

(4) Two representatives of private colleges and universities within the state, to be nominated by the Iowa association of independent colleges and universities, and appointed by the Iowa coordinating council for post-high school education.

(5) One representative of the department of agriculture and land stewardship, appointed by the secretary of agriculture.

(6) One representative of the department of natural resources, appointed by the director.

(7) One man and one woman, actively engaged in agricultural production, appointed by the state soil conservation and water quality committee established in section 161A.4.

(8) Four persons actively engaged in agriculture who are appointed by the titular head of each of the following agricultural organizations:

(a) The Iowa farm bureau federation.

(b) The Iowa farmers union.

(c) The practical farmers of Iowa.

(d) The agribusiness association of Iowa.

b. The terms of the members shall begin and end as provided in section 69.19 and any vacancy shall be filled by the original appointing authority. The terms shall be for four years and shall be staggered as determined by the president of Iowa state university of science and technology. The members appointed by the titular heads of agricultural organizations shall be reimbursed for actual and necessary expenses incurred while engaged in their official duties, but shall not be entitled to per diem compensation as authorized under section 7E.6.

4. a. The Iowa agricultural and home economics experiment station shall employ a director for the center, who shall be appointed by the president of Iowa state university of science and technology. The director of the center shall employ the necessary research and support staff. The director and staff shall be employees of Iowa state university of science and technology. No more than five hundred thousand dollars of the funds received from the agriculture management account annually shall be expended by the center for the salaries and benefits of the employees of the center, including the salary and benefits of the director. The remainder of the funds received from the agriculture management account shall be used to sponsor research grants and projects on a competitive basis from Iowa colleges and universities and private nonprofit agencies and foundations. The center may also solicit additional grants and funding from public and private nonprofit agencies and foundations.

b. The director shall prepare an annual report.

5. The board shall provide the president of Iowa state university of science and technology with a list of three candidates from which the director shall be selected. The board shall provide an additional list of three candidates if requested by the president. The board shall advise the director in the development of a budget, on the policies and procedures of the center, in the funding of research grant proposals, and regarding program planning and review.

87 Acts, ch 225, §230; 99 Acts, ch 91, §1, 2; 2010 Acts, ch 1061, §180; 2017 Acts, ch 159, §53

For provisions relating to ongoing activities and expenses of the Leopold center for sustainable agriculture administered by the college of agriculture and life sciences at Iowa state university of science and technology, see 2017 Acts, ch 168, §33

266.39A Agricultural research.

Iowa state university of science and technology shall conduct continuing agricultural research to provide information about environmental and social impacts of agricultural research on the small or family farm and information about population trends and impact

of the trends on Iowa agriculture. The research shall include an agricultural land tenure study conducted every five years to determine the ownership of farmland, and to analyze ownership trends, using the categories of land ownership defined in chapter 9H. The study shall be conducted on the basis of regions established by the university. A region shall be composed of not more than twenty-three contiguous counties.

89 Acts, ch 319, §71; 92 Acts, ch 1080, §1; 2017 Acts, ch 168, §30

266.39B Research grants.

1. A comprehensive agricultural research program is established at the Leopold center for sustainable agriculture at Iowa state university of science and technology to provide financial assistance for agricultural research within Iowa. The Leopold center shall establish a grant program for projects designated by the general assembly and other projects deemed necessary for the betterment of agriculture within the state. All funds from the program shall be available to public and private entities in Iowa on a competitive grant basis. Approved research proposals shall meet all of the following criteria:

a. The research shall assist Iowa in maintaining productive soil, viable communities, and farms with incomes sufficient to support a family.

b. The research shall enhance the profitability of farmers.

c. The research shall lead to farming which enhances and preserves Iowa's environment.

2. The research grants shall include:

a. Long-term and basic research with preference given to projects which have no traditional funding sources or require a long period of time to produce positive or negative results.

b. Emergency response research with preference given to projects which relate to issues expected to address problems occurring within the next five years, which relate to problems that could have substantial social and economic costs, or which offer research opportunities that may be lost if a delay occurs.

c. Grants available for matching federal or private funds for projects which are a necessary component of other grants or will produce the highest ratio of outside funds to state funds.

d. Crop and livestock research relating to the growth, processing, or marketing of agricultural output, the enhancement of the quality of crops, the lowering of the costs of production, or the avoidance of contamination to food, water, or soil.

e. Alternative crop research to enhance the opportunity for self-employment, to promote site-appropriate crops, to assist the state in becoming more self-sufficient in food and energy resources, to grow, process, and market new crops, or to develop the infrastructure to support new crops.

f. Research dissemination which will expand the knowledge of potential producers, or will collect, create, or disseminate agricultural knowledge, which will encourage the exchange of agriculturally related information among researchers, or which will provide access to farmers to information resources related to agriculture.

g. Agriculture health and safety research to identify, investigate, and increase awareness of agriculture safety problems, develop practical solutions to agriculture safety problems, develop ways to increase awareness and use of safety practices and devices, to improve medical professionals' ability to diagnose farm-related problems, or to reduce the accident and mortality rate in the agricultural industry.

89 Acts, ch 319, §72

For provisions relating to ongoing activities and expenses of the Leopold center for sustainable agriculture administered by the college of agriculture and life sciences at Iowa state university of science and technology, see 2017 Acts, ch 168, §33

266.39C The Iowa energy center. Repealed by 2017 Acts, ch 169, §47, 49. See §15.120.

266.39D Livestock producers assistance program. Repealed by 2004 Acts, ch 1175, §284.

266.39E Beginning farmer center.

1. A beginning farmer center is established as a part of the Iowa cooperative extension service in agriculture and home economics at Iowa state university of science and technology to assist individuals beginning farming operations. The center shall also assist in facilitating

the transition of farming operations from established farmers to beginning farmers, including by matching purchasers and sellers of agricultural land, creating and maintaining an information base inventorying land and facilities available for acquisition, and developing models to increase the number of family farming operations in this state. The objectives of the beginning farmer center shall include, but are not limited to, the following:

a. To provide the coordination of education programs and services for beginning farmer efforts statewide.

b. To assess needs of beginning farmers and retiring farmers in order to identify program and service opportunities.

c. To develop, coordinate, and deliver statewide through the Iowa cooperative extension service in agriculture and home economics, and other entities as appropriate, targeted education to beginning farmers and retiring farm families.

2. Programs and services provided by the beginning farmer center shall include, but are not limited to, the development of skills and knowledge in financial management and planning, legal issues, tax laws, technical production and management, leadership, sustainable agriculture, human health, the environment, and leadership.

94 Acts, ch 1193, §22; 2020 Acts, ch 1045, §17

Subsection 3 stricken

266.39F Sale of dairy breeding research farm. Repealed by 2017 Acts, ch 29, §164.

SUBCHAPTER V

ODOR MITIGATION FOR LIVESTOCK OPERATIONS

266.40 Definitions.

For purposes of this subchapter, the following definitions apply:

1. “Livestock” means beef cattle, dairy cattle, swine, chickens, or turkeys.

2. “Livestock operation” means any area in which livestock are kept in a confined space, including a confinement feeding operation or open feedlot.

3. “Livestock producer” means the titleholder of livestock or a livestock operation.

4. “University” means Iowa state university of science and technology.

2008 Acts, ch 1174, §1, 13; 2017 Acts, ch 54, §76

266.41 Establishment.

Iowa state university of science and technology shall consult with the department of agriculture and land stewardship and the department of natural resources to establish and administer livestock odor mitigation efforts to reduce the impacts of odor emitted from livestock operations involving swine, beef or dairy cattle, chickens, or turkeys as provided in this subchapter.

2008 Acts, ch 1174, §2, 13; 2017 Acts, ch 54, §76

Referred to in §266.47

266.42 Purposes.

The purposes of this subchapter shall be to further livestock odor mitigation efforts as follows:

1. Further a livestock odor mitigation research effort in order to accelerate the adoption of affordable and effective odor mitigation technologies and strategies by livestock producers, expand the number of affordable and effective odor mitigation technologies and strategies available to livestock producers, and provide research-grounded information regarding odor mitigation technologies and strategies that are ineffective or cost-prohibitive.

2. Develop a livestock odor mitigation evaluation effort as provided in section 266.49, which shall be a multilevel process to determine the potential odor exposure to persons who would neighbor a new livestock operation as proposed to be constructed.

2008 Acts, ch 1174, §3, 13; 2017 Acts, ch 54, §76

Referred to in §266.43, 266.44, 266.45, 266.46, 266.47, 266.48, 266.49

266.43 Odor mitigation technologies and strategies — applied on-site research projects.

1. *a.* Iowa state university of science and technology shall conduct applied on-site research projects to address whether odor mitigation technologies or strategies can be successfully implemented across many livestock operations, locations, and situations, and to analyze the costs of their successful implementation and maintenance to accomplish the purposes provided in section 266.42.

b. The projects shall be conducted at livestock operations on a statewide basis and under different circumstances.

c. The university shall evaluate technologies or strategies that have a firm foundation in basic and applied research but which may further benefit from statewide on-site application. The technologies and strategies may include but are not limited to the following:

(1) The installation, maintenance, and use of odor mitigating devices, techniques, or strategies.

(2) The use of a livestock odor mitigation evaluation effort as provided in section 266.49.

(3) The manipulation of livestock diet.

2. A livestock producer who is classified as a habitual violator pursuant to section 459.604 or a chronic violator pursuant to section 657.11 shall not participate in an applied on-site research project under this section unless the livestock producer contributes one hundred percent of the total costs of conducting the project.

2008 Acts, ch 1174, §4, 13

Referred to in §266.44, 266.45, 266.48

266.44 Odor mitigation technologies and strategies — basic and applied research projects.

1. *a.* Iowa state university of science and technology shall conduct basic or applied research projects to develop or advance technologies or strategies to accomplish the purposes provided in section 266.42.

b. The university shall evaluate technologies or strategies that have not been subject to comprehensive scientific scrutiny but which demonstrate promise to accomplish the purposes provided in section 266.42. The technologies and strategies may include but are not limited to the following:

(1) The adaption and use of modeling to locate livestock operations associated with keeping livestock in addition to swine, and to locate livestock operations utilizing odor mitigation devices, techniques, or strategies.

(2) The installation, maintenance, and use of odor mitigating devices, techniques, or strategies.

(3) The use of topical treatments applied to manure originating with livestock operations keeping chickens and turkeys.

2. Nothing in this section restricts the university from conducting its evaluation at livestock operations, including as provided in section 266.43. A livestock producer who is classified as a habitual violator pursuant to section 459.604 or a chronic violator pursuant to section 657.11 shall not participate in a basic or applied research project under this section unless the livestock producer contributes one hundred percent of the total costs of conducting the project.

2008 Acts, ch 1174, §5, 13

Referred to in §266.48

266.45 Emerging technologies and strategies — basic research projects.

1. *a.* Iowa state university of science and technology shall conduct basic research projects to investigate emerging technologies or strategies that may accomplish the purposes provided in section 266.42.

b. The university shall evaluate technologies or strategies that demonstrate promise for future development but which may require a long-term research commitment.

2. Nothing in this section restricts the university from conducting its evaluation at livestock operations, including as provided in section 266.43. A livestock producer who is classified as a habitual violator pursuant to section 459.604 or a chronic violator pursuant

to section 657.11 shall not participate in a basic research project under this section unless the livestock producer contributes one hundred percent of the total costs of conducting the project.

2008 Acts, ch 1174, §6, 13

Referred to in §266.48

266.46 Information reporting.

1. In accordance with section 266.42, Iowa state university of science and technology is the custodian of all information including but not limited to reports and records obtained, submitted, and maintained in connection with the research projects conducted on the site of a livestock operation as provided in this subchapter, and all information submitted by or gathered from or deduced from a livestock producer or livestock operation pursuant to a livestock odor mitigation evaluation under section 266.49 or section 459.303, subsection 3. The public shall have a right to examine and copy the information as provided in chapter 22, subject to the exceptions of section 22.7.

2. Notwithstanding subsection 1, the university or an agent or employee of the university shall not release the name or location, or any other information sufficient to identify the name or location of any livestock producer or livestock operation participating in a research project or participating in a livestock odor mitigation evaluation pursuant to section 266.49 or section 459.303, subsection 3, and such information shall not be subject to release pursuant to subpoena or discovery in any civil proceeding, unless such confidentiality is waived in writing by the livestock producer. In addition, the university or an employee or agent of the university shall release no other information submitted by or gathered from or deduced from a livestock producer or livestock operation pursuant to a livestock odor mitigation evaluation under section 266.49 or section 459.303, subsection 3, unless such information is used in a research project, which in turn shall not occur without the written consent of the livestock producer.

3. Any information provided by, gathered from, or deduced from a livestock producer or livestock operation in connection with a research project or odor mitigation evaluation that is in the possession of the livestock producer or livestock operation shall not be subject to subpoena or discovery in any civil action against the producer.

2008 Acts, ch 1174, §7, 13; 2017 Acts, ch 54, §76; 2019 Acts, ch 59, §77

Referred to in §266.47

266.47 Research results — interim and final reports.

1. Iowa state university of science and technology shall prepare and submit reports as follows:

a. The university shall submit an interim report to the general assembly each year on or before January 15, through January 15, 2013. The interim report shall do all of the following:

(1) Describe the university's progress in achieving the purposes of section 266.42, and detail its efforts in carrying out the livestock odor mitigation efforts described in this subchapter.

(2) Evaluate applied and basic research projects being conducted or completed and provide estimates for their completion.

(3) Make any recommendation for improving, continuing, or expanding livestock odor mitigation efforts and for disseminating the results of those efforts to livestock producers.

b. The university shall submit a final report to the general assembly on or before six months after the completion of its research projects as provided in section 266.41. The final report shall include a summary of efforts, the university's findings and conclusions, and recommendations necessary to carry out the purposes of section 266.42.

2. Nothing in this section prevents the university, or any individual researcher employed by or affiliated with the university, from compiling information obtained, submitted, and maintained as the result of a livestock odor mitigation effort as provided in section 266.42 involving a specific livestock operation, and publishing that information as part of the report so long as the information cannot be used to identify a livestock producer or livestock operation without the consent of the livestock producer as provided in section 266.46.

3. All information obtained by the university in connection with a research project shall be available for public examination and copying as provided in chapter 22, subject to the exceptions of section 22.7, so long as the information cannot be used to identify the livestock producer or livestock operation as provided in section 266.46.

2008 Acts, ch 1174, §8, 13; 2017 Acts, ch 54, §76

266.48 Cost-share program for livestock odor mitigation research efforts.

1. a. Iowa state university, in cooperation with the department of agriculture and land stewardship and the department of natural resources, shall establish a cost-share program for the livestock odor mitigation research efforts as established in sections 266.43 through 266.45 that maximizes participation in the livestock odor mitigation research efforts so as to accomplish the purposes in section 266.42, subsection 1.

b. The cost-share program shall allow for monetary contributions from livestock producers and other persons with an interest in livestock production. In addition, a livestock producer participating in a livestock odor mitigation research effort as provided in sections 266.43 through 266.45 shall provide in-kind contributions to participate in a research effort which may include but are not limited to furnishing the livestock producer's own labor, construction equipment, electricity and other utility costs, insurance, real property tax payments, and basic construction materials that may be reused or continued to be used by the livestock producer after the completion of the research effort.

2. This section does not apply to a livestock producer who is required to contribute one hundred percent of the total costs of conducting a research project.

2008 Acts, ch 1174, §9, 13; 2013 Acts, ch 30, §64

266.49 Livestock odor mitigation evaluation effort.

1. If funding is available, Iowa state university shall provide for a livestock odor mitigation evaluation effort as provided in section 266.42. The effort shall accomplish all of the following objectives:

a. Ensure ease of its use and timeliness in producing results, including reports and the issuance of a livestock odor mitigation certificate as provided in this section.

b. Ensure a cost-effective process of evaluation.

c. Provide a level of evaluation that corresponds to the complexity of the proposed site of construction, including unique characteristics associated with that site.

2. The livestock odor mitigation evaluation effort shall provide for increasing levels of participation by a person who requests the evaluation in cooperation with the university as follows:

a. A level one evaluation that provides an opportunity for the person to complete a simple questionnaire which may be accessed by using the internet without assistance by university personnel.

b. A level two evaluation that provides an opportunity for the person to consult with a specialist designated by the university who shall assist in performing a comprehensive evaluation of the site of the proposed construction.

c. A level three evaluation which provides an opportunity for the person to participate in a community-based odor assessment model that uses predictive computer modeling to analyze the potential odor intensity, duration, and frequency for a neighbor from a livestock operation.

3. An evaluation may account for all factors impacting upon odor exposure as determined relevant by the university. The factors may vary based upon the type of evaluation performed. Factors which may be considered include but are not limited to all of the following:

a. Characteristics relating to the proposed site including but not limited to terrain, weather patterns, surrounding vegetative barriers, the proximity of neighbors, and contributing odor sources.

b. The type and size of the structure proposed to be constructed and its relationship to existing livestock operation structures.

4. At the completion of an evaluation, the university shall provide the participating person with a report including its findings and recommendations. A report may vary based upon the type of evaluation performed. The report resulting from a level one or level two evaluation

may recommend that the participating person conduct a higher level evaluation. A report resulting from a level two or level three evaluation may recommend modifications to the design or orientation of the livestock operation structure proposed to be constructed, the adoption of odor mitigating practices, or the installation of odor mitigating technologies.

5. A participating person who has completed the level of evaluation as recommended by the university may request that the university issue the participating person a livestock odor mitigation evaluation certificate. The university shall issue a certificate to the participating person that verifies the person's completion of an evaluation that satisfies the requirements of this section. The university shall not issue a certificate to a participating person who has not completed the level of evaluation recommended by the university. The certificate shall identify the name of the participating person and the site where the construction is proposed. However, it shall not include any other information.

2008 Acts, ch 1174, §10, 13

Referred to in §266.42, 266.43, 266.46, 459.303

CHAPTER 267

LIVESTOCK HEALTH ADVISORY COUNCIL

267.1	Definitions.	267.6	Iowa administrative procedure Act.
267.2	Livestock health advisory council.		
267.3	Terms and vacancies.	267.7	Other funds.
267.4	Supplies and services.		
267.5	Duties and objectives of council.	267.8	Livestock disease research fund.

267.1 Definitions.

As used in this chapter,

1. "Iowa state university" means the Iowa state university of science and technology.
2. "Livestock" means swine, sheep, poultry, cattle, ostriches, rheas, or emus.
3. "Producer" means a person engaged in the business of producing livestock for profit.

[C79, 81, §267.1]

95 Acts, ch 43, §10

Referred to in §352.2

267.2 Livestock health advisory council.

There is a livestock health advisory council, referred to in this chapter as the council. The council shall consist of:

1. Three cattle producers appointed by the Iowa cattlemen's association, one of whom shall serve an initial term of one year, and one of whom shall serve an initial term of two years.
2. Three swine producers appointed by the Iowa pork producers association, one of whom shall serve an initial term of one year.
3. One sheep producer appointed by the Iowa sheep producers association who shall serve an initial term of one year.
4. One poultry producer appointed by the Iowa poultry association who shall serve an initial term of two years.
5. One milk producer appointed by the Iowa state dairy association who shall serve an initial term of two years; and
6. One practicing veterinarian appointed by the Iowa veterinary medical association.

[C79, 81, §267.2]

Referred to in §163.3C, 267.3

267.3 Terms and vacancies.

Except as provided in section 267.2, each member shall be appointed for a three-year term beginning on July 1 of the year of appointment. No member shall serve more than two terms,

including any portion of a term served pursuant to the filling of a vacancy. Vacancies shall be filled by the appropriate organization in the same manner as appointing full-term members.

[C79, 81, §267.3]

267.4 Supplies and services.

The department of agriculture and land stewardship shall furnish the council with a meeting place and all articles, supplies, and services necessary to enable the council to perform its duties.

[C79, 81, §267.4]

267.5 Duties and objectives of council.

The livestock health advisory council shall:

1. Elect a chairperson and such other officers as it deems advisable. Officers of the council shall serve for terms of one year. No member may serve in any one office for more than two terms.

2. Hold a meeting twice each year with the Iowa state university college of veterinary medicine. Hold other meetings as the council may determine necessary, or as required by section 267.6. No action taken by the council shall be valid unless agreed to by a majority of the council members.

3. Make recommendations to the Iowa state university college of veterinary medicine concerning the application of funds appropriated to the college of veterinary medicine. The Iowa state university college of veterinary medicine shall not expend any of the funds appropriated by this chapter until the recommendation of the council concerning that appropriation is adopted or sixty days following the effective date of the appropriation, whichever is earlier.

4. File an annual report with the secretary of agriculture.

[C79, 81, §267.5]

92 Acts, ch 1246, §40

Referred to in §267.6

267.6 Iowa administrative procedure Act.

The provisions of chapter 17A shall not apply to the council or any actions taken by it, except that any recommendations adopted by the council pursuant to section 267.5, subsection 3, and any rules adopted by the council shall be adopted, amended, or repealed only after compliance with the provisions of sections 17A.4 and 17A.5, and the publication requirements in section 2B.5A.

[C79, 81, §267.6]

2010 Acts, ch 1031, §57

Referred to in §267.5

267.7 Other funds.

In addition to the funds appropriated to it by this chapter, the Iowa state university college of veterinary medicine may accept grants, gifts, matching funds, or any other funds for research into the diseases of livestock from any source, public or private.

[C77, §266.20; C79, 81, §267.7]

267.8 Livestock disease research fund.

There is created in the office of the treasurer of state a fund to be known as the livestock disease research fund. Any balance in said fund on June 30 of each fiscal year shall revert to the general fund.

93 Acts, ch 179, §24

CHAPTER 267A

LOCAL FOOD AND FARM PROGRAM

267A.1	Purpose and goals.	267A.5	Local food and farm program fund.
267A.2	Definitions.	267A.6	Local food and farm program.
267A.3	Local food and farm program council.	267A.7	Local food and farm program report. Repealed by 2020 Acts, ch 1045, §25.
267A.4	Local food and farm program coordinator.		

267A.1 Purpose and goals.

1. The purpose of this chapter is to empower farmers and food entrepreneurs to provide for strong local food economies that promote self-sufficiency and job growth in the agricultural sector and allied sectors of the economy.

2. The goals of this chapter are to accomplish all of the following:

a. Promote the expansion of the production of local foods, including all of the following:

(1) The production of Iowa-grown food, including but not limited to livestock, eggs, milk, fruit, vegetables, grains, herbs, honey, and nuts.

(2) The processing of Iowa-grown agricultural products into food products, including canning, freezing, dehydrating, bottling, or otherwise packaging and preserving such products.

(3) The distribution and marketing of fresh and processed Iowa-grown agricultural food products to markets in this state and neighboring states.

b. Increase consumer and institutional spending on Iowa-produced and marketed foods.

c. Increase the profitability of farmers and businesses engaged in enterprises related to producing, processing, distributing, and marketing local food.

d. Increase the number of jobs in this state's farm and business economies associated with producing, processing, distributing, and marketing local food.

2011 Acts, ch 128, §27, 60

Referred to in §267A.3, 267A.5, 267A.6

267A.2 Definitions.

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

1. "Coordinator" means the local food and farm program coordinator created in section 267A.4.

2. "Council" means the local food and farm program council established in section 267A.3.

3. "Department" means the department of agriculture and land stewardship.

4. "Fund" means the local food and farm program fund created in section 267A.5.

2011 Acts, ch 128, §28, 60; 2012 Acts, ch 1021, §60

267A.3 Local food and farm program council.

1. A local food and farm program council is established to advise the local food and farm program coordinator carrying out the purpose and goals of this chapter as provided in section 267A.1.

2. The council shall be composed of the following voting members:

a. The secretary of agriculture or the secretary's designee.

b. Members appointed by the designated organizations, at the discretion of the organization, to represent the private sector as follows:

(1) One person by the Iowa farmers union who is involved in local food production.

(2) One person by the Iowa farmers market association.

c. Members appointed by the governor to represent public or private entities involved in local food distribution, marketing, or processing as follows:

(1) One person who is associated with a resource conservation and development office in this state.

(2) One person actively engaged in the distribution of local food to processors, wholesalers, or retailers.

(3) One person from the regional food systems working group who is actively engaged or an expert in local food.

3. A member designated by the secretary of agriculture shall serve at the pleasure of the secretary. A member appointed by an organization shall serve at the pleasure of that organization. A member appointed by the governor shall serve at the pleasure of the governor.

4. The council shall be part of the department. The department shall perform administrative functions necessary for the operation of the council.

5. The council shall elect a chairperson from among its members each year on a rotating basis as provided by the council. The council shall meet on a regular basis and at the call of the chairperson or upon the written request to the chairperson of a majority of the members.

6. The members of the council shall not receive compensation for their services including as provided in section 7E.6. However, the members may be reimbursed for their actual and necessary expenses incurred in the performance of their duties as members of the council if allowed by the council.

7. A majority of the members constitutes a quorum and the affirmative vote of a majority of the members present is necessary for any substantive action to be taken by the council. The majority shall not include any member who has a conflict of interest and a statement by a member that the member has a conflict of interest is conclusive for this purpose. A vacancy in the membership does not impair the duties of the council.

2011 Acts, ch 128, §29, 60

Referred to in §267A.2

267A.4 Local food and farm program coordinator.

The position of local food and farm program coordinator is created within Iowa state university as part of its cooperative extension service in agriculture and home economics. The coordinator shall be the primary state official charged with carrying out the purposes and goals of this chapter.

2011 Acts, ch 128, §30, 60

Referred to in §267A.2

Cost-sharing agreement between department of agriculture and land stewardship and Iowa state university to support local food and farm program coordinator position; 2014 Acts, ch 1139, §5; 2015 Acts, ch 132, §5, 28; 2016 Acts, ch 1134, §5; 2017 Acts, ch 168, §5, 40; 2018 Acts, ch 1167, §6; 2019 Acts, ch 131, §5; 2020 Acts, ch 1121, §1

267A.5 Local food and farm program fund.

A local food and farm program fund is created in the state treasury under the control of the department. The fund is separate from the general fund of the state. The fund is composed of moneys appropriated by the general assembly and moneys available to and obtained or accepted by the local food and farm program from the United States government or private sources for placement in the fund. Moneys in the fund shall be used to carry out the purpose and goals of this chapter as provided in section 267A.1, including but not limited to administering the local food and farm program as provided in section 267A.6. The fund shall be managed by the department in consultation with the local food and farm coordinator, under the supervision of the local food and farm program council.

2011 Acts, ch 128, §31, 60

Referred to in §267A.2

267A.6 Local food and farm program.

The local food and farm program coordinator, with advice from the local food and farm program council, shall develop and administer a local food and farm program necessary to carry out the purpose and goals of this chapter as provided in section 267A.1, including but not limited to by improving any of the following:

1. Communication and cooperation between and among farmers, food entrepreneurs, and consumers.

2. Coordination between and among government agencies, public universities and community colleges, organizations, and private-sector firms working on local food and farm-related issues.

2011 Acts, ch 128, §32, 60

Referred to in §267A.5

267A.7 Local food and farm program report. Repealed by 2020 Acts, ch 1045, §25.

CHAPTER 268

UNIVERSITY OF NORTHERN IOWA

268.1	Official designation.	268.5	Iowa academy of science appropriation limitations.
268.2	Courses offered and responsibility of university.	268.6	Agriculture energy efficiency education program. Repealed effective July 1, 2012; 2009 Acts, ch 175, §24.
268.3	Interest earnings.	268.7	Science, technology, engineering, and mathematics collaborative initiative.
268.4	Iowa waste reduction center for the safe and economic management of solid waste and hazardous substances.		

268.1 Official designation.

The state university at Cedar Falls shall be officially designated and known as the “*University of Northern Iowa*”.

[C97, §2675; S13, §2675; C24, 27, 31, 35, 39, §4063; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §268.1]

268.2 Courses offered and responsibility of university.

The university shall offer undergraduate and graduate courses of instruction, conduct research and provide extension and other public services in areas of its competence to facilitate the social, cultural and economic development of Iowa. Its primary responsibility shall be to prepare teachers and other educational personnel for schools, colleges, and universities and to carry out research and provide consultative and other services for the improvement of education throughout the state. In addition, it shall conduct programs of instruction, research and service in the liberal and vocational arts and sciences and offer such other educational programs as the state board of regents may from time to time approve.

[C97, §2677; C24, 27, 31, 35, 39, §4064; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §268.2]

268.3 Interest earnings.

If the interest earned on moneys accumulated by campus organizations at the university of northern Iowa is not available for expenditure by those respective campus organizations, the university of northern Iowa shall allocate that interest to campus improvements that are of benefit to students and have been accepted by the student government or to the student financial aid office to be used for the work-study program.

89 Acts, ch 319, §73

268.4 Iowa waste reduction center for the safe and economic management of solid waste and hazardous substances.

1. The Iowa waste reduction center for the safe and economic management of solid waste and hazardous substances is established at the university of northern Iowa. The university of northern Iowa, in cooperation with the department of natural resources, shall develop and implement a program which provides the following:

a. Information regarding the safe use and economic management of solid waste and hazardous substances to small businesses which generate the substances.

b. Dissemination of information to public and private agencies regarding state and federal solid waste and hazardous substances regulations, and assistance in achieving compliance with the regulations.

c. Advice and consultation in the proper storage, handling, treatment, reuse, recycling, and disposal methods of solid waste and hazardous substances.

- d. Identification of the advantages of proper substance management relative to liability and operational costs of a particular small business.
- e. Assistance in the providing of capital formation in order to comply with state and federal regulations.
 2. a. An advisory committee to the center is established, consisting of a representative of each of the following organizations:
 - (1) The economic development authority.
 - (2) The small business development commission.
 - (3) The university of northern Iowa.
 - (4) The state university of Iowa.
 - (5) Iowa state university of science and technology.
 - (6) The department of natural resources.
 - b. The active participation of representatives of small businesses in the state shall also be sought and encouraged.
3. Information obtained or compiled by the center shall be disseminated directly to the economic development authority, the small business development centers, and other public and private agencies with interest in the safe and economic management of solid waste and hazardous substances.
4. The center may solicit, accept, and administer moneys appropriated to the center by a public or private agency.
5. This section does not do any of the following:
 - a. Relieve a person receiving assistance under this section of any duties or liabilities otherwise created or imposed upon the person by law.
 - b. Transfer to the state, the university of northern Iowa, or an employee of the state or the university, a duty or liability otherwise imposed by law on a person receiving assistance under this section.
 - c. Create a liability to the state, the university of northern Iowa, or an employee of the state or the university for an act or omission arising from the providing of assistance or advice in cleaning up, handling, or disposal of hazardous waste. However, an individual may be liable if the act or omission results from intentional wrongdoing or gross negligence.

87 Acts, ch 225, §403; 89 Acts, ch 77, §1; 2011 Acts, ch 118, §85, 89

Referred to in §15A.1, 455B.481, 455B.484A

268.5 Iowa academy of science appropriation limitations.

The university shall use no more than twenty percent of the funds allocated to the university for the Iowa academy of science for administrative purposes for the Iowa academy of science or for publication of the Iowa academy of science journal. The university shall expend the remainder of the moneys appropriated for research projects and studies awarded by the Iowa academy of science. The Iowa academy of science shall permit all grant recipients to publish the results of the recipients' research projects and studies in the Iowa academy of science journal at no cost to the grant recipient.

91 Acts, ch 267, §238

268.6 Agriculture energy efficiency education program. Repealed effective July 1, 2012; 2009 Acts, ch 175, §24.

268.7 Science, technology, engineering, and mathematics collaborative initiative.

1. A science, technology, engineering, and mathematics collaborative initiative is established at the university of northern Iowa for purposes of supporting activities directly related to recruitment of prekindergarten through grade twelve mathematics and science teachers for ongoing mathematics and science programming for students enrolled in prekindergarten through grade twelve.

2. The collaborative initiative shall prioritize student interest in achievement in science, technology, engineering, and mathematics; reach every student and teacher in every school district in the state; identify, recruit, prepare, and support the best mathematics and science teachers; and sustain exemplary programs through the university's Iowa mathematics and

science education partnership. The university shall collaborate with the community colleges to develop science, technology, engineering, and mathematics professional development programs for community college instructors and for purposes of science, technology, engineering, and mathematics curricula development.

3. Subject to an appropriation of funds by the general assembly, the initiative shall administer the following:

a. Regional science, technology, engineering, and mathematics networks for Iowa, the purpose of which is to equalize science, technology, engineering, and mathematics education enrichment opportunities available to learners statewide. The initiative shall establish six geographically similar regional science, technology, engineering, and mathematics networks across Iowa that complement and leverage existing resources, including but not limited to extension service assets, area education agencies, state accredited postsecondary institutions, informal educational centers, school districts, economic development zones, and existing public and private science, technology, engineering, and mathematics partnerships. Each network shall be managed by a highly qualified science, technology, engineering, and mathematics advocate positioned at a network hub to be determined through a competitive application process. Oversight for each regional network shall be provided by a regional advisory board. Members of the board shall be appointed by the governor. The membership shall represent prekindergarten through grade twelve school districts and schools, and higher education, business, nonprofit organizations, youth agencies, and other appropriate stakeholders.

b. A focused array of the best science, technology, engineering, and mathematics enrichment opportunities, selected through a competitive application process, that can be expanded to meet future needs. A limited, focused list of selected exemplary programs shall be made available to each regional network.

c. Statewide science, technology, engineering, and mathematics programming designed to increase participation of students and teachers in successful learning experiences; to increase the number of science, technology, engineering, and mathematics-related teaching majors offered by the state's universities; to elevate public awareness of the opportunities; and to increase collaboration and partnerships.

4. The initiative shall evaluate the effectiveness of programming to document best practices.

2012 Acts, ch 1132, §12

CHAPTER 269

BRAILLE AND SIGHT SAVING SCHOOL

Referred to in §256B.2, 331.381

No merger with school for the deaf
until requirements met, §270.10
Transportation payments, §270.9

269.1 Admission.

269.2 Expenses — residence of
indigents.

269.1 Admission.

Any resident of the state under twenty-one years of age who has a visual disability too severe to acquire a satisfactory education in a regular educational environment shall be entitled to an education in the Iowa braille and sight saving school at the expense of the state. Nonresidents also may be admitted to the Iowa braille and sight saving school if their

presence would not be prejudicial to the interests of residents, upon such terms as may be fixed by the state board of regents.

[R60, §2147, 2148; C73, §1672, 1680; C97, §2715; S13, §2715; C24, 27, 31, 35, 39, §4066; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §269.1]

94 Acts, ch 1091, §21
 Governed by board of regents, §262.7

269.2 Expenses — residence of indigents.

The provisions of sections 270.4 and 270.8 are applicable to the Iowa braille and sight saving school.

[C73, §1678; C97, §2716; C24, 27, 31, 35, 39, §4067; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §269.2]

2020 Acts, ch 1045, §18
 Referred to in §331.424, 331.552
 Section amended

**CHAPTER 270
 SCHOOL FOR THE DEAF**

Referred to in §256B.2, 331.381

270.1	Superintendent.	270.6	Certificate to auditor — collection. Repealed by 2020 Acts, ch 1045, §25.
270.2	Labor of pupils. Repealed by 94 Acts, ch 1091, §25.	270.7	Payment by county. Repealed by 2020 Acts, ch 1045, §25.
270.3	Admission.	270.8	Residence during vacation.
270.4	Clothing and prescriptions.	270.9	Iowa school for the deaf and the Iowa braille and sight saving school.
270.5	Certification to director of the department of administrative services. Repealed by 2020 Acts, ch 1045, §25.	270.10	Merger requirements.

270.1 Superintendent.

The superintendent of the Iowa school for the deaf shall be a trained and experienced educator of the deaf and hard of hearing. The superintendent’s salary may include residence in the institution, but no such allowance shall be made except by express contract in advance.

[C97, §2723; S13, §2727-3a; C24, 27, 31, 35, 39, §4068; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §270.1]

2020 Acts, ch 1102, §16
 Governed by board of regents, §262.7
 Section amended

270.2 Labor of pupils. Repealed by 94 Acts, ch 1091, §25.

270.3 Admission.

Any resident of the state less than twenty-one years of age who has a hearing loss which is too severe to acquire an education in the public schools is eligible to attend the Iowa school for the deaf. Nonresidents similarly situated may be admitted to an education therein upon such terms as may be fixed by the state board of regents. The fee for nonresidents shall be set by the state board of regents.

[R60, §2156, 2160; C73, §1688, 1689; C97, §2724; S13, §2724; C24, 27, 31, 35, 39, §4070; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §270.3]

2020 Acts, ch 1045, §19; 2020 Acts, ch 1102, §17
 See Code editor’s note on simple harmonization at the beginning of this Code volume
 Section amended

270.4 Clothing and prescriptions.

The superintendent shall provide students, who would otherwise be without, with clothing or prescription refills, and shall bill the student's parent or guardian, if the student is a minor, or the student if the student has attained the age of majority, for any clothing or prescription refills provided. The bill shall be presumptive evidence in all courts.

[C73, §1695; C97, §2726; S13, §2726; C24, 27, 31, 35, 39, §4071; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §270.4]

94 Acts, ch 1091, §22; 2020 Acts, ch 1045, §20

Referred to in §263.12, 269.2, 331.424
Section amended

270.5 Certification to director of the department of administrative services. Repealed by 2020 Acts, ch 1045, §25.

270.6 Certificate to auditor — collection. Repealed by 2020 Acts, ch 1045, §25.

270.7 Payment by county. Repealed by 2020 Acts, ch 1045, §25.

270.8 Residence during vacation.

The residence of indigent or homeless children may, by order of the state board of regents, be continued during vacation months.

[S13, §2727-a; C24, 27, 31, 35, 39, §4075; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §270.8]

Referred to in §263.12, 269.2

270.9 Iowa school for the deaf and the Iowa braille and sight saving school.

Funds appropriated to the Iowa school for the deaf and the Iowa braille and sight saving school for payments to the parents or guardians of pupils in either institution shall be expended as follows:

1. Transportation reimbursement at a rate established annually by the state board of regents to the parents or guardians of children who do not reside in the institution, but are transported to the institution on a daily basis.

2. Transportation reimbursement at a rate established annually by the state board of regents to the parents or guardians for transportation from the institution to the residence of the parent or guardian and return to the institution for children who reside in the institution.

[C77, 79, 81, §270.9]

86 Acts, ch 1246, §131; 2020 Acts, ch 1102, §18

Section amended

270.10 Merger requirements.

1. The state board of regents shall not merge the Iowa school for the deaf at Council Bluffs with the Iowa braille and sight saving school at Vinton or close either of those institutions until all of the following requirements have been met:

a. The department of management has presented to the general assembly a comprehensive plan, program, and fiscal analysis of the existing circumstances and the circumstances which would prevail upon the proposed merger or closing, together with data which would support the contention that the merger or closing will be more efficient and effective than continuation of the existing facilities. The analysis shall include a detailed study of the educational implications of the merger or closing, the impact on the students, and the opinions and research of nationally recognized experts in the field of the education of visually impaired and deaf or hard-of-hearing students. The comprehensive plan shall further include a study relating to the programming, fiscal consequences, and political implications which would result if either a merger or an agreement under chapter 28E should be implemented between the Iowa school for the deaf in Council Bluffs and comparable state programs in the state of Nebraska.

b. The general assembly has studied the plans, programs, and fiscal analysis and has reviewed their impact on the programs.

c. The general assembly has enacted legislation authorizing either the closing or the merger to take effect not sooner than two years after the enactment of the legislation.

2. This section shall not apply to an agreement related to the sale or transfer of the property of the Iowa braille and sight saving school at Vinton entered into between the state of Iowa and the city of Vinton.

86 Acts, ch 1246, §132; 2017 Acts, ch 170, §24; 2020 Acts, ch 1102, §19
 Subsection 1 amended

CHAPTER 271

OAKDALE CAMPUS

271.1	Designation.	271.5	Care of patients — professional services.
271.2	Purposes.		
271.3	Governance.	271.6	Integrated treatment of university hospital patients.
271.4	Patient treatment.		

271.1 Designation.

The state hospital located at Oakdale shall be known as the Oakdale campus.

[S13, §2727-a75; C24, 27, 31, 35, 39, §3385; C46, §220.1; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §271.1]

271.2 Purposes.

The Oakdale campus shall serve as an extension of the university of Iowa’s main campus in Iowa City. The Oakdale campus shall serve the university’s mission, including being the location for the state hygienic laboratory, the university of Iowa research park, and various other research and support facilities.

[S13, §2727-a75; C24, 27, 31, 35, 39, §3386; C46, §220.2; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §271.2]

2017 Acts, ch 172, §25

271.3 Governance.

The state board of regents shall have full power to manage, control, and govern the Oakdale campus in the same manner as other institutions under its control.

[C66, 71, 73, 75, §271.20; C77, 79, 81, §271.3]

271.4 Patient treatment.

Oakdale campus authorities may provide for treatment of such patients as they deem advisable and for which facilities and services are available. Except for patients admitted who are patients referred from the university hospitals, the Oakdale campus shall collect from the patients or a person liable for such support, such reasonable charges for care, service and treatment as may be fixed by the state board of regents. Earnings shall be deposited with the treasurer of the state university of Iowa for the use and benefit of the Oakdale campus and to supplement any other sources of income. Patient treatment and care on the Oakdale campus shall be provided by the faculty of the health science colleges of the state university of Iowa, staff of the university hospital, and professional and other staff as may be employed by the Oakdale campus.

[C66, 71, 73, 75, §271.3, 271.17(3); C77, 79, 81, §271.4]

271.5 Care of patients — professional services.

Physicians and dentists who care for patients on the Oakdale campus may charge for their professional services under such rules and plans as may be approved by the state board of regents.

[C66, 71, 73, 75, §271.18; C77, 79, 81, §271.5]

271.6 Integrated treatment of university hospital patients.

The authorities of the Oakdale campus may authorize patients for admission to the hospital on the Oakdale campus who are referred from the university hospitals and who shall retain the same status, classification, and authorization for care which they had at the university hospitals. Patients referred from the university hospitals to the Oakdale campus shall be deemed to be patients of the university hospitals. The operating policies of the university hospitals shall apply to the patients the same as the provisions apply to patients who are treated on the premises of the university hospitals.

[C66, 71, 73, 75, §271.17; C77, 79, 81, §271.6]

87 Acts, ch 233, §473; 2005 Acts, ch 167, §52, 66

SUBTITLE 5

EDUCATIONAL DEVELOPMENT AND PROFESSIONAL REGULATION

CHAPTER 272

EDUCATIONAL EXAMINERS BOARD

Referred to in §20.17, 20.19, 20.20, 235A.15, 235B.6, 256.7, 256.9, 256.11, 256.16, 256.41, 256.43, 256C.3, 257.11, 260C.48, 261.1, 261.112, 261E.4, 262.9, 272C.15, 273.3, 279.13, 279.19B, 279.50A, 279.72, 284.2, 284.10, 284.15, 284.16, 284A.2, 284A.6, 284A.7, 299A.2, 622.10, 709.15

272.1	Definitions.	272.20	National certification.
272.2	Board of examiners created.	272.21	through 272.24 Reserved.
272.3	Membership.	272.25	Rules for practitioner preparation programs. Repealed by 2018 Acts, ch 1057, §13.
272.4	Terms of office.		
272.5	Compensation of board — executive director.	272.26	Reserved.
272.6	Immunities.	272.27	Student teaching and other educational experiences. Repealed by 2018 Acts, ch 1057, §13.
272.7	Validity of license.		
272.8	License to applicants from other states or countries.	272.28	Licensure beyond initial license.
272.9	Continuity of certificates and licenses.	272.29	Annual administrative rules review — triennial report.
272.9A	Administrator licenses.		
272.10	Fees.	272.30	Reserved.
272.11	Expenditures and refunds.	272.31	Authorizations — coaching — school business officials.
272.12	Para-educator certificates.		
272.13	Hearing procedures — confidentiality.	272.32	Reserved.
272.14	Appointment of administrative law judges.	272.33	Evaluator license. Repealed by 2001 Acts, ch 161, §21; 2002 Acts, ch 1152, §21.
272.15	Reporting requirements — complaints.	272.34	Elementary licenses. Repealed by 94 Acts, ch 1126, §2.
272.16	through 272.19 Reserved.		

272.1 Definitions.

1. “*Administrator*” means a person who is licensed to coordinate, supervise, or direct an educational program or the activities of other practitioners.
2. “*Board*” means the board of educational examiners.
3. “*Certificate*” means limited recognition to perform instruction and instruction-related duties in school, other than those duties for which practitioners are licensed. A certificate is nonexclusive recognition and does not confer the exclusive authority of a license.
4. “*Department*” means the state department of education.
5. “*License*” means the authority that is given to allow a person to legally serve as a practitioner, a school, an institution, or a course of study to legally offer professional development programs, other than those programs offered by practitioner preparation schools, institutions, courses of study, or area education agencies. A license is the exclusive authority to perform these functions.
6. “*Offense directly relates*” refers to either of the following:
 - a. The actions taken in furtherance of an offense are actions customarily performed within the scope of practice of a licensed profession.
 - b. The circumstances under which an offense was committed are circumstances customary to a licensed profession.
7. “*Para-educator*” means a person who is certified to assist a teacher in the performance of instructional tasks to support and assist classroom instruction and related school activities.
8. “*Practitioner*” means an administrator, teacher, or other licensed professional, including an individual who holds a statement of professional recognition, who provides educational assistance to students.

9. “*Practitioner preparation program*” means a program approved by the state board of education which prepares a person to obtain a license as a practitioner.

10. “*Principal*” means a licensed member of a school’s instructional staff who serves as an instructional leader, coordinates the process and substance of educational and instructional programs, coordinates the budget of the school, provides formative evaluation for all practitioners and other persons in the school, recommends or has effective authority to appoint, assign, promote, or transfer personnel in a school building, implements the local school board’s policy in a manner consistent with professional practice and ethics, and assists in the development and supervision of a school’s student activities program.

11. “*Professional development program*” means a course or program which is offered by a person or agency for the purpose of providing continuing education for the renewal or upgrading of a practitioner’s license.

12. “*School*” means a school under section 280.2, an area education agency, and a school operated by a state agency for special purposes.

13. “*School administration manager*” means a person who is authorized to assist a school principal in performing noninstructional administrative duties.

14. “*School service personnel*” means those persons holding a practitioner’s license who provide support services for a student enrolled in school or to practitioners employed in a school.

15. “*Student*” means a person who is enrolled in a course of study at a school or practitioner preparation program, or who is receiving direct or indirect assistance from a practitioner.

16. “*Superintendent*” means an administrator who promotes, demotes, transfers, assigns, or evaluates practitioners or other personnel, and carries out the policies of a governing board in a manner consistent with professional practice and ethics.

17. “*Teacher*” means a licensed member of a school’s instructional staff who diagnoses, prescribes, evaluates, and directs student learning in a manner which is consistent with professional practice and school objectives, shares responsibility for the development of an instructional program and any coordinating activities, evaluates or assesses student progress before and after instruction, and who uses the student evaluation or assessment information to promote additional student learning.

[C97, §2628; C24, 27, 31, 35, 39, §3858; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §260.1] 89 Acts, ch 265, §1; 90 Acts, ch 1249, §4 C93, §272.1

98 Acts, ch 1216, §22; 2000 Acts, ch 1098, §2, 3; 2002 Acts, ch 1047, §10, 20; 2008 Acts, ch 1008, §1; 2012 Acts, ch 1119, §25; 2020 Acts, ch 1103, §21, 31

Referred to in §256.44, 256F7, 261.111, 261B.3A, 263.1, 266.2, 284.15, 284.16

Subsection 6 effective January 1, 2021; 2020 Acts, ch 1103, §31

NEW subsection 6 and former subsections 6 – 16 renumbered as 7 – 17

272.2 Board of examiners created.

The board of educational examiners is created to exercise the exclusive authority to:

1. *a.* License practitioners, which includes the authority to establish criteria for the licenses; establish issuance and renewal requirements, provided that a continuing education requirement may be completed by electronic means; create application and renewal forms; create licenses that authorize different instructional functions or specialties; develop a code of professional rights and responsibilities, practices, and ethics, which shall, among other things, address the failure of a practitioner to fulfill contractual obligations under section 279.13, the failure of an administrator to protect the safety of staff and students, the failure of an administrator to meet mandatory reporter obligations, the refusal of a practitioner to implement provisions of an individualized education program or behavioral intervention plan, and habitual nonparticipation in professional development; and develop any other classifications, distinctions, and procedures which may be necessary to exercise licensing duties. In addressing the failure of a practitioner to fulfill contractual obligations, the board shall consider factors beyond the practitioner’s control.

b. Provide annually to any person who holds a license, certificate, authorization, or statement of recognition issued by the board, training relating to the knowledge and

understanding of the board's code of professional conduct and ethics. The board shall develop a curriculum that addresses the code of professional conduct and ethics and shall annually provide regional training opportunities throughout the state.

2. Establish, collect, and refund fees for a license.

3. Enter into reciprocity agreements with other equivalent state boards or a national certification board to provide for licensing of applicants from other states or nations.

4. Enforce rules adopted by the board through revocation or suspension of a license, or by other disciplinary action against a practitioner or professional development program licensed by the board of educational examiners. The board shall designate who may or shall initiate a licensee disciplinary investigation and a licensee disciplinary proceeding, and who shall prosecute a disciplinary proceeding and under what conditions, and shall state the procedures for review by the board of findings of fact if a majority of the board does not hear the disciplinary proceeding. However, in a case alleging failure of a practitioner to fulfill contractual obligations, the person who files a complaint with the board, or the complainant's designee, shall represent the complainant in a disciplinary hearing conducted in accordance with this chapter.

5. Apply for and receive federal or other funds on behalf of the state for purposes related to its duties.

6. Evaluate and conduct studies of board standards.

7. Hire legal counsel and other personnel and control the personnel administration of persons employed by the board.

8. Hear appeals regarding application, renewal, suspension, or revocation of a license. Board action is final agency action for purposes of chapter 17A.

9. Establish standards for the determination of whether an applicant is qualified to perform the duties required for a given license.

10. Issue statements of professional recognition to school service personnel who have attained a minimum of a baccalaureate degree and who are licensed by another professional licensing board, including but not limited to athletic trainers licensed under chapter 152D.

11. Make recommendations to the state board of education concerning standards for the approval of professional development programs.

12. Adopt, under chapter 17A, rules necessary to carry out board duties, and establish a budget request.

13. Adopt rules to provide for nontraditional preparation options for licensing persons who hold a bachelor's degree from an accredited college or university, who do not meet other requirements for licensure.

14. Adopt rules to determine whether an applicant is qualified to perform the duties for which a license is sought. The rules shall include all of the following:

a. The board may deny a license to or revoke the license of a person upon the board's finding by a preponderance of evidence that either the person has been convicted of an offense and the offense directly relates to the duties and responsibilities of the profession or that there has been a founded report of child abuse against the person. Rules adopted in accordance with this paragraph shall provide that in determining whether a person should be denied a license or that a practitioner's license should be revoked, the board shall consider the nature and seriousness of the founded abuse or crime in relation to the position sought, the time elapsed since the crime was committed, the degree of rehabilitation which has taken place since the incidence of founded abuse or the commission of the crime, the likelihood that the person will commit the same abuse or crime again, and the number of founded abuses committed by or criminal convictions of the person involved.

b. Notwithstanding paragraph "a", the rules shall require the board to disqualify an applicant for a license or to revoke the license of a person for any of the following reasons:

(1) The person entered a plea of guilty to, or has been found guilty of, any of the following offenses, whether or not a sentence is imposed:

(a) Any of the following forcible felonies included in section 702.11: child endangerment, assault, murder, sexual abuse, or kidnapping.

(b) Any of the following sexual abuse offenses, as provided in chapter 709, involving a child:

(i) First, second, or third degree sexual abuse committed on or with a person who is under the age of eighteen years.

(ii) Lascivious acts with a child.

(iii) Assault with intent to commit sexual abuse.

(iv) Indecent contact with a child.

(v) Sexual exploitation by a counselor.

(vi) Lascivious conduct with a minor.

(vii) Sexual exploitation by a school employee.

(c) Enticing a minor under section 710.10.

(d) Human trafficking under section 710A.2.

(e) Incest involving a child under section 726.2.

(f) Dissemination and exhibition of obscene material to minors under section 728.2.

(g) Telephone dissemination of obscene material to minors under section 728.15.

(h) Any offense specified in the laws of another jurisdiction, or any offense that may be prosecuted in federal, military, or foreign court, that is comparable to an offense listed in this subparagraph (1).

(i) Any offense under prior laws of this state or another jurisdiction, or any offense under prior law that was prosecuted in a federal, military, or foreign court, that is comparable to an offense listed in this subparagraph (1).

(2) The applicant is less than twenty-one years of age except as provided in section 272.31, subsection 1. However, a student enrolled in a practitioner preparation program who meets board requirements for a temporary, limited-purpose license who is seeking to teach as part of a practicum or internship may be less than twenty-one years of age.

(3) The applicant's application is fraudulent.

(4) The applicant's license or certification from another state is suspended or revoked.

(5) The applicant fails to meet board standards for application for an initial or renewed license. However, this subparagraph shall not apply to a person who applies for an initial one-year license and submits to the board a waiver issued by the director of the department of education in accordance with section 256.16, subsection 3.

c. Qualifications or criteria for the granting or revocation of a license or the determination of an individual's professional standing shall not include membership or nonmembership in any teachers' organization.

d. An applicant for a license or certificate under this chapter shall demonstrate that the requirements of the license or certificate have been met and the burden of proof shall be on the applicant. However, if the executive director of the board receives notice from the director of the department of education under section 256.9, subsection 17, that an error in the basic education data survey submission resulted in an incorrect determination relating to licensure of a practitioner, the executive director shall initiate corrective action with the board and the findings of the director of the department of education shall be sufficient evidence to correct such error.

15. Adopt rules that require specificity in written complaints that are filed by individuals who have personal knowledge of an alleged violation and which are accepted by the board, provide that the jurisdictional requirements as set by the board in administrative rule are met on the face of the complaint before initiating an investigation of allegations, provide that any investigation be limited to the allegations contained on the face of the complaint, provide for an adequate interval between the receipt of a complaint and public notice of the complaint, permit parties to a complaint to mutually agree to a resolution of the complaint filed with the board, allow the respondent the right to review any investigative report upon a finding of probable cause for further action by the board, require that the conduct providing the basis for the complaint occurred within three years of discovery of the event by the complainant unless good cause can be shown for an extension of this limitation, and require complaints to be resolved within one hundred eighty days unless good cause can be shown for an extension of this limitation.

16. Adopt criteria for administrative endorsements that allow a person to achieve the endorsement authorizing the person to serve as an elementary or secondary principal without regard to the grade level at which the person accrued teaching experience.

17. Adopt rules to require that a background investigation be conducted by the division of criminal investigation of the department of public safety on all initial applicants for licensure. The board shall also require all initial applicants to submit a completed fingerprint packet and shall use the packet to facilitate a national criminal history background check. The board shall have access to, and shall review the sex offender registry information under section 692A.121 available to the general public, information in the Iowa court information system available to the general public, the central registry for child abuse information established under chapter 235A, and the dependent adult abuse records maintained under chapter 235B for information regarding applicants for license renewal.

18. May adopt rules for practitioners who are not eligible for a statement of professional recognition under subsection 10, but have received a baccalaureate degree and provide a service to students at any or all levels from prekindergarten through grade twelve for a school district, accredited nonpublic school, area education agency, or preschool program established pursuant to chapter 256C.

19. Adopt rules to provide in the board's code of professional conduct and ethics that any licensee of the board, who commits or solicits any sexual conduct as defined in section 709.15, subsection 3, paragraph "a", subparagraph (2), or solicits, encourages, or consummates a romantic relationship with any individual who was a student within ninety days prior to any such conduct alleged in a complaint initiated with the board, if the licensee taught the individual or supervised the individual in any school activity when the individual was a student, engages in unprofessional and unethical conduct that may result in disciplinary action by the board.

20. Adopt rules pursuant to chapter 17A establishing endorsements and authorizations for computer science instruction, including traditional and nontraditional pathways for obtaining such endorsements or authorizations.

21. Adopt rules under chapter 17A to prohibit the suspension or revocation of a license issued by the board to a person who is in default or is delinquent on repayment or a service obligation under federal or state postsecondary educational loans or public or private services-conditional postsecondary tuition assistance solely on the basis of such default or delinquency.

22. Adopt rules pursuant to chapter 17A to create a nonrenewable initial one-year license for an applicant who obtains a waiver issued by the director of the department of education in accordance with section 256.16, subsection 3, and presents the waiver within thirty days of issuance to the board of educational examiners. Such an applicant must also provide an affidavit from the administrator of a school district or an accredited nonpublic school verifying that an offer of a teaching contract has been made and the school district or accredited nonpublic school has made every reasonable and good faith effort to employ a teacher licensed under chapter 272 for the specified subject and is unable to employ such a teacher. For purposes of this subsection, "good faith effort" means the same as defined in section 279.19A, subsection 9.

23. By July 1, 2021, adopt rules pursuant to chapter 17A, developed in collaboration with the Iowa reading research center, establishing an advanced dyslexia specialist endorsement. The endorsement shall require a strong understanding of structured literacy instruction; the neurobiological nature, cognitive-linguistic correlates, developmental indicators, compensatory behaviors, potential psychological factors, and co-occurring disorders of dyslexia; demonstrated skill in administering informal and formal assessments related to dyslexia; demonstrated skill in delivery of explicit, systematic literacy intervention; demonstrated skill in developing and supporting services for students with characteristics of dyslexia including those who are eligible for services under chapter 256B or section 504 of the federal Rehabilitation Act of 1973, 29 U.S.C. §794, as amended; demonstrated skill in the design and implementation of accommodations and modifications; demonstrated competence in creating a dyslexia-friendly learning environment; and demonstrated skill in the use and integration of assistive technology. This endorsement shall, at a minimum,

require three years of prior teaching experience and completion of a supervised practical experience.

[C97, §2629; S13, §2629; C24, 27, 31, §3863; C35, §3858-e1; C39, §3858.1; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §260.2]

86 Acts, ch 1245, §1442; 89 Acts, ch 265, §2; 90 Acts, ch 1249, §5, 6

C93, §272.2

96 Acts, ch 1189, §1; 96 Acts, ch 1215, §46; 2001 Acts, ch 103, §1; 2001 Acts, ch 161, §15, 16; 2001 Acts, ch 177, §13, 15; 2002 Acts, ch 1084, §1; 2002 Acts, ch 1128, §1; 2003 Acts, ch 108, §48; 2003 Acts, ch 180, §14, 15; 2006 Acts, ch 1152, §9; 2007 Acts, ch 108, §9; 2008 Acts, ch 1008, §2; 2009 Acts, ch 119, §39; 2009 Acts, ch 177, §32, 33; 2010 Acts, ch 1043, §1; 2011 Acts, ch 35, §1, 2; 2011 Acts, ch 132, §93, 106; 2014 Acts, ch 1045, §1; 2015 Acts, ch 4, §1; 2015 Acts, ch 10, §1; 2016 Acts, ch 1066, §1; 2017 Acts, ch 106, §2; 2018 Acts, ch 1026, §87; 2019 Acts, ch 13, §1; 2019 Acts, ch 24, §36; 2019 Acts, ch 30, §5, 6; 2020 Acts, ch 1048, §4; 2020 Acts, ch 1062, §94; 2020 Acts, ch 1093, §3, 4; 2020 Acts, ch 1103, §22, 31, 39, 51; 2020 Acts, ch 1108, §8

Referred to in §232.69, 235B.16, 256.7, 261E.3, 272.12, 272.15, 272.31, 279.43, 279.69, 284.6A

2020 amendment to subsection 14, paragraph a, effective January 1, 2021; 2020 Acts, ch 1103, §31

See Code editor's note on simple harmonization at the beginning of this Code volume

Code editor directive applied

Subsection 1, paragraph a amended

Subsection 14, paragraphs a and d amended

NEW subsection 23

272.3 Membership.

1. The board of educational examiners consists of twelve members. Two must be members of the general public, one must be the director of the department of education or the director's designee, and the remaining nine members must be licensed practitioners. One of the public members shall have served on a school board. The public members shall never have held a practitioner's license, but shall have a demonstrated interest in education. The nine practitioners shall be selected from the following areas and specialties of the teaching profession:

- a. Elementary teachers.
- b. Secondary teachers.
- c. Special education or other similar teachers.
- d. Counselors or other special purpose practitioners.
- e. Administrators.
- f. School service personnel.

2. A majority of the licensed practitioner members shall be nonadministrative practitioners. Four of the members shall be administrators. Membership of the board shall comply with the requirements of sections 69.16 and 69.16A. A quorum of the board shall consist of six members. Members shall elect a chairperson of the board. Members, except for the director of the department of education or the director's designee, shall be appointed by the governor subject to confirmation by the senate.

[C97, §2634; S13, §2634-a; SS15, §2634-a; C24, 27, 31, 35, 39, §3859; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §260.3]

85 Acts, ch 212, §22; 86 Acts, ch 1245, §1443; 89 Acts, ch 265, §3

C93, §272.3

2002 Acts, ch 1047, §11, 20; 2006 Acts, ch 1152, §10, 11; 2007 Acts, ch 104, §1; 2008 Acts, ch 1008, §3

Confirmation, see §2.32

272.4 Terms of office.

1. Members, except for the director of the department of education or the director's designee, shall be appointed to serve staggered terms of four years. A member shall not serve more than two consecutive terms, except for the director of the department of education or the director's designee, who shall serve until the director's term of office expires. A member of the board, except for the two public members and the director of the

department of education or the director's designee, shall hold a valid practitioner's license during the member's term of office. A vacancy exists when any of the following occur:

- a. A nonpublic member's license expires, is suspended, or is revoked.
- b. A nonpublic member retires or terminates employment as a practitioner.
- c. A member dies, resigns, is removed from office, or is otherwise physically unable to perform the duties of office.
- d. A member's term of office expires.

2. Terms of office for regular appointments shall begin and end as provided in section 69.19. Terms of office for members appointed to fill vacancies shall begin on the date of appointment and end as provided in section 69.19. Members may be removed for cause by a state court with competent jurisdiction after notice and opportunity for hearing. The board may remove a member for three consecutive absences or for cause.

89 Acts, ch 265, §4

CS89, §260.4

92 Acts, ch 1212, §25

C93, §272.4

2007 Acts, ch 22, §64; 2008 Acts, ch 1008, §4

272.5 Compensation of board — executive director.

1. Members shall be reimbursed for actual and necessary expenses incurred while engaged in their official duties and may be entitled to per diem compensation as authorized under section 7E.6. For duties performed during an ordinary school day by a member who is employed by a school corporation or state university, the member shall also receive regular compensation from the school or university. However, the member shall reimburse the school or university in the amount of the per diem compensation received.

2. The governor shall appoint an executive director of the board of educational examiners subject to confirmation by the senate. The director shall possess a background in education licensure and administrative experience and shall serve at the pleasure of the governor. The board of educational examiners shall set the salary of the executive director within the range established for the position by the general assembly.

[C35, §3872-e1; C39, §3872.01; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §260.5]

89 Acts, ch 265, §5; 90 Acts, ch 1249, §7

C93, §272.5

2012 Acts, ch 1119, §22

Confirmation, see §2.32

272.6 Immunities.

1. A person shall not be civilly liable as a result of the person's acts, omissions, or decisions that are reasonable and in good faith as a member of the board or as an employee or agent in connection with the person's duties.

2. A person shall not be civilly liable as a result of filing a report or complaint with the board or for the disclosure to the board or its agents or employees, whether or not pursuant to a subpoena of records, documents, testimony, or other forms of information in connection with proceedings of the board. However, such immunity from civil liability shall not apply if such an act is done with malice.

3. A person shall not be dismissed from employment or discriminated against by an employer for doing any of the following:

- a. Filing a complaint with the board.
- b. Participating as a member, agent, or employee of the board.
- c. Presenting testimony or other evidence to the board.

4. An employer who violates this section shall be liable to a person aggrieved by such violation for actual and punitive damages plus reasonable attorney fees.

2011 Acts, ch 37, §1

272.7 Validity of license.

1. A license issued under board authority is valid for the period of time for which it

is issued, unless the license is suspended or revoked. No permanent licenses shall be issued. A person employed as a practitioner shall hold a valid license with an endorsement for the type of service for which the person is employed. This section does not limit the duties or powers of a school board to select or discharge practitioners or to terminate practitioners' contracts. A professional development program, except for a program offered by a practitioner preparation institution or area education agency and approved by the state board of education, must possess a valid license for the types of programs offered.

2. The executive director of the board may grant or deny license applications, applications for renewal of a license, and suspension or revocation of a license. A denial of an application for a license, the denial of an application for renewal, or a suspension or revocation of a license may be appealed by the practitioner to the board.

3. The board may issue emergency renewal or temporary, limited-purpose licenses upon petition by a current or former practitioner. An emergency renewal or a temporary, limited-purpose license may be issued for a period not to exceed two years, if a petitioner demonstrates, to the satisfaction of the board, good cause for failure to comply with board requirements for a regular license and provides evidence that the petitioner will comply with board requirements within the period of the emergency or temporary license. Under exceptional circumstances, an emergency license may be renewed by the board for one additional year. A previously unlicensed person is not eligible for an emergency or temporary license, except that a student who is enrolled in a licensed practitioner preparation program may be issued a temporary, limited-purpose license, without payment of a fee, as part of a practicum or internship program.

[S13, §2630-b, 2734-e; C24, 27, 31, §3878; C35, §3872-e3, -e4, -e5, 3878; C39, **§3872.03, 3872.04, 3872.05, 3878**; C46, 50, 54, 58, 62, 66, 71, 73, §260.7, 260.8, 260.9, 260.17, 260.18; C75, 77, 79, §260.7, 260.8, 260.9, 260.17; C81, §260.7]

89 Acts, ch 265, §7

C93, §272.7

94 Acts, ch 1126, §1; 2000 Acts, ch 1070, §1; 2017 Acts, ch 54, §76; 2018 Acts, ch 1021, §1

272.8 License to applicants from other states or countries.

1. The board may issue a license to an applicant from another state or country if the applicant files evidence of the possession of the required or equivalent requirements with the board. If the applicant is the spouse of a military person who is on duty or in active state duty as defined in section 29A.1, subsections 10 and 12, the board shall assign a consultant to be the single point of contact for the applicant regarding nontraditional licensure.

2. The executive director of the board may, subject to board approval, enter into reciprocity agreements with another state or country for the licensing of practitioners on an equitable basis of mutual exchange, when the action is in conformity with law.

3. Practitioner preparation and professional development programs offered in this state by out-of-state institutions must be approved by the board in order to fulfill requirements for licensure or renewal of a license by an applicant.

85 Acts, ch 217, §1

CS85, §260.8

89 Acts, ch 265, §8

C93, §272.8

2010 Acts, ch 1169, §8; 2011 Acts, ch 14, §1

272.9 Continuity of certificates and licenses.

1. A certificate which was issued by the board of educational examiners to a practitioner before July 1, 1989, continues to be in force as long as the certificate complies with the rules and statutes in effect on July 1, 1989. Requirements for the renewal of licenses, under this chapter, do not apply retroactively to renewal of certificates. However, this section does not limit the duties or powers of a school board to select or discharge practitioners or to terminate practitioners' contracts.

2. A practitioner who holds a certificate issued before July 1, 1989, shall, upon application and payment of a fee, be granted a license which will permit the practitioner to perform the

same duties and functions as the practitioner was entitled to perform with the certificate held at the time of application. A practitioner shall be permitted to convert a permanent certificate to a term certificate, after July 1, 1989, without payment of a fee.

[C75, 77, 79, 81, §260.9]

83 Acts, ch 59, §1; 86 Acts, ch 1245, §1445; 87 Acts, ch 17, §7; 89 Acts, ch 265, §9

C93, §272.9

2008 Acts, ch 1008, §5

Referred to in §294.3

272.9A Administrator licenses.

1. Beginning July 1, 2007, requirements for administrator licensure beyond an initial license shall include completion of a beginning administrator mentoring and induction program and demonstration of competence on the administrator standards adopted pursuant to section 284A.3.

2. The board shall adopt rules for administrator licensure renewal that include credit for individual administrator professional development plans developed in accordance with section 284A.6.

3. An administrator formerly employed by an accredited nonpublic school or formerly employed as an administrator in another state or country is exempt from the mentoring and induction requirement under subsection 1 if the administrator can document two years of successful administrator experience and meet or exceed the requirements contained in rules adopted pursuant to this chapter for endorsement and licensure. However, if an administrator cannot document two years of successful administrator experience when hired by a school district, the administrator shall meet the requirements of subsection 1.

90 Acts, ch 1249, §8

C91, §260.9A

C93, §272.9A

2007 Acts, ch 108, §10; 2008 Acts, ch 1031, §44

272.10 Fees.

1. It is the intent of the general assembly that licensing fees established by the board of educational examiners be sufficient to finance the activities of the board under this chapter.

2. Licensing fees are payable to the treasurer of state and shall be deposited with the executive director of the board. The executive director shall deposit twenty-five percent of the fees collected annually with the treasurer of state and the fees shall be credited to the general fund of the state. The remaining licensing fees collected during the fiscal year shall be retained by and are appropriated to the board for the purposes related to the board's duties. Notwithstanding section 8.33, licensing fees retained by and appropriated to the board pursuant to this section that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the activities of the board as provided in this chapter until the close of the succeeding fiscal year.

3. The executive director shall keep an accurate and detailed account of fees received, including fees paid to the treasurer of state and fees retained by the board.

4. The board shall submit a detailed annual financial report by January 1 to the general assembly and the legislative services agency.

[S13, §2634-f1; C24, 27, 31, §3867; C35, §3872-e6; C39, §3872.06; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §260.10]

86 Acts, ch 1245, §1446; 89 Acts, ch 265, §11

C93, §272.10

2006 Acts, ch 1180, §23; 2014 Acts, ch 1135, §21

272.11 Expenditures and refunds.

Expenditures and refunds made by the board under this chapter shall be certified by the executive director of the board to the director of the department of administrative services, and if found correct, the director of the department of administrative services shall approve

the expenditures and refunds and draw warrants upon the treasurer of state from the funds appropriated for that purpose.

[C97, §2631; S13, §2634-g; C24, 27, 31, §3868; C35, §3872-e7, -e8; C39, §3872.07, 3872.08; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, §260.11, 260.12; C81, §260.11]

86 Acts, ch 1245, §1447; 89 Acts, ch 265, §12

C93, §272.11

2003 Acts, ch 145, §286

272.12 Para-educator certificates.

The board of educational examiners shall adopt rules pursuant to chapter 17A relating to a voluntary certification system for para-educators. The rules shall specify rights, responsibilities, levels, and qualifications for the certificate. Applicants shall be disqualified for any reason specified in section 272.2, subsection 14, or in administrative rule. Notwithstanding section 272.2, subsection 14, paragraph “b”, subparagraph (2), the board may issue a para-educator certificate to a person who is at least eighteen years of age. A person holding a para-educator certificate shall not perform the duties of a licensed practitioner. A certificate issued pursuant to this chapter shall not be considered a teacher or administrator license for any purpose specified by law, including the purposes specified under this chapter or chapter 279.

98 Acts, ch 1216, §23; 2000 Acts, ch 1098, §5; 2000 Acts, ch 1223, §31; 2002 Acts, ch 1128, §2

Referred to in §256.7

272.13 Hearing procedures — confidentiality.

1. Hearings before the board shall be conducted in the same manner as contested cases under chapter 17A. The board may subpoena books, papers, records, and any other real evidence necessary for the board to decide whether it should institute a contested case hearing. At the hearing the board may administer oaths and issue subpoenas to compel the attendance of witnesses and the production of other evidence. Subpoenas may be issued by the board to a party to a hearing, if the party demonstrates that the evidence or witnesses’ testimony is relevant and material to the hearing. Service of process and subpoenas for board hearings shall be conducted in accordance with the law applicable to the service of process and subpoenas in civil actions.

2. Witnesses subpoenaed to appear before the board shall be reimbursed for mileage and necessary expenses and shall receive per diem compensation by the board, unless the witness is an employee of the state or a political subdivision, in which case the witness shall receive reimbursement only for mileage and necessary expenses.

3. All complaint files, investigation files, other investigation reports, and other investigative information in the possession of the board or its employees or agents, which relate to licensee discipline, are privileged and confidential, and are not subject to discovery, subpoena, or other means of legal compulsion for their release to a person other than the respondent and the board and its employees and agents involved in licensee discipline, and are not admissible in evidence in a judicial or administrative proceeding other than the proceeding involving licensee discipline. A complaint, any amendment to a complaint, and any supporting documents shall be provided to the respondent immediately upon the board’s determination that jurisdictional requirements have been met and prior to the commencement of the board’s investigation. Investigative information in the possession of the board or its employees or agents which relates to licensee discipline may be disclosed to appropriate licensing authorities within this state, the appropriate licensing authority in another state, the District of Columbia, or a territory or country in which the licensee is licensed or has applied for a license. A final written decision and finding of fact of the board in a disciplinary proceeding is a public record.

89 Acts, ch 265, §13

CS89, §260.13

C93, §272.13

2000 Acts, ch 1199, §1; 2010 Acts, ch 1183, §28, 43

Referred to in §272.15

272.14 Appointment of administrative law judges.

The board shall maintain a list of qualified persons who are experienced in the educational system of this state to serve as administrative law judges when a hearing is requested under section 279.24. When requested under section 279.24, the board shall submit a list of five qualified administrative law judges to the parties. The parties shall select one of the five qualified persons to conduct the hearing as provided in section 279.24. The hearing shall be held pursuant to the provisions of chapter 17A relating to contested cases. The full costs of the hearing shall be shared equally by the parties.

90 Acts, ch 1249, §9

C91, §260.14

C93, §272.14

272.15 Reporting requirements — complaints.

1. *a.* (1) The board of directors of a school district or area education agency, the superintendent of a school district, the chief administrator of an area education agency, and the authorities in charge of an accredited nonpublic school shall report to the board any instance of disciplinary action taken against a licensed school employee by the board of directors of the school district or area education agency, the superintendent of the school district, the chief administrator of the area education agency, or the authorities in charge of the accredited nonpublic school for conduct constituting any of the following:

(a) Soliciting, encouraging, or consummating a romantic or otherwise inappropriate relationship with a student.

(b) Falsifying student grades, test scores, or other official information or material.

(c) Converting public property or funds to the personal use of the school employee.

(d) Being on school premises or at a school-sponsored activity involving students while under the influence of, possessing, using, or consuming illegal drugs, unauthorized drugs, or alcohol.

(2) The board of directors of a school district or area education agency, the superintendent of a school district, the chief administrator of an area education agency, and the authorities in charge of an accredited nonpublic school shall report to the board the nonrenewal or termination, for reasons of alleged or actual misconduct, of a person's contract executed under sections 279.12, 279.13, 279.15, 279.16, 279.18 through 279.21, 279.23, and 279.24, and the resignation of a person who holds a license, certificate, or authorization issued by the board as a result of or following an incident or allegation of misconduct that, if proven, would constitute a violation of the rules adopted by the board to implement section 272.2, subsection 14, paragraph "b", subparagraph (1); soliciting, encouraging, or consummating a romantic or otherwise inappropriate relationship with a student; falsifying student grades, test scores, or other official information or material; or converting public property or funds to the personal use of the school employee, when the board or reporting official has a good faith belief that the incident occurred or the allegation is true. The board may deny a license or revoke the license of an administrator if the board finds by a preponderance of the evidence that the administrator failed to report the termination or resignation of a school employee holding a license, certificate, statement of professional recognition, or coaching authorization, for reasons of alleged or actual misconduct, as defined by this section.

b. Information reported to the board in accordance with this section is privileged and confidential, and except as provided in section 272.13, is not subject to discovery, subpoena, or other means of legal compulsion for its release to a person other than the respondent and the board and its employees and agents involved in licensee discipline, and is not admissible in evidence in a judicial or administrative proceeding other than the proceeding involving licensee discipline. The board shall review the information reported to determine whether a complaint should be initiated. In making that determination, the board shall consider the factors enumerated in section 272.2, subsection 14, paragraph "a".

c. For purposes of this section, unless the context otherwise requires, “*misconduct*” means an action disqualifying an applicant for a license or causing the license of a person to be revoked or suspended in accordance with the rules adopted by the board to implement section 272.2, subsection 14, paragraph “b”, subparagraph (1).

2. If, in the course of performing official duties, an employee of the department becomes aware of any alleged misconduct by an individual licensed under this chapter, the employee shall report the alleged misconduct to the board of educational examiners under rules adopted pursuant to subsection 1.

3. Information required to be reported to the board under this section shall be reported within thirty days of either of the following:

a. The date action was taken which necessitated the report, including the date of disciplinary action taken, nonrenewal or termination of a contract for reasons of alleged or actual misconduct, or resignation of a person following an incident or allegation of misconduct as required under subsection 1.

b. The date the employee becomes aware of alleged misconduct as required under subsection 2.

4. If the executive director of the board verifies through a review of official records that a teacher who holds a practitioner’s license under this chapter is assigned instructional duties for which the teacher does not hold the appropriate license or endorsement, either by grade level or subject area, by a school district or accredited nonpublic school, the executive director may initiate a complaint against the teacher and the administrator responsible for the inappropriate assignment of instructional duties.

2003 Acts, ch 180, §16; 2007 Acts, ch 214, §33; 2011 Acts, ch 132, §94, 106; 2012 Acts, ch 1055, §1; 2017 Acts, ch 6, §1; 2019 Acts, ch 87, §1; 2020 Acts, ch 1062, §40; 2020 Acts, ch 1063, §123

Referred to in §256.9

Subsection 1, paragraph a, subparagraph (2) amended

Subsection 3 amended

272.16 through 272.19 Reserved.

272.20 National certification.

The board of educational examiners shall review the standards for teacher’s certificates adopted by the national board for professional teaching standards, a nonprofit corporation created as a result of recommendations of the task force on teaching as a profession of the Carnegie forum on education and the economy. In those cases in which the standards required by the national board for an Iowa endorsement or license meet or exceed the requirements contained in rules adopted under this chapter for that endorsement or license, the board of educational examiners shall issue endorsements or licenses to holders of certificates issued by the national board who request the endorsement or license.

91 Acts, ch 51, §1

CS91, §260.20

C93, §272.20

272.21 through 272.24 Reserved.

272.25 Rules for practitioner preparation programs. Repealed by 2018 Acts, ch 1057, §13. See §256.16.

272.26 Reserved.

272.27 Student teaching and other educational experiences. Repealed by 2018 Acts, ch 1057, §13. See §256.16.

272.28 Licensure beyond initial license.

1. Requirements for teacher licensure beyond an initial license shall include successful completion of a beginning teacher mentoring and induction program approved by the state

board of education pursuant to section 284.5; or two years of successful teaching experience in a school district with an approved career paths, leadership roles, and compensation framework or approved comparable system as provided in section 284.15; or evidence of not less than three years of successful teaching experience at any of the following:

- a. An accredited nonpublic school in this state.
 - b. A preschool program approved by the United States department of health and human services.
 - c. Preschool programs at school districts approved to participate in the preschool program under chapter 256C.
 - d. Shared visions programs receiving grants from the child development coordinating council under section 256A.3.
 - e. Preschool programs receiving moneys from the school ready children grants account of the early childhood Iowa fund created in section 256I.11.
2. A teacher from an accredited nonpublic school or another state or country is exempt from the requirement of subsection 1 if the teacher can document three years of successful teaching experience and meet or exceed the requirements contained in rules adopted under this chapter for endorsement and licensure.

2001 Acts, ch 161, §17; 2003 Acts, ch 180, §18; 2016 Acts, ch 1132, §11, 19; 2017 Acts, ch 172, §26

272.29 Annual administrative rules review — triennial report.

The executive director shall annually review the administrative rules adopted pursuant to this chapter and related state laws. The executive director shall submit the executive director's findings and recommendations in a report every three years to the board and the general assembly by January 15.

2005 Acts, ch 169, §28; 2006 Acts, ch 1152, §12; 2014 Acts, ch 1135, §22

272.30 Reserved.

272.31 Authorizations — coaching — school business officials.

1. a. Except as provided in paragraph "b", the minimum requirements for the board to issue a coaching authorization to an applicant are:

(1) Successful completion of one semester credit hour or ten contact hours in a course relating to knowledge and understanding of the structure and function of the human body in relation to physical activity.

(2) Successful completion of one semester credit hour or ten contact hours in a course relating to knowledge and understanding of human growth and development of children and youth in relation to physical activity.

(3) Successful completion of two semester credit hours or twenty contact hours in a course relating to knowledge and understanding of the prevention and care of athletic injuries and medical and safety problems relating to physical activity.

(4) Successful completion of one semester credit hour or ten contact hours relating to knowledge and understanding of the techniques and theory of coaching interscholastic athletics.

(5) Attainment of at least eighteen years of age.

b. The board shall issue a transitional coaching authorization to an individual who is at least twenty-one years of age and who provides verification of an offer of a coaching position by a school or a consortium of schools, but who has not completed the coursework required for a coaching authorization as specified in paragraph "a". A transitional coaching authorization is valid for not more than one year, shall not be renewed, and is valid only in the school or consortium of schools making the offer of the coaching position. A consortium of schools may include a school district, a school district school attendance center, or an accredited nonpublic school, or any combination thereof. However, prior to issuing a transitional coaching authorization to an individual under this paragraph "b", the board shall ensure that the individual meets all of the following requirements:

(1) Completes a shortened course of training relating to the code of professional rights and

responsibilities, practices, and ethics developed in accordance with section 272.2, subsection 1, paragraph "a", by the board specifically for transitional coaches.

(2) Completes the child and dependent adult abuse mandatory reporter training required by sections 232.69 and 235B.16.

(3) Completes a nationally recognized concussion in youth sports training course.

(4) Complies with the background investigation requirements established by the board pursuant to section 272.2, subsection 17.

2. a. The board shall issue a school business official authorization to an individual who successfully completes a training program that meets the standards set by the state board of education pursuant to section 256.7, subsection 30, and who complies with rules adopted by the board pursuant to subsection 4.

b. A person hired on or after July 1, 2012, as a school business official responsible for the financial operations of a school district who is without prior experience as a school business official in Iowa shall either hold the school business official authorization issued pursuant to paragraph "a" of this subsection or obtain the authorization within two years of the start date of employment as a school business official.

c. An individual employed as a school business official prior to July 1, 2012, who meets the requirements of the board, other than the training program requirements of paragraph "a", shall be issued, with no fee for issuance, an initial authorization by the board, but shall meet renewal requirements for an authorization within the time period specified by the board.

3. The board shall issue a school administration manager authorization to an individual who successfully completes a training program that meets the standards set by the state board pursuant to section 256.7, subsection 30, and who complies with rules adopted by the state board pursuant to subsection 4.

4. The board shall adopt rules under chapter 17A for authorizations, including but not limited to approval of courses, validity and expiration, fees, and suspension and revocation of authorizations.

5. The state board of education shall work with institutions of higher education, private colleges and universities, community colleges, area education agencies, and professional organizations to ensure that the courses and programs required for authorizations under this section are offered throughout the state at convenient times and at a reasonable cost.

84 Acts, ch 1296, §3

C85, §260.31

86 Acts, ch 1245, §1452; 89 Acts, ch 265, §15, 16; 90 Acts, ch 1249, §11

C93, §272.31

97 Acts, ch 32, §1; 2010 Acts, ch 1099, §2; 2010 Acts, ch 1183, §29; 2012 Acts, ch 1119, §26; 2013 Acts, ch 30, §65; 2016 Acts, ch 1066, §2

Referred to in §232.69, 272.2, 279.19B

272.32 Reserved.

272.33 Evaluator license. Repealed by 2001 Acts, ch 161, §21; 2002 Acts, ch 1152, §21.

272.34 Elementary licenses. Repealed by 94 Acts, ch 1126, §2.

CHAPTER 272A

INTERSTATE AGREEMENT ON QUALIFICATION OF EDUCATIONAL PERSONNEL

272A.1	Interstate agreement.	272A.3	Contracts on file.
272A.2	Designated state official.		

272A.1 Interstate agreement.

The interstate agreement on qualification of educational personnel is hereby enacted into law and entered into with all jurisdictions legally joining therein, in the form substantially as follows:

1. *Article I — Purpose, findings, and policy.*

a. The states party to this agreement, desiring by common action to improve their respective school systems by utilizing the teacher or other professional educational person wherever educated, declare that it is the policy of each of them, on the basis of cooperation with one another, to take advantage of the preparation and experience of such persons wherever gained, thereby serving the best interest of society, of education, and of the teaching profession. It is the purpose of this agreement to provide for the development and execution of such programs of cooperation as will facilitate the movement of teachers and other professional educational personnel among the states party to it, and to authorize specific interstate educational personnel contracts to achieve that end.

b. The party states find that included in the large movement of population among all sections of the nation are many qualified educational personnel who move for family and other personal reasons but who are hindered in using their professional skill and experience in their new locations. Variations from state to state in requirements for qualifying educational personnel discourage such personnel from taking the steps necessary to qualify in other states. As a consequence, a significant number of professionally prepared and experienced educators is lost to our school systems. Facilitating the employment of qualified educational personnel, without reference to their states of origin, can increase the available educational resources. Participation in this agreement can increase the availability of educational personnel.

2. *Article II — Definitions.* As used in this agreement and contracts made pursuant to it, unless the context clearly requires otherwise:

a. “*Educational personnel*” means persons who must meet requirements pursuant to state law as a condition of employment in educational programs.

b. “*Designated state official*” means the education official of a state selected by that state to negotiate and enter into, on behalf of that state, contracts pursuant to this agreement.

c. “*Accept*”, or any variant thereof, means to recognize and give effect to one or more determinations of another state relating to the qualifications of educational personnel in lieu of making or requiring a like determination that would otherwise be required by or pursuant to the laws of a receiving state.

d. “*State*” means a state, territory, or possession of the United States; the District of Columbia; or the Commonwealth of Puerto Rico.

e. “*Originating state*” means a state, and the subdivision thereof, if any, whose determination that certain educational personnel are qualified to be employed for specific duties in schools is acceptable in accordance with the terms of a contract made pursuant to article III of this agreement.

f. “*Receiving state*” means a state, and the subdivisions thereof, which accepts educational personnel in accordance with the terms of a contract made pursuant to article III of this agreement.

3. *Article III — Interstate educational personnel contracts.*

a. The designated state official of a party state may make one or more contracts on behalf of that state with one or more other party states providing for the acceptance of educational personnel. Any such contract for the period of its duration shall be applicable to and binding on the states whose designated state officials enter into it, and the subdivisions of those

III-1203 INTERSTATE AGREEMENT ON QUALIFICATION OF EDUCATIONAL PERSONNEL, §272A.1

states, with the same force and effect as if incorporated in this agreement. A designated state official may enter into a contract pursuant to this article only with states in which the official finds that there are programs of education, licensure standards or other acceptable qualifications that assure preparation or qualification of educational personnel on a basis sufficiently comparable, even though not identical to that prevailing in the official's state.

b. Any such contract shall provide for:

(1) Its duration.

(2) The criteria to be applied by an originating state in qualifying educational personnel for acceptance by a receiving state.

(3) Such waivers, substitutions, and conditional acceptances as shall aid the practical effectuation of the contract without sacrifice of basic educational standards.

(4) Any other necessary matters.

c. No contract made pursuant to this agreement shall be for a term longer than five years but any such contract may be renewed for like or lesser periods.

d. Any contract dealing with acceptance of educational personnel on the basis of their having completed an educational program shall specify the earliest date or dates on which originating state approval of the program or programs involved can have occurred. No contract made pursuant to this agreement shall require acceptance by a receiving state of any persons qualified because of successful completion of a program prior to January 1, 1954.

e. The license or other acceptance of a person who has been accepted pursuant to the terms of a contract shall not be revoked or otherwise impaired because the contract has expired or been terminated. However, any license or other qualifying document may be revoked or suspended on any ground which would be sufficient for revocation or suspension of a license or other qualifying document initially granted or approved in the receiving state.

f. A contract committee composed of the designated state officials of the contracting states or their representatives shall keep the contract under continuous review, study means of improving its administration, and report no less frequently than once a year to the heads of the appropriate education agencies of the contracting states.

4. *Article IV — Approved and accepted programs.*

a. Nothing in this agreement shall be construed to repeal or otherwise modify any law or regulation of a party state relating to the approval of programs of educational preparation having effect solely on the qualification of educational personnel within that state.

b. To the extent that contracts made pursuant to this agreement deal with the educational requirements for the proper qualification of educational personnel, acceptance of a program of educational preparation shall be in accordance with such procedures and requirements as may be provided in applicable contract.

5. *Article V — Interstate cooperation.* The party states agree that:

a. They will, so far as practicable, prefer the making of multilateral contracts pursuant to article III of this agreement.

b. They will facilitate and strengthen cooperation in interstate certification and other elements of educational personnel qualification and for this purpose shall cooperate with agencies, organizations, and associations interested in certification and other elements of educational personnel qualification.

6. *Article VI — Agreement evaluation.* The designated state officials of any party states may meet from time to time as a group to evaluate programs under the agreement, and to formulate recommendations for changes.

7. *Article VII — Other arrangements.* Nothing in this agreement shall be construed to prevent or inhibit other arrangements or practices of any party state or states to facilitate the interchange of educational personnel.

8. *Article VIII — Effect and withdrawal.*

a. This agreement shall become effective when enacted into law by two states. Thereafter it shall become effective as to any state upon its enactment of this agreement.

b. Any party state may withdraw from this agreement by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the governor of the

§272A.1, INTERSTATE AGREEMENT ON QUALIFICATION OF EDUCATIONAL PERSONNEL III-1204

withdrawing state has given notice in writing of the withdrawal to the governors of all other party states.

c. No withdrawal shall relieve the withdrawing state of any obligation imposed upon it by a contract to which it is a party. The duration of contracts and the methods and conditions of withdrawal therefrom shall be those specified in their terms.

9. *Article IX — Construction and severability.* This agreement shall be liberally construed so as to effectuate the purposes thereof. The provisions of this agreement shall be severable and if any phrase, clause, sentence, or provision of this agreement is declared to be contrary to the constitution of any state or of the United States, or the application thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this agreement and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this agreement shall be held contrary to the constitution of any state participating therein, the agreement shall remain in full force and effect as to the state affected as to all severable matters.

[C75, 77, 79, 81, §284.1]

90 Acts, ch 1249, §14

C93, §272A.1

2008 Acts, ch 1032, §201

Referred to in §272A.2

272A.2 Designated state official.

The designated state official for this state, within the meaning of section 272A.1, article II, paragraph “b”, of the interstate agreement on qualification of educational personnel, shall be the executive director of the board of educational examiners. The executive director shall enter into contracts pursuant to section 272A.1, article III, of the agreement only with the approval of the specific text thereof by the board of educational examiners.

[C75, 77, 79, 81, §284.2]

85 Acts, ch 212, §21; 90 Acts, ch 1249, §15

C93, §272A.2

2008 Acts, ch 1032, §201

272A.3 Contracts on file.

True copies of all contracts made on behalf of this state pursuant to the interstate agreement on qualification of educational personnel shall be kept on file by the board of educational examiners and in the office of the secretary of state. The board of educational examiners shall publish all such contracts in convenient form. The board of educational examiners may adopt rules pursuant to this chapter.

[C75, 77, 79, 81, §284.3]

90 Acts, ch 1249, §16

C93, §272A.3

CHAPTER 272B EDUCATION COMPACT

272B.1 Compact for education.
272B.2 Education commission of the
states.

272B.3 Filing bylaws.

272B.1 Compact for education.

The compact for education is hereby entered into and enacted into law with all jurisdictions legally joining therein, in the form substantially as follows:

1. *Article I — Purpose and policy.*

a. It is the purpose of this compact to:

(1) Establish and maintain close cooperation and understanding among executive,

legislative, professional educational and lay leadership on a nationwide basis at the state and local levels.

(2) Provide a forum for the discussion, development, crystallization and recommendation of public policy alternatives in the field of education.

(3) Provide a clearing house of information on matters relating to educational problems and how they are being met in different places throughout the nation, so that the executive and legislative branches of state government and of local communities may have ready access to the experience and record of the entire country, and so that both lay and professional groups in the field of education may have additional avenues for the sharing of experience and the interchange of ideas in the formation of public policy in education.

(4) Facilitate the improvement of state and local educational systems so that all of them will be able to meet adequate and desirable goals in a society which requires continuous qualitative and quantitative advance in educational opportunities, methods and facilities.

b. It is the policy of this compact to encourage and promote local and state initiative in the development, maintenance, improvement and administration of educational systems and institutions in a manner which will accord with the needs and advantages of diversity among localities and states.

c. The party states recognize that each of them has an interest in the quality and quantity of education furnished in each of the other states, as well as in the excellence of its own educational systems and institutions, because of the highly mobile character of individuals within the nation, and because the products and services contributing to the health, welfare and economic advancement of each state are supplied in significant part by persons educated in other states.

2. *Article II — State defined.* As used in this compact, “state” means a state, territory or possession of the United States, the District of Columbia, or the commonwealth of Puerto Rico.

3. *Article III — The commission.*

a. The education commission of the states, hereinafter called “*the commission*”, is hereby established. The commission shall consist of seven members representing each party state.* One of such members shall be the governor; two shall be members of the state legislature selected by its respective houses and serving in such manner as the legislature may determine; and four shall be appointed by and serve at the pleasure of the governor, unless the laws of the state otherwise provide. If the laws of a state prevent legislators from serving on the commission, six members shall be appointed and serve at the pleasure of the governor, unless the laws of the state otherwise provide. In addition to any other principles or requirements which a state may establish for the appointment and service of its members of the commission, the guiding principle for the composition of the membership on the commission from each party state shall be that the members representing such state shall, by virtue of their training, experience, knowledge or affiliations be in a position collectively to reflect broadly the interests of the state government, higher education, the state education system, local education, lay and professional, public and nonpublic educational leadership. Of those appointees, one shall be the head of a state agency or institution, designated by the governor, having responsibility for one or more programs of public education. In addition to the members of the commission representing the party states, there may be not to exceed ten nonvoting commissioners selected by the steering committee for terms of one year. Such commissioners shall represent leading national organizations or professional educators or persons concerned with educational administration.

b. The members of the commission shall be entitled to one vote each on the commission. No action of the commission shall be binding unless taken at a meeting at which a majority of the total number of votes on the commission are cast in favor thereof. Action of the commission shall be only at a meeting at which a majority of the commissioners are present. The commission shall meet at least once a year. In its bylaws, and subject to such directions and limitations as may be contained therein, the commission may delegate the exercise of any of its powers to the steering committee or the executive director, except for the power to approve budgets or requests for appropriations, the power to make policy recommendations

pursuant to article IV and adoption of the annual report pursuant to paragraph “j” of this article.

c. The commission shall have a seal.

d. The commission shall elect annually, from among its members, a chairperson, who shall be a governor, a vice chairperson and a treasurer. The commission shall provide for the appointment of an executive director. Such executive director shall serve at the pleasure of the commission, and together with the treasurer and such other personnel as the commission may deem appropriate shall be bonded in such amount as the commission shall determine. The executive director shall be secretary.

e. Irrespective of the civil service, personnel or other merit system laws of any of the party states, the executive director subject to the approval of the steering committee shall appoint, remove or discharge such personnel as may be necessary for the performance of the functions of the commission, and shall fix the duties and compensation of such personnel. The commission in its bylaws shall provide for the personnel policies and programs of the commission.

f. The commission may borrow, accept or contract for the services of personnel from any party jurisdiction, the United States, or any subdivision or agency of the aforementioned governments, or from any agency of two or more of the party jurisdictions or their subdivisions.

g. The commission may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any state, the United States, or any other governmental agency, or from any person, firm, association, foundation, or corporation, and may receive, utilize and dispose of the same. Any donation or grant accepted by the commission pursuant to this paragraph or services borrowed pursuant to paragraph “f” of this article shall be reported in the annual report of the commission. Such report shall include the nature, amount and conditions, if any, of the donation, grant, or services borrowed, and the identity of the donor or lender.

h. The commission may establish and maintain such facilities as may be necessary for the transacting of its business. The commission may acquire, hold, and convey real and personal property and any interest therein.

i. The commission shall adopt bylaws for the conduct of its business and shall have the power to amend and rescind these bylaws. The commission shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the party states.

j. The commission annually shall make to the governor and legislature of each party state a report covering the activities of the commission for the preceding year. The commission may make such additional reports as it may deem desirable.

4. *Article IV — Powers.* In addition to authority conferred on the commission by other provisions of the compact, the commission shall have authority to:

a. Collect, correlate, analyze and interpret information and data concerning educational needs and resources.

b. Encourage and foster research in all aspects of education, but with special reference to the desirable scope of instruction, organization, administration, and instructional methods and standards employed or suitable for employment in public educational systems.

c. Develop proposals for adequate financing of education as a whole and at each of its many levels.

d. Conduct or participate in research of the types referred to in this article in any instance where the commission finds that such research is necessary for the advancement of the purposes and policies of this compact, utilizing fully the resources of national associations, regional compact organizations for higher education, and other agencies and institutions, both public and private.

e. Formulate suggested policies and plans for the improvement of public education as a whole, or for any segment thereof, and make recommendations with respect thereto available to the appropriate governmental units, agencies and public officials.

f. Do such other things as may be necessary or incidental to the administration of any of its authority or functions pursuant to this compact.

5. *Article V — Cooperation with federal government.*

a. If the laws of the United States specifically so provide, or if administrative provision is made therefor within the federal government, the United States may be represented on the commission by not to exceed ten representatives. Any such representative or representatives of the United States shall be appointed and serve in such manner as may be provided by or pursuant to federal law, and may be drawn from any one or more branches of the federal government, but no such representative shall have a vote on the commission.

b. The commission may provide information and make recommendations to any executive or legislative agency or officer of the federal government concerning the common educational policies of the states, and may advise with any such agencies or officers concerning any matter of mutual interest.

6. *Article VI — Committees.*

a. To assist in the expeditious conduct of its business when the full commission is not meeting, the commission shall elect a steering committee of thirty-two members which, subject to the provisions of this compact and consistent with the policies of the commission, shall be constituted and function as provided in the bylaws of the commission. One-fourth of the voting membership of the steering committee shall consist of governors, one-fourth shall consist of legislators, and the remainder shall consist of other members of the commission. A federal representative on the commission may serve with the steering committee, but without vote. The voting members of the steering committee shall serve for terms of two years, except that members elected to the first steering committee of the commission shall be elected as follows:

(1) Sixteen for one year and sixteen for two years.

(2) The chairperson, vice chairperson, and treasurer of the commission shall be members of the steering committee and, anything in this paragraph "a" to the contrary notwithstanding, shall serve during their continuance in these offices.

(3) Vacancies in the steering committee shall not affect its authority to act, but the commission at its next regular ensuing meeting following the occurrence of any vacancy shall fill it for the unexpired term.

(4) No person shall serve more than two terms as a member of the steering committee; provided that service for a partial term of one year or less shall not be counted toward the two-term limitation.

b. The commission may establish advisory and technical committees composed of state, local, and federal officials, and private persons to advise it with respect to any one or more of its functions. Any advisory or technical committee may, on request of the states concerned, be established to consider any matter of special concern to two or more of the party states.

c. The commission may establish such additional committees as its bylaws may provide.

7. *Article VII — Finance.*

a. The commission shall advise the governor or designated officer or officers of each party state of its budget and estimated expenditures for such period as may be required by the laws of that party state. Each of the commission's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states.

b. The total amount of appropriation requests under any budget shall be apportioned among the party states. In making such apportionment, the commission shall devise and employ a formula which takes equitable account of the populations and per capita income levels of the party states.

c. The commission shall not pledge the credit of any party states. The commission may meet any of its obligations in whole or in part with funds available to it pursuant to article III, paragraph "g", of this compact, provided that the commission takes specific action setting aside such funds prior to incurring an obligation to be met in whole or in part in such manner. Except where the commission makes use of funds available to it pursuant to article III, paragraph "g", the commission shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same.

d. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established by its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a qualified public accountant, and the report of the audit shall be included in and become part of the annual reports of the commission.

e. The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the commission.

f. Nothing contained herein shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the commission.

8. *Article VIII — Eligible parties — entry into and withdrawal.*

a. This compact shall have as eligible parties all states, territories, and possessions of the United States, the District of Columbia, and the commonwealth of Puerto Rico. In respect of any such jurisdiction not having a governor, the term “governor”, as used in this compact, shall mean the closest equivalent official of such jurisdiction.

b. Any state or other eligible jurisdiction may enter into this compact and it shall become binding thereon when it has adopted the same: Provided that in order to enter into initial effect, adoption by at least ten eligible party jurisdictions shall be required.

c. Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

9. *Article IX — Construction and severability.* This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any state or of the United States, or the application thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters.

[C75, 77, 79, 81, §272B.1]

2008 Acts, ch 1032, §201

Referred to in §272B.2, 272B.3

*See §272B.2

272B.2 Education commission of the states.

Article III, paragraph “a”, of the compact for education established in section 272B.1 notwithstanding, the members of the education commission of the states representing this state consist of the governor, two nonlegislative members appointed by the governor, two members of the senate with one member appointed by the majority leader of the senate and one member appointed by the minority leader of the senate, and two members of the house of representatives with one member appointed by the speaker of the house of representatives and one member appointed by the minority leader of the house of representatives. Nonlegislative members shall serve four-year terms and legislative members shall serve terms as provided in section 69.16B. Nonlegislative members shall serve on the education commission of the states without compensation, but shall receive their actual and necessary expenses and travel. Legislative members shall receive per diem and actual and necessary expenses and travel pursuant to sections 2.10 and 2.12. Vacancies on the commission shall be filled for the unexpired portion of the term in the same manner as the original appointments. If a member ceases to be a member of the general assembly, the member shall no longer serve as a member of the education commission of the states.

[C75, 77, 79, 81, §272B.2]

86 Acts, ch 1245, §2033; 2008 Acts, ch 1032, §201; 2008 Acts, ch 1156, §41, 58

272B.3 Filing bylaws.

Pursuant to article III, paragraph “i”, of the compact for education established in section 272B.1, the commission shall file a copy of its bylaws and any amendment thereto with the governor.

[C75, 77, 79, 81, §272B.3]

2008 Acts, ch 1032, §201

CHAPTER 272C**REGULATION OF LICENSED PROFESSIONS AND OCCUPATIONS**

Referred to in §105.22, 105.23, 135.105A, 147.55, 147A.7, 148.6, 148.14, 148C.13, 148F.3, 148G.5, 148G.8, 151.9, 152.4, 152.11, 153.33, 153.34, 154C.4, 154D.3, 154E.3, 155.9, 155A.6A, 155A.6B, 203.16, 203C.24, 235B.16, 542.3, 542.17, 543D.5, 543D.12, 543D.17

Identifying and reporting of dependent adult abuse
to be included in continuing education; see §235B.16

272C.1	Definitions.	272C.6	Hearings — power of subpoena — decisions.
272C.2	Continuing education required.	272C.7	Executive secretary and personnel.
272C.2A	Continuing education minimum requirements — cosmetology arts and sciences.	272C.8	Immunities.
272C.2B	Continuing education minimum requirements — mortuary science.	272C.9	Duties of licensees.
272C.2C	Continuing education minimum requirements — medicine and surgery and osteopathic medicine and surgery, nursing, dentistry, podiatry, and physician assistants.	272C.10	Rules for revocation or suspension of license.
272C.3	Authority of licensing boards.	272C.11	Insurers of professional and occupational licensees — reports.
272C.4	Duties of board.	272C.12	Licensure of persons licensed in other jurisdictions.
272C.5	Licensee disciplinary procedure — rulemaking delegation.	272C.13	Educational requirements — work experience.
		272C.14	Waiver of fees.
		272C.15	Disqualifications for criminal convictions limited.

272C.1 Definitions.

1. “*Continuing education*” means that education which is obtained by a professional or occupational licensee in order to maintain, improve, or expand skills and knowledge obtained prior to initial licensure or to develop new and relevant skills and knowledge. This education may be obtained through formal or informal education practices, self-study, research, and participation in professional, technical, and occupational societies, and by other similar means as authorized by the board.

2. “*Disciplinary proceeding*” means any proceeding under the authority of a licensing board pursuant to which licensee discipline may be imposed.

3. “*Inactive licensee re-entry*” means that process a former or inactive professional or occupational licensee pursues to again be capable of actively and competently practicing as a professional or occupational licensee.

4. “*Licensee discipline*” means any sanction a licensing board may impose upon its licensees for conduct which threatens or denies citizens of this state a high standard of professional or occupational care.

5. The term “*licensing*” and its derivations include the terms “*registration*” and “*certification*” and their derivations.

6. “*Licensing board*” or “*board*” includes the following boards:

a. The state board of engineering and land surveying examiners, created pursuant to chapter 542B.

b. The board of examiners of shorthand reporters created pursuant to article 3 of chapter 602.

c. The Iowa accountancy examining board, created pursuant to chapter 542.

- d. The Iowa real estate commission, created pursuant to chapter 543B.
 - e. The board of architectural examiners, created pursuant to chapter 544A.
 - f. The Iowa board of landscape architectural examiners, created pursuant to chapter 544B.
 - g. The board of barbering, created pursuant to chapter 147.
 - h. The board of chiropractic, created pursuant to chapter 147.
 - i. The board of cosmetology arts and sciences, created pursuant to chapter 147.
 - j. The dental board, created pursuant to chapter 147.
 - k. The board of mortuary science, created pursuant to chapter 147.
 - l. The board of medicine, created pursuant to chapter 147.
 - m. The board of physician assistants, created pursuant to chapter 148C.
 - n. The board of nursing, created pursuant to chapter 147.
 - o. The board of nursing home administrators, created pursuant to chapter 155.
 - p. The board of optometry, created pursuant to chapter 147.
 - q. The board of pharmacy, created pursuant to chapter 147.
 - r. The board of physical and occupational therapy, created pursuant to chapter 147.
 - s. The board of podiatry, created pursuant to chapter 147.
 - t. The board of psychology, created pursuant to chapter 147.
 - u. The board of speech pathology and audiology, created pursuant to chapter 147.
 - v. The board of hearing aid specialists, created pursuant to chapter 154A.
 - w. The board of veterinary medicine, created pursuant to chapter 169.
 - x. The director of the department of natural resources in certifying water treatment operators as provided in sections 455B.211 through 455B.224.
 - y. Any professional or occupational licensing board created after January 1, 1978.
 - z. The board of respiratory care and polysomnography in licensing respiratory care practitioners pursuant to chapter 152B, respiratory care and polysomnography practitioners pursuant to chapter 152B, and polysomnographic technologists pursuant to chapter 148G.
 - aa. The board of athletic training in licensing athletic trainers pursuant to chapter 152D.
 - ab. The board of massage therapy in licensing massage therapists pursuant to chapter 152C.
 - ac. The board of sign language interpreters and transliterators, created pursuant to chapter 154E.
 - ad. The director of public health in certifying emergency medical care providers and emergency medical care services pursuant to chapter 147A.
 - ae. The plumbing and mechanical systems board, created pursuant to chapter 105.
 - af. The department of public safety, in licensing fire protection system installers and maintenance workers pursuant to chapter 100D.
 - ag. The superintendent of the division of banking of the department of commerce in registering and supervising appraisal management companies pursuant to chapter 543E.
 - 7. “*Malpractice*” means any error or omission, unreasonable lack of skill, or failure to maintain a reasonable standard of care by a licensee in the course of practice of the licensee’s occupation or profession, pursuant to this chapter.
 - 8. “*Offense directly relates*” refers to either of the following:
 - a. The actions taken in furtherance of an offense are actions customarily performed within the scope of practice of a licensed profession.
 - b. The circumstances under which an offense was committed are circumstances customary to a licensed profession.
 - 9. “*Peer review*” means evaluation of professional services rendered by a professional practitioner.
 - 10. “*Peer review committee*” means one or more persons acting in a peer review capacity pursuant to this chapter.
- [C79, 81, §258A.1]
- 83 Acts, ch 186, §10063, 10201; 84 Acts, ch 1067, §26; 87 Acts, ch 165, §3; 88 Acts, ch 1134, §61; 88 Acts, ch 1225, §25; 89 Acts, ch 83, §36; 90 Acts, ch 1193, §8; 92 Acts, ch 1205, §23 C93, §272C.1
- 94 Acts, ch 1132, §32; 96 Acts, ch 1036, §40; 98 Acts, ch 1053, §41, 42; 2001 Acts, ch 16, §1, 37; 2001 Acts, ch 55, §25, 38; 2004 Acts, ch 1110, §1; 2004 Acts, ch 1175, §430, 433; 2005

Acts, ch 3, §57; 2006 Acts, ch 1184, §119; 2007 Acts, ch 10, §171; 2007 Acts, ch 218, §205; 2007 Acts, ch 198, §31; 2008 Acts, ch 1089, §10, 12; 2008 Acts, ch 1094, §14, 18; 2009 Acts, ch 151, §31; 2010 Acts, ch 1037, §15; 2015 Acts, ch 57, §17; 2015 Acts, ch 70, §16; 2016 Acts, ch 1124, §21, 32; 2020 Acts, ch 1103, §23, 31

Referred to in §232.69, 235B.16, 622.31

Subsection 8 effective January 1, 2021; 2020 Acts, ch 1103, §31

NEW subsection 8 and former subsections 8 and 9 renumbered as 9 and 10

272C.2 Continuing education required.

1. Each licensing board shall require and issue rules for continuing education requirements as a condition to license renewal.

2. The rules shall create continuing education requirements at a minimum level prescribed by each licensing board. These boards may also establish continuing education programs to assist a licensee in meeting such continuing education requirements. Such rules shall also:

a. Give due attention to the effect of continuing education requirements on interstate and international practice.

b. Place the responsibility for arrangement of financing of continuing education on the licensee, while allowing the board to receive any other available funds or resources that aid in supporting a continuing education program.

c. Attempt to express continuing education requirements in terms of uniform and widely recognized measurement units.

d. Establish guidelines, including guidelines in regard to the monitoring of licensee participation, for the approval of continuing education programs that qualify under the continuing education requirements prescribed.

e. Not be implemented for the purpose of limiting the size of the profession or occupation.

f. Define the status of active and inactive licensure and establish appropriate guidelines for inactive licensee reentry.

g. Be promulgated solely for the purpose of assuring a continued maintenance of skills and knowledge by a professional or occupational licensee directly related and commensurate with the current level of competency of the licensee's profession or occupation.

3. The state board of engineering and land surveyors, the board of architectural examiners, the board of landscape architectural examiners, and the economic development authority shall cooperate with each other and with persons who typically offer continuing education courses for design professionals to make available energy efficiency related continuing education courses, and to encourage interdisciplinary cooperation and education concerning available energy efficiency strategies for employment in the state's construction industry.

4. A person licensed to practice an occupation or profession in this state shall be deemed to have complied with the continuing education requirements of this state during periods that the person serves honorably on active duty in the military services, or for periods that the person is a resident of another state or district having a continuing education requirement for the occupation or profession and meets all requirements of that state or district for practice therein, or for periods that the person is a government employee working in the person's licensed specialty and assigned to duty outside of the United States, or for other periods of active practice and absence from the state approved by the appropriate licensing board.

5. A person licensed to sell real estate in this state shall be deemed to have complied with the continuing education requirements of this state during periods that the person serves honorably on active duty in the military services, or for periods that the person is a resident of another state or district having a continuing education requirement for the occupation or profession and meets all requirements of that state or district for practice therein, if the state or district accords the same privilege to Iowa residents, or for periods that the person is a government employee working in the person's licensed specialty and assigned to duty outside of the United States, or for other periods of active practice and absence from the state approved by the appropriate licensing board.

[C79, 81, §258A.2]

89 Acts, ch 292, §5; 90 Acts, ch 1252, §16

C93, §272C.2

2007 Acts, ch 10, §172; 2009 Acts, ch 108, §13, 41; 2011 Acts, ch 118, §50, 89
Referred to in §105.20, 153.36, 155A.6A, 155A.6B, 543D.16

272C.2A Continuing education minimum requirements — cosmetology arts and sciences.

The board of cosmetology arts and sciences created pursuant to chapter 147 shall require as a condition of license renewal a minimum of six hours of continuing education in the two years immediately prior to a licensee's license renewal. The board of cosmetology arts and sciences may notify cosmetology arts and sciences licensees on a quarterly basis regarding continuing education opportunities.

88 Acts, ch 1274, §40

C89, §258A.2A

92 Acts, ch 1205, §24

C93, §272C.2A

2007 Acts, ch 10, §173; 2015 Acts, ch 63, §2

272C.2B Continuing education minimum requirements — mortuary science.

1. The board of mortuary science, created pursuant to chapter 147, shall require, as a condition of license renewal, a minimum number of hours of continuing education in the two years immediately prior to a licensee's license renewal as prescribed by rule.

2. A person licensed to practice mortuary science in this state shall be deemed to have complied with the continuing education requirements of this state during periods that the person serves honorably on active duty in the military services, or for periods that the person is a government employee working in the person's licensed specialty and assigned to duty outside of the United States, or for other periods of active practice and absence from the state approved by the board of mortuary science.

2010 Acts, ch 1067, §1

272C.2C Continuing education minimum requirements — medicine and surgery and osteopathic medicine and surgery, nursing, dentistry, podiatry, and physician assistants.

1. The board of medicine, board of dentistry, board of physician assistants, board of podiatry, and board of nursing shall establish rules requiring a person licensed pursuant to section 148.3, 148C.3, 149.3, or 152.6 or chapter 153 who has prescribed opioids to a patient during the previous licensure cycle to receive continuing education credits regarding the United States centers for disease control and prevention guideline for prescribing opioids for chronic pain, including recommendations on limitations on dosages and the length of prescriptions, risk factors for abuse, and nonopioid and nonpharmacologic therapy options, as a condition of license renewal. Each licensing board shall have the authority to determine how often a licensee must receive continuing education credits.

2. The rules established pursuant to this section shall include the option for a licensee to attest as part of the license renewal process that the licensee is not subject to the requirement to receive continuing education credits pursuant to this section, due to the fact that the licensee did not prescribe opioids to a patient during the previous licensure cycle.

2018 Acts, ch 1138, §22

272C.3 Authority of licensing boards.

1. Notwithstanding any other provision of this chapter, each licensing board shall have the powers to:

a. Administer and enforce the laws and administrative rules provided for in this chapter and any other statute to which the licensing board is subject.

b. Adopt and enforce administrative rules which provide for the partial reexamination of the professional licensing examinations given by each licensing board.

c. Review or investigate, or both, upon written complaint or upon its own motion pursuant to other evidence received by the board, alleged acts or omissions which the board reasonably believes constitute cause under applicable law or administrative rule for licensee discipline.

d. Determine in any case whether an investigation, or further investigation, or a disciplinary proceeding is warranted. Notwithstanding the provisions of chapter 17A, a determination by a licensing board that an investigation is not warranted or that an investigation should be closed without initiating a disciplinary proceeding is not subject to judicial review pursuant to section 17A.19.

e. Initiate and prosecute disciplinary proceedings.

f. Impose licensee discipline.

g. Petition the district court for enforcement of its authority with respect to licensees or with respect to other persons violating the laws which the board is charged with administering.

h. Register or establish and register peer review committees.

i. Refer to a registered peer review committee for investigation, review, and report to the board, any complaint or other evidence of an act or omission which the board reasonably believes to constitute cause for licensee discipline. However, the referral of any matter shall not relieve the board of any of its duties and shall not divest the board of any authority or jurisdiction.

j. Determine and administer the renewal of licenses for periods not exceeding three years.

k. Establish a licensee review committee for the purpose of evaluating and monitoring licensees who are impaired as a result of alcohol or drug abuse, dependency, or addiction, or by any mental or physical disorder or disability, and who self-report the impairment to the committee, or who are referred by the board to the committee. Members of the committee shall receive actual expenses for the performance of their duties and shall be eligible to receive per diem compensation pursuant to section 7E.6. The board shall adopt rules for the establishment and administration of the committee, including but not limited to establishment of the criteria for eligibility for referral to the committee and the grounds for disciplinary action for noncompliance with committee decisions. Information in the possession of the board or the licensee review committee, under this paragraph, shall be subject to the confidentiality requirements of section 272C.6. Referral of a licensee by the board to a licensee review committee shall not relieve the board of any duties of the board and shall not divest the board of any authority or jurisdiction otherwise provided. A licensee who violates section 272C.10 or the rules of the board while under review by the licensee review committee shall be referred to the board for appropriate action.

2. Each licensing board may impose one or more of the following as licensee discipline:

a. Revoke a license, or suspend a license either until further order of the board or for a specified period, upon any of the grounds specified in section 100D.5, 105.22, 147.55, 148.6, 148B.7, 152.10, 153.34, 154A.24, 169.13, 455B.219, 542.10, 542B.21, 543B.29, 544A.13, 544B.15, or 602.3203 or chapter 151 or 155, as applicable, or upon any other grounds specifically provided for in this chapter for revocation of the license of a licensee subject to the jurisdiction of that board, or upon failure of the licensee to comply with a decision of the board imposing licensee discipline.

b. Revoke, or suspend either until further order of the board or for a specified period, the privilege of a licensee to engage in one or more specified procedures, methods, or acts incident to the practice of the profession, if pursuant to hearing or stipulated or agreed settlement the board finds that because of a lack of education or experience, or because of negligence, or careless acts or omissions, or because of one or more intentional acts or omissions, the licensee has demonstrated a lack of qualifications which are necessary to assure the residents of this state a high standard of professional and occupational care.

c. Impose a period of probation under specified conditions, whether or not in conjunction with other sanctions.

d. Require additional professional education or training, or reexamination, or any combination, as a condition precedent to the reinstatement of a license or of any privilege incident thereto, or as a condition precedent to the termination of any suspension.

e. Impose civil penalties by rule, if the rule specifies which offenses or acts are subject to civil penalties. The amount of civil penalty shall be in the discretion of the board, but shall not exceed one thousand dollars. Failure to comply with the imposition of a civil penalty may be grounds for further license discipline.

f. Issue a citation and warning respecting licensee behavior which is subject to the imposition of other sanctions by the board.

3. The powers conferred by this section upon a licensing board shall be in addition to powers specified elsewhere in the Code. The powers of any other person specified elsewhere in the Code shall not limit the powers of a licensing board conferred by this section, nor shall the powers of such other person be deemed limited by the provisions of this section.

4. a. Nothing contained in this section shall be construed to prohibit informal stipulation and settlement by a board and a licensee of any matter involving licensee discipline. However, licensee discipline shall not be agreed to or imposed except pursuant to a written decision which specifies the sanction and which is entered by the board and filed.

b. All health care boards shall file written decisions which specify the sanction entered by the board with the Iowa department of public health which shall be available to the public upon request. All non-health care boards shall have on file the written and specified decisions and sanctions entered by the board and shall be available to the public upon request.

[C79, 81, §258A.3]

83 Acts, ch 186, §10064, 10201; 84 Acts, ch 1056, §1; 84 Acts, ch 1067, §27; 86 Acts, ch 1245, §1880; 90 Acts, ch 1086, §16

C93, §272C.3

95 Acts, ch 72, §1; 2000 Acts, ch 1008, §10; 2001 Acts, ch 16, §2, 37; 2001 Acts, ch 55, §26, 38; 2002 Acts, ch 1108, §26; 2002 Acts, ch 1119, §149; 2003 Acts, ch 78, §6; 2004 Acts, ch 1110, §2; 2004 Acts, ch 1176, §13; 2007 Acts, ch 198, §32; 2008 Acts, ch 1089, §10, 12; 2008 Acts, ch 1094, §15, 18; 2009 Acts, ch 41, §263

Referred to in §147.106, 148.6, 153.34, 155A.18, 155A.39, 169.20, 272C.4, 272C.6, 543B.48, 543D.17

Civil penalty for real estate brokers and salespersons, see §543B.48

272C.4 Duties of board.

Each licensing board shall have the following duties in addition to other duties specified by this chapter or elsewhere in the Code:

1. Establish procedures by which complaints which relate to licensure or to licensee discipline shall be received and reviewed by the board.

2. Establish procedures by which disputes between licensees and clients which result in judgments or settlements in or of malpractice claims or actions shall be investigated by the board.

3. Establish procedures by which any recommendation taken by a peer review committee shall be reported to and reviewed by the board if a peer review committee is established.

4. Establish procedures for registration with the board of peer review committees if a peer review committee is established.

5. Define by rule those recommendations of peer review committees which shall constitute disciplinary recommendations which must be reported to the board if a peer review committee is established.

6. Define by rule acts or omissions that are grounds for revocation or suspension of a license under section 100D.5, 105.22, 147.55, 148.6, 148B.7, 152.10, 153.34, 154A.24, 169.13, 455B.219, 542.10, 542B.21, 543B.29, 544A.13, 544B.15, or 602.3203 or chapter 151 or 155, as applicable, and to define by rule acts or omissions that constitute negligence, careless acts, or omissions within the meaning of section 272C.3, subsection 2, paragraph "b", which licensees are required to report to the board pursuant to section 272C.9, subsection 2.

7. Establish the procedures by which licensees shall report those acts or omissions specified by the board pursuant to subsection 6.

8. Give written notice to another licensing board or to a hospital licensing agency if evidence received by the board either alleges or constitutes reasonable cause to believe the existence of an act or omission which is subject to discipline by that other board or agency.

9. Require each health care licensing board to file with the Iowa department of public health a copy of each decision of the board imposing licensee discipline. Each non-health care board shall have on file a copy of each decision of the board imposing licensee discipline which copy shall be properly dated and shall be in simple language and in the most concise form consistent with clearness and comprehensiveness of subject matter.

10. Adopt rules under chapter 17A to prohibit the suspension or revocation of a license issued by the board to a person who is in default or is delinquent on repayment or a service obligation under federal or state postsecondary educational loans or public or private services-conditional postsecondary tuition assistance solely on the basis of such default or delinquency.

11. Adopt rules by January 1, 2015, to provide credit towards qualifications for licensure to practice an occupation or profession in this state for education, training, and service obtained or completed by an individual while serving honorably on federal active duty, state active duty, or national guard duty, as defined in section 29A.1, to the extent consistent with the qualifications required by the appropriate licensing board. The rules shall also provide credit towards qualifications for initial licensure for education, training, or service obtained or completed by an individual while serving honorably in the military forces of another state or the organized reserves of the armed forces of the United States, to the extent consistent with the qualifications required by the appropriate licensing board.

12. a. Establish procedures by January 1, 2015, to expedite the licensing of an individual who is licensed in a similar profession or occupation in another state and who is a veteran, as defined in section 35.1.

b. If the board determines that the professional or occupational licensing requirements of the state where the veteran is licensed are substantially equivalent to the licensing requirements of this state, the procedures shall require the licensing of the veteran in this state.

c. If the board determines that the professional or occupational licensing requirements of the state where the veteran is licensed are not substantially equivalent to the professional or occupational licensing requirements of this state, the procedures shall allow the provisional licensing of the veteran for a period of time deemed necessary by the board to obtain a substantial equivalent to the licensing requirements of this state. The board shall advise the veteran of required education or training necessary to obtain a substantial equivalent to the professional or occupational licensing requirements of this state, and the procedures shall provide for licensing of an individual who has, pursuant to this paragraph, obtained a substantial equivalent to the professional or occupational licensing requirements of this state.

13. Beginning December 15, 2016, annually file a report with the governor and the general assembly providing information and statistics on credit received by individuals for education, training, and service pursuant to subsection 11 and information and statistics on licenses and provisional licenses issued pursuant to subsection 12.

[C79, 81, §258A.4]

83 Acts, ch 186, §10065, 10201; 84 Acts, ch 1067, §28; 90 Acts, ch 1086, §17

C93, §272C.4

97 Acts, ch 203, §16; 98 Acts, ch 1119, §8; 2000 Acts, ch 1008, §11; 2001 Acts, ch 16, §3, 37; 2001 Acts, ch 55, §27, 38; 2002 Acts, ch 1057, §1; 2002 Acts, ch 1111, §1; 2002 Acts, ch 1119, §150; 2004 Acts, ch 1110, §3; 2005 Acts, ch 89, §35; 2007 Acts, ch 198, §33; 2008 Acts, ch 1089, §10, 12; 2008 Acts, ch 1094, §16, 18; 2010 Acts, ch 1069, §37; 2014 Acts, ch 1116, §34; 2019 Acts, ch 9, §4; 2019 Acts, ch 13, §2; 2020 Acts, ch 1103, §24, 31

Referred to in §272C.9

2020 repeal of subsection 13 effective January 1, 2021; 2020 Acts, ch 1103, §31

Subsection 13 stricken and former subsection 14 renumbered as 13

272C.5 Licensee disciplinary procedure — rulemaking delegation.

1. Each licensing board may establish by rule licensee disciplinary procedures. Each licensing board may impose licensee discipline under these procedures.

2. Rules promulgated under subsection 1 of this section:

a. Shall comply with the provisions of chapter 17A.

b. Shall designate who may or shall initiate a licensee disciplinary investigation and a licensee disciplinary proceeding, and who shall prosecute a disciplinary proceeding and under what conditions, and shall state the procedures for review by the licensing board of findings of fact if a majority of the licensing board does not hear the disciplinary proceeding.

c. Shall state whether the procedures are an alternative to or an addition to the

procedures stated in sections 100D.5, 105.23, 105.24, 148.6 through 148.9, 152.10, 152.11, 153.33, 154A.23, 542.11, 542B.22, 543B.35, 543B.36, and 544B.16.

d. Shall specify methods by which the final decisions of the board relating to disciplinary proceedings shall be published.

[C79, 81, §258A.5]

87 Acts, ch 215, §45

C93, §272C.5

2000 Acts, ch 1008, §12; 2001 Acts, ch 55, §28, 38; 2002 Acts, ch 1108, §27; 2007 Acts, ch 198, §34; 2008 Acts, ch 1088, §116; 2008 Acts, ch 1089, §10, 12; 2008 Acts, ch 1094, §17, 18

272C.6 Hearings — power of subpoena — decisions.

1. Disciplinary hearings held pursuant to this chapter shall be heard by the board sitting as the hearing panel, or by a panel of not less than three board members who are licensed in the profession, or by a panel of not less than three members appointed pursuant to subsection 2. Notwithstanding chapters 17A and 21 a disciplinary hearing shall be open to the public at the discretion of the licensee.

2. When, in the opinion of a majority of the board, it is desirable to obtain specialists within an area of practice of a profession when holding disciplinary hearings, a licensing board may appoint licensees not having a conflict of interest to make findings of fact and to report to the board. Such findings shall not include any recommendation for or against licensee discipline.

3. a. The presiding officer of a hearing panel may issue subpoenas pursuant to rules of the board on behalf of the board or on behalf of the licensee. A licensee may have subpoenas issued on the licensee's behalf.

(1) A subpoena issued under the authority of a licensing board may compel the attendance of witnesses and the production of professional records, books, papers, correspondence and other records, whether or not privileged or confidential under law, which are deemed necessary as evidence in connection with a disciplinary proceeding.

(2) Nothing in this subsection shall be deemed to enable a licensing board to compel an attorney of the licensee, or stenographer or confidential clerk of the attorney, to disclose any information when privileged against disclosure by section 622.10.

(3) In the event of a refusal to obey a subpoena, the licensing board may petition the district court for its enforcement. Upon proper showing, the district court shall order the person to obey the subpoena, and if the person fails to obey the order of the court the person may be found guilty of contempt of court.

b. The presiding officer of a hearing panel may also administer oaths and affirmations, take or order that depositions be taken, and pursuant to rules of the board, grant immunity to a witness from disciplinary proceedings initiated either by the board or by other state agencies which might otherwise result from the testimony to be given by the witness to the panel.

4. a. In order to assure a free flow of information for accomplishing the purposes of this section, and notwithstanding section 622.10, all complaint files, investigation files, other investigation reports, and other investigative information in the possession of a licensing board or peer review committee acting under the authority of a licensing board or its employees or agents which relates to licensee discipline are privileged and confidential, and are not subject to discovery, subpoena, or other means of legal compulsion for their release to a person other than the licensee and the boards, their employees and agents involved in licensee discipline, and are not admissible in evidence in a judicial or administrative proceeding other than the proceeding involving licensee discipline. However, investigative information in the possession of a licensing board or its employees or agents which relates to licensee discipline may be disclosed to appropriate licensing authorities within this state, the appropriate licensing authority in another state, the coordinated licensure information system provided for in the nurse licensure compact contained in section 152E.1 or the advanced practice registered nurse compact contained in section 152E.3, the District of Columbia, or a territory or country in which the licensee is licensed or has applied for a license. If the investigative information in the possession of a licensing board or its

employees or agents indicates a crime has been committed, the information shall be reported to the proper law enforcement agency. However, a final written decision and finding of fact of a licensing board in a disciplinary proceeding, including a decision referred to in section 272C.3, subsection 4, is a public record.

b. Pursuant to the provisions of section 17A.19, subsection 6, a licensing board upon an appeal by the licensee of the decision by the licensing board, shall transmit the entire record of the contested case to the reviewing court.

c. Notwithstanding the provisions of section 17A.19, subsection 6, if a waiver of privilege has been involuntary and evidence has been received at a disciplinary hearing, the court shall order withheld the identity of the individual whose privilege was waived.

5. Licensee discipline shall not be imposed except upon the affirmative vote of a majority of the licensing board.

6. a. A board created pursuant to chapter 147, 154A, 155, 169, 542, 542B, 543B, 543D, 544A, or 544B may charge a fee not to exceed seventy-five dollars for conducting a disciplinary hearing pursuant to this chapter which results in disciplinary action taken against the licensee by the board, and in addition to the fee, may recover from a licensee the costs for the following procedures and associated personnel:

- (1) Transcript.
- (2) Witness fees and expenses.
- (3) Depositions.
- (4) Medical examination fees incurred relating to a person licensed under chapter 147, 154A, 155, or 169.

b. The department of agriculture and land stewardship, the department of commerce, and the Iowa department of public health shall each adopt rules pursuant to chapter 17A which provide for the allocation of fees and costs collected pursuant to this section to the board under its jurisdiction collecting the fees and costs. The fees and costs shall be considered repayment receipts as defined in section 8.2.

[C79, 81, §258A.6; 82 Acts, ch 1005, §8]

86 Acts, ch 1211, §15; 92 Acts, ch 1125, §1

C93, §272C.6

2000 Acts, ch 1008, §13; 2001 Acts, ch 55, §29, 38; 2005 Acts, ch 53, §10; 2010 Acts, ch 1061, §94

Referred to in §105.23, 139A.22, 147.135, 147A.24, 148.2A, 148.7, 153.36, 155A.2A, 155A.39, 155A.40, 155A.45, 156.16, 203.16, 203C.24, 272C.3, 272C.7, 542.11, 543D.21, 543E.18, 543E.20, 546.10, 602.3205

Board of medicine, see §148.2A, 148.7

272C.7 Executive secretary and personnel.

1. As an alternative to authority contained elsewhere in this chapter, a licensing board may employ within the limits of available funds an executive secretary, one or more inspectors, and such clerical personnel as may be necessary for the administration of the duties of the board. Employees of the board shall be employed subject to chapter 8A, subchapter IV. The qualifications of the executive secretary shall be determined by the board.

2. All employees of a licensing board shall be reimbursed subject to the rules of the director of the department of administrative services for their expenses incurred in the performance of official duties. All reimbursements shall constitute costs of sustaining the board.

3. Licensees appointed to serve on a hearing panel pursuant to section 272C.6, subsection 2, shall be compensated at the rate specified in section 7E.6 for each day of actual duty, and shall be reimbursed for actual expenses reasonably incurred in the performance of duties.

4. Salaries, per diem, and expenses incurred in the performance of official duties of the board or its employees shall be paid from funds appropriated by the general assembly.

[C79, 81, §258A.7]

90 Acts, ch 1256, §43

C93, §272C.7

2003 Acts, ch 145, §233, 286

272C.8 Immunities.

1. a. A person shall not be civilly liable as a result of the person's acts, omissions, or decisions in good faith as a member of a licensing board or as an employee or agent in connection with the person's duties.

b. A person shall not be civilly liable as a result of filing a report or complaint with a licensing board or peer review committee, or for the disclosure to a licensing board or its agents or employees, whether or not pursuant to a subpoena of records, documents, testimony, or other forms of information which constitute privileged matter concerning a recipient of health care services or some other person, in connection with proceedings of a peer review committee, or in connection with duties of a health care board. However, such immunity from civil liability shall not apply if such act is done with malice.

c. A person shall not be dismissed from employment, and shall not be discriminated against by an employer because the person filed a complaint with a licensing board or peer review committee, or because the person participated as a member, agent, or employee of a licensing board or peer review committee, or presented testimony or other evidence to a licensing board or peer review committee.

2. Any employer who violates the terms of this section shall be liable to any person aggrieved for actual and punitive damages plus reasonable attorney fees.

[C79, 81, §258A.8]

C93, §272C.8

2010 Acts, ch 1069, §74

272C.9 Duties of licensees.

1. Each licensee of a licensing board, as a condition of licensure, is under a duty to submit to a physical, mental, or clinical competency examination when directed in writing by the board for cause. All objections shall be waived as to the admissibility of the examining physician's testimony or reports on the grounds of privileged communications. The medical testimony or report shall not be used against the licensee in any proceeding other than one relating to licensee discipline by the board, or one commenced in district court for revocation of the licensee's privileges. The licensing board, upon probable cause, shall have the authority to order a physical, mental, or clinical competency examination, and upon refusal of the licensee to submit to the examination the licensing board may order that the allegations pursuant to which the order of physical, mental, or clinical competency examination was made shall be taken to be established.

2. A licensee has a continuing duty to report to the licensing board by whom the person is licensed those acts or omissions specified by rule of the board pursuant to section 272C.4, subsection 6, when committed by another person licensed by the same licensing board. This subsection does not apply to licensees under chapter 542 when the observations are a result of participation in programs of practice review, peer review and quality review conducted by professional organizations of certified public accountants, for educational purposes and approved by the accountancy examining board.

3. A licensee shall have a continuing duty and obligation, as a condition of licensure, to report to the licensing board by which the licensee is licensed every adverse judgment in a professional or occupational malpractice action to which the licensee is a party, and every settlement of a claim against the licensee alleging malpractice.

4. A licensee who willfully fails to comply with subsection 2 or 3 of this section commits a violation of this chapter for which licensee discipline may be imposed.

[C79, 81, §258A.9; 81 Acts, ch 84, §1]

C93, §272C.9

2001 Acts, ch 55, §30, 38; 2005 Acts, ch 89, §36

Referred to in §135P.4, 272C.4, 543E.12

272C.10 Rules for revocation or suspension of license.

A licensing board established after January 1, 1978, and pursuant to the provisions of this chapter shall by rule include provisions for the revocation or suspension of a license which shall include but is not limited to the following:

1. Fraud in procuring a license.
2. Professional incompetency.
3. Knowingly making misleading, deceptive, untrue, or fraudulent representations in the practice of the licensee's profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.
4. Habitual intoxication or addiction to the use of drugs.
5. Conviction of a felony offense, if the offense directly relates to the profession or occupation of the licensee, in the courts of this state or another state, territory, or country. Conviction as used in this subsection includes a conviction of an offense which if committed in this state would be a felony without regard to its designation elsewhere, and includes a finding or verdict of guilt made or returned in a criminal proceeding even if the adjudication of guilt is withheld or not entered. A certified copy of the final order or judgment of conviction or plea of guilty in this state or in another state constitutes conclusive evidence of the conviction.
6. Fraud in representations as to skill or ability.
7. Use of untruthful or improbable statements in advertisements.
8. Willful or repeated violations of the provisions of this chapter.

[C79, 81, §258A.10]

C93, §272C.10

2020 Acts, ch 1103, §25, 31

Referred to in §152D.6, 156.9, 272C.3, 542.10, 543E.17

2020 amendment to subsection 5 effective January 1, 2021; 2020 Acts, ch 1103, §31

Subsection 5 stricken and rewritten

272C.11 Insurers of professional and occupational licensees — reports.

Insurance carriers which insure professional and occupational licensees for acts or omissions that constitute negligence, careless acts, or omissions in the practice of a profession or occupation shall file reports with the appropriate licensing board. The reports shall include information pertaining to any lawsuit filed against a licensee which may affect the licensee as defined by rule, involving an insured of the insurer.

2010 Acts, ch 1069, §38

272C.12 Licensure of persons licensed in other jurisdictions.

1. Notwithstanding any other provision of law, an occupational or professional license, certificate, or registration, including a license, certificate, or registration issued by the board of educational examiners, shall be issued without an examination to a person who establishes residency in this state or to a person who is married to an active duty member of the military forces of the United States and who is accompanying the member on an official permanent change of station to a military installation located in this state if all of the following conditions are met:

a. The person is currently licensed, certified, or registered by at least one other issuing jurisdiction in the occupation or profession applied for with a substantially similar scope of practice and the license, certificate, or registration is in good standing in all issuing jurisdictions in which the person holds a license, certificate, or registration.

b. The person has been licensed, certified, or registered by another issuing jurisdiction for at least one year.

c. When the person was licensed by the issuing jurisdiction, the issuing jurisdiction imposed minimum educational requirements and, if applicable, work experience and clinical supervision requirements, and the issuing jurisdiction verifies that the person met those requirements in order to be licensed in that issuing jurisdiction.

d. The person previously passed an examination required by the other issuing jurisdiction for licensure, certification, or registration, if applicable.

e. The person has not had a license, certificate, or registration revoked and has not voluntarily surrendered a license, certificate, or registration in any other issuing jurisdiction or country while under investigation for unprofessional conduct.

f. The person has not had discipline imposed by any other regulating entity in this state or another issuing jurisdiction or country. If another jurisdiction has taken disciplinary action

against the person, the appropriate licensing board shall determine if the cause for the action was corrected and the matter resolved. If the licensing board determines that the matter has not been resolved by the jurisdiction imposing discipline, the licensing board shall not issue or deny a license, certificate, or registration to the person until the matter is resolved.

g. The person does not have a complaint, allegation, or investigation pending before any regulating entity in another issuing jurisdiction or country that relates to unprofessional conduct. If the person has any complaints, allegations, or investigations pending, the appropriate licensing board shall not issue or deny a license, certificate, or registration to the person until the complaint, allegation, or investigation is resolved.

h. The person pays all applicable fees.

i. The person does not have a criminal history that would prevent the person from holding the license, certificate, or registration applied for in this state.

2. A person licensed pursuant to this section is subject to the laws regulating the person's practice in this state and is subject to the jurisdiction of the appropriate licensing board.

3. This section does not apply to any of the following:

a. The ability of a licensing board, agency, or department to require the submission of fingerprints or completion of a criminal history check.

b. Criteria for a license, certificate, or registration that is established by an interstate compact.

c. The ability of a licensing board, agency, or department to require a person to take and pass an examination specific to the laws of this state prior to issuing a license. A licensing board, agency, or department that requires an applicant to take and pass an examination specific to the laws of this state shall issue an applicant a temporary license that is valid for a period of three months and may be renewed once for an additional period of three months.

d. A license issued by the department of transportation.

e. A person who is licensed by another issuing jurisdiction and is granted a privilege to practice in this state by another provision of law without receiving a license in this state.

f. A person applying for a license through a national licensing organization.

4. A license, certificate, or registration issued pursuant to this section does not grant the person receiving the license, certificate, or registration eligibility to practice pursuant to an interstate compact. A licensing board shall determine eligibility for a person to hold a license, certificate, or registration pursuant to this section regardless of the person's eligibility to practice pursuant to an interstate compact.

5. For the purposes of this section, "issuing jurisdiction" means the duly constituted authority in another state that has issued a professional license, certificate, or registration to a person.

2020 Acts, ch 1103, §26, 31

Section effective January 1, 2021; 2020 Acts, ch 1103, §31

NEW section

272C.13 Educational requirements — work experience.

1. Except as provided in subsection 2, a person applying for a professional or occupational license, certificate, or registration in this state who relocates to this state from another state that did not require a professional or occupational license, certificate, or registration to practice the person's profession or occupation may be considered to have met any education, training, or work experience requirements imposed by a licensing board in this state if the person has three or more years of related work experience with a substantially similar scope of practice within the four years preceding the date of application as determined by the board.

2. This section does not apply to a license, certificate, or registration issued by the board of medicine, the board of nursing, the dental board, the board of pharmacy, or the board of educational examiners.

3. If this Code or administrative rules require a person applying for a professional or occupational license, certificate, or registration in this state to pass an examination to obtain

the license, certificate, or registration, a person applying for licensure, certification, or registration under this section shall be required to pass the same examination.

2020 Acts, ch 1103, §27, 31

Section effective January 1, 2021; 2020 Acts, ch 1103, §31
NEW section

272C.14 Waiver of fees.

A licensing board, agency, or department shall waive any fee charged to an applicant for a license if the applicant's household income does not exceed two hundred percent of the federal poverty income guidelines and the applicant is applying for the license for the first time in this state.

2020 Acts, ch 1103, §28, 31

Section effective January 1, 2021; 2020 Acts, ch 1103, §31
NEW section

272C.15 Disqualifications for criminal convictions limited.

1. Notwithstanding any other provision of law to the contrary, except for chapter 272, a person's conviction of a crime may be grounds for the denial, revocation, or suspension of a license only if an unreasonable risk to public safety exists because the offense directly relates to the duties and responsibilities of the profession and the appropriate licensing board, agency, or department does not grant an exception pursuant to subsection 4.

2. A licensing board, agency, or department that may deny a license on the basis of an applicant's conviction record shall provide a list of the specific convictions that may disqualify an applicant from receiving a license. Any such offense shall be an offense that directly relates to the duties and responsibilities of the profession.

3. A licensing board, agency, or department shall not deny an application for a license on the basis of an arrest that was not followed by a conviction or based on a finding that an applicant lacks good character, suffers from moral turpitude, or on other similar basis.

4. A licensing board, agency, or department shall grant an exception to an applicant who would otherwise be denied a license due to a criminal conviction if the following factors establish by clear and convincing evidence that the applicant is rehabilitated and an appropriate candidate for licensure:

a. The nature and seriousness of the crime for which the applicant was convicted.

b. The amount of time that has passed since the commission of the crime. There is a rebuttable presumption that an applicant is rehabilitated and an appropriate candidate for licensure five years after the date of the applicant's release from incarceration, provided that the applicant was not convicted of sexual abuse in violation of section 709.4, a sexually violent offense as defined in section 229A.2, dependent adult abuse in violation of section 235B.20, a forcible felony as defined in section 702.11, or domestic abuse assault in violation of section 708.2A, and the applicant has not been convicted of another crime after release from incarceration.

c. The circumstances relative to the offense, including any aggravating and mitigating circumstances or social conditions surrounding the commission of the offense.

d. The age of the applicant at the time the offense was committed.

e. Any treatment undertaken by the applicant.

f. Whether a certification of employability has been issued to the applicant pursuant to section 906.19.

g. Any letters of reference submitted on behalf of the applicant.

h. All other relevant evidence of rehabilitation and present fitness of the applicant.

5. An applicant may petition the relevant licensing board, agency, or department, in a form prescribed by the board, agency, or department, for a determination as to whether the applicant's criminal record will prevent the applicant from receiving a license. The board, agency, or department shall issue such a determination at the next regularly scheduled meeting of the board, agency, or department or within thirty days of receiving the petition, whichever is later. The board, agency, or department shall hold a closed session while determining whether an applicant's criminal record will prevent the applicant from receiving a license and while determining whether to deny an applicant's application on the basis of an

applicant’s criminal conviction. A board, agency, or department may charge a fee to recoup the costs of such a determination, provided that such fee shall not exceed twenty-five dollars.

6. a. A licensing board, agency, or department that denies an applicant a license solely or partly because of the applicant’s prior conviction of a crime shall notify the applicant in writing of all of the following:

- (1) The grounds for the denial or disqualification.
- (2) That the applicant has the right to a hearing to challenge the licensing authority’s decision.
- (3) The earliest date the applicant may submit a new application.
- (4) That evidence of rehabilitation of the applicant may be considered upon reapplication.

b. A determination by a licensing board, agency, or department that an applicant’s criminal conviction is specifically listed as a disqualifying conviction and the offense directly relates to the duties and responsibilities of the applicant’s profession must be documented in written findings for each factor specified in subsection 4 sufficient for a review by a court.

c. In any administrative or civil hearing authorized by this section or chapter 17A, a licensing board, agency, or department shall carry the burden of proof on the question of whether the applicant’s criminal offense directly relates to the duties and responsibilities of the profession for which the license is sought.

7. A board, agency, or department may require an applicant with a criminal record to submit the applicant’s complete criminal record detailing an applicant’s offenses with an application. A board, agency, or department may also require an applicant with a criminal record to submit a personal statement regarding whether each offense directly relates to the duties and performance of the applicant’s occupation. For the purposes of this subsection, “*complete criminal record*” includes the complaint and judgment of conviction for each offense of which the applicant has been convicted.

2020 Acts, ch 1103, §29, 31
 Section effective January 1, 2021; 2020 Acts, ch 1103, §31
 NEW section

CHAPTER 272D

DEBTS OWED STATE OR LOCAL GOVERNMENT — LICENSING SANCTIONS

272D.1	Definitions.	272D.7	Certificate of noncompliance
272D.2	Purpose and use.		— certification to licensing
272D.3	Notice to person of potential sanction of license.		authority.
272D.4	Conference.	272D.8	Requirements and procedures of
272D.5	Written agreement.		licensing authority.
272D.6	Decision of the unit.	272D.9	District court hearing.

272D.1 Definitions.

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

1. “*Certificate of noncompliance*” means a document provided by the unit certifying that the named person has outstanding liability placed with the unit and has not entered into an approved payment plan to pay the liability.

2. “*Liability*” means a debt or obligation placed with the unit for collection that is greater than one thousand dollars. For purposes of this chapter “*liability*” does not include support payments collected pursuant to chapter 252J.

3. “*License*” means a license, certification, registration, permit, approval, renewal, or other similar authorization issued to a person by a licensing authority which evidences the admission to, or granting of authority to engage in, a profession, occupation, business, industry, or recreation. “*License*” includes licenses for hunting and fishing, or other recreational activity.

4. “*Licensee*” means a person to whom a license has been issued, or who is seeking the issuance of a license.

5. “*Licensing authority*” means the supreme court, or an instrumentality, agency, board, commission, department, officer, organization, or any other entity of the state, which has authority within this state to suspend or revoke a license or to deny the renewal or issuance of a license authorizing a person to engage in a business, occupation, profession, recreation, or industry.

6. “*Obligor*” means a person with a liability placed with the unit.

7. “*Person*” means a licensee.

8. “*Unit*” means the centralized collection unit of the department of revenue.

9. “*Withdrawal of a certificate of noncompliance*” means a document provided by the unit certifying that the certificate of noncompliance is withdrawn and that the licensing authority may proceed with issuance, reinstatement, or renewal of the person’s license.

2008 Acts, ch 1172, §7; 2009 Acts, ch 41, §107

272D.2 Purpose and use.

1. Notwithstanding other statutory provisions to the contrary, the unit may utilize the process established in this chapter to collect liabilities placed with the unit.

2. Actions initiated by the unit under this chapter shall not be subject to contested case proceedings or further review pursuant to chapter 17A and any resulting court hearing shall be an original hearing before the district court.

3. Notwithstanding chapter 22, all of the following apply:

a. Information obtained by the unit under this chapter shall be used solely for the purposes of this chapter.

b. Information obtained by a licensing authority under this chapter shall be used solely for the purposes of this chapter.

4. Notwithstanding any other law to the contrary, information shall be exchanged by a licensing authority and the unit to effectuate this chapter.

2008 Acts, ch 1172, §8

272D.3 Notice to person of potential sanction of license.

The unit shall proceed in accordance with this chapter only if the unit sends a notice to the person by regular mail to the last known address of the person. The notice shall include all of the following:

1. The address and telephone number of the unit and the person’s unit account number.

2. A statement that the person may request a conference with the unit to contest the action.

3. A statement that if, within twenty days of mailing of the notice to the person, the person fails to contact the unit to schedule a conference, the unit shall issue a certificate of noncompliance, bearing the person’s name, social security number, and unit account number, to any appropriate licensing authority, certifying that the obligor has an outstanding liability placed with the unit.

4. A statement that in order to stay the issuance of a certificate of noncompliance the request for a conference shall be in writing and shall be received by the unit within twenty days of mailing of the notice to the person.

5. The names of the licensing authorities to which the unit intends to issue a certificate of noncompliance.

6. A statement that if the unit issues a certificate of noncompliance to an appropriate licensing authority, the licensing authority shall initiate proceedings to refuse to issue or renew, or to suspend or revoke the person’s license, unless the unit provides the licensing authority with a withdrawal of a certificate of noncompliance.

2008 Acts, ch 1172, §9

Referred to in §272D.4, 272D.6, 272D.7

272D.4 Conference.

1. The person may schedule a conference with the unit following mailing of the notice pursuant to section 272D.3, or at any time after service of notice of suspension, revocation,

denial of issuance, or nonrenewal of a license from a licensing authority, to challenge the unit's actions under this chapter.

2. The request for a conference shall be made to the unit in writing and, if requested after mailing of the notice pursuant to section 272D.3, shall be received by the unit within twenty days following mailing of the notice.

3. The unit shall notify the person of the date, time, and location of the conference by regular mail, with the date of the conference to be no earlier than ten days following issuance of notice of the conference by the unit. If the person fails to appear at the conference, the unit shall issue a certificate of noncompliance.

4. Following the conference, the unit shall issue a certificate of noncompliance unless any of the following applies:

- a. The unit finds a mistake in the identity of the person.
- b. The unit finds a mistake in determining the amount of the liability.
- c. The unit determines the amount of the liability is not greater than one thousand dollars.
- d. The obligor enters into an acceptable payment plan.
- e. Issuance of a certificate of noncompliance is not appropriate under other criteria established in accordance with rules adopted by the department of revenue pursuant to chapter 17A.

5. The unit shall grant the person a stay of the issuance of a certificate of noncompliance upon receiving a timely written request for a conference, and if a certificate of noncompliance has previously been issued, shall issue a withdrawal of a certificate of noncompliance if the obligor enters into a written agreement with the unit to pay the liability.

6. If the person does not timely request a conference or does not pay the total amount of liability owed within twenty days of mailing of the notice pursuant to section 272D.3, the unit shall issue a certificate of noncompliance.

2008 Acts, ch 1172, §10
 Referred to in §272D.6

272D.5 Written agreement.

1. The obligor and the unit may enter into a written agreement for payment of the liability owed which takes into consideration the obligor's ability to pay and other criteria established by rule of the department of revenue. The written agreement shall include all of the following:

- a. The method, amount, and dates of payments by the obligor.
- b. A statement that upon breach of the written agreement by the obligor, the unit shall issue a certificate of noncompliance to any appropriate licensing authority.

2. A written agreement entered into pursuant to this section does not preclude any other remedy provided by law.

3. Following issuance of a certificate of noncompliance, if the obligor enters into a written agreement with the unit, the unit shall issue a withdrawal of the certificate of noncompliance to any appropriate licensing authority and shall forward a copy of the withdrawal by regular mail to the obligor.

2008 Acts, ch 1172, §11
 Referred to in §272D.6

272D.6 Decision of the unit.

1. If the unit mails a notice to a person pursuant to section 272D.3, and the person requests a conference pursuant to section 272D.4, the unit shall issue a written decision if any of the following conditions exist:

- a. The person fails to appear at a scheduled conference under section 272D.4.
- b. A conference is held under section 272D.4.
- c. The obligor fails to comply with a written agreement entered into by the obligor and the unit under section 272D.5.

2. The unit shall send a copy of the written decision to the person by regular mail at the person's most recent address of record. If the decision is made to issue a certificate of noncompliance or to withdraw the certificate of noncompliance, a copy of the certificate of

noncompliance or of the withdrawal of the certificate of noncompliance shall be attached to the written decision. The written decision shall state all of the following:

a. That the certificate of noncompliance or withdrawal of the certificate of noncompliance has been provided to the licensing authorities named in the notice provided pursuant to section 272D.3.

b. That upon receipt of a certificate of noncompliance, the licensing authority shall initiate proceedings to suspend, revoke, deny issuance, or deny renewal of a license, unless the licensing authority is provided with a withdrawal of a certificate of noncompliance from the unit.

c. That in order to obtain a withdrawal of a certificate of noncompliance from the unit, the obligor shall enter into a written agreement with the unit, comply with an existing written agreement with the unit, or pay the total amount of liability owed.

d. That if the unit issues a written decision which includes a certificate of noncompliance, the person may request a hearing as provided in section 272D.9, before the district court. The person may retain an attorney at the person's own expense to represent the person at the hearing. The review of the district court shall be limited to demonstration of a mistake of fact related to the amount of the liability owed or the identity of the person.

3. If the unit issues a certificate of noncompliance, the unit shall only issue a withdrawal of the certificate of noncompliance if any of the following applies:

a. The unit or the court finds a mistake in the identity of the person.

b. The unit or the court finds a mistake in the amount owed.

c. The obligor enters into a written agreement with the unit to pay the liability owed, the obligor complies with an existing written agreement, or the obligor pays the total amount of liability owed.

d. Issuance of a withdrawal of the certificate of noncompliance is appropriate under other criteria in accordance with rules adopted by the department of revenue pursuant to chapter 17A.

2008 Acts, ch 1172, §12

Referred to in §272D.7, 272D.9

272D.7 Certificate of noncompliance — certification to licensing authority.

1. If a person fails to respond to a notice of potential license sanction provided pursuant to section 272D.3 or the unit issues a written decision under section 272D.6 which states that the person is not in compliance, the unit shall issue a certificate of noncompliance to any appropriate licensing authority.

2. The certificate of noncompliance shall contain the person's name and social security number.

3. The certificate of noncompliance shall require all of the following:

a. That the licensing authority initiate procedures for the revocation or suspension of the person's license, or for the denial of the issuance or renewal of a license using the licensing authority's procedures.

b. That the licensing authority provide notice to the person, as provided in section 272D.8, of the intent to suspend, revoke, deny issuance, or deny renewal of a license including the effective date of the action. The suspension, revocation, or denial shall be effective no sooner than thirty days following provision of notice to the person.

2008 Acts, ch 1172, §13

272D.8 Requirements and procedures of licensing authority.

1. A licensing authority shall maintain records of licensees by name, current known address, and social security number. The records shall be made available to the unit in an electronic format in order for the unit to match the names of the persons with any liability placed with the unit for collection.

2. In addition to other grounds for suspension, revocation, or denial of issuance or renewal of a license, a licensing authority shall include in rules adopted by the licensing authority as grounds for suspension, revocation, or denial of issuance or renewal of a license, the receipt of a certificate of noncompliance from the unit.

3. The supreme court shall prescribe rules for admission of persons to practice as attorneys and counselors pursuant to chapter 602, article 10, which include provisions, as specified in this chapter, for the denial, suspension, or revocation of the admission for failure to pay a liability placed with the unit.

4. *a.* A licensing authority that is issued a certificate of noncompliance shall initiate procedures for the suspension, revocation, or denial of issuance or renewal of licensure to a person. The licensing authority shall utilize existing rules and procedures for suspension, revocation, or denial of the issuance or renewal of a license.

b. In addition, the licensing authority shall provide notice to the person of the licensing authority's intent to suspend, revoke, or deny issuance or renewal of a license under this chapter. The suspension, revocation, or denial shall be effective no sooner than thirty days following provision of notice to the person. The notice shall state all of the following:

(1) The licensing authority intends to suspend, revoke, or deny issuance or renewal of a person's license due to the receipt of a certificate of noncompliance from the unit.

(2) The person must contact the unit to schedule a conference or to otherwise obtain a withdrawal of a certificate of noncompliance.

(3) Unless the unit furnishes a withdrawal of a certificate of noncompliance to the licensing authority within thirty days of the issuance of the notice under this section, the person's license will be revoked, suspended, or denied.

(4) If the licensing authority's rules and procedures conflict with the additional requirements of this section, the requirements of this section shall apply. Notwithstanding section 17A.18, the person does not have a right to a hearing before the licensing authority to contest the authority's actions under this chapter but may request a court hearing pursuant to section 272D.9 within thirty days of the provision of notice under this section.

5. If the licensing authority receives a withdrawal of a certificate of noncompliance from the unit, the licensing authority shall immediately reinstate, renew, or issue a license if the person is otherwise in compliance with licensing requirements established by the licensing authority.

2008 Acts, ch 1172, §14
 Referred to in §272D.7, 272D.9

272D.9 District court hearing.

1. Following the issuance of a written decision by the unit under section 272D.6 which includes the issuance of a certificate of noncompliance, or following provision of notice to the person by a licensing authority pursuant to section 272D.8, a person may seek review of the decision and request a hearing before the district court by filing an application with the district court in the county where the majority of the liability was incurred, and sending a copy of the application to the unit by regular mail.

2. An application shall be filed to seek review of the decision by the unit or following issuance of notice by the licensing authority no later than within thirty days after the issuance of the notice pursuant to section 272D.8. The clerk of the district court shall schedule a hearing and mail a copy of the order scheduling the hearing to the person and the unit and shall also mail a copy of the order to the licensing authority, if applicable. The unit shall certify a copy of its written decision and certificate of noncompliance, indicating the date of issuance, and the licensing authority shall certify a copy of a notice issued pursuant to section 272D.8, to the court prior to the hearing.

3. The filing of an application pursuant to this section shall automatically stay the actions of a licensing authority pursuant to section 272D.8. The hearing on the application shall be scheduled and held within thirty days of the filing of the application. However, if the person fails to appear at the scheduled hearing, the stay shall be lifted and the licensing authority shall continue procedures pursuant to section 272D.8.

4. The scope of review by the district court shall be limited to demonstration of the amount of the liability owed or the identity of the person.

5. If the court finds that the unit was in error in issuing a certificate of noncompliance,

III-1227 DEBTS OWED STATE OR LOCAL GOVERNMENT — LICENSING SANCTIONS, §272D.9

or in failing to issue a withdrawal of a certificate of noncompliance, the unit shall issue a withdrawal of a certificate of noncompliance to the appropriate licensing authority.

2008 Acts, ch 1172, §15

Referred to in §272D.6, 272D.8

SUBTITLE 6
SCHOOL DISTRICTS

CHAPTER 273
AREA EDUCATION AGENCIES

Referred to in §74.1, 256.82, 257.36, 257C.3, 279.23, 280.8, 280A.1, 282.3, 284.15, 514C.35

	SUBCHAPTER I	273.13	Administrative expenditures.
	GENERAL PROVISIONS	273.14	Emergency repairs.
		273.15	Advisory group.
273.1	Intent.	273.16	Online learning program.
273.2	Area education agencies established — powers — services and programs.	273.17	through 273.19 Reserved.
273.3	Duties and powers of area education agency board.		
			SUBCHAPTER II
273.4	Duties of administrator.		REORGANIZATION OR DISSOLUTION
273.5	Special education.	273.20	Definitions.
273.6	Media centers.	273.21	Voluntary reorganization.
273.7	Additional services.	273.22	Contracts of new area education agency.
273.7A	Services to school districts.		Initial board.
273.8	Area education agency board of directors.	273.23	Commission to dissolve area education agency.
		273.24	Dissolution commission meetings.
273.9	Funding.		Dissolution proposal.
273.10	Accreditation of area education programs.	273.25	Hearing — vote — state board approval.
273.11	Standards for accrediting area education programs.	273.26	
		273.27	
273.12	Funds — use restricted.		

SUBCHAPTER I
GENERAL PROVISIONS

273.1 Intent.

It is the intent of the general assembly to provide an effective, efficient, and economical means of identifying and serving children from under five years of age through grade twelve who require special education and any other children requiring special education as defined in section 256B.2; to provide for media services and other programs and services for pupils in grades kindergarten through twelve and children requiring special education as defined in section 256B.2; to provide a method of financing the programs and services; and to avoid a duplication of programs and services provided by any other school corporation in the state; and to provide services to school districts under a contract with those school districts.

[C75, 77, 79, 81, §273.1]

87 Acts, ch 224, §44

Referred to in §256B.9, 273.2, 273.3, 273.23

273.2 Area education agencies established — powers — services and programs.

1. There are established throughout the state fifteen area education agencies, each of which is governed by an area education agency board of directors. The boundaries of an area education agency shall not divide a school district. The director of the department of education shall change boundaries of area education agencies to take into account mergers of local school districts and changes in boundaries of local school districts, when necessary to maintain the policy of this chapter that a local school district shall not be a part of more than one area education agency.

2. An area education agency established under this chapter is a body politic as a school

corporation for the purpose of exercising powers granted under this chapter, and may sue and be sued. An area education agency may hold property and execute purchase agreements within two years of a disaster as defined in section 29C.2, subsection 4, and lease-purchase agreements pursuant to section 273.3, subsection 7, and if the lease-purchase agreement exceeds ten years or the purchase price of the property to be acquired pursuant to a purchase or lease-purchase agreement exceeds twenty-five thousand dollars, the area education agency shall conduct a public hearing on the proposed purchase or lease-purchase agreement and receive approval from the area education agency board of directors and the state board of education or its designee before entering into the agreement.

3. The area education agency board shall furnish educational services and programs as provided in section 273.1, this section, sections 273.3 through 273.8, and chapter 256B to the pupils enrolled in public or nonpublic schools located within its boundaries which are on the list of accredited schools pursuant to section 256.11. The programs and services provided shall be at least commensurate with programs and services existing on July 1, 1974. The programs and services provided to pupils enrolled in nonpublic schools shall be comparable to programs and services provided to pupils enrolled in public schools within constitutional guidelines.

4. The area education agency board shall provide for special education services and media services for the local school districts in the area and shall encourage and assist school districts in the area to establish programs for gifted and talented children. The board shall assist in facilitating interlibrary loans of materials between school districts and other libraries.

5. The area education agency board may provide for the following programs and services to local school districts, and at the request of local school districts to providers of child development services who have received grants under chapter 256A from the child development coordinating council, within the limits of funds available:

a. In-service training programs for employees of school districts and area education agencies, provided at the time programs and services are established they do not duplicate programs and services available in that area from the universities under the state board of regents and from other universities and four-year institutions of higher education in Iowa. The in-service training programs shall include but are not limited to regular training concerning mental or emotional disorders which may afflict children and the impact children with such disorders have upon their families.

b. Educational data processing pursuant to section 256.9, subsection 11.

c. Research, demonstration projects and models, and educational planning for children under five years of age through grade twelve and children requiring special education as defined in section 256B.2 as approved by the state board of education.

d. Auxiliary services for nonpublic school pupils as provided in section 256.12. However, if auxiliary services are provided their funding shall be based on the type of service provided.

e. Other educational programs and services for children under five years through grade twelve and children requiring special education as defined in section 256B.2 and for employees of school districts and area education agencies as approved by the state board of education.

6. The board of directors of an area education agency shall not establish programs and services which duplicate programs and services which are or may be provided by the community colleges under the provisions of chapter 260C. An area education agency shall contract, whenever practicable, with other school corporations for the use of personnel, buildings, facilities, supplies, equipment, programs, and services.

7. The board of an area education agency or a consortium of two or more area education agencies shall contract with one or more licensed dietitians for the support of nutritional provisions in individual education plans developed in accordance with chapter 256B and to provide information to support school nutrition coordinators.

8. The area education agency board shall collaborate with the department of education to provide a statewide infrastructure for educational data to create cost efficiencies, provide storage and disaster mitigation, and improve interconnectivity between schools and school districts. In addition, the area education agency boards shall work with the department to provide systemwide coordination in the implementation of the statewide longitudinal data

system consistent with the federal American Recovery and Reinvestment Act of 2009. The area education agencies shall provide support to school districts' information technology infrastructure that is consistent with the statewide infrastructure for the educational data collaborative.

9. The area education agency boards shall jointly develop a three-year statewide strategic plan that supports goals adopted by the state board of education pursuant to section 256.7, subsection 4, and the accreditation standards established pursuant to section 256.11; establish performance goals; and clearly identify the statewide efforts to improve student learning and create efficiencies in management operations for area education agencies and school districts. The statewide strategic plan shall be approved by the state board of education. The area education agency boards shall jointly provide the state board with annual updates on the performance measures.

10. The area education agency board is encouraged to employ a child welfare liaison to provide services and guidance to local school districts to facilitate the efficient and effective transfer and enrollment of a child adjudicated under chapter 232 or receiving foster care services to another school district, including but not limited to guidance relating to the transfer of credit earned for coursework taken by the student, enrollment transition planning, facilitating information sharing between education and child welfare agencies, and developing systems designed to ameliorate the transition issues faced by a child adjudicated under chapter 232 or receiving foster care services who is transferring to and enrolling in a school district.

11. Subject to an appropriation by the general assembly for such purpose, the area education agency board shall, by July 1, 2024, dedicate at least one full-time equivalent position to maintain a dyslexia specialist. The area education agency board may hire such a specialist or may provide appropriate training to qualify an existing employee as a specialist on dyslexia. The specialist shall provide technical guidance and assistance, including but not limited to professional development, strategies, and materials to school districts and accredited nonpublic schools relating to identification of and instruction for students with characteristics of dyslexia. The specialist shall be highly trained in dyslexia and have a minimum of three years of field experience in screening, identifying, and treating dyslexia and related disorders. In the absence of an appropriation, each area education agency board is encouraged to employ a highly qualified dyslexia specialist.

[C66, 71, 73, §280A.25(3); C75, 77, 79, 81, §273.2, 280A.25(3); 82 Acts, ch 1006, §1, 2, ch 1136, §1]

84 Acts, ch 1103, §1; 85 Acts, ch 195, §30; 86 Acts, ch 1245, §1457; 87 Acts, ch 115, §39; 89 Acts, ch 135, §57; 95 Acts, ch 182, §20; 2001 Acts, ch 158, §23; 2008 Acts, ch 1187, §143; 2009 Acts, ch 65, §5; 2010 Acts, ch 1031, §270; 2011 Acts, ch 132, §63, 106; 2012 Acts, ch 1023, §38; 2012 Acts, ch 1138, §61; 2014 Acts, ch 1091, §1; 2020 Acts, ch 1048, §5; 2020 Acts, ch 1063, §124

Referred to in §256.32A, 256B.9, 256L.8, 273.3, 273.6, 273.11, 273.23, 280.29
Subsection 3 amended
NEW subsection 11

273.3 Duties and powers of area education agency board.

The board in carrying out the provisions of section 273.2 shall:

1. Determine the policies of the area education agency for providing programs and services.

2. Be authorized to receive and expend money for providing programs and services as provided in sections 273.1, 273.2, this section, sections 273.4 through 273.8, and chapters 256B and 257. All costs incurred in providing the programs and services, including administrative costs, shall be paid from funds received pursuant to sections 273.1, 273.2, this section, sections 273.4 through 273.8, and chapters 256B and 257.

3. Provide data and prepare reports as directed by the director of the department of education.

4. Provide for advisory committees as deemed necessary.

5. Be authorized, subject to rules of the state board of education, to provide directly or by contractual arrangement with public or private agencies for special education programs

and services, media services, and educational programs and services requested by the local boards of education as provided in this chapter, including but not limited to contracts for the area education agency to provide programs or services to the local school districts and contracts for local school districts, other educational agencies, and public and private agencies to provide programs and services to the local school districts in the area education agency in lieu of the area education agency providing the services. Contracts may be made with public or private agencies located outside the state if the programs and services comply with the rules of the state board. Rules adopted by the state board of education shall be consistent with rules, adopted by the board of educational examiners, relating to licensing of practitioners.

6. Area education agencies may cooperate and contract between themselves and with other public agencies to provide special education programs and services, media services, and educational services to schools and children residing within their respective areas. Area education agencies may provide print and nonprint materials to public and private colleges and universities that have teacher education programs approved by the state board of education.

7. Be authorized to lease, purchase, or lease-purchase, subject to the approval of the state board of education or its designee and to receive by gift and operate and maintain facilities and buildings necessary to provide authorized programs and services. However, a lease for less than ten years and with an annual cost of less than twenty-five thousand dollars does not require the approval of the state board. The state board shall not approve a lease, purchase, or lease-purchase until the state board is satisfied by investigation that public school corporations within the area do not have suitable facilities available. A purchase of property that is not a lease-purchase may be made only within two years of a disaster as defined in section 29C.2, subsection 4, and subject to the requirements of this subsection.

8. Be authorized, subject to the approval of the director of the department of education, to enter into agreements for the joint use of personnel, buildings, facilities, supplies, and equipment with school corporations as deemed necessary to provide authorized programs and services.

9. Be authorized to make application for, accept, and expend state and federal funds that are available for programs of educational benefit approved by the director of the department of education, and cooperate with the department in the manner provided in federal-state plans or department rules in the effectuation and administration of programs approved by the director, or approved by other educational agencies, which agencies have been approved as state educational authorities.

10. Be authorized to perform all other acts necessary to carry out the provisions and intent of this chapter.

11. Employ personnel to carry out the functions of the area education agency which shall include the employment of an administrator who shall possess a license issued under chapter 272. The administrator shall be employed pursuant to section 279.20 and sections 279.23, 279.24, and 279.25. The salary for an area education agency administrator shall be established by the board based upon the previous experience and education of the administrator. Section 279.13 applies to the area education agency board and to all teachers employed by the area education agency. Sections 279.23, 279.24, and 279.25 apply to the area education board and to all administrators employed by the area education agency. Section 279.69 applies to the area education agency board and employees of the board, including part-time, substitute, or contract employees, who provide services to a school or school district.

12. Prepare an annual budget estimating income and expenditures for programs and services as provided in sections 273.1, 273.2, this section, sections 273.4 through 273.8, and chapter 256B within the limits of funds provided under section 256B.9 and chapter 257. The board shall give notice of a public hearing on the proposed budget by publication in an official county newspaper in each county in the territory of the area education agency in which the principal place of business of a school district that is a part of the area education agency is located. The notice shall specify the date, which shall be not later than March 1 of each year, the time, and the location of the public hearing. The proposed budget as approved

by the board shall then be submitted to the state board of education, on forms provided by the department, no later than March 15 preceding the next fiscal year for approval. The state board shall review the proposed budget of each area education agency and shall before May 1, either grant approval or return the budget without approval with comments of the state board included. An unapproved budget shall be resubmitted to the state board for final approval not later than May 15. The state board shall give final approval only to budgets submitted by area education agencies accredited by the state board or that have been given conditional accreditation by the state board.

13. Be authorized to pay, out of funds available to the board reasonable annual dues to an Iowa association of school boards. Membership shall be limited to those duly elected members of the area education agency board.

14. a. The board may establish a plan, in accordance with section 403(b) of the Internal Revenue Code, as defined in section 422.3, for employees, which plan shall consist of one or more investment contracts, on a group or individual basis, acquired from a company, or a salesperson for that company, that is authorized to do business in this state.

b. The selection of investment contracts to be included within the plan established by the board shall be made either pursuant to a competitive bidding process conducted by the board, in coordination with employee organizations representing employees eligible to participate in the plan, or pursuant to an agreement with the department of administrative services to make available investment contracts included in a deferred compensation or similar plan established by the department pursuant to section 8A.438, which plan meets the requirements of this subsection. The determination of whether to select investment contracts for the plan pursuant to a competitive bidding process or by agreement with the department of administrative services shall be made by agreement between the board and the employee organizations representing employees eligible to participate in the plan.

c. The board may make elective deferrals in accordance with the plan as authorized by an eligible employee for the purpose of making contributions to the investment contract on behalf of the employee. The deferrals shall be made in the manner which will qualify contributions to the investment contract for the benefits under section 403(b) of the Internal Revenue Code, as defined in section 422.3. In addition, the board may make nonelective employer contributions to the plan.

d. As used in this subsection, unless the context otherwise requires, “*investment contract*” shall mean a custodial account utilizing mutual funds or an annuity contract which meets the requirements of section 403(b) of the Internal Revenue Code, as defined in section 422.3.

15. Be authorized to establish and pay all or any part of the cost of group health insurance plans, nonprofit group medical service plans and group life insurance plans adopted by the board for the benefit of employees of the area education agency, from funds available to the board.

16. Meet at least annually with the members of the boards of directors of the merged areas in which the area education agency is located to discuss coordination of programs and services and other matters of mutual interest to the boards.

17. Be authorized to issue warrants and anticipatory warrants pursuant to chapter 74. The applicable rate of interest shall be determined pursuant to sections 74A.2, 74A.3, and 74A.7. This subsection shall not be construed to authorize a board to levy a tax.

18. Be authorized to issue school credit cards allowing area education agency employees to pay for the actual and necessary expenses incurred in the performance of work-related duties.

19. Pursuant to rules adopted by the state board of education, be authorized to charge user fees for certain materials and services that are not required by law or by rules of the state board of education and are specifically requested by a school district or accredited nonpublic school.

20. Be authorized to purchase equipment as provided in section 279.48.

21. Be authorized to sell, lease, or dispose of, in whole or in part, property belonging to the area education agency. Before the area education agency may sell property belonging to the agency, the board of directors shall comply with the requirements set forth in section 297.22.

Before the board of directors of an area education agency may lease property belonging to the agency, the board shall obtain the approval of the director of the department of education.

22. Meet annually with the members of the boards of directors of the school districts located within its boundaries if requested by the school district boards.

23. By October 1 of each year, submit to the department of education the following information:

a. The contracted salary including bonus wages and benefits, annuity payments, or any other benefit for the administrators of the area education agency.

b. The contracted salary and benefits and any other expenses related to support for governmental affairs efforts, including expenditures for lobbyists and lobbying activities for the area education agency.

24. Be authorized to sell software and support services, professional development programs and materials, online professional development, and online training to entities other than school districts within the state and to school districts and other public agencies located outside of the state. The board may also sell to school districts within this state software and support services, professional development programs and materials, online professional development, and online training which the area education agency is not otherwise required to provide to a school district under this chapter or chapter 256B or 257.

25. Require, by July 1, 2024, any person employed by the area education agency who holds a license, certificate, statement of recognition, or authorization other than a coaching authorization, issued by the board of educational examiners under chapter 272, to complete the Iowa reading research center dyslexia overview module. Such persons employed after July 1, 2024, shall complete the module within one year of the employee's initial date of hire.

[C51, §417; R60, §648, 2074; C73, §771, 1776; C97, §2742, 2831, 2832; S13, §2742, 2831, 2832; SS15, §2734-b; C24, 27, 31, 35, 39, §4122, 4456 – 4458, 5232 – 5234; C46, §273.4, 301.12 – 301.14, 340.13 – 340.15; C50, 54, 58, 62, §273.12, 273.13; C66, §273.12, 273.13, 273.22; C71, 73, §273.12, 273.13, 273.22, 273.24; C75, 77, 79, 81, §273.3; 81 Acts, ch 87, §1; 82 Acts, ch 1080, §1, ch 1136, §2, 3]

83 Acts, ch 2, §1; 84 Acts, ch 1010, §2; 84 Acts, ch 1315, §34; 85 Acts, ch 138, §2, 3; 85 Acts, ch 212, §21; 86 Acts, ch 1213, §5; 86 Acts, ch 1245, §1458; 86 Acts, ch 1246, §133; 87 Acts, ch 115, §40; 87 Acts, ch 233, §474, 475; 89 Acts, ch 135, §58; 89 Acts, ch 265, §34; 92 Acts, ch 1050, §1; 92 Acts, ch 1227, §17; 94 Acts, ch 1089, §1; 94 Acts, ch 1175, §5; 94 Acts, ch 1183, §63; 96 Acts, ch 1215, §47, 48; 97 Acts, ch 184, §2; 2008 Acts, ch 1171, §64, 68; 2009 Acts, ch 65, §6; 2009 Acts, ch 179, §161; 2012 Acts, ch 1023, §39; 2013 Acts, ch 30, §66; 2013 Acts, ch 88, §11; 2013 Acts, ch 141, §19; 2014 Acts, ch 1135, §23; 2020 Acts, ch 1048, §6; 2020 Acts, ch 1063, §125

Referred to in §256B.2, 256B.9, 257.9, 257.10, 273.2, 273.9, 273.23, 280.7A
Subsections 2 and 12 amended
NEW subsection 25

273.4 Duties of administrator.

Under direction of the board of directors of the area education agency, the administrator of the area education agency shall, in addition to other duties:

1. Cooperate with boards of directors of local school districts of the area education agency in considering and developing plans for the improvement of the educational programs and services in the area education agency.

2. When requested, provide such other assistance as possible to school districts of the area education agency for the general improvement of their educational programs and operations.

3. Submit program plans each year to the department of education, for approval by the director of the department, to reflect the needs of the area education agency for media services as provided in section 273.6.

[C51, §1148; R60, §2066 – 2068, 2071, 2073; C73, §1766 – 1768, 1770, 1772, 1774, 1775; C97, §2734 – 2740; S13, §2734-f, -l, -m, -p, 2738, 2739; SS15, §2734-b, -c; C24, 27, 31, 35, 39, §4106; C46, §271.11; C50, 54, 58, 62, 66, 71, 73, §273.18; C75, 77, 79, 81, §273.4]

86 Acts, ch 1245, §1459

Referred to in §256B.9, 273.2, 273.3, 273.9, 273.23

273.5 Special education.

There shall be established a division of special education of the area education agency which shall provide for special education programs and services to the local school districts. The division of special education shall be headed by a director of special education who meets certification standards of the department of education. The director of special education shall have the responsibility for implementation of state regulations and guidelines relating to special education programs and services. The director of special education shall have the following powers and duties:

1. Properly identify children requiring special education.
2. Insure that each child requiring special education in the area receives an appropriate special education program or service.
3. Assign appropriate weights for each child requiring special education programs or services as provided in section 256B.9.
4. Supervise special education support personnel.
5. Provide each school district within the area served and the department of education with a special education weighted enrollment count, including the additional enrollment because of special education for December 1 of each year.
6. Submit to the department of education special education instructional and support program plans and applications, subject to criteria listed in chapter 256B and this chapter, for approval by February 15 of each year for the school year commencing the following July 1.
7. Coordinate the special education program within the area served.

[C75, 77, 79, 81, §273.5]

89 Acts, ch 135, §59

Referred to in §256B.9, 256B.11, 273.2, 273.3, 273.9, 273.23, 280.15

273.6 Media centers.

1. The media centers required under section 273.2 shall contain:
 - a. A materials lending library, consisting of print and nonprint materials.
 - b. A professional library.
 - c. A curriculum laboratory, including textbooks and correlated print and audiovisual materials.
 - d. Capability for production of media-oriented instructional materials.
 - e. Qualified media personnel.
 - f. Appropriate physical facilities.
 - g. Other materials and equipment deemed necessary by the department.
2. Program plans submitted by the area education agency to the department of education for approval by the state board of media centers under this subsection shall include all of the following:
 - a. Evidence that the services proposed are based upon an analysis of the needs of the local school districts in the area.
 - b. Description of the manner in which the services of the area education agency media center will be coordinated with other agencies and programs providing educational media.
 - c. Description of the means for delivery of circulation materials.
 - d. Evidence that the media center fulfills the requirements of subsection 1.

[C75, 77, 79, 81, §273.6]

Referred to in §256B.9, 257.37, 273.2, 273.3, 273.4, 273.9, 273.23

273.7 Additional services.

If sixty percent of the number of local school boards located in an area education agency, or if local school boards representing sixty percent of the enrollment in the school districts located in the agency, request in writing to the area education agency board that an additional service be provided them, for pupils in grades kindergarten through twelve or children requiring special education as defined in section 256B.2 or for employees or board members of school districts or area education agencies, the area education agency board

shall arrange for the service to be provided to all school districts in the area within the financial capabilities of the area education agency.

[C75, 77, 79, 81, §273.7]

Referred to in §256B.9, 273.2, 273.3, 273.23

273.7A Services to school districts.

1. The board of an area education agency may provide services to school districts located in the area education agency under contract with the school districts. These services may include, but are not limited to, superintendency services, personnel services, business management services, specialized maintenance services, and transportation services. In addition, the board of the area education agency may provide for furnishing expensive and specialized equipment for school districts. School districts shall pay to area education agencies the cost of providing the services.

2. The board of an area education agency may also provide services authorized to be performed by area education agencies to other area education agencies in this state and to provide a method of payment for these services.

87 Acts, ch 224, §45

Referred to in §256B.9, 273.2, 273.3, 273.23

273.8 Area education agency board of directors.

1. *Board of directors.* The board of directors of an area education agency shall consist of not less than five nor more than nine members, each a resident of and elected in the manner provided in this section from a director district that is approximately equal in population to the other director districts in the area education agency. Each director shall serve a four-year term which commences at the organization meeting.

2. *Election of directors.* Except as otherwise provided in subsection 3, the board of directors of an area education agency shall be elected by a vote of the members of the boards of directors of the local school districts located within the director district. The procedure for conducting the elections shall be as follows:

a. Notice of the election shall be published by the area education agency administrator not later than September 15 of the odd-numbered year in at least one newspaper of general circulation in the director district. The cost of publication shall be paid by the area education agency.

b. A candidate for election to the area education agency board shall file a statement of candidacy with the area education agency secretary not later than October 15 of the odd-numbered year, on forms prescribed by the department of education. The statement of candidacy shall include the candidate's name, address, and school district. The list of candidates shall be sent by the secretary of the area education agency in ballot form by certified mail to the presidents of the boards of directors of all school districts within the director district not later than November 1. In order for the ballot to be counted, the ballot must be received in the secretary's office by the end of the normal business day on November 30 or be clearly postmarked by an officially authorized postal service not later than November 29 and received by the secretary not later than noon on the first Monday following November 30.

c. The board of each separate school district that is located entirely or partially inside an area education agency director district shall cast a vote for director of the area education agency board based upon the ratio that the population of the school district, or portion of the school district, in the director district bears to the total population in the director district. The population of each school district or portion shall be determined by the department of education. The member of the area education agency board to be elected may be a member of a local school district board of directors and shall be an elector and a resident of the director district, but shall not be a school district employee.

d. Vacancies, as defined in section 277.29, in the membership of the area education agency board shall be filled for the unexpired portion of the term at a director district convention called and conducted in the manner provided in subsection 3.

3. *Director district convention.* If no candidate files with the area education agency

secretary by the deadline specified in subsection 2, or a vacancy occurs, or if otherwise required as provided in section 273.23, subsection 3, a director district convention, attended by members of the boards of directors of the local school districts located within the director district, shall be called to elect a board member for that director district. The convention location shall be determined by the area education agency administrator. Notice of the time, date, and place of a director district convention shall be published by the area education agency administrator in at least one newspaper of general circulation in the director district at least thirty days prior to the day of the convention. The cost of publication shall be paid by the area education agency. A candidate for election to the area education agency board shall file a statement of candidacy with the area education agency secretary at least ten days prior to the date of the director district convention on forms prescribed by the department of education, or nominations may be made at the convention by a delegate from a board of directors of a school district located within the director district. A statement of candidacy shall include the candidate's name, address, and school district. Delegates to director district conventions shall not be bound by a school board or any school board member to pledge their votes to any candidate prior to the date of the convention.

4. *Organization.*

a. The board of directors of each area education agency shall meet and organize at the first regular meeting in December following the regular school election at a suitable place designated by the president. Directors whose terms commence at the organizational meeting shall qualify by taking the oath of office required by section 277.28 at or before the organizational meeting.

b. The provisions of section 260C.12 relating to organization, officers, appointment of secretary and treasurer, and meetings of the merged area board apply to the area education agency board.

5. *Quorum.* A majority of the members of the board of directors of the area education agency shall constitute a quorum.

6. *Change in directors.* The board of an area education agency may change the number of directors on the board and shall make corresponding changes in the boundaries of director districts. Changes shall be completed not later than September 1 of the odd-numbered year for the director district conventions to be held the following November.

7. *Boundary line changes.* To the extent possible the board shall provide that changes in the boundary lines of director districts of area education agencies shall not lengthen or diminish the term of office of a director of an area education agency board. Initial terms of office shall be set by the board so that as nearly as possible the terms of one-half of the members expire biennially.

8. *Census changes.*

a. The board of the area education agency shall redraw boundary lines of director districts in the area education agency after each census to compensate for changes in population if changes in population have taken place.

b. Where feasible, boundary lines of director districts shall coincide with the boundary lines of school districts and the boundary lines of election precincts established pursuant to sections 49.3 through 49.6.

[C97, §2833; C24, 27, 31, 35, 39, §4119, 4121; C46, §273.1, 273.3; C50, 54, 58, 62, §273.4, 273.5, 273.9, 273.10; C66, 71, 73, §273.4, 273.5, 273.9, 273.10, 280A.23(2); C75, 77, §273.8, 280A.23(2); C79, 81, §273.8, 280A.28, 280A.29; 82 Acts, ch 1088, §1, ch 1136, §4 – 6]

84 Acts, ch 1219, §13, 14; 85 Acts, ch 138, §4; 2003 Acts, ch 180, §19, 20; 2008 Acts, ch 1115, §7 – 9, 21; 2009 Acts, ch 41, §108; 2010 Acts, ch 1061, §180; 2017 Acts, ch 155, §5 – 7, 9, 10; 2019 Acts, ch 59, §78

Referred to in §256B.9, 273.2, 273.3, 273.21, 273.23, 273.27

Applicability of 2017 amendments, which were effective July 1, 2019, to regular school elections and to terms of office of directors of local school districts, merged areas, and area education agencies; 2017 Acts, ch 155, §9, 10

273.9 Funding.

1. School districts shall pay for the programs and services provided through the area education agency and shall include expenditures for the programs and services in their budgets, in accordance with this section.

2. School districts shall pay the costs of special education instructional programs with the moneys available to the districts for each child requiring special education, by application of the special education weighting plan in section 256B.9. Special education instructional programs shall be provided at the local level if practicable, or otherwise by contractual arrangements with the area education agency board as provided in section 273.3, subsection 5, but in each case the total money available through section 256B.9 and chapter 257 because of weighted enrollment for each child requiring special education instruction shall be made available to the district or agency which provides the special education instructional program to the child, subject to adjustments for transportation or other costs which may be paid by the school district in which the child is enrolled. Each district shall cooperate with its area education agency to provide an appropriate special education instructional program for each child who requires special education instruction, as identified and counted within the certification by the area director of special education or as identified by the area director of special education subsequent to the certification, and shall not provide a special education instructional program to a child who has not been so identified and counted within the certification or identified subsequent to the certification.

3. The costs of special education support services provided through the area education agency shall be funded as provided in chapter 257. Special education support services shall not be funded until the program plans submitted by the special education directors of each area education agency as required by section 273.5 are modified as necessary and approved by the director of the department of education according to the criteria and limitations of chapters 256B and 257.

4. The costs of media services provided through the area education agency shall not be funded until the program plans submitted by the administrators of each area education agency as required by section 273.4 are modified as necessary and approved by the director of the department of education according to the criteria of section 273.6.

5. The state board of education shall adopt rules under chapter 17A relating to the approval of program plans under this section.

[C51, §417; R60, §648, 2074; C73, §771, 1776; C97, §2742, 2831, 2832; S13, §2742, 2831, 2832; SS15, §2734-b; C24, 27, 31, 35, 39, §4456 – 4458, 5232 – 5234; C46, §301.12 – 301.14, 340.13 – 340.15; C50, 54, 58, 62, 66, 71, 73, §273.13; C75, 77, 79, 81, §273.9]

86 Acts, ch 1245, §1460; 89 Acts, ch 135, §60; 91 Acts, ch 97, §38; 2010 Acts, ch 1061, §95; 2012 Acts, ch 1023, §157

Referred to in §256B.2, 256B.8, 256B.9, 273.23

273.10 Accreditation of area education programs.

1. The department of education shall develop, in consultation with the area education agencies, and establish an accreditation process for area education agencies by July 1, 1997. At a minimum, the accreditation process shall consist of the following:

a. The timely submission by an area education agency of information required by the department on forms provided by the department.

b. The use of an accreditation team appointed by the director of the department of education to conduct an evaluation, including an on-site visit of each area education agency. The team shall include, but is not limited to, department staff members, representatives from the school districts served by the area education agency being evaluated, area education agency staff members from area education agencies other than the area education agency that conducts the programs being evaluated for accreditation, and other team members with expertise as deemed appropriate by the director.

2. Prior to a visit to an area education agency, the accreditation team shall have access to that area education agency's program audit report filed with the department. After a visit to an area education agency, the accreditation team shall determine whether the accreditation standards for a program, including but not limited to standards established pursuant to section 256.9, subsection 54, have been met and shall make a report to the director and the state board, together with a recommendation as to whether the programs of the area education agency should receive initial accreditation or remain accredited. The accreditation team shall report strengths and weaknesses, if any, for each accreditation standard and

shall advise the area education agency of available resources and technical assistance to further enhance the strengths and improve areas of weakness. An area education agency may respond to the accreditation team's report.

3. The state board of education shall determine whether a program of an area education agency shall receive initial accreditation or shall remain accredited.

a. Approval of area education agency programs by the state board shall be based upon the recommendation of the director of the department of education after a study of the factual and evaluative evidence on record about each area education agency program in terms of the accreditation standards adopted by the state board.

b. Approval, if granted, shall be for a term of five years. However, the state board may grant conditional approval for a term of less than five years if conditions warrant.

4. If the state board of education determines that an area education agency's program does not meet accreditation standards, the director of the department of education, in cooperation with the board of directors of the area education agency, shall establish a remediation plan prescribing the procedures that must be taken to correct deficiencies in meeting the program standards, and shall establish a deadline date for correction of the deficiencies. The remediation plan is subject to the approval of the state board.

5. The area education agency program shall remain accredited during the implementation of the remediation plan. The accreditation team shall visit the area education agency and shall determine whether the deficiencies in the standards for the program have been corrected and shall make a report and recommendation to the director and the state board of education. The state board shall review the report and recommendation and shall determine whether the deficiencies in the program have been corrected.

6. a. If the deficiencies in an area education program have not been corrected, the agency board shall take one of the following actions within sixty days from removal of accreditation:

(1) Merge the deficient program with a program from another accredited area education agency.

(2) Contract with another area education agency or other public educational institution for purposes of program delivery.

b. The rules developed by the state board of education for the accreditation process shall include provisions for removal of accreditation, including provisions for proper notice to the administrator of the area education agency, each member of the board of directors of the area education agency, and the superintendents and administrators of the schools of the districts served by the area education agency.

96 Acts, ch 1215, §49; 2001 Acts, ch 114, §1; 2009 Acts, ch 41, §263; 2010 Acts, ch 1031, §271

Referred to in §273.23

273.11 Standards for accrediting area education programs.

1. The state board of education shall develop standards and rules for the accreditation of area education agencies. Standards shall be general in nature, but at a minimum shall identify requirements addressing the services provided by each division, as well as identifying indicators of quality that will permit area education agencies, school districts, the department of education, and the general public to judge accurately the effectiveness of area education agency services.

2. Standards developed shall include, but are not limited to, the following:

a. Support for school-community planning, including a means of assessing needs, establishing shared direction and implementing program plans and reporting progress.

b. Professional development programs that respond to current needs.

c. Support for curriculum development, instruction, and assessment for reading, language arts, math and science, using research-based methodologies.

d. Special education compliance and support.

e. Management services, including financial reporting and purchasing as requested and funded by local districts.

f. Support for instructional media services that supplement and support local district media centers and services.

g. Support for school technology planning and staff development for implementing instructional technologies.

h. A program and services evaluation and reporting system.

i. Support for school district libraries in accordance with section 273.2, subsection 4.

j. Support for early childhood service coordination for families and children to meet health, safety, and learning needs.

96 Acts, ch 1215, §50; 2001 Acts, ch 158, §24; 2010 Acts, ch 1031, §272; 2011 Acts, ch 34, §72

Referred to in §273.23

273.12 Funds — use restricted.

Funds generated for educational services shall not be expended by an area education agency for the purpose of assisting either a public employer or employee organization in collective bargaining negotiations under chapter 20 if the public employer is a school district, or the employee organization consists of employees of a school district, located within the boundaries of the area education agency.

[C79, 81, §273.12]

89 Acts, ch 135, §61; 91 Acts, ch 97, §39

273.13 Administrative expenditures.

The administrative expenditures as a percent of an area education agency's general fund for a base year shall not exceed five percent. Annually, the board of directors shall certify to the department of education the amounts of the area education agency's expenditures and its general fund. For the purposes of this section, "base year" means the same as defined in section 257.2, and "administrative expenditures" means expenditures for executive administration.

86 Acts, ch 1226, §19; 88 Acts, ch 1158, §55; 89 Acts, ch 135, §62; 2013 Acts, ch 88, §12

273.14 Emergency repairs.

When emergency repairs costing more than the competitive bid threshold in section 26.3, or the adjusted competitive bid threshold established in section 314.1B, subsection 2, are necessary in order to ensure the use of an area education agency facility, the provisions of law with reference to advertising for bids shall not apply within two years of a disaster as defined in section 29C.2, subsection 2, and the area education agency board may contract for such emergency repairs without advertising for bids. However, before such emergency repairs can be made to an area education agency facility, the state board of education or its designee must certify that such emergency repairs are necessary to ensure the use of the area education agency facility.

2009 Acts, ch 65, §7

273.15 Advisory group.

1. The board of directors of each area education agency shall appoint an advisory group to make recommendations on policy, programs, and services to the board. The advisory group shall provide input, feedback, and recommendations to the board regarding projected future needs, and shall provide a review and response to any state-directed study or task force report on area education agency efficiencies or reorganization.

2. The advisory group shall consist of the following:

a. A minimum of three superintendents employed by school districts served by the area education agency, at least one of whom shall represent a small school district, at least one of whom shall represent a medium-sized school district, and at least one of whom shall represent a large school district.

b. A minimum of three principals employed by school districts served by the area education agency, at least one of whom shall represent an elementary school, at least one of whom shall represent a middle school, and at least one of whom shall represent a high school.

c. A minimum of four teachers employed by school districts served by the area education

agency, at least one of whom shall represent early childhood teachers, at least one of whom shall represent elementary school teachers, at least one of whom shall represent middle school teachers, and at least one of whom shall represent high school teachers. At least one of the teachers appointed shall also represent special education and at least one of the teachers appointed shall represent general education. At least one of the teachers appointed shall represent related personnel, including but not limited to media and technology specialists and counselors.

d. A minimum of three parents or guardians of school age children receiving services from the area education agency, at least one of whom shall be the parent or guardian of a child requiring special education.

e. One member who represents accredited nonpublic schools located within the boundaries of the area education agency.

3. In appointing members of the advisory group pursuant to subsection 2, the area education agency shall collaborate with the superintendents and school boards of the school districts served by the area education agency.

4. All member appointments made pursuant to subsection 2 shall comply with sections 69.16, 69.16A, and 69.16C. In addition, every reasonable effort shall be made to appoint members to provide balanced representation based on age, experience, ethnicity, district size, and geography.

5. The advisory group shall meet at least twice annually and shall submit its recommendations in a report to the board of directors of the area education agency at least once annually. The report shall be timely submitted to allow for consideration of the recommendations prior to program planning and budgeting for the following fiscal year.

2010 Acts, ch 1031, §273

273.16 Online learning program.

1. Subject to an appropriation of funds by the general assembly for this purpose, the area education agencies may offer, separately or in collaboration with other area education agencies, or in partnership with school districts and accredited nonpublic schools, to provide an online learning program to deliver distance education to Iowa's secondary students, including students receiving independent private instruction as defined in section 299A.1, subsection 2, paragraph "b", competent private instruction under section 299A.2, or private instruction by a nonlicensed person under section 299A.3.

2. Coursework offered under this section must meet the requirements established by rule pursuant to section 256.7, subsection 32, paragraph "c".

3. To participate in an online learning program offered by an area education agency, a student must be enrolled in a participating school district or accredited nonpublic school or be receiving private instruction under chapter 299A as described in subsection 1. The school district or accredited nonpublic school in which the student is enrolled is responsible for recording a student's program coursework grades in the student's permanent record, awarding high school credit for program coursework, and issuing a high school diploma to a student enrolled in the district or school who participates and completes coursework under the program. Each school that participates in the program shall identify a site coordinator to serve as a student advocate and as a liaison between the program staff and teachers and the school district or accredited nonpublic school. The individual providing instruction to a student under chapter 299A as described in subsection 1 shall receive the student's score for completed program coursework.

4. School districts and accredited nonpublic schools shall pay to area education agencies the cost of providing coursework under an online learning program offered in accordance with this section.

2020 Acts, ch 1107, §8

Referred to in §256.11

NEW section

273.17 through 273.19 Reserved.

SUBCHAPTER II
REORGANIZATION OR DISSOLUTION

273.20 Definitions.

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

1. “*Affected area education agency*” or “*affected agency*” means an area education agency whose board of directors is contemplating or engaged in reorganization efforts in accordance with this subchapter.

2. “*Affected board*” means the board of directors of an area education agency that is contemplating or engaged in reorganization efforts in accordance with this subchapter.

3. “*Department*” means the department of education.

4. “*State board*” means the state board of education.

2001 Acts, ch 114, §2

273.21 Voluntary reorganization.

1. Two or more area education agencies may voluntarily reorganize under this subchapter if the area education agencies are contiguous, a majority of the members of each of the affected boards approve the reorganization, and the reorganization plan submitted to the state board pursuant to subsection 3 is approved by the state board.

2. If twenty percent or more of the school districts within an affected area education agency file a petition by December 1 with the affected area education agency board to consider reorganization, the affected board shall consider the request and vote on the petition. If a majority of the affected board members vote to study the reorganization of the affected area education agency, the affected board shall immediately begin the study to consider reorganization effective by July 1 of the next year.

3. The affected boards contemplating a voluntary reorganization shall do the following:

a. Develop detailed studies of the facilities, property, services, staffing necessities, equipment, programs, and other capabilities available in each of the affected area education agencies for the purpose of providing for the reorganization of the area education agencies in order to effect more economical operation and the attainment of higher standards of educational services for the schools.

b. Survey the school districts within the affected area education agencies to determine the districts’ current and future programs and services, professional development, and technology needs.

c. Consult with the officials of school districts within the affected area and other citizens and periodically hold public hearings during the development of a plan for reorganization, as well as a public hearing on the final plan to be submitted to the department.

d. Consult with the director of the department of education in the development of surveys and plans. The director of the department of education shall provide assistance and advice to the affected area education agency boards as requested.

e. Develop a reorganization plan that demonstrates improved efficiency and effectiveness of programs to meet accreditation standards, includes a preliminary budget for reorganized areas, documents public comment from the public hearings held pursuant to paragraph “c”, and provides for a board of directors, and the number of members that the board shall consist of, in accordance with section 273.8.

f. Set forth the assets and liabilities of the affected area education agencies, which shall become the responsibility of the board of directors of the newly formed area education agency on the effective date of the reorganization.

g. Transmit the completed plan to the state board by July 15. Plans received by the state board after July 15 shall be considered for area education agency reorganization taking effect no sooner than July 1 after the next succeeding fiscal year.

4. The state board shall review the reorganization plan and shall, prior to September 30, either approve the plan as submitted, approve the plan contingent upon compliance with the state board’s recommendations, or disapprove the plan. A contingently approved plan shall be resubmitted with modifications to the department not later than October 30. An approved

plan shall take effect on July 1 of the fiscal year following the date of approval by the state board.

2001 Acts, ch 114, §3; 2002 Acts, ch 1029, §1, 2, 8; 2003 Acts, ch 180, §21 – 23
Referred to in §273.22, 273.23

273.22 Contracts of new area education agency.

1. The terms of employment of the administrator and staff of affected area education agencies for the school year beginning with the effective date of the formation of the new area education agency shall not be affected by the formation of the new area education agency, except in accordance with the provisions of sections 279.15 through 279.18, and 279.24, and the authority and responsibility to offer new contracts or to continue, modify, or terminate existing contracts pursuant to sections 279.12, 279.13, 279.15 through 279.21, 279.23, and 279.24 for the school year beginning with the effective date of the reorganization shall be transferred from the boards of the existing area education agencies to the board of the new area education agency following approval of the reorganization plan by the state board as provided in section 273.21, subsection 4.

2. a. The collective bargaining agreement of the area education agency with the largest basic enrollment, as defined in section 257.6, for the year prior to the year the reorganization is effective, shall serve as the base agreement in the new area education agency and the employees of the other area education agencies involved in the formation of the new area education agency shall automatically be accreted to the bargaining unit of that collective bargaining agreement for purposes of negotiating the contracts for the following years without further action by the public employment relations board. If only one collective bargaining agreement is in effect among the area education agencies that are party to the reorganization, that agreement shall serve as the base agreement, and the employees of the other agencies involved in the formation of the new area education agency shall automatically be accreted to the bargaining unit of that collective bargaining agreement for purposes of negotiating the contracts for the following years without further action by the public employment relations board.

b. The board of the newly formed area education agency, using the base agreement as its existing contract, shall bargain with the combined employees of the affected agencies for the school year that begins on the effective date of the reorganization. The bargaining shall be completed by the dates specified in section 20.17 prior to the school year in which the reorganization becomes effective or within one hundred eighty days after the organization of the new board, whichever is later. If a bargaining agreement was already concluded by the board and employees of the affected agency with the contract serving as the base agreement for the school year beginning with the effective date of the reorganization, that agreement shall be void. However, if the base agreement contains multiyear provisions affecting school years subsequent to the effective year of the reorganization, the base agreement shall remain in effect as specified in the agreement.

c. The provisions of the base agreement shall apply to the offering of new contracts or continuation, modification, or termination of existing contracts as provided in subsection 1.

3. The terms of a contract between the board of directors of a school district and the board of directors of an affected area education agency shall be carried out by the school board and the board of directors of the newly formed area education agency except as provided in this section.

4. The board of directors of a school district that is under a contract with an affected area education agency may petition the boards of directors of the affected area education agencies for release from the contract. If the petition receives a majority of the votes cast by the members of the boards of the affected area education agencies, the petition is approved and the contract shall be terminated on the effective date of the area education agency reorganization.

5. Not later than fifteen days after the state board notifies an area education agency of its approval of the area education agency's reorganization plan or dissolution proposal, the area education agency shall notify, by certified mail, the school districts located within the area education agency boundaries, the school districts and area education agencies that

are contiguous to its boundaries, and any other school district under contract with the area education agency, of the state board's approval of the plan or proposal, and shall provide the department of education with a copy of any notice sent in accordance with this subsection. A petition to join an area education agency or for release from a contract with an area education agency, in accordance with subsections 4, 6, and 7, shall be filed not later than forty-five days after the state board approves a reorganization plan or dissolution proposal in accordance with this chapter.

6. Within forty-five days of the state board's approval, the board of directors of a school district that is contiguous to a newly reorganized area education agency may petition the board of directors of their current area education agency and the newly reorganized area education agency to join the newly reorganized area education agency. If the initial, or new board if established in time under section 273.23, subsection 3, and the board of the contiguous area education agency approve the petition, the reorganization, including any school district whose petition to join the newly reorganized area education agency has been approved, shall take effect in accordance with the dates established under section 273.21, subsection 4. Both the initial, or new, and the contiguous area education agency boards must act within forty-five days of the deadline, as set forth in this subsection, for the filing of the school district's petition. Within ten days of an area education agency board's action, a school district may appeal to the state board the decision of an area education agency board to deny the school district's petition.

7. Within forty-five days of the state board's approval, the board of directors of a school district that is within a newly reorganized area education agency and whose school district is contiguous to another area education agency not included in the newly reorganized area education agency may petition the board of directors of the newly reorganized area education agency and the contiguous area education agency to join that area education agency. If the initial, or new board if established in time under section 273.23, subsection 3, and the board of the contiguous area education agency approve the petition, the reorganization, excluding any school district whose petition to join an area education agency contiguous to the newly reorganized area education agency has been approved, shall take effect in accordance with the dates established under section 273.21, subsection 4. Both the initial, or new, and the contiguous area education agency boards must act within forty-five days of the deadline, as set forth in this subsection, for the filing of the school district's petition. Within ten days of an area education agency board's action, a school district may appeal to the state board the decision of an area education agency board to deny the school district's petition.

2001 Acts, ch 114, §4; 2001 Acts, ch 176, §36, 37; 2002 Acts, ch 1029, §3, 4, 8; 2003 Acts, ch 180, §24 – 26; 2004 Acts, ch 1101, §96, 102; 2006 Acts, ch 1152, §33; 2010 Acts, ch 1061, §96
Referred to in §273.23

273.23 Initial board.

1. A petition filed under section 273.21 shall state the number of directors on the initial board which shall be either seven or nine directors. The petition shall specify the number of directors to be retained from each area, and those numbers shall be proportionate to the populations of the agencies. If the proportionate balance of directors among the affected agencies specified in the plan is affected by school districts petitioning to be excluded from the reorganization, or if the proposal specified in the plan does not comply with the requirement for proportionate representation, the state board shall modify the proposal. However, all area education agencies affected shall retain at least one member.

2. Prior to the organization meeting of the board of directors of the newly formed area education agency, the boards of the former area education agencies shall designate directors to be retained as members to serve on the initial board of the newly formed area education agency. A vacancy occurs if an insufficient number of former board members reside within the newly formed area education agency's boundaries or if an insufficient number of former board members are willing to serve on the board of the newly formed area education agency. Vacancies, as defined in section 277.29, in the membership of the newly formed area education agency board shall be filled for the unexpired portion of the term at a director

district convention called and conducted in the manner provided in section 273.8 for director district conventions.

3. Not later than January 15 of the calendar year in which the reorganization takes effect, the initial board shall call a director district convention under the provisions of section 273.8, subsection 3, for the purpose of electing a board for the reorganized area education agency. The new board shall have control of the employment of all personnel for the newly formed area education agency for the ensuing school year. Following the organization of the new board, the board shall have authority to establish policy, enter into contracts, and complete such planning and take such action as is essential for the efficient management of the newly formed area education agency.

4. The initial board of the newly formed district shall appoint an acting administrator and an acting board secretary. The appointment of the acting administrator shall not be subject to the continuing contract provisions of sections 279.20, 279.23, and 279.24.

5. The initial board, or new board if established in time under subsection 3, of the newly formed agency shall prepare an annual budget estimating income and expenditures for programs and services as provided in sections 273.1 through 273.9 and chapter 256B within the limits of funds provided under section 256B.9 and chapter 257. The board shall give notice of a public hearing on the proposed budget by publication in an official county newspaper in each county in the territory of the area education agency in which the principal place of business of a school district that is a part of the area education agency is located. The notice shall specify the date, which shall not be later than March 1, the time, and the location of the public hearing. The proposed budget as approved by the board shall be submitted to the state board, on forms provided by the department, no later than March 15 for approval. The state board shall review the proposed budget of the newly formed area education agency and shall, before May 1, either grant approval or return the budget without approval with comments of the state board included. An unapproved budget shall be resubmitted to the state board for final approval not later than May 15. The state board shall give final approval only to budgets submitted by area education agencies accredited by the state board or that have been given conditional accreditation by the state board.

6. For the school year beginning on the effective date of an area education agency reorganization as provided in this subchapter, the media services cost per pupil as determined under section 257.37 for all districts in a newly formed area education agency for the budget year shall be the highest amount of media services cost per pupil for any of the affected area education agencies.

7. For the school year beginning on the effective date of an area education agency reorganization as provided in this subchapter, the educational services cost per pupil as determined under section 257.37 for all districts in a newly formed area education agency for the budget year shall be the highest amount of educational services cost per pupil for any of the affected area education agencies.

8. For the school year beginning on the effective date of an area education agency reorganization as provided in this subchapter, the special education support services cost per pupil shall be based upon the combined base year budgets for special education support services of the area education agencies that reorganized to form the newly formed area education agency, divided by the total of the weighted enrollment for special education support services in the reorganized area education agency for the base year plus the supplemental state aid amount per pupil for special education support services for the budget year as calculated in section 257.8.

9. Within one year of the effective date of the reorganization, a newly formed area education agency shall meet the accreditation requirements set forth in section 273.10, and the standards set forth in section 273.11. The newly formed area education agency shall be considered accredited for purposes of budget approval by the state board pursuant to section 273.3. The state board shall inform the newly formed area education agency of the accreditation on-site visit schedule.

10. The special education support cost per pupil, the media cost per pupil, and the educational services cost per pupil for a school district petitioning into an area education agency shall be the special education support cost per pupil, media cost per pupil, and

educational services cost per pupil of the area education agency into which it petitions if the petition is approved.

11. Unless the reorganization of an area education agency takes effect less than two years before the taking of the next federal decennial census, a newly formed area education agency shall, within one year of the effective date of the reorganization, redraw the boundary lines of director districts in the area education agency if a petition filed by a school district to join the newly formed area education agency, or for release from the newly formed area education agency, in accordance with section 273.22, subsections 4, 6, and 7, was approved. Until the boundaries are redrawn, the boundaries for the newly formed area education agency shall be as provided in the reorganization plan approved by the state board in accordance with section 273.21.

2001 Acts, ch 114, §5; 2002 Acts, ch 1029, §5 – 8; 2003 Acts, ch 180, §27, 28; 2004 Acts, ch 1101, §97, 102; 2013 Acts, ch 88, §13; 2013 Acts, ch 121, §40, 42

Referred to in §273.8, 273.22

273.24 Commission to dissolve area education agency.

1. As an alternative to area education agency reorganization prescribed in this subchapter, the board of directors of an area education agency may establish an area education agency dissolution commission to prepare a proposal of dissolution of the area education agency and attachment of all of the area education agency to one or more contiguous area education agencies and to include in the proposal a division of the assets and liabilities of the dissolving area education agency. If twenty percent or more of the school districts within an area education agency file a petition by March 1 with the area education agency board to consider dissolving, the area education agency board shall consider the request and vote on the petition. If a majority of the board members vote to study dissolving the area education agency, the agency board shall immediately begin a study to consider such action effective by July 1 of the next calendar year, or the area education agency board may establish a dissolution commission.

2. An area education agency dissolution commission established by the board of directors of an area education agency shall consist of a minimum of seven members appointed by the board of directors of the area education agency for a term of office ending either with a report to the board that no proposal can be approved or on the date of the vote on the proposal. Members of the dissolution commission must be board members of school districts within the area served, not more than three of whom may be members of the board of directors of the area education agency. Members shall be appointed from throughout the area served and should represent the various school districts present in the area served.

3. Members of the dissolution commission shall serve without compensation and may be appointed to a subsequent commission. A vacancy on the commission shall be filled in the same manner as the original appointment was made.

4. The board of the area education agency shall certify to the department of education that a commission has been formed, the names and addresses of commission members, and that the commission members represent the various geographic areas and socioeconomic elements present in the school districts that the area serves.

2001 Acts, ch 114, §6

273.25 Dissolution commission meetings.

1. The commission shall hold an organizational meeting not more than fifteen days after its appointment and shall elect a chairperson and vice chairperson from its membership. Thereafter the commission may meet as often as deemed necessary upon the call of the chairperson or a majority of the commission members.

2. The commission shall request statements from contiguous area education agencies outlining each agency's willingness to accept attachments of the affected area education agency to the contiguous agencies and what conditions, if any, the contiguous agency recommends. The commission shall meet with boards of contiguous area education agencies and with boards of directors of the affected school districts to the extent possible in drawing up the dissolution proposal.

3. The commission may seek assistance from the department of education. 2001 Acts, ch 114, §7; 2018 Acts, ch 1041, §72

273.26 Dissolution proposal.

1. Not later than one year following the date of the organizational meeting of the commission, the commission shall send a copy of its dissolution proposal to the affected area education agency board or shall inform the affected area education agency board that it cannot agree upon a dissolution proposal. The commission shall also send a copy of the dissolution proposal by certified mail to the boards of directors of all school districts and other area education agencies affected. If the board of a school district or the board of an area education agency affected by the dissolution proposal objects to the proposal, either board shall send its objections in writing to the commission within ten days following receipt of the dissolution proposal. The commission may consider the objections and may modify the dissolution proposal. If the dissolution proposal is modified, the commission shall notify by certified mail the boards of directors of all area education agencies to which an area of the affected area education agency will be attached and shall notify by certified mail the board of directors of all school districts in the affected area education agencies.

2. If the commission cannot agree upon a dissolution proposal prior to the expiration of its term, the affected area education agency board may appoint a new commission.

2001 Acts, ch 114, §8

273.27 Hearing — vote — state board approval.

1. *a.* Within ten days following the filing of the dissolution proposal with the affected area education agency board, the affected board shall fix a date for a hearing on the proposal which shall not be more than sixty days after the dissolution petition was filed with the affected board. The affected board shall publish notice of the date, time, and location of the hearing at least ten days prior to the date of the hearing by one publication in a newspaper in general circulation in the area. The notice shall include the contents of the dissolution proposal.

- b.* Representatives of school districts in the area served may present evidence and arguments at the hearing. The president of the affected board shall preside at the hearing. The affected board shall review testimony from the hearing and shall adopt or amend and adopt the dissolution proposal.

- c.* The affected board shall notify by certified mail the boards of directors of all school districts in the affected area education agency and the contiguous area education agencies to which the districts of the affected area education agency will be attached and the director of the department of education of the contents of the dissolution proposal adopted by the affected board.

2. Within thirty days of the hearing, the affected board shall call a director district convention in accordance with section 273.8, subsection 3, which shall include the boards of directors in the area served by the area education agencies to which an area of the affected area education agency will be attached under the dissolution proposal, for the purpose of voting on the dissolution proposal.

3. If the dissolution proposal is approved by a majority of all directors voting on the proposal, the proposal shall be forwarded to the state board by November 1. The state board shall review the dissolution plan proposal and shall, prior to January 1, either grant approval for the proposal or return the proposal with recommendations. An unapproved proposal may be resubmitted with modifications to the state board not later than February 1. A proposal shall take effect on July 1 of the fiscal year following the date of approval by the state board.

2001 Acts, ch 114, §9; 2003 Acts, ch 180, §29; 2010 Acts, ch 1061, §180

CHAPTER 274
SCHOOL DISTRICTS IN GENERAL

Referred to in §27.1, 28E.42, 99B.1, 257.2, 257C.3, 279.71, 280A.1, 514C.35

	SUBCHAPTER I	274.37	Boundaries changed by action of boards — buildings constructed.
	GENERAL PROVISIONS		
274.1	Powers and jurisdiction.	274.38	Study of boundary changes requested.
274.2	General applicability.		
274.3	Exercise of powers — construction.		
274.4	Record of reorganization filed.		SUBCHAPTER II
274.5	Action to test reorganization.		NATIONAL DEFENSE PROJECTS
274.6	Names.	274.39	Sale of land to government.
274.7	Directors.	274.40	Vesting of powers to convey.
274.8	through 274.12 Reserved.	274.41	Application of proceeds of sale.
274.13	Attaching territory to adjoining corporation.	274.42	Adjusting of district boundaries.
274.14	Restoration.	274.43	Relinquishing funds.
274.15	through 274.36 Reserved.	274.44	Determination final.
		274.45	Expense audited and paid.

SUBCHAPTER I
GENERAL PROVISIONS

274.1 Powers and jurisdiction.

Each school district shall continue a body politic as a school corporation, unless changed as provided by law, and as such may sue and be sued, hold property, and exercise all the powers granted by law, and shall have exclusive jurisdiction in all school matters over the territory therein contained.

[C51, §1108; R60, §2022, 2026; C73, §1713, 1716; C97, §2743; C24, 27, 31, 35, 39, §4123; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §274.1]

Right to bid under execution sale, §569.2

274.2 General applicability.

The provisions of law relative to public or accredited nonpublic schools shall apply alike to all districts, except when otherwise clearly stated, and the powers given to one form of corporation, or to a board in one kind of corporation, shall be exercised by the other in the same manner, as nearly as practicable. But school boards shall not incur original indebtedness by the issuance of bonds until authorized by the voters of the school corporation.

[C97, §2823; C24, 27, 31, 35, §4190; C39, §4123.1; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §274.2]

2018 Acts, ch 1026, §88
Vote required to authorize bonds, §75.1

274.3 Exercise of powers — construction.

1. The board of directors of a school district shall operate, control, and supervise all public schools located within its district boundaries and may exercise any broad and implied power, not inconsistent with the laws of the general assembly and administrative rules adopted by state agencies pursuant thereto, related to the operation, control, and supervision of those public schools.

2. Notwithstanding subsection 1, the board of directors of a school district shall not have power to do any of the following:

a. Levy any tax unless expressly authorized by the general assembly.

b. Charge elementary and secondary school students or the students' families a mandatory fee except as expressly authorized by the general assembly.

c. Adopt or enforce a policy that would unreasonably interfere with the duties and responsibilities of a local, state, or federal law enforcement agency.

3. This chapter, chapter 257, chapter 257B, and chapters 275 through 301, and other statutes relating to the boards of directors of school districts and to school districts shall be liberally construed to effectuate the purposes of subsection 1.

4. If the power or authority of a school district conflicts with the power and authority of a municipal corporation, county, or joint county-municipal corporation government, the power and authority exercised by a municipal corporation, county, or joint county-municipal corporation government shall prevail within its jurisdiction.

2017 Acts, ch 125, §1

274.4 Record of reorganization filed.

When an election on the proposition of organizing, reorganizing, enlarging, or changing the boundaries of any school corporation, or on the proposition of dissolving a school district, carries by the required statutory margin, or the boundary lines of contiguous school corporations are changed by the concurrent action of the respective boards of directors, the secretary of the school corporation shall file a written description of the new boundaries of the school corporation in the office of the county auditor of each county in which any portion of the school corporation lies.

[C24, 27, 31, 35, §4193; C39, §4123.4; C46, 50, 54, §274.5; C58, 62, 66, 71, 73, 75, 77, 79, 81, §274.4]

Referred to in §275.22

274.5 Action to test reorganization.

No action shall be brought questioning the legality of the organization, reorganization, enlargement, or change in the boundaries of any school corporation in this state unless brought within six months after the date of the filing of said written description in the office of said county auditor or county auditors. When the said period of limitations shall have passed, it shall be conclusively presumed that all acts and proceedings taken with reference to the said organization, reorganization, enlargement or change in boundaries were legally taken for every purpose whatsoever and that a de jure school corporation exists.

[C24, 27, 31, 35, §4192; C39, §4123.3; C46, 50, 54, §274.4; C58, 62, 66, 71, 73, 75, 77, 79, 81, §274.5]

274.6 Names.

School corporations shall be designated as follows:

1. The independent school district of (naming city, township, or village, and if there are two or more districts therein, including some appropriate name or number), in the county of (naming county), state of Iowa.

2. The consolidated school district of (some appropriate name or number), in the county of (naming county), state of Iowa.

3. The community school district of (some appropriate name), in the county (or counties) of (naming county or counties), state of Iowa.

4. The (some appropriate name) community school district, in the county (or counties) of (naming county or counties), state of Iowa.

[C51, §1108; R60, §2026; C73, §1716; C97, §2744; S13, §2744; C24, 27, 31, 35, 39, §4124; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §274.6]

2017 Acts, ch 54, §39

Referred to in §278.1

274.7 Directors.

The affairs of each school corporation shall be conducted by a board of directors, the members of which in all community or independent school districts shall be chosen for a term of four years.

[C97, §2745; C24, 27, 31, 35, 39, §4125; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §274.7]

2008 Acts, ch 1115, §10, 21

School officers, §39.24

For transition provisions changing the terms of office for a seat on a board of directors, see 2017 Acts, ch 155, §45

274.8 through 274.12 Reserved.**274.13 Attaching territory to adjoining corporation.**

In any case where, by reason of natural obstacles, any portion of the inhabitants of any school corporation in the opinion of the area education agency administrator cannot with reasonable facility attend school in their own corporation, the area education agency administrator shall, by a written order, in duplicate, attach the part thus affected to an adjoining school corporation, the board of the same consenting thereto, one copy of which order shall be at once transmitted to the secretary of each corporation affected thereby, who shall record the same and make the proper designation on the plat of the corporation. Township or county lines shall not be a bar to the operation of this section.

[C73, §1797; C97, §2791; C24, 27, 31, 35, 39, §4131; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §274.13]

Referred to in §274.14

274.14 Restoration.

When the natural obstacles by reason of which territory has been set off by the area education agency administrator from one school district and attached to another in the same or an adjoining county, as provided in section 274.13, have been removed, such territory may, upon the concurrence of the respective boards, be restored to the school district from which set off and shall be so restored by said boards upon the written application of two-thirds of the electors residing upon the territory so set off together with the concurrence of the area education agency administrator and the board of the school district from which such territory was originally set off by the said administrator.

[C24, 27, 31, 35, 39, §4132; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §274.14]

274.15 through 274.36 Reserved.**274.37 Boundaries changed by action of boards — buildings constructed.**

1. The boundary lines of contiguous school corporations may be changed by the concurrent action of the respective boards of directors at their regular meetings in July, or at special meetings called for that purpose. Such concurrent action shall be subject to the approval of the area education agency board but such concurrent action shall stand approved if the board does not disapprove such concurrent action within thirty days following receipt of notice thereof. The corporation from which territory is detached shall, after the change, contain not less than four government sections of land.

2. The boards in the respective districts, the boundaries of which have been changed under this section, complete in all respects except for the passage of time prior to the effective date of the change, and when the right of appeal of the change has expired, may enter into joint contracts for the construction of buildings for the benefit of the corporations whose boundaries have been changed, using funds accumulated under the physical plant and equipment levy in section 298.2. The district in which the building is to be located may use any funds authorized in accordance with chapter 75.

3. This section does not permit the changed districts to expend any funds jointly which they are not entitled to expend acting individually.

[C62, 66, 71, 73, 75, 77, 79, 81, §274.37]

89 Acts, ch 135, §63; 2018 Acts, ch 1041, §73

Referred to in §275.22

274.38 Study of boundary changes requested.

Any school board may request a study and recommendations of the department of education relative to the adjustment of boundary lines and the recommendations of the department of education shall be submitted to those districts involved within sixty days after the request for such study and recommendations is made but such recommendations shall be advisory only and shall not be binding on the local districts.

[C62, 66, 71, 73, 75, 77, 79, 81, §274.38]

SUBCHAPTER II

NATIONAL DEFENSE PROJECTS

274.39 Sale of land to government.

Whenever the federal government, or any agency or department of the federal government, locates in any county an ordnance plant or other project which may be deemed desirable for the development of the national defense or for the purpose of flood control, and for the purpose of so locating such plant or project determines that real property and improvements on the property owned by school districts are required, the board of directors of such school districts by resolution is hereby authorized to sell and convey the property at a price and upon terms as may be agreed upon. The instruments of conveyance shall be executed on behalf of the school districts by the president of each district.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §274.39]

2018 Acts, ch 1026, §89

Referred to in §274.40, 274.41

274.40 Vesting of powers to convey.

Whenever a majority of the directors of any school district affected as in section 274.39 have moved from such district and have ceased to be residents thereof thereby creating vacancies on the school board and reducing it to less than a quorum, the powers vested by said section in the board of directors shall vest in the area education agency board and the instrument of conveyance shall be executed on behalf of such school district by the president of the area education agency board until an election is called pursuant to chapter 277.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §274.40]

Referred to in §274.41, 274.42

274.41 Application of proceeds of sale.

The proceeds of the sale of the property of a school district under the authority granted in sections 274.39 and 274.40 shall be deposited with the treasurer of the county and applied so far as necessary to the payment of the outstanding indebtedness of such school district.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §274.41]

274.42 Adjusting of district boundaries.

If the federal government, or any agency or department of the federal government locates a project which is desirable for the development of the national defense or for the purpose of flood control, and for the purpose of locating the project determines that certain real property making up a portion of a school district is required, the director of the department of education may by resolution adjust the boundaries of school districts in which the federally owned property is located and the boundaries of adjoining school districts so as to effectively provide for the schooling of children residing within all of the districts. A copy of the resolution shall be promptly filed with the board of directors of the adjoining school district or districts and with the board of directors of the school district in which the federally owned property is located unless the board has been reduced below a quorum in

the manner contemplated in section 274.40, in which event the resolution shall be posted in two public places within the altered district.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §274.42]
 85 Acts, ch 212, §21; 86 Acts, ch 1245, §1461
 Referred to in §274.44, 274.45

274.43 Relinquishing funds.

The officers of the altered district shall relinquish to the proper officers of such adjoining district or districts all funds, claims for taxes, credits, and such other personal property in such a manner as the director of the department of education shall direct, which said funds, credits, and personal property shall become the property of such adjoining district or districts as enlarged, to be used as the boards of directors of such districts may direct.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §274.43]
 85 Acts, ch 212, §21
 Referred to in §274.44, 274.45

274.44 Determination final.

The determination of the director of the department of education in sections 274.42 and 274.43 shall be final.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §274.44]
 85 Acts, ch 212, §21; 2019 Acts, ch 59, §79
 Referred to in §274.45

274.45 Expense audited and paid.

The expense of the director of the department of education in respect to the carrying out of the provisions of sections 274.42 through 274.44, shall be paid from funds appropriated to the department of education.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §274.45]
 85 Acts, ch 212, §21; 2019 Acts, ch 59, §80

CHAPTER 275

REORGANIZATION OF SCHOOL DISTRICTS

Referred to in §257.18, 257.29, 257.31, 257.33, 274.3, 279.15, 298.2, 300.2

	SUBCHAPTER I	275.15	Hearing — decision — publication — appeal.
	GENERAL PROVISIONS	275.16	Hearing when territory in different area education agencies.
275.1	Definitions — declaration of policy — surveys.	275.17	Filing a petition.
275.2	Scope of surveys.	275.18	Special election called — time.
275.3	Minimum size.	275.19	Reserved.
275.4	Studies, surveys, and plans.	275.20	Separate vote in existing districts.
275.5	Proposals for merger or consolidation.	275.21	Reserved.
275.6	Progressive program.	275.22	Canvass and return.
275.7	Budget.	275.23	Frequency of change.
275.8	Cooperation of department of education — planning joint districts.	275.23A	Redistricting following federal decennial census.
275.9	Methods of effectuating reorganization plans.	275.24	Effective date of change.
275.10	Reserved.	275.25	Election of directors.
275.11	Proposals involving two or more districts.	275.26	Payment of expenses.
275.12	Petition — method of election.	275.27	Community school districts — part of area education agency.
275.13	Affidavit — presumption.	275.28	Plan of division of assets and liabilities.
275.14	Objection — time of filing — notice.	275.29	Division of assets and liabilities after reorganization.
		275.30	Arbitration.

275.31	Taxes and appropriation to effect equalization.	275.42	through 275.50 Reserved.
275.32	School buildings — tax levy. Repealed by 93 Acts, ch 160, §18.		
			SUBCHAPTER II
			DISSOLUTION OF DISTRICTS
275.33	Contracts of new district.	275.51	Dissolution commission.
275.34	Reserved.	275.52	Meetings.
275.35	Change in number of directors — change in method of elections.	275.53	Dissolution proposal.
275.36	Submission of change to electors.	275.54	Hearing.
275.37	Increase in number of directors.	275.55	Election.
275.37A	Decrease in number of directors.	275.55A	Attendance in other district.
275.38	Implementing changed method of election.	275.56	Increasing enrollment.
275.39	Excluded territory included in new petition.	275.57	Changing director district boundaries following dissolution.
275.40	Reserved.	275.58	Reserved.
275.41	Alternative method for director elections — temporary appointments.	275.59	Early retirement following school reorganization or dissolution. Repealed by 92 Acts, ch 1246, §60.

SUBCHAPTER I

GENERAL PROVISIONS

275.1 Definitions — declaration of policy — surveys.

1. As used in this chapter, unless the context otherwise requires:
 - a. “*Eligible elector*” means eligible elector as defined in section 39.3, subsection 6.
 - b. “*Initial board*” means the board of a newly reorganized district that is selected pursuant to section 275.25 or 275.41 and functions until the organizational meeting following the second regular school election held after the effective date of the reorganization.
 - c. “*Joint districts*” means districts that lie in two or more adjacent area education agencies.
 - d. “*Marginally adjacent district*” or “*marginally adjacent territory*” means a district or territory which is separated from a second district or territory by property which is part of a third school district which completely surrounds one of the two districts.
 - e. “*Registered voter*” means registered voter as defined in section 39.3, subsection 11.
 - f. “*Regular board*” means the board of a reorganized district that begins to function at the organizational meeting following the second regular school election held after the effective date of the school reorganization, and is comprised of members who were elected to the current terms or were appointed to replace members who were elected.
 - g. “*School districts affected*” means the school districts named in the reorganization petition whether a school district is affected in whole or in part.
2. It is the policy of the state to encourage economical and efficient school districts which will ensure an equal educational opportunity to all children of the state. All areas of the state shall be in school districts maintaining kindergarten and twelve grades. If a school district ceases to maintain kindergarten and twelve grades except as otherwise provided in section 28E.9, 256.13, 280.15, 282.7, subsection 1 or 3, or section 282.8, it shall reorganize within six months or the state board shall attach the school district not maintaining kindergarten and twelve grades to one or more adjacent districts. Voluntary reorganizations under this chapter shall be commenced only if the affected school districts are contiguous or marginally adjacent to one another. A reorganized district shall meet the requirements of section 275.3.
3. If a district is attached, division of assets and liabilities shall be made as provided in sections 275.29 through 275.31. The area education agency boards shall develop detailed studies and surveys of the school districts within the area education agency and all adjacent territory for the purpose of providing for reorganization of school districts in order to effect more economical operation and the attainment of higher standards of education in the

schools. The plans shall be revised periodically to reflect reorganizations which may have taken place in the area education agency and adjacent territory.

[C97, §2798; SS15, §2794-a; C24, 27, 31, 35, 39, §4152, 4154; C46, 50, §274.37, 275.1, 276.1; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §275.1; 82 Acts, ch 1113, §1]

83 Acts, ch 31, §2; 84 Acts, ch 1078, §1; 85 Acts, ch 212, §7; 88 Acts, ch 1263, §2; 92 Acts, ch 1246, §41, 42; 93 Acts, ch 160, §3; 94 Acts, ch 1023, §100; 94 Acts, ch 1169, §65; 2008 Acts, ch 1115, §11, 21; 2010 Acts, ch 1069, §75; 2013 Acts, ch 90, §67; 2016 Acts, ch 1073, §91; 2016 Acts, ch 1121, §7

Referred to in §257.3, 257.4, 275.9, 280.15, 282.7, 594A.6, 594A.8

275.2 Scope of surveys.

1. The scope of the studies and surveys shall include all of the following matters in the various districts in the area education agency and all districts adjacent to the area education agency:

- a. The adequacy of the educational program.
- b. Pupil enrollment.
- c. Property valuations.
- d. Existing buildings and equipment.
- e. Natural community areas.
- f. Road conditions.
- g. Transportation.
- h. Economic factors.
- i. Individual attention given to the needs of students.
- j. The opportunity of students to participate in a wide variety of activities related to the total development of the student.
- k. Other matters that may bear on educational programs meeting minimum standards required by law.

2. The plans shall also include suggested alternate plans that incorporate the school districts in the area education agency into reorganized districts that meet the enrollment standards specified in section 275.3 and may include alternate plans proposed by school districts for sharing programs under section 28E.9, 256.13, 280.15, 282.7, or 282.10 as an alternative to school reorganization.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §275.2]

84 Acts, ch 1078, §2; 93 Acts, ch 160, §4; 2018 Acts, ch 1041, §74

Referred to in §275.9

275.3 Minimum size.

No new school district shall be planned by an area education agency board nor shall any proposal for creation or enlargement of any school district be approved by an area education agency board or submitted to electors unless there reside within the proposed limits of such district at least three hundred persons of school age who were enrolled in public schools in the preceding school year. Provided, however, that the director of the department of education shall have authority to grant permission to an area education agency board to approve the formation or enlargement of a school district containing a lower school enrollment than required in this section on the written request of such area education agency board if such request is accompanied by evidence tending to show that sparsity of population, natural barriers or other good reason makes it impracticable to meet the school enrollment requirement.

[R60, §2105; C73, §1800, 1801; C97, §2794; SS15, §2794, 2794-a; C24, 27, 31, 35, 39, §4143, 4161, 4173; C46, 50, §274.25, 275.3, 276.8, 276.20; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §275.3]

85 Acts, ch 212, §21

Referred to in §275.1, 275.2, 275.9

275.4 Studies, surveys, and plans.

1. a. In developing studies and surveys, the area education agency board shall consult with the officials of school districts in the area and other citizens, shall from time to time hold

public hearings, and may employ such research and other assistance as it may determine reasonably necessary in order to properly carry on its survey and prepare definite plans of reorganization.

b. In addition, the area education agency board shall consult with the director of the department of education in the development of surveys and plans. The director of the department of education shall provide assistance to the area education agency boards as requested and shall advise the area education agency boards concerning plans of contiguous area education agencies and the reorganization policies adopted by the state board of education.

2. Completed plans shall be transmitted by the area education agency board to the director of the department of education.

[C24, 27, 31, 35, 39, §4158; C46, 50, §275.1 – 275.3, 276.5; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §275.4]

84 Acts, ch 1078, §3; 85 Acts, ch 212, §21; 92 Acts, ch 1246, §43; 2017 Acts, ch 54, §40; 2018 Acts, ch 1026, §90

Referred to in §275.5, 275.9, 275.15

275.5 Proposals for merger or consolidation.

A proposal for merger, consolidation, or boundary change of local school districts shall first be submitted to the area education agency board following the procedure prescribed in this chapter. Following receipt of a petition pursuant to section 275.12, the area education agency board shall review its plans and determine whether the petition complies with the plans which had been adopted by the board. If the petition does not comply with the plans which had been adopted by the board, the board shall conduct further surveys pursuant to section 275.4 prior to the date set for the hearing upon the petition. If further surveys have been conducted by the board, the board shall present the results of the further surveys at the hearing upon the petition.

[C97, §2793; S13, §2793; SS15, §2794-a; C24, 27, 31, 35, 39, §4133, 4173; C46, 50, §274.16, 274.20, 275.1, 275.3, 275.4; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §275.5]

84 Acts, ch 1078, §4

Referred to in §275.9

275.6 Progressive program.

It is the intent of this chapter that the area education agency board shall carry on the program of reorganization progressively and shall, insofar as is possible, authorize submission of proposals to the electors as they are developed and approved.

[R60, §2097, 2105; C73, §1800, 1801; S13, §2820-e, -f; SS15, §2794-a; C24, 27, 31, 35, 39, §4141, 4188; C46, 50, §274.23, 275.8, 276.35; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §275.6]

Referred to in §275.9

275.7 Budget.

The area education agency board shall include in the budget submitted each year such sums as it deems necessary to carry on its reorganization work under this chapter.

[SS15, §2794-a; C24, 27, 31, 35, 39, §4139, 4177; C46, 50, §274.21, 275.9, 276.24; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §275.7]

Referred to in §275.9

275.8 Cooperation of department of education — planning joint districts.

1. For purposes of this chapter the planning of joint districts is defined to include all of the following acts:

a. Preparation of a written joint plan in which contiguous territory in two or more area education agencies is considered as a part of a potential school district in the area education agency on behalf of which such plan is filed with the department of education by the area education agency board.

b. Adoption of the written joint plan at a joint session of the several area education agency boards in whose areas the territory is situated. A quorum of each of the boards is necessary to transact business. Votes shall be taken in the manner prescribed in section 275.16.

- c. Filing said plan with the department of education.
2. For purposes of subsection 1, paragraph “a”, joint planning shall be evidenced by filing the following items with the department of education:
- a. A plat of the entire area of such potential district.
 - b. A statement of the number of pupils residing within the area of said potential district enrolled in public schools in the preceding school year.
 - c. A statement of the assessed valuation of taxable property located within such potential district.
 - d. An affidavit signed on behalf of each of said boards of directors of area education agencies by a member of such board stating the boundaries as shown on such plat have been agreed upon by the respective boards as a part of the overall plan of school district reorganization of each such school.
3. Planning of joint districts shall be conducted in the same manner as planning for single districts, except as provided in this section. Studies and surveys relating to the planning of joint districts shall be filed with the area education agency in which one of the districts is located which has the greatest taxable property base. In the case of controversy over the planning of joint districts, the matter shall be submitted to the director of the department of education. Judicial review of the director’s decision may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A. Notwithstanding the terms of that Act, petitions for judicial review must be filed within thirty days after the decision of the director.

[C46, 50, §275.10, 276.4; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §275.8]

84 Acts, ch 1078, §5; 86 Acts, ch 1245, §1462; 2001 Acts, ch 24, §43, 44; 2010 Acts, ch 1069, §76

Referred to in §275.9, 275.16

275.9 Methods of effectuating reorganization plans.

1. When any school district is enlarged, reorganized, or changes its boundaries pursuant to the plans provided for under sections 275.2 through 275.8, such enlargement, reorganization, or boundary change shall be accomplished by the method provided in this subchapter.

2. The provisions of sections 275.1 through 275.5, relating to studies, surveys, hearings and adoption of plans shall constitute a mandatory prerequisite to the effectuation of any proposal for district boundary change. It shall be the mandatory duty of the area education agency board to dismiss the petition if the above provisions are not complied with fully.

[C46, 50, §275.11; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §275.9]

2018 Acts, ch 1026, §91; 2019 Acts, ch 59, §81

Referred to in §275.23A

275.10 Reserved.

275.11 Proposals involving two or more districts.

Subject to the approval of the area education agency board, contiguous or marginally adjacent territory located in two or more school districts may be united into a single district in the manner provided in sections 275.12 to 275.22.

[SS15, §2794-a; C24, 27, 31, 35, 39, §4166; C46, 50, §276.13; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §275.11]

92 Acts, ch 1246, §44

275.12 Petition — method of election.

1. A petition describing the boundaries, or accurately describing the area included therein by legal descriptions, of the proposed district, which boundaries or area described shall conform to plans developed or the petition shall request change of the plan, shall be filed with the area education agency administrator of the area education agency in which the greatest number of registered voters reside. However, the area education agency administrator shall not accept a petition if any of the school districts affected have approved the issuance of general obligation bonds at an election pursuant to section 296.6 during the

preceding six-month period. The petition shall be signed by eligible electors residing in each existing school district or portion affected equal in number to at least twenty percent of the number of registered voters in the school district or portion affected, or four hundred eligible electors, whichever is the smaller number.

2. The petition filed under subsection 1 shall also state the name of the proposed school district and the number of directors which may be either five or seven and the method of election of the school directors of the proposed district. The method of election of the directors shall be one of the following optional plans:

a. Election at large from the entire district by the electors of the entire district.

b. Division of the entire school district into designated geographical single director or multi-director subdistricts on the basis of population for each director, to be known as director districts, each of which shall be represented on the school board by one or more directors who shall be residents of the director district but who shall be elected by the vote of the electors of the entire school district. The boundaries of the director districts and the area and population included within each district shall be such as justice, equity, and the interests of the people may require. Changes in the boundaries of director districts shall not be made during a period commencing sixty days prior to the date of the regular school election. As far as practicable, the boundaries of the districts shall follow established political or natural geographical divisions.

c. Election of not more than one-half of the total number of school directors at large from the entire district and the remaining directors from and as residents of designated single-member or multimember director districts into which the entire school district shall be divided on the basis of population for each director. In such case, all directors shall be elected by the electors of the entire school district. Changes in the boundaries of director districts shall not be made during a period commencing sixty days prior to the date of the regular school election.

d. Division of the entire school district into designated geographical single director or multi-director subdistricts on the basis of population for each director, to be known as director districts, each of which shall be represented on the school board by one or more directors who shall be residents of the director district and who shall be elected by the voters of the director district. Place of voting in the director districts shall be designated by the commissioner of elections. Changes in the boundaries of director districts shall not be made during a period commencing sixty days prior to the date of the regular school election.

e. In districts having seven directors, election of three directors at large by the electors of the entire district, no more than two at each regular school election, and election of the remaining directors as residents of and by the electors of individual geographic subdistricts established on the basis of population and identified as director districts, no more than two at each regular school election. Boundaries of the subdistricts shall follow precinct boundaries, as far as practicable, and shall not be changed less than sixty days prior to the regular school election.

3. If the petition proposes the division of the school district into director districts, the boundaries of the proposed director districts shall not be drawn until the question is approved by the voters. If the question is approved by the voters, the directors of the new school district shall draw the boundaries of the director districts according to the standards described in section 275.23A, subsection 1. Following adoption by the school board, the plan shall be submitted to the state commissioner of elections for approval.

4. The area education agency board in reviewing the petition as provided in sections 275.15 and 275.16 shall review the proposed method of election of school directors and may change or amend the plan in any manner, including to specify a different method of electing school directors as may be required by law, justice, equity, and the interest of the people. In the action, the area education agency board shall follow the same procedure as is required by sections 275.15 and 275.16 for other action on the petition by the area education agency board.

5. a. The area education agency board in reviewing a petition as provided in sections 275.15 and 275.16 that is not subject to the division of assets and liabilities provisions in sections 275.29 through 275.31 shall review the proposal for dividing liability for payment

of outstanding bonds issued under section 423E.5 or 423F.4, required to be included under section 275.28, and may change or amend the proposal in any manner, including to specify a different division for the reorganized districts or a different method of payment or retirement of the bonds as may be required by law, justice, equity, and the interest of the people. The review conducted by the area education agency, including any resulting change to the proposal, shall ensure that the reorganized district's estimated revenue under section 423F.2 is sufficient for the payment of principal and interest on the outstanding bonds required to be paid in the budget year following the reorganization.

b. For bonds issued under section 423E.5 or 423F.4, the approval of the reorganization at election creates a lien on the revenues from the secure an advanced vision for education fund received by the reorganized district designated in the proposal approved by the area education agency, subject to the same priority as provided by the affected school district that issued the bonds.

6. The petition may include a provision that the voter-approved physical plant and equipment levy provided in section 298.2 will be voted upon at the election conducted under section 275.18. The petition may also include a provision that the revenue purpose statement provided in section 423F.3 will be voted upon at the election conducted under section 275.18.

[R60, §2097, 2105; C73, §1800, 1801, 1811; C97, §2794, 2799; S13, §2793, 2820-e, -f; SS15, §2793, 2794, 2794-a; C24, 27, 31, 35, 39, §4133, 4134, 4141, 4153, 4155, 4174; C46, 50, §274.16, 274.17, 274.23, 274.38, 276.2, 276.21; C54, 58, 62, §275.10, 275.12; C66, 71, 73, 75, 77, 79, 81, §275.12]

83 Acts, ch 53, §1; 83 Acts, ch 91, §1; 84 Acts, ch 1078, §6 – 8; 86 Acts, ch 1226, §1; 89 Acts, ch 135, §64; 93 Acts, ch 160, §5; 94 Acts, ch 1179, §16; 95 Acts, ch 49, §5; 2001 Acts, ch 56, §12; 2002 Acts, ch 1134, §81, 115; 2008 Acts, ch 1115, §12, 21; 2014 Acts, ch 1013, §18; 2015 Acts, ch 93, §1, 8

Referred to in §275.5, 275.11, 275.20, 275.23, 275.23A, 275.24, 275.25, 275.35, 275.36, 275.38, 275.41, 275.57, 278.1

275.13 Affidavit — presumption.

Such petition shall be accompanied by an affidavit showing the number of registered voters living in each affected district or portion thereof described in the petition and signed by a registered voter residing in the territory, and if parts of the territory described in the petition are situated in different area education agencies, the affidavit shall show separately as to each agency, the number of registered voters in the part of the agency included in the territory described. The affidavit shall be taken as true unless objections to it are filed on or before the time fixed for filing objections as provided in section 275.14.

[C24, 27, 31, 35, 39, §4156; C46, 50, §276.3; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §275.13] 94 Acts, ch 1169, §64; 2018 Acts, ch 1026, §92

Referred to in §275.11, 275.23, 275.24, 275.36

275.14 Objection — time of filing — notice.

1. Within ten days after the petition is filed, the area education agency administrator shall fix a final date for filing objections to the petition which shall be not more than sixty days after the petition is filed and shall fix the date for a hearing on the objections to the petition. Objections shall be filed in the office of the administrator who shall give notice at least ten days prior to the final day for filing objections, by one publication in a newspaper published within the territory described in the petition, or if none is published in the territory, in a newspaper published in the county where the petition is filed, and of general circulation in the territory described. The notice shall also list the date, time, and location for the hearing on the petition as provided in section 275.15. The cost of publication shall be assessed to each district whose territory is involved in the ratio that the number of pupils in basic enrollment for the budget year, as defined in section 257.6 in each district bears to the total number of pupils in basic enrollment for the budget year in the total area involved. Objections shall be in writing in the form of an affidavit and may be made by any person residing or owning land within the territory described in the petition, or who would be injuriously affected by the change petitioned for and shall be on file not later than 12:00 noon of the final day fixed for filing objections.

2. Objection forms shall be prescribed by the department of education and may be obtained from the area education agency administrator. Objection forms that request that property be removed from a proposed district shall include the correct legal description of the property to be removed.

[SS15, §2794-a; C24, 27, 31, 35, 39, §4157, 4166, 4170; C46, 50, §276.4, 276.6, 276.17; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §275.14]

85 Acts, ch 221, §1; 89 Acts, ch 135, §65

Referred to in §275.11, 275.13, 275.15, 275.23, 275.23A, 275.24

275.15 Hearing — decision — publication — appeal.

1. At the hearing, which shall be held within ten days of the final date set for filing objections, interested parties, both petitioners and objectors, may present evidence and arguments, and the area education agency board shall review the matter on its merits and within ten days after the conclusion of any hearing, shall rule on the objections and shall enter an order fixing the boundaries for the proposed school corporation as will in its judgment be for the best interests of all parties concerned, having due regard for the welfare of adjoining districts, or dismiss the petition.

2. The area education agency board, when entering the order fixing the boundaries, shall consider all available evidence including, but not limited to, information presented by the petitioners, all objections requesting territory exclusion, reorganization studies and plans, geographical patterns evidenced by students using open enrollment to attend school in another district pursuant to section 282.18, potential travel distances required of students, and geographic configuration of the proposed district. The exclusion of territory shall represent a balance between the rights of the objectors and the welfare of the reorganized district.

3. If the petition is not dismissed and the board determines that additional information is required in order to fix boundary lines of the proposed school corporation, the board may continue the hearing for no more than thirty days. The date of the continued hearing shall be announced at the original meeting. Additional objections in the form required in section 275.14 may be considered if filed with the administrator within five days, not including Saturdays, Sundays, or holidays, after the date of the original board hearing. If the hearing is continued, the area education agency administrator may conduct one or more meetings with the boards of directors of the affected districts. Notice of any such meeting must be given at least forty-eight hours in advance by the area education agency administrator in the manner provided in section 21.4. The area education agency board may request that the administrator make alternative recommendations regarding the boundary lines of the proposed school corporation. The area education agency board shall make a decision on the boundary lines within ten days following the conclusion of the continued hearing.

4. The administrator shall at once publish the decision in the same newspaper in which the original notice was published. Within twenty days after the publication, the decision rendered by the area education agency board may be appealed to the district court in the county involved by any school district affected. For purposes of appeal, only those school districts who filed reorganization petitions are school districts affected. An appeal from a decision of an area education agency board or joint area education agency boards under section 275.4, 275.16, or this section is subject to appeal procedures under this chapter and is not subject to appeal under chapter 290.

[C24, 27, 31, 35, 39, §4158 – 4160; C46, 50, §276.5 – 276.7; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §275.15]

84 Acts, ch 1078, §9; 85 Acts, ch 221, §2; 86 Acts, ch 1226, §2; 86 Acts, ch 1239, §1; 93 Acts, ch 160, §6; 2006 Acts, ch 1185, §79; 2007 Acts, ch 214, §34

Referred to in §275.11, 275.12, 275.14, 275.16, 275.18, 275.23, 275.23A, 275.24

275.16 Hearing when territory in different area education agencies.

1. If the territory described in the petition for the proposed corporation lies in more than one area education agency, the agency administrator with whom the petition is filed shall fix the time and place for a hearing and call a joint meeting of the members of all the agency

boards in which territory of the proposed school corporation lies, to act as a single board for the hearing of the objections, and a majority of members of each of the agency boards of the different agencies in which any part of the proposed corporation lies, constitutes a quorum. The president of the board of directors of the area education agency in which the petition has been filed, or a member of the board designated by the president, shall preside at the joint meeting. The joint boards acting as a single board shall determine whether the petition conforms to plans or, if the petition requests a change in plans, whether a change should be made, and may change the plans of any or all the area education agency boards affected by the petition. The joint board shall determine and fix boundaries for the proposed corporation as provided in section 275.15 or dismiss the petition. The joint board may continue the hearing as provided in section 275.15.

2. Votes of each member of an area education agency board in attendance shall be weighted so that the total number of votes eligible to be cast by members of each board in attendance shall be equal. However, if the joint boards cast a tie vote and are unable to agree to a decision fixing the boundaries for the proposed school corporation or to a decision to dismiss the petition, the time during which actions must be taken under section 275.15 shall be extended from ten days to fifteen days after the conclusion of the hearing under section 275.15, and the joint board shall reconvene not less than ten and not more than fifteen days after the conclusion of the hearing. At the hearing the joint board shall reconsider its action and if a tie vote is again cast it is a decision granting the petition and changing the plans of any and all of the agency boards affected by the petition and fixing the boundaries for the proposed school corporation. The agency administrator shall at once publish the decision in the same newspaper in which the original notice was published.

3. In case a controversy arises from such meeting, the area education agency board or boards or any school district aggrieved may bring the controversy to the department of education, as provided in section 275.8, within twenty days from the publication of this order, and if said controversy is taken to the department of education, a ten-day notice in writing shall be given to all agency boards and school districts affected or portions thereof. The department shall have the authority to affirm the action of the joint boards, to vacate, to dismiss all proceedings or to make such modification of the action of the joint boards as in their judgment would serve the best interest of all the agencies.

4. Judicial review of the actions of the department may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A. Notwithstanding the terms of said Act, petitions for judicial review must be filed within thirty days after the decision of the department of education.

[C24, 27, 31, 35, 39, §4162; C46, 50, §276.9; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §275.16]

84 Acts, ch 1078, §10; 85 Acts, ch 212, §24; 85 Acts, ch 221, §3; 86 Acts, ch 1237, §17; 2003 Acts, ch 44, §114; 2010 Acts, ch 1061, §180

Referred to in §275.8, 275.11, 275.12, 275.18, 275.23, 275.23A, 275.24

275.17 Filing a petition.

If an area education agency board does not approve the change in boundaries of school districts in accordance with a petition, a petition describing the identical or similar boundaries shall not be filed for a period of six months following the date of the hearing or the vote of the board, whichever is later.

[C79, 81, §275.17]

83 Acts, ch 91, §2

Referred to in §275.11, 275.23, 275.23A, 275.24

275.18 Special election called — time.

1. When the boundaries of the territory to be included in a proposed school corporation and the number and method of the election of the school directors of the proposed school corporation have been determined as provided in this chapter, the area education agency administrator with whom the petition is filed shall give written notice of the election to the county commissioner of elections of the county in the proposed school corporation which has the county greatest taxable base. The question shall be submitted to the voters at an election held

on a date specified in section 39.2, subsection 4, paragraph “c” in the calendar year prior to the calendar year in which the reorganization will take effect.

2. The county commissioner of elections shall give notice of the election by one publication in the same newspaper in which previous notices have been published regarding the proposed school reorganization, and in addition, if more than one county is involved, by one publication in a legal newspaper in each county other than that of the first publication. The publication shall be not less than four nor more than twenty days prior to the election. If the decision published pursuant to section 275.15 or 275.16 includes a description of the proposed school corporation and a description of the director districts, if any, the notice for election and the ballot do not need to include these descriptions. Notice for an election shall not be published until the expiration of time for appeal, which shall be the same as that provided in section 275.15 or 275.16, whichever is applicable; and if there is an appeal, not until the appeal has been disposed of.

3. The area education agency administrator shall furnish to the commissioner a map of the proposed reorganized area which must be approved by the commissioner as suitable for posting. The map shall be displayed prominently in at least one place within the voting precinct, and inside each voting booth.

[R60, §2097, 2105; C73, §1800, 1801; C97, §2794; SS15, §2794, 2794-a; C24, 27, 31, 35, 39, §4142, 4164; C46, 50, §274.24, 275.4, 276.11; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §275.18]

83 Acts, ch 53, §2; 85 Acts, ch 221, §4; 98 Acts, ch 1123, §12; 2008 Acts, ch 1115, §38, 71; 2009 Acts, ch 57, §77

Referred to in §257.11A, 275.11, 275.12, 275.23, 275.23A, 275.24, 275.27

275.19 Reserved.

275.20 Separate vote in existing districts.

The voters shall vote separately in each existing school district affected and voters residing in the entire existing district are eligible to vote upon the proposition to create a new school corporation and on any additional provision authorized pursuant to section 275.12, subsection 6. If a proposition receives a majority of the votes cast in each of at least seventy-five percent of the districts, and also a majority of the total number of votes cast in all of the districts, the proposition is carried.

[R60, §2097, 2105; C73, §1800, 1801; C97, §2794; SS15, §2794, 2794-a; C24, 27, 31, 35, §4142, 4166, 4167, 4191; C39, §4142, 4144.1, 4166, 4167; C46, 50, §274.24, 274.27, 276.13; C54, §275.20, 275.21; C58, 62, 66, 71, 73, 75, 77, 79, 81, §275.20]

89 Acts, ch 135, §66; 2014 Acts, ch 1013, §19

Referred to in §257.11A, 275.11, 275.22, 275.23, 275.23A, 275.24

275.21 Reserved.

275.22 Canvass and return.

The canvass shall be conducted pursuant to section 50.24. The county commissioner of elections or controlling commissioner shall certify the results of the election to the area education agency administrator. If the majority of the votes cast by the registered voters is in favor of the proposition, as provided in section 275.20, a new school corporation shall be organized. If the majority of votes cast is opposed to the proposition, a new petition describing the identical or similar boundaries shall not be filed for at least six months from the date of the election. If territory is excluded from the reorganized district, action pursuant to section 274.37 shall be taken prior to the effective date of reorganization. The secretary of the new school corporation shall file a written description of the boundaries as provided in section 274.4.

[S13, §2820-f; SS15, §2794-a; C24, 27, 31, 35, 39, §4144, 4169; C46, 50, §274.26, 275.5, 275.7, 276.16; C54, 58, 62, 66, 71, 73, 75, §275.23; C77, 79, 81, §275.22]

83 Acts, ch 91, §3; 93 Acts, ch 160, §7; 95 Acts, ch 67, §53; 2017 Acts, ch 155, §37, 44

Referred to in §275.11, 275.23, 275.23A, 275.24

275.23 Frequency of change.

A school district which is enlarged, reorganized, or changes its boundaries under sections 275.12 to 275.22, shall not file a petition under section 275.12 for the purpose of reducing the area served or changing the boundaries to exclude areas encompassed by the enlargement, reorganization, or boundary changes for a period of five years following the effective date of the enlargement, reorganization, or boundary change unless the action is approved by the director of the department of education.

[C77, 79, 81, §275.23]

86 Acts, ch 1245, §1463

Referred to in §275.23A

275.23A Redistricting following federal decennial census.

1. School districts which have directors who represent director districts as provided in section 275.12, subsection 2, paragraphs “b”, “c”, “d”, and “e”, shall be divided into director districts according to the following standards:

a. All director district boundaries shall follow the boundaries of areas for which official population figures are available from the most recent federal decennial census and, wherever possible, shall follow precinct boundaries.

b. To the extent possible in order to comply with paragraph “a”, all director districts shall be as nearly equal as practicable to the ideal population for the districts as determined by dividing the number of districts to be established into the population of the school district.

c. All districts shall be composed of contiguous territory as compact as practicable unless the school district is composed of marginally adjacent territory. A school district which is composed of marginally adjacent territory shall have director districts composed of contiguous territory to the extent practicable.

d. Consideration shall not be given to the addresses of incumbent officeholders, political affiliations of registered voters, previous election results, or demographic information other than population head counts, except as required by the Constitution and the laws of the United States.

e. A city shall not be divided into two or more director districts unless the population of that portion of the city that is within the school district is greater than the ideal size of a director district. Cities shall be divided into the smallest number of director districts possible.

2. Following each federal decennial census the school board shall determine whether the existing director district boundaries meet the standards in subsection 1 according to the most recent federal decennial census. In addition to the authority granted to voters to change the number of directors or method of election as provided in sections 275.35, 275.36, and 278.1, the board of directors of a school district may, following a federal decennial census, by resolution and in accordance with this section, authorize a change in the method of election as set forth in section 275.12, subsection 2, or a change to either five or seven directors after the board conducts a hearing on the resolution. If the board proposes to change the number of directors from seven to five directors, the resolution shall include a plan for reducing the number of directors. If the board proposes to increase the number of directors to seven directors, two directors shall be added according to the procedure described in section 277.23, subsection 2. If necessary, the board of directors shall redraw the director district boundaries. The director district boundaries shall be described in the resolution adopted by the school board. The resolution shall be adopted no earlier than November 15 of the second year immediately following the year in which the federal decennial census is taken and no later than May 15 of the third year immediately following the year in which the federal decennial census is taken. A copy of the plan shall be filed with the area education agency administrator of the area education agency in which the school’s electors reside. If the board does not provide for an election as provided in sections 275.35, 275.36, and 278.1 and adopts a resolution to change the number of directors or method of election in accordance with this subsection, the district shall change the number of directors or method of election as provided unless, within twenty-eight days following the action of the board, the secretary of the board receives a petition containing the required number of signatures, asking that an election be called to approve or disapprove the action of the board

in adopting the resolution. The petition must be signed by eligible electors equal in number to not less than one hundred or thirty percent of the number of voters at the last preceding regular school election, whichever is greater. The board shall either rescind its action or direct the county commissioner of elections to submit the question to the registered voters of the school district at an election held on a date specified in section 39.2, subsection 4, paragraph "c". If a majority of those voting on the question at the election favors disapproval of the action of the board, the district shall not change the number of directors or method of election. If a majority of those voting on the question does not favor disapproval of the action, the board shall certify the results of the election to the department of management and the district shall change the number of directors or method of election as provided in this subsection. At the expiration of the twenty-eight-day period, if no petition is filed, the board shall certify its action to the department of management and the district shall change the number of directors or method of election as provided in this subsection.

3. The school board shall notify the state commissioner of elections and the county commissioner of elections of each county in which a portion of the school district is located when the boundaries of director districts are changed. The notices of changes submitted to the state commissioner shall be postmarked no later than the deadline for adoption of the resolution under subsection 2. The board shall provide the commissioners with maps showing the new boundaries and shall also certify to the state commissioner the populations of the new director districts as determined under the latest federal decennial census. If, following a federal decennial census a school district elects not to redraw director districts under this section, the school board shall so certify to the state commissioner of elections, and the school board shall also certify to the state commissioner the populations of the retained director districts as determined under the latest federal decennial census. If the state commissioner determines that a district board has failed to make the required changes by the dates specified by this section, the state commissioner of elections shall make or cause to be made the necessary changes as soon as possible. The state commissioner shall assess any expenses incurred to the school district. The state commissioner of elections may request the services of personnel of and materials available to the legislative services agency to assist the state commissioner in making any required boundary changes.

4. If more than one incumbent director resides in a redrawn director district, the terms of office of the affected directors expire at the organizational meeting of the board of directors following the next regular school election following the adoption of the redrawn districts.

5. The boundary changes under this section take effect July 1 following their adoption for the next regular school election.

6. Section 275.9 and sections 275.14 through 275.23 do not apply to changes in director district boundaries made under this section.

83 Acts, ch 77, §3, 4; 89 Acts, ch 296, §24; 90 Acts, ch 1233, §9; 92 Acts, ch 1246, §45; 94 Acts, ch 1179, §17, 18; 95 Acts, ch 189, §18; 2002 Acts, ch 1024, §1, 3; 2002 Acts, ch 1140, §16, 46; 2003 Acts, ch 35, §44, 49; 2008 Acts, ch 1115, §39, 71; 2010 Acts, ch 1033, §36; 2013 Acts, ch 88, §14; 2014 Acts, ch 1026, §74

Referred to in §39.24, 49.8, 275.12, 275.35, 275.36, 275.57, 277.23

275.24 Effective date of change.

When a school district is enlarged, reorganized, or changes its boundary pursuant to sections 275.12 to 275.22, the change shall take effect on July 1 following the date of the reorganization election held pursuant to section 275.18.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §275.24]

83 Acts, ch 53, §3; 2008 Acts, ch 1115, §40, 71

275.25 Election of directors.

1. a. If the proposition to establish a new school district carries under the method provided in this chapter, the area education agency administrator with whom the petition was filed shall give written notice of a proposed date for a special election for directors of the newly formed school district to the commissioner of elections of the county in the district involved in the reorganization which has the greatest taxable base. The proposed

date shall be as soon as possible pursuant to section 39.2, subsections 1 and 2, and section 47.6, subsections 1 and 2, but not later than the third Tuesday in January of the calendar year in which the reorganization takes effect.

b. The election shall be conducted as provided in section 277.3, and nomination petitions shall be filed pursuant to section 277.4, except as otherwise provided in this subsection. Nomination petitions shall be filed with the secretary of the board of the existing school district in which the candidate resides not less than twenty-eight days before the date set for the special school election. The secretary of the board, or the secretary's designee, shall be present in the secretary's office until 5:00 p.m. on the final day to file the nomination papers. The nomination papers shall be delivered to the commissioner no later than 5:00 p.m. on the twenty-seventh day before the election.

c. If the special election is held in conjunction with the regular school election, the filing deadlines for the regular school election apply.

2. a. The number of directors of a school district is either five or seven as provided in section 275.12. In school districts that include a city of fifteen thousand or more population as shown by the most recent decennial federal census, the board shall consist of seven members elected in the manner provided in subsection 3. If it becomes necessary to increase the membership of a board, two directors shall be added according to the procedure described in section 277.23.

b. The county board of supervisors shall canvass the votes and the county commissioner of elections shall report the results to the area education agency administrator who shall notify the persons who are elected directors.

3. The directors who are elected and qualify to serve shall serve until their successors are elected and qualify. At the special election, the three newly elected directors receiving the most votes shall be elected to serve until their successors qualify after the third regular school election date occurring after the effective date of the reorganization and the two newly elected directors receiving the next largest number of votes shall be elected to serve until the directors' successors qualify after the second regular school election date occurring after the effective date of the reorganization. However, in districts that include all or a part of a city of fifteen thousand or more population and in districts in which the proposition to establish a new corporation provides for the election of seven directors, the timelines specified in this subsection for the terms of office apply to the four newly elected directors receiving the most votes and then to the three newly elected directors receiving the next largest number of votes.

4. The board of the newly formed district shall organize within fifteen days after the special election upon the call of the area education agency administrator. The new board shall have control of the employment of personnel for the newly formed district for the next following school year under section 275.33. Following the first organizational meeting of the board of the newly formed district, the board may establish policy, organize curriculum, enter into contracts, complete planning, and take action as necessary for the efficient management of the newly formed community school district.

5. Section 49.8, subsection 5, does not permit a director to remain on the board of a school district after the effective date of a boundary change which places the director's residence outside the boundaries of the district. Vacancies caused by this occurrence on a board shall be filled in the manner provided in sections 279.6 and 279.7.

6. The board of the newly formed district shall appoint an acting superintendent and an acting board secretary. The appointment of the acting superintendent shall not be subject to the continuing contract provisions of sections 279.20, 279.23, and 279.24.

[R60, §2099, 2100, 2106; C73, §1801; C97, §2795; S13, §2820-f; SS15, §2794-a; C24, §4144, 4145, 4148; C27, 31, 35, §4144-a1, 4145, 4148; C39, §4144.2, 4144.3, 4145, 4148; C46, 50, §274.28 – 274.30, 275.5, 276.18; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §275.25]

83 Acts, ch 53, §4; 85 Acts, ch 221, §5; 86 Acts, ch 1239, §2; 88 Acts, ch 1038, §1; 93 Acts, ch 143, §43; 2002 Acts, ch 1134, §82, 115; 2008 Acts, ch 1115, §13, 21; 2009 Acts, ch 41, §263

Referred to in §275.1, 275.41, 331.383

275.26 Payment of expenses.

1. If a district is established or changes its boundaries it shall pay all expenses incurred by

the area education agency administrator and the area education agency board in connection with the proceedings. The county commissioner of elections shall assess the costs of the election against the district as provided in section 47.3. If the proposition is dismissed or defeated at the election, all expenses shall be apportioned among the several districts in proportion to the assessed valuation of property therein.

2. If the proposed district or boundary change embraces territory in more than one area education agency, such expenses shall be certified to and, if necessary, apportioned among the several districts by the joint agency board. If in only one agency, the certification shall be made by the agency administrator.

3. The respective boards to which such expenses are certified shall audit and order the same paid from the general fund. In the event of failure of any board to so audit and pay the expenses certified to it, the area education agency administrator shall certify the expenses to the county auditor in the same manner as is provided for tuition claims in section 282.21 and the funds shall be transferred by the county treasurer from the debtor district to the agency board for payment of said expenses.

[S13, §2820-h; C24, 27, 31, 35, 39, §4147, 4172; C46, 50, §274.32, 275.6, 276.19; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §275.26]

2017 Acts, ch 54, §76

Referred to in §331.552

275.27 Community school districts — part of area education agency.

School districts created or enlarged under this chapter are community school districts and are part of the area education agency in which the greatest number of registered voters of the district reside at the time of the special election called for in section 275.18, and sections of the Code applicable to public or accredited nonpublic schools generally are applicable to these districts in addition to the powers and privileges conferred by this chapter. If a school district, created or enlarged under this chapter and assigned to an area education agency under this section, can demonstrate that students in the district were utilizing a service or program prior to the formation of the new or enlarged district that is unavailable from the area education agency to which the new or enlarged district is assigned, the district may be reassigned to the area education agency which formerly provided the service or program, upon an affirmative majority vote of the boards of the affected area education agencies to permit the change.

[C73, §1715; C97, §2802; S13, §2802; SS15, §2794-a; C24, 27, 31, 35, 39, §4136; C46, 50, §274.18; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §275.27]

84 Acts, ch 1078, §11; 91 Acts, ch 44, §1; 95 Acts, ch 49, §6; 2018 Acts, ch 1026, §93

275.28 Plan of division of assets and liabilities.

In addition to setting up the territory to comprise the reorganized districts, a reorganization petition shall provide for a division of assets and liabilities of the districts affected among the reorganized districts. However, if territory is excluded from the reorganized district by the petition or by the area education agency board of directors, the division of all assets and liabilities shall be made under the provisions of sections 275.29 through 275.31.

[C46, 50, §275.7; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §275.28]

93 Acts, ch 160, §8; 2015 Acts, ch 93, §2, 8; 2016 Acts, ch 1073, §92

Referred to in §275.12

275.29 Division of assets and liabilities after reorganization.

1. Between July 1 and July 20, or on a date determined by agreement of the initial board and the boards of districts receiving territory of the school districts affected, but not later than August 30, the initial board shall meet with the boards of districts receiving territory of the school districts affected, for the purpose of reaching joint agreement on an equitable division of the assets and an equitable distribution of the liabilities of the school districts affected. In addition, if outstanding general obligation indebtedness is in existence in any district, the initial board of directors of the newly formed school district shall meet with the boards of all school districts affected prior to April 15 prior to the school year the reorganization is effective to determine the distribution of liability for payment of the general obligation bonded

indebtedness between the districts so that the newly formed district may certify its budget under the procedures specified in chapter 24. The boards shall consider the mandatory levy required in section 76.2 and shall assure the satisfaction of outstanding obligations. If a school district affected by the reorganization has outstanding bonds issued under section 423E.5 or 423F.4, the joint agreement shall assure that the estimated revenue under section 423F.2 for each district to which liability for payment of such bonds is assigned is sufficient for the payment of principal and interest on the outstanding bonds required to be paid in the budget year following reorganization.

2. For bonds issued under section 423E.5 or 423F.4, the approval of the joint agreement creates a lien on the revenues from the secure an advanced vision for education fund received by the school district to which liability is assigned, subject to the same priority as provided by the affected school district that issued the bonds.

[C73, §1715; C97, §2802; S13, §2802, 2820-g; C24, 27, 31, 35, 39, §4137; C46, 50, §274.19; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §275.29]

84 Acts, ch 1078, §12; 85 Acts, ch 221, §6; 93 Acts, ch 1, §6; 93 Acts, ch 160, §9; 2015 Acts, ch 93, §3, 8

Referred to in §256.11, 275.1, 275.12, 275.28

275.30 Arbitration.

1. If the boards cannot agree on such division and distribution, the matters on which they differ shall be decided by disinterested arbitrators, one selected by the initial board of directors of the newly formed district, one selected jointly by the boards of directors of contiguous districts receiving territory of the school districts affected, and one selected by the area education agency administrator.

2. The decision of the arbitrators shall be made in writing and filed with the secretary of the new corporation, and a party to the proceedings may appeal the decision to the district court by serving notice on the secretary of the new corporation within twenty days after the decision is filed. The appeal shall be tried in equity and a decree entered determining the entire matter, including the levy, collection, and distribution of any necessary taxes.

3. a. If a school district affected by the reorganization has outstanding bonds issued under section 423E.5 or 423F.4, the arbitrators' decision and any decision of the court on appeal shall assure that the estimated revenue under section 423F.2 for each district to which liability for payment of such bonds is assigned is sufficient for the payment of principal and interest on the outstanding bonds required to be paid in the budget year following reorganization.

b. The issuance of the arbitrators' decision or court decision on appeal creates a lien on the revenues from the secure an advanced vision for education fund received by the district to which the liability for payment of the bonds were assigned, subject to the same priority as provided by the affected school district that issued the bonds.

[C73, §1715; C97, §2802; S13, §2802, 2820-g; C24, 27, 31, 35, 39, §4138; C46, 50, §274.20; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §275.30]

93 Acts, ch 160, §10; 2015 Acts, ch 93, §4, 8

Referred to in §256.11, 275.1, 275.12, 275.28

275.31 Taxes and appropriation to effect equalization.

1. If necessary to equalize the division and distribution, the board or boards may provide for the levy of additional taxes, which shall be sufficient to satisfy the mandatory levy required in section 76.2 or other liabilities of the districts, upon the property of a corporation or part of a corporation and for the distribution of the tax revenues so as to effect equalization. When the board or boards are considering the equalization levy, the division and distribution shall not impair the security for outstanding obligations of each affected corporation. Any owner of bonds of an affected corporation may bring suit in equity for adjustment of the division and distribution in compliance with this section. If the property tax levy for the amount estimated and certified to apply on principal and interest on lawful bonded indebtedness for a newly formed community school district is greater than the property tax levy for the amount estimated and certified to apply on principal and interest in the year preceding the reorganization or dissolution for a school district that

is a party to the reorganization or dissolution, that had a certified enrollment of less than six hundred for the year prior to the reorganization or dissolution, and that approved the reorganization or dissolution prior to July 1, 1989, the board of the newly formed district shall inform the department of management. The department of management shall pay debt service aid to the newly formed district in an amount that reduces the rate of the property tax levy for lawful bonded indebtedness in the portion of the newly formed district where the new rate is higher, to the rate that was levied in that portion of the district during the year preceding the reorganization or dissolution.

2. For the school year beginning July 1, 1987, and succeeding school years, there is appropriated from the general fund of the state to the department of management an amount sufficient to pay the debt service aid under this section. Debt service aid shall be paid in the manner provided in section 257.16.

3. Not later than May 1 of each year, the department of management shall inform the board of the newly formed school district the amount of debt service aid that the district will receive and the rate of the property tax levy for the amount estimated and certified to apply on principal and interest on lawful bonded indebtedness in the portion of the newly formed district where the new rate would have been higher, and for the remainder of the newly formed district. The department of management shall notify the county auditor of each applicable county of the amount, in dollars and cents per thousand dollars of assessed valuation, of the property tax levy in each portion of each applicable newly formed school district in the county for the amount estimated and certified to apply on principal and interest on lawful bonded indebtedness, and the boundaries of the portions within the newly formed district for which the levies shall be made. The county auditor shall spread the applicable property tax levy for each portion of a school district over all taxable property in that portion of the district.

[S13, §2820-g; SS15, §2794-a; C24, 27, 31, 35, 39, §4139, 4175; C46, 50, §274.21, 276.22; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §275.31]

85 Acts, ch 221, §7; 86 Acts, ch 1226, §3; 89 Acts, ch 135, §67; 92 Acts, ch 1163, §62; 2017 Acts, ch 54, §76

Referred to in §256.11, 275.1, 275.12, 275.28

275.32 School buildings — tax levy. Repealed by 93 Acts, ch 160, §18.

275.33 Contracts of new district.

1. The terms of employment of superintendents, principals, and teachers, for the school year following the effective date of the formation of the new district shall not be affected by the formation of the new district, except in accordance with the provisions of sections 279.15 through 279.18 and 279.24 and the authority and responsibility to offer new contracts or to continue, modify, or terminate existing contracts pursuant to sections 279.12, 279.13, 279.15 through 279.21, 279.23, and 279.24 for the school year beginning with the effective date of the reorganization shall be transferred from the boards of the existing districts to the board of the new district on the third Tuesday of January prior to the school year the reorganization is effective.

2. a. The collective bargaining agreement of the district with the largest basic enrollment for the year prior to the reorganization, as defined in section 257.6, in the new district shall serve as the base agreement and the employees of the other districts involved in the formation of the new district shall automatically be accreted to the bargaining unit of that collective bargaining agreement for purposes of negotiating the contracts for the following years without further action by the public employment relations board. If only one collective bargaining agreement is in effect among the districts which are party to the reorganization, then that agreement shall serve as the base agreement, and the employees of the other districts involved in the formation of the new district shall automatically be accreted to the bargaining unit of that collective bargaining agreement for purposes of negotiating the contracts for the following years without further action by the public employment relations board.

b. The board of the newly formed district, using the base agreement as its existing

contract, shall bargain with the combined employees of the existing districts for the school year beginning with the effective date of the reorganization. The bargaining shall be completed by the dates specified in section 20.17 prior to the school year in which the reorganization becomes effective or within one hundred eighty days after the organization of the new board, whichever is later. If a bargaining agreement was already concluded by the board and employees of the existing district with the contract serving as the base agreement for the school year beginning with the effective date of the reorganization, that agreement shall be void. However, if the base agreement contains multiyear provisions affecting school years subsequent to the effective date of the reorganization, the base agreement shall remain in effect as specified in the agreement.

c. The provisions of the base agreement shall apply to the offering of new contracts, or continuation, modification, or termination of existing contracts as provided in subsection 1.

[S13, §2820-f; C24, 27, 31, 35, 39, §4146; C46, 50, §274.31; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §275.33]

85 Acts, ch 221, §8; 86 Acts, ch 1239, §3; 89 Acts, ch 135, §68; 93 Acts, ch 1, §7, 14; 93 Acts, ch 160, §11; 2010 Acts, ch 1061, §97; 2018 Acts, ch 1026, §94

Referred to in §275.25

275.34 Reserved.

275.35 Change in number of directors — change in method of elections.

1. A school district may change the number of directors to either five or seven and may also change its method of election of school directors to any method authorized by section 275.12 by submission of a proposal, stating the proposed new method of election, by the school board of such district to the electors at an election held on a date specified in section 39.2, subsection 4, paragraph “c”. The school board shall notify the county commissioner of elections who shall publish notice of the election in the manner provided in section 49.53. The election shall be conducted pursuant to chapters 39 through 53 by the county commissioner of elections. Such proposal shall be adopted if it is approved by a majority of the votes cast on the proposition.

2. If the proposal adopted by the voters requires the establishment of or change in director district boundaries, the school board shall draw the necessary boundaries within forty days after the date of the election. The boundaries shall be drawn according to the requirements of section 275.23A. Following adoption by the school board, the plan shall be submitted to the state commissioner of elections for approval.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §275.35]

2002 Acts, ch 1134, §83, 115; 2008 Acts, ch 1115, §41, 71

Referred to in §275.23A, 278.1

275.36 Submission of change to electors.

1. If a petition for a change in the number of directors or in the method of election of school directors is filed with the school board of a school district pursuant to the requirements of section 278.2, the school board shall submit such proposition to the voters at an election held on a date specified in section 39.2, subsection 4, paragraph “c”. The petition shall be accompanied by an affidavit as required by section 275.13. If a proposition for a change in the number of directors or in the method of election of school directors submitted to the voters under this section is rejected, it shall not be resubmitted to the voters of the district in substantially the same form within the next three years; if it is approved, no other proposal may be submitted to the voters of the district under this section within the next six years.

2. If the proposal adopted by the voters requires the establishment of or a change in director district boundaries pursuant to section 275.12, subsection 2, paragraph “b”, “c”, “d”, or “e”, the school board shall draw the necessary boundaries within forty days after the date of the election. The boundaries shall be drawn according to the requirements of section 275.23A. Following adoption by the school board, the plan shall be submitted to the state

commissioner of elections for approval. The new boundaries shall become effective on July 1 following approval.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §275.36]

93 Acts, ch 143, §44; 2002 Acts, ch 1134, §84, 115; 2008 Acts, ch 1115, §42, 71

Referred to in §275.23A, 278.1

275.37 Increase in number of directors.

At the next succeeding regular school election in a district where the number of directors has been increased from five to seven, and directors are elected at large, there shall be elected a director to succeed each incumbent director whose term is expiring in that year, and two additional directors. Upon organizing as required by section 279.1, either one or two of the newly elected directors who received the fewest votes in the election shall be assigned a term of two years as necessary in order that as nearly as possible one-half of the members of the board shall be elected biennially. If some or all directors are elected from director districts, the board shall assign terms appropriate for the method of election used by the district.

[C58, 62, 66, 71, 73, §275.37, 275.38; C75, 77, 79, 81, §275.37]

2002 Acts, ch 1134, §85, 115; 2008 Acts, ch 1115, §14, 21

Referred to in §39.24, 275.38, 277.23, 278.1

275.37A Decrease in number of directors.

1. A change from seven to five directors shall be effected in a district at the first regular school election after authorization by the voters in the following manner:

a. If at the first election in the district there are four terms expiring, two directors shall be elected. At the second election in that district, if three terms are expiring, three directors shall be elected.

b. If at the first election there are three terms expiring, one director shall be elected. At the second election in that district, if four terms are expiring, three directors shall be elected for a four-year term and one director shall be elected for a two-year term.

2. If some or all of the directors are elected from director districts, the board shall devise a plan to reduce the number of members so that as nearly as possible one-half of the members of the board shall be elected biennially and so that each district will be continuously represented.

2002 Acts, ch 1134, §86, 115; 2008 Acts, ch 1115, §15, 21; 2010 Acts, ch 1033, §37

Referred to in §39.24

275.38 Implementing changed method of election.

If change in the method of election of school directors is approved at an election, the directors who were serving unexpired terms or were elected concurrently with approval of the change of method shall serve out the terms for which they were elected. If the plan adopted is that described in section 275.12, subsection 2, paragraph "b", "c", "d", or "e", the board shall at the earliest practicable time designate the districts from which residents are to be elected as school directors at each of the next two succeeding regular school elections, arranging so far as possible for elections of directors as residents of the respective districts to coincide with the expiration of terms of incumbent members residing in those districts. If an increase in the size of the board from five to seven members is approved concurrently with the change in method of election of directors, the board shall make the necessary adjustment in the manner prescribed in section 275.37, as well as providing for implementation of the districting plan under this section.

[C75, 77, 79, 81, §275.38]

2008 Acts, ch 1115, §16, 21, 43, 71

275.39 Excluded territory included in new petition.

Territory described in the petition of a proposed reorganization which has been set out of the proposed reorganization by the area education agency board or the joint boards and in the event of an appeal, after the decision of the director of the department of education or the courts, may be included in any new petition for reorganization.

[C62, 66, 71, 73, 75, 77, 79, 81, §275.39]

86 Acts, ch 1245, §1464

275.40 Reserved.

275.41 Alternative method for director elections — temporary appointments.

1. As an alternative to the method specified in section 275.25 for electing directors in a newly formed community school district, the procedure specified in this section may be used and if used, the petition filed under section 275.12 shall state the number of directors on the initial board. If two districts are named in the petition, either five or seven directors shall serve on the initial board. If three or more districts are named in the petition, either seven or nine directors shall serve on the initial board. The petition shall specify the number of directors to be retained from each district, and those numbers shall be proportionate to the populations of the districts. If the exclusion of territory from a reorganization affects the proportionate balance of directors among the affected districts specified in the petition, or if the proposal specified in the petition does not comply with the requirement for proportionate representation, the area education board shall modify the proposal. However, all districts affected shall retain at least one member.

2. Prior to the organizational meeting of the newly formed district, the boards of the former districts shall designate directors to be retained as members to serve on the initial board, and if the total number of directors determined under subsection 1 is an even number, that number of directors shall function and may within five days of the organizational meeting appoint one additional director by unanimous vote with all directors voting. Otherwise, the board shall function until a special election can be held to elect an additional director. The procedure for calling the special election shall be the procedure specified in section 275.25. If there is an insufficient number of board members eligible to be retained from a former school district, the board of the former school district may appoint members to fill the vacancies. A vacancy occurs if there is an insufficient number of former board members who reside in the newly formed district or if there is an insufficient number who are willing to serve on the board of the newly formed district.

3. Prior to the effective date of the reorganization, the initial board shall approve a plan that commences at the first regular school election held after the effective date of the merger and is completed at the second regular school election held after the effective date of the merger, to replace the initial board with the regular board. If the petition specifies a number of directors on the regular board to be different from the number of directors on the initial board, the plan shall provide that the number specified in the petition for the regular board is in place by the time the regular board is formed. The plan shall provide that as nearly as possible one-half of the members of the board shall be elected biennially, and if a special election was held to elect a member to create an odd number of members on the board, the term of that member shall end at the organizational meeting following the second regular school election held after the effective date.

4. The board of the newly formed district shall organize within forty-five days after the approval of the merger upon the call of the area education agency administrator. The new board shall have control of the employment of all personnel for the newly formed district for the ensuing school year. Following the organization of the new board the board shall have authority to establish policy, organize curriculum, enter into contracts and complete such planning and take such action as is essential for the efficient management of the newly formed community school district.

5. The board of the newly formed district shall appoint an acting superintendent and an acting board secretary. The appointment of the acting superintendent shall not be subject to the continuing contract provision of sections 279.20, 279.23, and 279.24.

6. Section 49.8, subsection 5, shall not permit a director to remain on the board of a school district after the effective date of a boundary change which places the director's residence outside the boundaries of the district. Vacancies so caused on any board shall be filled in the manner provided in sections 279.6 and 279.7.

[C62, 66, 71, 73, 75, 77, §275.25; C79, 81, §275.41]

83 Acts, ch 53, §5; 85 Acts, ch 221, §9; 93 Acts, ch 160, §12, 13; 2005 Acts, ch 3, §58; 2008 Acts, ch 1115, §17, 21; 2009 Acts, ch 41, §248; 2016 Acts, ch 1121, §8

Referred to in §275.1

275.42 through 275.50 Reserved.

SUBCHAPTER II
DISSOLUTION OF DISTRICTS

275.51 Dissolution commission.

1. As an alternative to school district reorganization prescribed in this chapter, the board of directors of a school district may establish a school district dissolution commission to prepare a proposal of dissolution of the school district and attachment of all of the school district to one or more contiguous school districts and to include in the proposal a division of the assets and liabilities of the dissolving school district. A school district dissolution commission shall be established by the board of directors of a school district if a dissolution proposal has been prepared by eligible electors who reside within the district. The proposal must contain the names of the proposed members of the commission and be accompanied by a petition which has been signed by eligible electors residing in the school district equal in number to at least twenty percent of the registered voters in the school district.

2. The dissolution commission shall consist of seven members appointed by the board for a term of office ending either with a report to the board that no proposal can be approved or on the date of the election on the proposal. Members of the dissolution commission must be eligible electors who reside in the school district, not more than three of whom may be members of the board of directors of the school district. Members shall be appointed from throughout the school district and should represent the various socioeconomic factors present in the school district.

3. Members of the dissolution commission shall serve without compensation and may be appointed to a subsequent commission. A vacancy on the commission shall be filled in the same manner as the original appointment was made.

4. The board of the school district shall certify to the area education agency board that a commission has been formed, the names and addresses of commission members, and that the commission members represent the various geographic areas and socioeconomic factors present in the district.

[C81, §275.51]

88 Acts, ch 1263, §3; 93 Acts, ch 160, §14; 94 Acts, ch 1175, §6; 95 Acts, ch 49, §7; 2001 Acts, ch 56, §13; 2017 Acts, ch 54, §76

275.52 Meetings.

1. The commission shall hold an organizational meeting not more than fifteen days after its appointment and shall elect a chairperson and vice chairperson from its membership. Thereafter the commission may meet as often as deemed necessary upon the call of the chairperson or a majority of the commission members.

2. The commission shall request statements from contiguous school districts outlining each district's willingness to accept attachments of the affected school district to the contiguous districts and what conditions, if any, the contiguous school district recommends. The commission shall meet with boards of contiguous school districts and with residents of the affected school district to the extent possible in drawing up the dissolution proposal.

3. The commission may seek assistance from the area education agency and the department of education.

[C81, §275.52]

2018 Acts, ch 1041, §75

275.53 Dissolution proposal.

1. The commission shall send a copy of its dissolution proposal or shall inform the board that it cannot agree upon a dissolution proposal not later than one year following the date of the organizational meeting of the commission. If the dissolving school district has outstanding bonds issued under section 423E.5 or 423F.4, the proposal shall require

each school district receiving territory from the dissolving district to assume liability for the payment of a portion of such bonds that is equal to the percentage of the total number of resident pupils from the dissolving district who lived in the territory received during the last year of the dissolving district's existence. The commission shall also send a copy of the dissolution proposal to the boards of directors of all school districts to which area of the dissolving school district will be attached. If the board of a district to which area of the dissolving school district will be attached objects to the attachment, within ten days following receipt of the dissolution proposal the board shall send its objections in writing to the commission. The commission may consider the objections and may modify the dissolution proposal. If the dissolution proposal is modified, the commission shall notify the boards of directors of all school districts to which area of the dissolving school district will be attached.

2. Notifications required under subsection 1 shall be delivered using one of the following methods:

- a. Mail bearing a United States postal service postmark.
- b. Hand delivery.
- c. Facsimile transmission.
- d. Electronic delivery.

3. If the commission cannot agree upon a dissolution proposal prior to the expiration of its term, the board may appoint a new commission.

[C81, §275.53]

2009 Acts, ch 50, §3; 2015 Acts, ch 93, §5, 8

275.54 Hearing.

1. Within ten days following the filing of the dissolution proposal with the board, the board shall fix a date for a hearing on the proposal which shall not be more than sixty days after the dissolution petition was filed with the board. The board shall publish notice of the date, time, and location of the hearing at least ten days prior to the date of the hearing by one publication in a newspaper in general circulation in the district. The notice shall include the content of the dissolution proposal. A person residing or owning land in the school district may present evidence and arguments at the hearing. The president of the board shall preside at the hearing. The board shall review testimony from the hearing and shall adopt or amend and adopt the dissolution proposal.

2. The board shall notify the boards of directors of all school districts to which area of the affected school district will be attached and the director of the department of education of the contents of the dissolution proposal adopted by the board. The notification shall be delivered using one of the following methods:

- a. Mail bearing a United States postal service postmark.
- b. Hand delivery.
- c. Facsimile transmission.
- d. Electronic delivery.

3. If the board of a district to which area of the affected school district will be attached objects to the attachment, that portion of the dissolution proposal will not be included in the proposal voted upon under section 275.55 and the director of the department of education shall attach the area to a contiguous school district.

4. a. If the board of a district to which area of the dissolving school district will be attached objects to the division of assets and liabilities contained in the dissolution proposal, the matter shall be decided by a panel of disinterested arbitrators. The panel shall consist of one arbitrator selected jointly by affected districts objecting to the provisions of the dissolution proposal, one selected jointly by the affected districts in favor of the provisions of the dissolution proposal, and one selected by the dissolving district. If the number of arbitrators selected is even, a disinterested arbitrator shall be selected by the administrator of the area education agency to which the dissolving district belongs. The decision of the arbitrators shall be made in writing and filed with the secretary of each affected school district. A party to the proceedings may appeal the decision to the district court by serving notice on the secretary of each affected school district within twenty days after the decision

is filed. The appeal shall be tried in equity and a decree entered determining the entire matter, including the levy, collection, and distribution of any necessary taxes.

b. If the dissolving district has outstanding bonds issued under section 423E.5 or 423F.4, the arbitrators' decision and any decision of the court on appeal shall require each school district receiving territory from the dissolving district to assume liability for the payment of a portion of such bonds that is equal to the percentage of the total number of resident pupils from the dissolving district who lived in the territory received during the last year of the dissolving district's existence.

5. If a dissolution proposal adopted by a board contains provisions that ninety-five percent or more of the taxable valuation of the dissolving district would be assumed and attached to a single school district, the dissolving school district shall cease further proceedings to dissolve and shall comply with reorganization procedures specified in this chapter.

[C81, §275.54]

86 Acts, ch 1245, §1465; 2009 Acts, ch 50, §4; 2015 Acts, ch 93, §6, 8

275.55 Election.

1. After the final hearing on the dissolution proposal, the board of the school district shall submit the proposition to the voters at the next election held on a date specified in section 39.2, subsection 4, paragraph "c". However, the date of the final hearing on the dissolution proposal must be not less than thirty nor more than sixty days before the election. The proposition submitted to the voters residing in the school district shall describe each separate area to be attached to a contiguous school district and shall name the school district to which it will be attached. In addition to the description, a map may be included in the summary of the question on the ballot.

2. The board shall give written notice of the election to the county commissioner of elections. The county commissioner of elections shall give notice of the election by one publication in the same newspaper in which the previous notice was published about the hearing, which publication shall not be less than four nor more than twenty days prior to the election.

3. The proposition shall be adopted if a majority of the electors voting on the proposition approve its adoption.

4. The attachment is effective July 1 following its approval. If the dissolution proposal is for the dissolution of a school district with a certified enrollment of fewer than six hundred, the territory located in the school district that dissolved is eligible, if approved by the director of the department of education, for a reduction in the foundation property tax levy under section 257.3, subsection 1. If the director approves a reduction in the foundation property tax levy as provided in this section, the director shall notify the director of the department of management of the reduction.

5. For bonds issued under section 423E.5 or 423F.4, the approval of the dissolution at election creates a lien on the revenues from the secure an advanced vision for education fund received by the district to which liability for payment of a portion of such bonds, subject to the same priority as provided by the dissolving school district. However, such a lien is limited to the extent required to satisfy payments for the portion of the liability assigned to the district.

[C81, §275.55]

88 Acts, ch 1263, §4; 89 Acts, ch 135, §69; 2002 Acts, ch 1134, §87, 115; 2008 Acts, ch 1115, §44, 71; 2009 Acts, ch 50, §5; 2015 Acts, ch 93, §7, 8

Referred to in §257.3, 275.54

275.55A Attendance in other district.

A student enrolled in ninth, tenth, or eleventh grade during the school year preceding the effective date of a dissolution proposal, who was a resident of the school district that dissolved, may enroll in a school district to which territory of the school district that dissolved was attached until the student's graduation from high school, unless the student was expelled or suspended from school and the conditions of expulsion or suspension have not been met. The student under expulsion or suspension shall not be enrolled until the board of directors of the school district to which territory of the dissolved school district was attached approves,

by majority vote, the enrollment of the student. Notwithstanding section 282.24, the district of residence of the student, determined in the dissolution proposal, shall pay tuition to the school district selected by the student in an amount not to exceed the district cost per pupil of the district of residence and the school district selected by the student shall accept that tuition payment and enroll the student.

88 Acts, ch 1263, §5; 95 Acts, ch 218, §26
Referred to in §282.9, 291.6

275.56 Increasing enrollment.

If the enrollment of a school district increases or is expected to increase because an adjacent district has dissolved or is expected to dissolve, the board of directors of the school district shall determine whether there is a need to hire additional licensed or unlicensed employees. If the board of directors determines that there is a need to hire additional employees, the board shall determine the nature and number of the necessary new positions. Individuals who were employees of the dissolved district may apply for the new positions. The board shall hire those applicants who were employees of the dissolved district whenever the applicant is licensed for the new position or, in the case of unlicensed personnel, is otherwise qualified. If two employees of the dissolved district apply for a single licensed position, the applicant who is best qualified in the opinion of the board shall be hired. The board is not required to hire applicants who were employees of the dissolved district if the district has been dissolved for one or more school years. Applicants who are reemployed under this section shall maintain in the reemploying district vacation, salary or alternatively placement on a salary schedule based on the employee's years of experience, sick leave, and completion of probationary status as defined by section 279.19.

[C81, §275.56]

89 Acts, ch 265, §40; 2012 Acts, ch 1023, §157

275.57 Changing director district boundaries following dissolution.

1. If a school district accepting attachments of a dissolved district is currently divided into director districts as provided in section 275.12, subsection 2, paragraph "b", "c", "d", or "e", the board of directors of the district shall draft a proposal to incorporate the newly received territory into existing contiguous director districts. If the attached territory is contiguous to more than one director district, the board may divide the territory and attach it to more than one director district. If necessary to comply with the population equality standards prescribed in section 275.23A, the board shall redraw the boundaries of all director districts according to the standards provided in section 275.23A, subsection 1, paragraphs "a", "c", and "d".

2. A public hearing on the proposed changes to director districts shall be held no later than May 15 following the dissolution. Not less than ten nor more than twenty days before the public hearing, the board shall publish notice of the time and place of the hearing.

3. The final plan for the assignment of attached lands and any other boundary changes made shall be adopted by resolution of the board. The resolution shall contain a legal description of the new director district boundaries and a map of the director district boundaries changed by the resolution. A copy of the resolution shall be filed with the county commissioners of elections of each county in which a portion of the school district is located. The resolution shall also be filed with the state commissioner of elections not later than June 15. The boundary changes shall take effect upon approval by the state commissioner of elections for the next regular school election, but not later than July 1.

2002 Acts, ch 1134, §88, 115

Referred to in §256.11

275.58 Reserved.

275.59 Early retirement following school reorganization or dissolution. Repealed by 92 Acts, ch 1246, §60.

CHAPTER 276

COMMUNITY EDUCATION

Referred to in §274.3, 300.4

276.1	Title.	276.8	Duties of district-wide advisory council.
276.2	Purpose.	276.9	Duties of local advisory council.
276.3	Definitions.	276.10	Establishment of program.
276.4	State consultant.	276.11	Funding of community education concept.
276.5	Local director.	276.12	Use of special tax levy.
276.6	and 276.7 Repealed by 86 Acts, ch 1245, §1499A.		

276.1 Title.

Sections 276.1 to 276.11 of this chapter shall be known and may be cited as the “*Iowa Community Education Act*”.

[C79, 81, §276.1]

Referred to in §276.3

276.2 Purpose.

It is the purpose of this chapter to provide educational, recreational, cultural, and other community services and programs through the establishment of the concept of community education with the community school serving as the center for such activity. In cooperation with other community agencies and groups, it is the purpose of the community education Act to mobilize community resources to solve identified community concerns and to promote a more efficient and expanded use of existing school buildings and equipment, to provide leadership in working with other entities, to mobilize the human and financial resources of a community, and to provide a wide range of opportunities for all socioeconomic, ethnic, and age groups. A related purpose of this chapter is to develop a sense of community in which the citizenry cooperates with the school and community agencies and groups to resolve their school and community concerns and to recognize that the schools belong to the people, and that as the entity located in every neighborhood, the schools are available for use by the community day and night, year-round or any time when the programming will not interfere with the elementary and secondary program.

[C79, 81, §276.2]

Referred to in §276.1, 276.3

276.3 Definitions.

As used in sections 276.1 to 276.11 unless the context otherwise requires:

1. “*Board*” means the local board of directors of school districts.
2. “*Community*” means the area located within the boundaries of the local school district.
3. “*Community education*” means a lifelong education process concerning itself with every facet that affects the well-being of all citizens within a given community and serves all of the following purposes:
 - a. To extend the role of the school from one of teaching children through an elementary and secondary program to one of providing for citizen participation in identifying the wants, needs, and concerns of the neighborhood community and coordinating all educational, recreational, and cultural opportunities within the community with community education being the catalyst for providing for citizen participation in the development and implementation of programs toward the goal of improving the entire community.
 - b. To energize people to strive for the achievement of determined goals and stimulate capable persons to assume leadership responsibilities.
 - c. To welcome and work with all groups without drawing any lines.
 - d. To serve as the one institution in the entire community that has the opportunity to reach all people and groups and to gain their cooperation.
4. “*Community school*” means any elementary or secondary school.
5. “*Department*” means the department of education.

6. “*Director*” means the local community school director who assumes responsibility for making the process function effectively.

7. “*District-wide advisory council*” means a broadly representative group of persons selected from the entire school district with at least one representative from each of the local advisory councils after they are formed. At least one member of the council shall be a representative from the local public recreation department or agency, if one exists.

8. “*Local advisory council*” means a broadly representative group of persons living within the attendance boundaries of an individual neighborhood school.

9. “*State consultant*” means the state community education consultant.

[C79, 81, §276.3]

86 Acts, ch 1245, §1466; 2010 Acts, ch 1069, §77

Referred to in §276.1

276.4 State consultant.

The state consultant of community education shall serve district and local advisory councils in accordance with rules promulgated by the director of the department of education and in compliance with Pub. L. No. 93-380.

[C79, 81, §276.4]

85 Acts, ch 212, §21

Referred to in §276.1, 276.3

276.5 Local director.

The local community education director shall:

1. Serve as staff person to district-wide and local advisory councils.
2. Promote, publicize, and interpret the community education programs to the schools and community.
3. Facilitate community needs and resources after adequate assessment.
4. Seek ideas, promote people involvement in the process, and open lines of communication and coordination.
5. Stimulate planning to meet needs.
6. Schedule community-use hours available in school-plant facilities and related equipment and coordinate such use with building principals or designated representatives.
7. Prepare the community education budget in concert and with approval of the district-wide advisory council, and administer the budget after final approval by the board of directors.

[C79, 81, §276.5]

Referred to in §276.1, 276.3

276.6 and 276.7 Repealed by 86 Acts, ch 1245, §1499A.

276.8 Duties of district-wide advisory council.

The district-wide advisory council shall:

1. Provide guidance to local advisory councils, training and orientation for community persons, evaluation and assessment of needs and delivery systems for school districts.
2. Develop a “sense of total community” and promote democratic thinking and action.
3. Promote meaningful involvement of total community in the identifying, prioritizing, and resolving of school-community concerns.
4. Serve as an advocate of community education and foster community cooperation.
5. Provide an annual budget recommendation and annual report to the local board of education.
6. Mobilize available human and financial resources of the community to meet needs, interests, and concerns of people in the total community.
7. Make school facilities and resources available to all age groups from the total community, day and night, year round.
8. Facilitate the assessment of community-wide needs with the understanding that local advisory councils will manage their own assessments of needs.

9. Provide support and act as a resource group for local advisory councils and the community education director.

10. Help plan and recommend a community education budget for approval by the local board of education.

11. Recommend to the board, regulations, guidelines, and fees, if any, for facility usage.

12. Define short and long-range community education goals and objectives.

13. Communicate through inquiring, informing, suggesting, recommending and evaluating community education for the community.

14. Cooperate with other agencies and organizations including the community colleges and institutions under the control of the state board of regents toward common goals.

15. Perform the functions of the local advisory council in the event that the board determines that the size of the district does not warrant the establishment of a local advisory council.

[C79, 81, §276.8]

Referred to in §276.1, 276.3

276.9 Duties of local advisory council.

The local advisory council shall:

1. Determine needs and priorities and provide programs to serve the needs of the community located within the attendance boundaries of an individual school.

2. Provide programming which is available to any community resident.

3. Promote meaningful involvement of the total neighborhood community in its identification and resolution of school and community concerns.

4. Mobilize available human and financial resources of the community to meet the wants and needs in that neighborhood community.

5. Use existing programs and community resources for delivery of services whenever feasible.

6. Use funds as allocated by district-wide advisory council after budget approval by board.

7. Evaluate the success of programs in meeting needs, interests, and concerns and in resolving responsible needs and concerns.

[C79, 81, §276.9]

Referred to in §276.1, 276.3

276.10 Establishment of program.

1. The board of directors of a local school district may establish a community education program for schools in the district and provide for the general supervision of the program. Financial support for the program shall be provided from funds raised pursuant to chapter 300 and from any private funds and any federal funds made available for the purpose of implementing this chapter. The program which recognizes that the schools belong to the people and which shall be centered in the schools may include but shall not be limited to the use of the school facilities day and night, year round including weekends and regular school vacation periods for educational, recreational, cultural, and other community services and programs for all age, ethnic, and socioeconomic groups residing in the community.

2. If a community education program is established, the board shall appoint a community education director who shall have professional training in the field of community education, recreation, or comparable experience.

3. Upon establishment of a community education program, the board shall provide for the selection of a district-wide advisory council which shall be responsible to the board and shall cooperate with and assist the board and the local community education director. The board shall also provide for the selection of local advisory councils.

4. The board shall receive an annual report and budget recommendation from the district-wide advisory council and may request supplementary reports as needed.

5. The school districts may cooperate with community colleges, institutions under the control of the state board of regents, and area education agencies in providing community education programs.

6. The board may use opportunities available under Pub. L. No. 93-380.

7. The board may approve cooperation and pooling of funds with other school districts.
 [C79, 81, §276.10]
 90 Acts, ch 1253, §121; 2006 Acts, ch 1010, §81
 Referred to in §276.1, 276.3

276.11 Funding of community education concept.

Residents of the affected school district shall determine if community education will function in their community by providing for funding pursuant to chapter 300.
 [C79, 81, §276.11]
 Referred to in §276.1, 276.3

276.12 Use of special tax levy.

If the voters of a school district have approved the levying of a tax pursuant to section 300.2 prior to July 7, 1978, moneys collected pursuant to the voted tax levy after said date may be used for community education programs.
 [C79, 81, §276.12]

CHAPTER 277

SCHOOL ELECTIONS

Referred to in §274.3, 274.40

277.1	Regular election.	277.22	Contested elections.
277.2	Elections on public measures.	277.23	Directors — number — change.
277.3	Election laws applicable.	277.24	Reserved.
277.4	Nominations required.	277.25	Directors in new districts.
277.5	Objections to nominations.	277.26	Reserved.
277.6	Territory outside county.	277.27	Qualification.
	Repealed by 2017 Acts, ch	277.28	Oath required.
	155, §43, 44.	277.29	Vacancies.
277.7	Petitions for public measures.	277.30	Vacancies filled by election.
277.8	through 277.19 Reserved.	277.31	Surrendering office.
277.20	Canvassing returns.	277.32	Penalties.
277.21	Reserved.		

277.1 Regular election.

The regular election shall be held biennially on the first Tuesday after the first Monday in November of each odd-numbered year in each school district for the election of officers of the district and merged area and for the purpose of submitting to the voters any matter authorized by law.
 [C51, §1111, 1114; R60, §2027, 2030, 2031; C73, §1717 – 1719; C97, §2746, 2751; C24, §4194, 4211; C27, §4194, 4211, 4216-b1; C31, 35, §4216-c1; C39, §4216.01; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §277.1]
 83 Acts, ch 101, §63; 2008 Acts, ch 1115, §18, 21; 2017 Acts, ch 155, §8 – 10
 Referred to in §39.3, 260C.15, 423E3, 423F4

277.2 Elections on public measures.

Unless otherwise stated, the date of an election on a public measure authorized to be held by a school district is limited to the dates specified in section 39.2, subsection 4, paragraph “c”.
 [C97, §2750; S13, §2750; C24, 27, §4197; C31, 35, §4216-c2; C39, §4216.02; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §277.2]
 89 Acts, ch 135, §70; 2008 Acts, ch 1115, §45, 71

277.3 Election laws applicable.

The provisions of chapters 39 through 53 shall apply to the conduct of all school elections and the school elections shall be conducted by the county commissioner of elections, except as otherwise specifically provided in this chapter.

[C97, §2754; S13, §2754; C24, 27, §4204; C31, 35, §4216-c33; C39, §4216.33; C46, 50, 54, 58, 62, 66, 71, 73, 75, §277.33; C77, 79, 81, §277.3]

2020 Acts, ch 1063, §126

Referred to in §275.25

Section amended

277.4 Nominations required.

1. Nomination papers for all candidates for election to office in each school district shall be filed with the secretary of the school board not more than seventy-one days nor less than forty-seven days before the election. Nomination petitions shall be filed not later than 5:00 p.m. on the last day for filing. If the school board secretary is not readily available during normal office hours, the secretary may designate a full-time employee of the school district who is ordinarily available to accept nomination papers under this section. On the final date for filing nomination papers the office of the school secretary shall remain open until 5:00 p.m.

2. *a.* Each candidate shall be nominated by petition. If the candidate is running for a seat in the district which is voted for at-large, the petition must be signed by the greater of at least ten eligible electors or a number of eligible electors equal in number to not less than one percent of the registered voters of the school district, which number need not be more than fifty. If the candidate is running for a seat which is voted for only by the voters of a director district, the petition must be signed by the greater of at least ten eligible electors of the director district or a number of eligible electors equal in number to not less than one percent of the registered voters in the director district, which number need not be more than fifty.

b. Signers of nomination petitions shall include their addresses and the date of signing, and must reside in the same director district as the candidate if directors are elected by the voters of a director district, rather than at-large. A person may sign nomination petitions for more than one candidate for the same office, and the signature is not invalid solely because the person signed nomination petitions for one or more other candidates for the office. The petition shall be filed with the affidavit of the candidate being nominated, stating the candidate's name, place of residence, that such person is a candidate and is eligible for the office the candidate seeks, and that if elected the candidate will qualify for the office. The affidavit shall also state that the candidate is aware that the candidate is disqualified from holding office if the candidate has been convicted of a felony or other infamous crime and the candidate's rights have not been restored by the governor or by the president of the United States.

3. The secretary of the school board shall accept the petition for filing if on its face it appears to have the requisite number of signatures and if it is timely filed. The secretary of the school board shall note upon each petition and affidavit accepted for filing the date and time that the petition was filed. The secretary of the school board shall deliver all nomination petitions, together with the complete text of any public measure being submitted by the board to the electorate, to the county commissioner of elections on the day following the last day on which nomination petitions can be filed, and not later than 12:00 noon on that day.

4. Any person on whose behalf nomination petitions have been filed under this section may withdraw as a candidate by filing a signed statement to that effect with the secretary at any time prior to 5:00 p.m. on the thirty-fifth day before the election.

[S13, §2754; C24, §4201; C27, §4201, 4216-b4, -b5; C31, 35, §4216-c4; C39, §4216.04; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §277.4]

87 Acts, ch 221, §32; 88 Acts, ch 1119, §32; 89 Acts, ch 136, §63; 90 Acts, ch 1238, §35; 93 Acts, ch 143, §45; 94 Acts, ch 1180, §42; 95 Acts, ch 189, §19; 97 Acts, ch 170, §84; 98 Acts, ch 1052, §6; 2004 Acts, ch 1088, §1; 2010 Acts, ch 1033, §38; 2010 Acts, ch 1061, §180; 2017 Acts, ch 155, §38, 44; 2019 Acts, ch 148, §55

Referred to in §49.31, 275.25, 277.20, 279.6, 279.7

277.5 Objections to nominations.

1. Objections to the legal sufficiency of a nomination petition or to the eligibility of a candidate may be filed by any person who would have the right to vote for a candidate for the office in question. The objection must be filed with the secretary of the school board at least forty-two days before the day of the school election. When objections are filed notice shall forthwith be given to the candidate affected, addressed to the candidate's place of residence as given on the candidate's affidavit, stating that objections have been made to the legal sufficiency of the petition or to the eligibility of the candidate, and also stating the time and place the objections will be considered.

2. Objections shall be considered not later than two working days following the receipt of the objections by the president of the school board, the secretary of the school board, and one additional member of the school board chosen by ballot. If objections have been filed to the nominations of either of those school officials, that official shall not pass on the objection. The official's place shall be filled by a member of the school board against whom no objection exists. The replacement shall be chosen by ballot.

88 Acts, ch 1119, §33; 94 Acts, ch 1180, §43; 2017 Acts, ch 155, §39, 44; 2019 Acts, ch 24, §104

Referred to in §277.7

277.6 Territory outside county. Repealed by 2017 Acts, ch 155, §43, 44.

277.7 Petitions for public measures.

1. A petition filed with the school board to request an election on a public measure shall be examined before it is accepted for filing. If the petition appears valid on its face it shall be accepted for filing. If it lacks the required number of signatures it shall be returned to the petitioners.

2. Petitions which have been accepted for filing are valid unless written objections are filed. Objections must be filed with the secretary of the school board within five working days after the petition was filed. The objection process in section 277.5 shall be followed for objections filed pursuant to this section.

94 Acts, ch 1180, §44; 2019 Acts, ch 24, §104

277.8 through 277.19 Reserved.

277.20 Canvassing returns.

1. The canvass of returns shall be conducted pursuant to section 50.24. Special elections held in school districts shall be canvassed at the time and in the manner required by section 50.24. The appropriate board of supervisors shall declare the results of the voting for members of boards of directors of school corporations nominated pursuant to section 277.4, and the commissioner of elections or controlling commissioner for the district shall at once issue a certificate of election to each person declared elected. The appropriate board shall also declare the results of the voting on any public question submitted to the voters of a single school district, and the commissioner or controlling commissioner shall certify the result as required by section 50.27.

2. The abstracts of the votes cast for members of the board of directors of any merged area, and of the votes cast on any public question submitted to the voters of any merged area, shall be promptly certified by the county commissioner of elections to the merged area's controlling county commissioner under section 47.2.

[C97, §2756; S13, §2756; C24, §4210; C27, §4210, 4211-b6; C31, 35, §4216-c20; C39, §4216.20; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §277.20]

2017 Acts, ch 155, §40, 44; 2019 Acts, ch 24, §104

Referred to in §260C.15, 331.383

277.21 Reserved.

277.22 Contested elections.

School elections may be contested as provided by law for the contesting of other elections.

[C24, 27, §4209; C31, 35, §4216-c22; C39, §4216.22; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §277.22]

Contesting elections, chapter 57 et seq.

277.23 Directors — number — change.

1. In any district including all of a city of fifteen thousand or more population and in any district in which the voters, or the board as provided in section 275.23A, subsection 2, have authorized seven directors, the board shall consist of seven members; in all other districts the board shall consist of five members.

2. A change from five to seven directors shall be effected in a district at the first regular election after authorization by the voters or the board, or after a district first includes all of a city of fifteen thousand or more population, in the manner described in section 275.37.

[C51, §1112; R60, §2031, 2035, 2075; C73, §1720, 1721, 1808; C97, §2752, 2754; S13, §2752, 2754; C24, §4198, 4212; C27, §4198, 4211-b3, -b5; C31, 35, §4216-c23; C39, §4216.23; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §277.23]

2002 Acts, ch 1024, §2, 3; 2002 Acts, ch 1134, §89, 115; 2003 Acts, ch 44, §57

Referred to in §275.23A, 275.25

277.24 Reserved.**277.25 Directors in new districts.**

At the first election in newly organized districts the directors shall be elected as follows:

1. In districts having three directors, two directors shall be elected for two years, and one for four years.

2. In districts having five directors, three shall be elected for two years, and two for four years.

3. In districts having seven directors, four shall be elected for two years, and three for four years.

[C73, §1802; C97, §2754; S13, §2754; C24, 27, §4199; C31, 35, §4216-c25; C39, §4216.25; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §277.25]

2008 Acts, ch 1115, §19, 21

277.26 Reserved.**277.27 Qualification.**

A member of the board shall, at the time of election or appointment, be an eligible elector of the corporation or subdistrict. Notwithstanding any contrary provision of the Code, a member of the board of directors of a school district shall not receive compensation directly from the school board unless the compensation is for part-time or temporary employment and does not exceed the limitation set forth in section 279.7A.

[C97, §2748; C24, 27, §4213; C31, 35, §4216-c27; C39, §4216.27; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §277.27]

87 Acts, ch 224, §46; 88 Acts, ch 1038, §2; 2001 Acts, ch 53, §1

277.28 Oath required.

1. Each director elected at a regular district or director district election shall qualify by taking the oath of office on or before the time set for the organization meeting of the board and the election and qualification entered of record by the secretary. The oath may be administered by any qualified member of the board or the secretary of the board and may be taken in substantially the following form:

Do you solemnly swear that you will support the Constitution of the United States and the Constitution of the State of Iowa and that you will faithfully and impartially to the best of your ability discharge the duties of the office of (naming the office) in (naming the district) as now or hereafter required by law?

2. If the oath of office is taken elsewhere than in the presence of the board in session it may be administered by any officer listed in sections 63A.1 and 63A.2 and shall be subscribed to by the person taking it in substantially the following form:

I,, do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of Iowa and that I will faithfully and impartially to the best of my ability discharge the duties of the office of (naming the office) in (naming the district) as now or hereafter required by law.

3. Such oath shall be properly verified by the administering officer and filed with the secretary of the board.

[C51, §1113, 1120; R60, §2032, 2079; C73, §1752, 1790; C97, §2758; S13, §2758; C24, 27, §4214; C31, 35, §4216-c28; C39, §4216.28; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §277.28]

88 Acts, ch 1038, §3; 2010 Acts, ch 1061, §98
Referred to in §260C.15, 273.8, 279.3, 279.6, 279.7

277.29 Vacancies.

Failure to elect at the proper election or to appoint within the time fixed by law or the failure of the officer elected or appointed to qualify within the time prescribed by law; the incumbent ceasing for any reason to be a resident of the district or removing residence from the subdistrict; the resignation or death of incumbent or of the officer-elect; the removal of the incumbent from, or forfeiture of, the office, or the decision of a competent tribunal declaring the office vacant; the conviction of incumbent of a felony, as defined in section 701.7, or of any public offense involving the violation of the incumbent's oath of office, shall constitute a vacancy.

[C31, 35, §4216-c29; C39, §4216.29; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §277.29]
86 Acts, ch 1112, §10; 86 Acts, ch 1238, §12
Referred to in §260C.11, 273.8, 273.23

277.30 Vacancies filled by election.

When vacancies are to be filled by election, the provisions of sections 279.6 and 279.7 shall control.

[C73, §1802; C97, §2754; S13, §2754; C24, 27, §4199; C31, 35, §4216-c30; C39, §4216.30; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §277.30]
2015 Acts, ch 140, §55, 58, 59

277.31 Surrendering office.

Each school officer or member of the board upon the termination of the officer or member's term of office shall immediately surrender to the successor all books, papers, and moneys pertaining or belonging to the office, taking a receipt therefor.

[R60, §2080; C73, §1791; C97, §2770; C24, 27, §4215; C31, 35, §4216-c31; C39, §4216.31; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §277.31]

277.32 Penalties.

Any school officer willfully violating any law relative to public or accredited nonpublic schools, or willfully failing or refusing to perform any duty imposed by law, shall forfeit and pay into the treasury of the particular school corporation in which the violation occurs the

sum of twenty-five dollars, action to recover which shall be brought in the name of the proper school corporation, and be applied to the use of the schools therein.

[C51, §1137; R60, §2047, 2081; C73, §1746, 1786; C97, §2822; C24, 27, §4216; C31, 35, §4216-c32; C39, §4216.32; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §277.32]
 2018 Acts, ch 1026, §95

CHAPTER 278 POWERS OF ELECTORS

Referred to in §274.3

278.1	Enumeration — extended time contracts.	278.3	Power given electors not to limit directors' power.
278.2	Submission of proposition.		

278.1 Enumeration — extended time contracts.

1. The voters at the regular election shall have power to:
 - a. Direct a change of textbooks regularly adopted.
 - b. Except when restricted by section 297.25, direct the sale, lease, or other disposition of any schoolhouse or school site or other property belonging to the corporation, and the application to be made of the proceeds thereof. However, nothing in this section shall be construed to prevent the sale, lease, exchange, gift, or grant and acceptance of any interest in real or other property of the corporation to the extent authorized in section 297.22.
 - c. Determine upon additional branches that shall be taught.
 - d. Instruct the board that school buildings may or may not be used for meetings of public interest.
 - e. Direct the transfer of any surplus in the debt service fund, physical plant and equipment levy fund or other capital project funds, or public education and recreation levy fund to the general fund.
 - f. Authorize the board to obtain, at the expense of the corporation, roads for proper access to its schoolhouses.
 - g. Authorize a change to either five or seven directors. The proposition for the change shall specify the number of directors to be elected, and which of the methods of election authorized by section 275.12, subsection 2, is to be used if the change is approved by the voters.
 - h. Authorize a change in the method of conducting elections or in the number of directors as provided in sections 275.35 and 275.36. If a proposition submitted to the voters under this paragraph or paragraph “g” is rejected, it may not be resubmitted to the voters of the district in substantially the same form within the next three years; if it is approved, no other proposal may be submitted to the voters of the district under this paragraph or paragraph “g” within the next six years. The establishment or abandonment of director districts or a change in the boundaries of director districts shall be implemented as prescribed in section 275.37.
 - i. Change the name of the school district, without affecting its corporate existence, rights, or obligations, and subject to the requirements of section 274.6.
2.
 - a. The board may, with approval of sixty percent of the voters voting in an election in the school district, make extended time contracts not to exceed twenty years in duration for rental of buildings to supplement existing schoolhouse facilities; and where it is deemed advisable for buildings to be constructed or placed on real estate owned by the school district, these contracts may include lease-purchase option agreements, the amounts to be paid out of the physical plant and equipment levy fund. The election shall be held on a date specified in section 39.2, subsection 4, paragraph “c”.
 - b. Subject to paragraph “c”, before entering into a rental or lease-purchase option contract, authorized by the electors, the board shall first adopt plans and specifications for a building or buildings which it considers suitable for the intended use and also adopt a

form of rental or lease-purchase option contract. The board shall then invite bids thereon, by advertisement published once each week for two consecutive weeks, in a newspaper published in the county in which the building or buildings are to be located, and the rental or lease-purchase option contract shall be awarded to the lowest responsible bidder, but the board may reject any and all bids and advertise for new bids.

c. A contract for construction by a private party of property to be lease-purchased by a public school corporation is a contract for a public improvement as defined in section 26.2. If the estimated cost of the property to be lease-purchased that is renovated, repaired, or involves new construction exceeds the competitive bid threshold in section 26.3, the board shall comply with the competitive bidding requirements of section 26.3.

[C51, §1115; R60, §2028, 2033; C73, §1717, 1807; C97, §2749; C24, 27, 31, 35, 39, §4217; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §278.1]

89 Acts, ch 135, §71, 72; 94 Acts, ch 1029, §16, 17; 97 Acts, ch 170, §85; 2002 Acts, ch 1134, §90, 115; 2008 Acts, ch 1115, §46, 71; 2008 Acts, ch 1148, §1; 2009 Acts, ch 10, §1, 4; 2013 Acts, ch 88, §15; 2018 Acts, ch 1075, §7, 8, 12, 13; 2018 Acts, ch 1172, §71, 72

Referred to in §275.23A, 278.2, 278.3, 297.25, 298A.9, 298A.10
2018 amendments apply to lease-purchase contracts entered into on or after April 4, 2018; 2018 Acts, ch 1075, §12, 13; 2018 Acts, ch 1172, §71, 72

278.2 Submission of proposition.

1. The board may, and upon the written request of one hundred eligible electors or a number of electors which equals thirty percent of the number of electors who voted in the last regular school board election, whichever number is greater, shall, direct the county commissioner of elections to provide in the notice of the regular election for the submission of any proposition authorized by law to the voters. When the board has directed the commissioner to submit to the voters a proposition authorized by section 278.1, subsection 1, paragraph “g” or “h”, it shall not thereafter direct the commissioner to submit at the same election any other proposition under either of those paragraphs.

2. Petitions filed under this section shall be filed with the secretary of the school board at least seventy-five days before the date of the regular school election, if the question is to be included on the ballot at that election. The petition shall include the signatures of the petitioners, a statement of their place of residence, and the date on which they signed the petition.

[R60, §2028; C97, §2749; C24, 27, 31, 35, 39, §4218; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §278.2]

89 Acts, ch 30, §1; 89 Acts, ch 136, §64; 90 Acts, ch 1238, §36; 2008 Acts, ch 1115, §20, 21
Referred to in §275.36

278.3 Power given electors not to limit directors’ power.

The power vested in the electors by section 278.1 shall not affect or limit the power granted to the board of directors of a school district in section 297.7, subsection 2, and the authority granted in section 297.7, subsection 2, shall be construed as independent of the power vested in the electors by section 278.1.

[C75, 77, 79, 81, §278.3]

2014 Acts, ch 1092, §60

CHAPTER 279

DIRECTORS — POWERS AND DUTIES

Referred to in §55.1, 256F.4, 260C.14, 260C.39, 261E.9, 262.9, 272.12, 274.3, 284.3

For student search restrictions, see chapter 808A

279.1	Organization.	279.3	Appointment of secretary and treasurer.
279.2	Special meetings.	279.4	Quorum.

279.5	Temporary officers.	279.32	Compensation of officers.
279.6	Vacancies — qualification — tenure.	279.33	Annual settlements.
279.7	Vacancies filled by special election — qualification — tenure.	279.34	Motor vehicles required to operate on ethanol blended gasoline.
279.7A	Interest in public contracts prohibited — exceptions.	279.35	Publication of proceedings.
279.8	General rules — bonds of employees.	279.36	Publication procedures and fee.
279.8A	Traffic and parking.	279.37	Employment of counsel.
279.9	Use of tobacco, alcoholic beverages, or controlled substances.	279.38	Membership in association of school boards — audit.
279.9A	Student transfers — information sharing.	279.38A	Membership in other organizations — reporting requirements.
279.9B	Reports to juvenile authorities.	279.39	School buildings.
279.10	School year — beginning date — exemption.	279.40	Sick leave.
279.11	Number of schools — attendance — terms — classroom assignment.	279.41	Schoolhouses and sites sold — funds.
279.12	Contracts — teachers — insurance — educational leave.	279.42	Gifts to schools.
279.13	Contracts with teachers — automatic continuation — initial background investigations.	279.43	Reporting inappropriate teaching assignments.
279.14	Evaluation criteria and procedures.	279.44	Energy audits.
279.14A	Practitioner performance improvement program. Repealed by 2009 Acts, ch 54, §14.	279.45	Administrative expenditures.
279.15	Notice of termination — request for hearing.	279.46	Retirement incentives — tax.
279.16	Private hearing — decision — record.	279.47	Telecommunications — participation by school districts in database development.
279.17	Appeal by teacher to adjudicator. Repealed by 2017 Acts, ch 2, §47 – 49.	279.48	Equipment purchase.
279.18	Appeal by teacher to court.	279.49	Child care programs.
279.19	Probationary period.	279.50	Human growth and development instruction.
279.19A	Extracurricular contracts.	279.50A	Educational standards — agreements for mathematics and science units.
279.19B	Coaching endorsement and authorization.	279.51	Programs for at-risk children.
279.20	Superintendent — term — employment of support personnel.	279.51A	Classroom environment — behavioral challenges — reports of violence or assault.
279.21	Principals.	279.52	Optional funding of asbestos projects.
279.22	Residence of employees.	279.53	Loan proceeds.
279.23	Continuing contract for administrators.	279.54	School district income surtax. Repealed by 2000 Acts, ch 1072, §3.
279.23A	Evaluation criteria and procedures.	279.55	through 279.57 Repealed by 2016 Acts, ch 1036, §15.
279.24	Contract with administrators — automatic continuation or termination.	279.58	School dress code policies.
279.25	Discharge of administrator.	279.59	Access by associations.
279.26	Lease arrangements.	279.60	Assessments — access to data — reports.
279.27	Discharge of teacher.	279.61	Individual career and academic plan — report.
279.28	Insurance — supplies — textbooks.	279.62	Nonprofit school organizations.
279.29	Claims — investments.	279.63	Financial report.
279.30	Payments — exceptions.	279.64	Tax-sharing agreements.
279.31	Settlement with treasurer.	279.65	Student advancement policy — findings — supplemental strategies and educational services grant program. Repealed by 2008 Acts, ch 1181, §40.
		279.66	Discipline and personal conduct standards.
		279.67	Competitive living wage.
		279.68	Student progression — intensive reading instruction — reporting requirements.

279.69	School employees — background investigations.	279.71	Student online personal information protection.
279.70	Training on suicide prevention, adverse childhood experiences identification, and toxic stress response mitigation strategies.	279.72	Training on dyslexia.

279.1 Organization.

1. The board of directors of each school corporation shall meet and organize at the first regular meeting or at a special meeting called by the secretary of the board to organize the board in advance of the first regular meeting after the canvass for the regular school election at some suitable place to be designated by the secretary. Notice of the place and hour of the meeting shall be given by the secretary to each member and member-elect of the board.

2. Such organization shall be effected by the election of a president from the members of the board to serve for one year, and who shall be entitled to vote as a member.

[C51, §1119; R60, §2036; C73, §1721, 1722; C97, §2757; SS15, §2757; C24, 27, 31, 35, 39, §4220; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §279.1]

87 Acts, ch 224, §47; 90 Acts, ch 1238, §37; 2010 Acts, ch 1033, §39; 2019 Acts, ch 148, §56
Referred to in §275.37

279.2 Special meetings.

Such special meetings may be held as may be determined by the board, or called by the president, or by the secretary upon the written request of a majority of the members of the board, upon notice specifying the time and place, delivered to each member in person, or by registered letter, but attendance shall be a waiver of notice.

[C51, §1121; R60, §2036; C73, §1722; C97, §2757; SS15, §2757; C24, 27, 31, 35, 39, §4221; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §279.2]

279.3 Appointment of secretary and treasurer.

1. The board shall appoint a secretary who shall not be a teacher employed by the board but may be another employee of the board. The board shall also appoint a treasurer who may be another employee of the board. However, the board may appoint one person to serve as the secretary and the treasurer.

2. These officers shall be appointed from outside the membership of the board and the appointment and qualification shall be entered of record in the minutes of the secretary. They shall qualify within ten days following appointment by taking the oath of office in the manner required by section 277.28 and filing a bond as required by section 291.2 and shall hold office until their successors are appointed and qualified.

[C51, §1119; R60, §2035; C73, §1721; C97, §2757; SS15, §2757; C24, 27, 31, 35, 39, §4222; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §279.3; 82 Acts, ch 1012, §1]

85 Acts, ch 28, §1; 2001 Acts, ch 47, §1; 2003 Acts, ch 180, §30
Referred to in §291.2

279.4 Quorum.

A majority of the board of directors of any school corporation shall constitute a quorum for the transaction of business, but a less number may adjourn from time to time.

[C51, §1120; R60, §2037, 2038, 2079; C73, §1730, 1738; C97, §2758, 2771, 2772; S13, §2758, 2771, 2772; C24, 27, 31, 35, 39, §4223; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §279.4]

279.5 Temporary officers.

The board shall appoint a temporary president or secretary, in the absence of the regular officers.

[C51, §1120; R60, §2037, 2038, 2079; C73, §1730, 1738; C97, §2758, 2771, 2772; S13, §2758, 2771, 2772; C24, §4223; C27, 31, 35, §4223-a1; C39, §4223.1; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §279.5]

279.6 Vacancies — qualification — tenure.

1. a. Except as provided in paragraph “b” and subsection 2, vacancies occurring among

the officers or members of a school board shall be filled by the board by appointment. A person so appointed to fill a vacancy in an elective office shall hold office until a successor is elected and qualified at the next regular school election, unless there is an intervening special election for the school district, in which event a successor shall be elected at the intervening special election, in accordance with section 69.12. To fill a vacancy occurring among the members of a school board, the board shall publish notice in the manner prescribed by section 279.36, stating that the board intends to fill the vacancy by appointment but that the electors of the school district have the right to file a petition requiring that the vacancy be filled by a special election conducted pursuant to section 279.7. The board may publish notice in advance if a member of the board submits a resignation to take effect at a future date. The board may make an appointment to fill the vacancy after the notice is published or after the vacancy occurs, whichever is later.

b. (1) If within fourteen days after publication of a notice required pursuant to paragraph “a” for a vacancy that occurs more than one hundred eighty days before the next regular school election, or after the filing period closes pursuant to section 277.4, subsection 1, for the next regular school election, there is filed with the secretary of the school board a petition requesting a special election to fill the vacancy, an appointment to fill the vacancy is temporary until a successor is elected and qualified, and the board shall call a special election pursuant to section 279.7, to fill the vacancy for the remaining balance of the unexpired term.

(2) If within fourteen days after publication of a notice required pursuant to paragraph “a” for a vacancy that occurs one hundred eighty days or less but more than forty days before the next regular school election there is filed with the secretary of the school board a petition requesting to fill the vacancy by election, an appointment to fill the vacancy is temporary until a successor is elected and qualified, and the school board shall require that the remaining balance of the unexpired term be filled at the next regular school election.

(3) For a petition to be valid under this paragraph “b”, the petition must be signed by eligible electors equal in number to not less than one hundred or thirty percent of the number of voters at the last preceding regular school election, whichever is greater.

(4) Notwithstanding any requirement of this paragraph to the contrary, when the board is reduced below a quorum, the secretary of the board, or if there is no secretary, the area education agency administrator, shall call a special election in the district, subdistrict, or subdistricts, as the case may be, to fill the vacancies.

c. A person appointed to fill a vacancy in an appointive office shall hold such office for the residue of the unexpired term and until a successor is appointed and qualified. Any person so appointed shall qualify within ten days thereafter in the manner required by section 277.28.

2. A vacancy shall be filled at the next regular school election if a member of a school board resigns from the board not later than forty-five days before the election and the notice of resignation specifies an effective date at the beginning of the next term of office for elective school officials. The president of the board shall declare the office vacant as of the date of the next organizational meeting. Nomination papers shall be received for the unexpired term of the resigning member. The person elected at the next regular school election to fill the vacancy shall take office at the same time and place as the other elected school board members.

[C51, §1120; R60, §2037, 2038, 2079; C73, §1730, 1738; C97, §2758, 2771, 2772; S13, §2758, 2771, 2772; C24, §4223; C27, 31, 35, §4223-a2; C39, §4223.2; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §279.6]

2002 Acts, ch 1134, §91, 115; 2015 Acts, ch 140, §56, 58, 59; 2016 Acts, ch 1121, §9; 2017 Acts, ch 120, §10

Referred to in §275.25, 275.41, 277.30, 279.7

279.7 Vacancies filled by special election — qualification — tenure.

1. If a vacancy or vacancies occur among the elective officers or members of a school board and the remaining members of the board have not filled the vacancy within thirty days after the vacancy occurs or if a valid petition is submitted to the secretary of the board pursuant to section 279.6, subsection 1, or when the board is reduced below a quorum, the secretary of the board, or if there is no secretary, the area education agency administrator,

shall call a special election in the district, subdistrict, or subdistricts, as the case may be, to fill the vacancy or vacancies. The county commissioner of elections shall publish the notices required by law for special elections, and the election shall be held not sooner than thirty days nor later than forty days after the thirtieth day following the day the vacancy occurs. If the secretary fails for more than three days to call an election, the administrator shall call it.

2. An appointment by the board to fill any vacancy in an elective office on or after the day notice has been given for a special election to fill such vacancy as provided in this section shall be null and void.

3. In the case of a special election as provided in this section to fill a vacancy occurring among the elective officers or members of a school board before the expiration of a full term, the person so elected shall qualify within ten days from the final canvass of the election by the county board in the manner required by section 277.28 and shall hold office for the residue of the unexpired term and until a successor is elected, or appointed, and qualified.

4. Nomination petitions shall be filed in the manner provided in section 277.4, except that the petitions shall be filed not less than twenty-five days before the date set for the election.

[C51, §1120; R60, §2037, 2038, 2079; C73, §1730, 1738; C97, §2758, 2771, 2772; S13, §2758, 2771, 2772; C24, §4223; C27, 31, 35, §4223-b1; C39, §4223.3; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §279.7]

87 Acts, ch 48, §1; 89 Acts, ch 136, §65; 93 Acts, ch 67, §1; 2010 Acts, ch 1033, §40; 2015 Acts, ch 140, §57 – 59; 2016 Acts, ch 1121, §10; 2019 Acts, ch 148, §57

Referred to in §275.25, 275.41, 277.30, 279.6

279.7A Interest in public contracts prohibited — exceptions.

1. A member of the board of directors of a school corporation shall not have an interest, direct or indirect, in a contract for the purchase of goods, including materials and profits, and the performance of services for the director's school corporation. A contract entered into in violation of this section is void.

2. This section does not apply to contracts for the purchase of goods or services which benefit a director, or to compensation for part-time or temporary employment which benefits a director, if the benefit to the director does not exceed six thousand dollars in a fiscal year, and contracts made by a school board, upon competitive bid in writing, publicly invited and opened.

3. This section does not apply to a contract that is a bond, note, or other obligation of a school corporation if the contract is not acquired directly from the school corporation, but is acquired in a transaction with a third party, who may or may not be the original underwriter, purchaser, or obligee of the contract, or to a contract in which a director has an interest solely by reason of employment if the contract is made by competitive bid in writing, publicly invited and opened, or if the remuneration of employment will not be directly affected as a result of the contract and the duties of employment do not directly involve the procurement or preparation of any part of the contract.

4. The competitive bid qualification of this section does not apply to a contract for professional services not customarily awarded by competitive bid.

90 Acts, ch 1209, §2; 91 Acts, ch 258, §40; 2000 Acts, ch 1187, §1; 2001 Acts, ch 53, §2; 2003 Acts, ch 36, §1; 2019 Acts, ch 74, §1

Referred to in §277.27, 298A.15

279.8 General rules — bonds of employees.

1. The board shall make rules for its own government and that of the directors, officers, employees, teachers and pupils, and for the care of the schoolhouse, grounds, and property of the school corporation, and shall aid in the enforcement of the rules, and require the performance of duties imposed by law and the rules. The board shall include in its rules provisions regulating the loading and unloading of pupils from a school bus stopped on the highway during a period of reduced highway visibility caused by fog, snow or other weather conditions. The board shall have the authority to include in its rules provisions allowing school corporation employees to use school credit cards to pay for the actual and necessary expenses incurred in the performance of work-related duties.

2. Employees of a school corporation maintaining a high school who have the custody of funds belonging to the corporation or funds derived from extracurricular activities and other sources in the conduct of their duties, shall be required to furnish suitable bond indemnifying the corporation or any activity group connected with the school against loss, and employees who have the custody of property belonging to the corporation or any activity group connected with the school may be required to furnish such bond. Said bond or bonds may be in such form and penalty as the board may approve and the premiums on same shall be paid from the general fund of the corporation.

[R60, §2037; C97, §2772; S13, §2772; C24, 27, 31, 35, 39, §4224; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §279.8]

84 Acts, ch 1315, §35

Referred to in §279.9B, 279.22, 808A.1

279.8A Traffic and parking.

1. The board may make necessary rules to provide for the policing, control, and regulation of traffic and parking of vehicles and bicycles on school grounds. The rules may provide for the use of institutional roads, driveways, and grounds; registration of vehicles and bicycles; the designation of parking areas; the erection and maintenance of signs designating prohibitions or restrictions; the installation and maintenance of parking control devices; and assessment, enforcement, and collection of reasonable penalties for the violation of the rules.

2. Rules made under this section may be enforced under procedures adopted by the board. Penalties may be imposed for violation of the rules, including but not limited to a reasonable monetary penalty. The rules made under this section may also be enforced by the impoundment of vehicles and bicycles for violation of the rules. The board shall establish procedures for the determination of controversies in connection with the imposition of penalties. The procedures must require giving notice of the violation and the penalty prescribed and providing the opportunity for an administrative hearing.

3. The board may contract with a city or county to enforce rules made under this section by ordinance of the city or county, and shall consult with local government transportation officials to ensure that rules made pursuant to this section are not in conflict with city or county parking and traffic ordinances.

96 Acts, ch 1219, §70; 2017 Acts, ch 54, §76

279.9 Use of tobacco, alcoholic beverages, or controlled substances.

The rules shall prohibit the use of tobacco and the use or possession of alcoholic liquor, wine, or beer or any controlled substance as defined in section 124.101, subsection 5, by any student of the schools and the board may suspend or expel a student for a violation of a rule under this section.

[S13, §2772; C24, 27, 31, 35, 39, §4225; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §279.9]

94 Acts, ch 1131, §2

Referred to in §260C.14, 279.9A, 808A.1

279.9A Student transfers — information sharing.

The rules referred to in section 279.9 shall provide that upon the request of school officials of a school to which the student seeks to transfer or has transferred, school officials of the sending school shall provide an accurate record of any suspension or expulsion actions taken, and the basis for those actions taken, against the student under sections 279.9, 280.19A, 280.21B, 282.3, 282.4, and 282.5. The designated representative shall disclose this information only to those school employees whose duties require them to be involved with the student. For purposes of this section, “*school employees*” means persons employed by a nonpublic school or school district, or any area education agency staff member who provides services to a school or school district.

94 Acts, ch 1131, §3; 2013 Acts, ch 90, §68

279.9B Reports to juvenile authorities.

The rules adopted under section 279.8 shall require, once school officials have been notified by a juvenile court officer that a student attending the school is under supervision or has been placed on probation, that school officials shall notify the juvenile court of each unexcused absence or suspension or expulsion of the student.

97 Acts, ch 126, §37

279.10 School year — beginning date — exemption.

1. The school year for each school district and accredited nonpublic school shall begin on July 1 and the school calendar shall begin no sooner than August 23 and no later than the first Monday in December. The school calendar shall include not less than one hundred eighty days or one thousand eighty hours of instruction during the calendar year. The board of directors of a school district and the authorities in charge of an accredited nonpublic school shall determine the school start date for the school calendar in accordance with this subsection and shall set the number of days or hours of required attendance for the school year as provided in section 299.1, subsection 2, but the board of directors of a school district shall hold a public hearing on any proposed school calendar prior to adopting the school calendar. If the board of directors of a district or the authorities in charge of an accredited nonpublic school extends the school calendar because inclement weather caused the school district or accredited nonpublic school to temporarily close during the regular school calendar, the school district or accredited nonpublic school may excuse a graduating senior who has met district or school requirements for graduation from attendance during the extended school calendar. A school corporation may begin employment of personnel for in-service training and development purposes before the date to begin elementary and secondary school.

2. The board of directors of a school district and the authorities in charge of an accredited nonpublic school may apply to the department of education for authorization to maintain a year-round school calendar at an attendance center or school for students in prekindergarten through grade eight. However, a board shall hold a public hearing on any proposal relating to authorization for a year-round school calendar prior to submitting an application under this subsection to the department of education for approval.

a. The initial application for a year-round school calendar shall be submitted to the department of education not later than November 1 of the preceding school year. The department shall notify the board or the authorities of the approval or denial of an application not later than the next following January 15. The application may be approved for one or two years at a time. A board or the authorities in charge may reapply to renew an authorization by November 1 of the year prior to expiration of the authorization.

b. An attendance center or school authorized to maintain a year-round calendar must serve all students attending the school and shall not be limited based on student achievement or based on the trait or characteristic of the student as defined in section 280.28.

c. An attendance center or school authorized to maintain a year-round school calendar under this subsection shall provide at least ten days of instruction or the hourly equivalent during eleven of the twelve months of the school year. The period of time between instructional days shall not exceed six weeks.

d. A year-round school calendar authorized pursuant to this subsection is exempt from the school start date specified in subsection 1.

3. a. For the school year beginning July 1, 2020, and ending June 30, 2021, any instruction provided in accordance with a return-to-learn plan submitted by a school district or accredited nonpublic school to the department of education in response to a proclamation of a public health disaster emergency, issued by the governor pursuant to section 29C.6 and related to COVID-19, shall be deemed to meet the requirements of subsection 1, regardless of the nature, location, or medium of instruction if the return-to-learn plan contains the minimum number of days or hours as required by subsection 1. Any return-to-learn plan submitted by a school district or accredited nonpublic school must contain provisions for in-person instruction and provide that in-person instruction is the presumed method of instruction.

b. This subsection is repealed on July 1, 2021.

[R60, §2023, 2037; C73, §1724, 1727; C97, §2773; S13, §2773; C24, 27, 31, 35, 39, §4226; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §279.10]

83 Acts, ch 17, §1, 3, 4; 85 Acts, ch 6, §1, 2; 86 Acts, ch 1245, §1467; 88 Acts, ch 1087, §1; 88 Acts, ch 1259, §1; 90 Acts, ch 1272, §68; 94 Acts, ch 1020, §1; 2010 Acts, ch 1061, §180; 2013 Acts, ch 121, §81, 82, 85; 2014 Acts, ch 1003, §2; 2015 Acts, ch 31, §2, 3, 5; 2015 Acts, ch 138, §40, 52, 161; 2016 Acts, ch 1011, §44; 2020 Acts, ch 1107, §9

Referred to in §256.7, 256F.4, 257.17, 299.1
NEW subsection 3

279.11 Number of schools — attendance — terms — classroom assignment.

1. The board of directors shall determine the number of schools to be taught, divide the corporation into such wards or other divisions for school purposes as may be proper, determine the particular school which each child shall attend, and designate the period each school shall be held beyond the time required by law.

2. a. A parent or guardian of siblings may request of a school principal that the siblings be placed in the same classroom or in separate classrooms if the siblings are in the same grade level academically for kindergarten through grade five. The school principal in consultation with the siblings' classroom teachers for the prior school year, may recommend classroom placement to the parent or guardian. The school principal shall provide the placement requested by the parent or guardian, unless the school principal makes a classroom placement determination as provided under paragraph "b" or if the placement would require the school district to add an additional class at the siblings' grade level. A request made by a parent or guardian under this paragraph must be submitted to the school principal at the time of registration for classes or, if the siblings are enrolled in the school district after the school year commences, within fourteen days after the siblings' first day of attendance during the school year.

b. At the end of the initial grading period following the siblings' placement in the same classroom in accordance with paragraph "a", if the school principal, in consultation with the siblings' classroom teacher and parent or guardian, determines that placement in the same classroom is disruptive to the class, the school principal may assign one or more of the siblings to a different classroom.

c. For purposes of this subsection, "*disruptive to the class*" includes classroom placement of the siblings where it is determined that a sibling's behavior or actions are detrimental to other students' academic achievement or substantially interferes with other students' abilities to participate in or benefit from the services, activities, or privileges provided by the school.

d. A parent or guardian may appeal the assignment of siblings made by a school principal under this subsection to the board of directors of the school district.

[R60, §2023, 2037; C73, §1724, 1727; C97, §2773; S13, §2773; C24, 27, 31, 35, 39, §4227; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §279.11]

2019 Acts, ch 72, §1; 2020 Acts, ch 1062, §41

Subsection 2, paragraph a amended

279.12 Contracts — teachers — insurance — educational leave.

1. The board shall carry into effect any instruction from the regular election upon matters within the control of the voters, and shall elect all teachers and make all contracts necessary or proper for exercising the powers granted and performing the duties required by law, and may establish and pay all or any part thereof from school district funds the cost of group health insurance plans, nonprofit group hospital service plans, nonprofit group medical service plans, and group life insurance plans adopted by the board for the benefit of employees of the school district, but the board may authorize any subdirector to employ teachers for the school in the subdirector's subdistrict; but no such employment by a subdirector shall authorize a contract, the entire period of which is wholly beyond the subdirector's term of office.

2. The board may enter into an agreement pursuant to chapter 28E with another school district or an area education agency for the purpose of jointly procuring a group health insurance plan, nonprofit group hospital service plan, nonprofit group medical service plan,

or group life insurance plan for the benefit of the districts or agencies which are parties to the agreement. Such plan may include a cafeteria plan as defined in 26 C.F.R. §1.125-2T. An agreement entered into pursuant to this subsection shall not be construed to establish a multiple employer welfare arrangement as defined in section 3 of the federal Employee Retirement Income Security Act of 1974, 29 U.S.C. §1002, paragraph 40.

3. The board may approve a policy for educational leave for licensed school employees and for reimbursement for tuition paid by licensed school employees for courses approved by the board. The board of directors of a community college may approve a policy for educational leave for its instructors and for reimbursement for tuition paid by its instructors for courses approved by the board. For the purpose of this section, “*educational leave*” means a leave granted to an employee for the purpose of study including study in areas outside of a teacher’s area of specialization, travel, or other reasons deemed by the board to be of value to the school system.

[C73, §1723, 1757; C97, §2778; SS15, §2778; C24, 27, 31, 35, 39, §4228; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §279.12]

89 Acts, ch 265, §40; 95 Acts, ch 22, §1; 2002 Acts, ch 1047, §13, 20; 2017 Acts, ch 54, §76
Referred to in §262.9, 272.15, 273.22, 275.33

279.13 Contracts with teachers — automatic continuation — initial background investigations.

1. *a.* Contracts with teachers, which for the purpose of this section means all licensed employees of a school district and nurses employed by the board, excluding superintendents, assistant superintendents, principals, and assistant principals, shall be in writing and shall state the number of contract days, the annual compensation to be paid, and any other matters as may be mutually agreed upon. The contract may include employment for a term not exceeding the ensuing school year, except as otherwise authorized.

b. (1) Prior to entering into an initial contract with a teacher who holds a license other than an initial license issued by the board of educational examiners under chapter 272, the school district shall initiate a state criminal history record check of the applicant through the division of criminal investigation of the department of public safety, submit the applicant’s fingerprints to the division for submission to the federal bureau of investigation for a national criminal history record check, and review the sex offender registry information under section 692A.121 available to the general public, the central registry for child abuse information established under section 235A.14, and the central registry for dependent adult abuse information established under section 235B.5 for information regarding the applicant for employment as a teacher.

(2) The school district may charge the applicant a fee not to exceed the actual cost charged the school district for the state and national criminal history checks and registry checks conducted pursuant to subparagraph (1).

c. The contract is invalid if the teacher is under contract with another board of directors to teach during the same time period until a release from the other contract is achieved. The contract shall be signed by the president of the board, or by the superintendent if the board has adopted a policy authorizing the superintendent to sign teaching contracts, when tendered, and after it is signed by the teacher, the contract shall be filed with the secretary of the board before the teacher enters into performance under the contract.

2. The contract shall remain in force and effect for the period stated in the contract and shall be automatically continued for equivalent periods except as modified or terminated by mutual agreement of the board of directors and the teacher or as modified or terminated in accordance with the provisions specified in this chapter. A contract shall not be offered by the employing board to a teacher under its jurisdiction prior to March 15 of any year. A teacher who has not accepted a contract for the ensuing school year tendered by the employing board may resign effective at the end of the current school year by filing a written resignation with the secretary of the board. The resignation must be filed not later than the last day of the current school year or the date specified by the employing board for return of the contract, whichever date occurs first. However, a teacher shall not be required to return a contract to the board or to resign less than twenty-one days after the contract has been offered.

3. If the provisions of a contract executed or automatically renewed under this section conflict with a collective bargaining agreement negotiated under chapter 20 and effective when the contract is executed or renewed, the provisions of the collective bargaining agreement shall prevail.

4. For purposes of this section, sections 279.14, 279.15, 279.16, 279.19, and 279.27, unless the context otherwise requires, “teacher” includes the following individuals employed by a community college:

- a. An instructor, but does not include an adjunct instructor.
- b. A librarian, including those denoted as being a learning resource specialist or a media specialist.
- c. A counselor.

5. Notwithstanding the other provisions of this section, a temporary contract may be issued to a teacher for a period of up to six months. Notwithstanding the other provisions of this section, a temporary contract may also be issued to a teacher to fill a vacancy created by a leave of absence in accordance with the provisions of section 29A.28, which contract shall automatically terminate upon return from military leave of the former incumbent of the teaching position. Temporary contracts shall not be subject to the provisions of sections 279.15 through 279.19, or section 279.27. A separate extracurricular contract issued pursuant to section 279.19A to a person issued a temporary contract under this section shall automatically terminate with the termination of the temporary contract as required under section 279.19A, subsection 8.

[R60, §2055; C73, §1757; C97, §2778; SS15, §2778; C24, 27, 31, 35, 39, §4229; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §279.13]

89 Acts, ch 265, §40; 2001 Acts, ch 159, §10; 2003 Acts, ch 19, §1; 2003 Acts, ch 180, §31; 2007 Acts, ch 108, §11; 2007 Acts, ch 215, §102; 2008 Acts, ch 1181, §35, 36; 2009 Acts, ch 119, §40; 2009 Acts, ch 133, §103; 2017 Acts, ch 2, §28, 29, 48, 49

Referred to in §261.112, 262.9, 272.2, 272.15, 273.3, 273.22, 275.33, 279.16, 279.19A, 279.19B, 279.23, 279.43, 279.69, 284.2, 284.3A, 284.15, 284.16

For provisions relating to applicability of 2017 amendments to employment contracts of school employees under this chapter and collective bargaining agreements and procedures under chapter 20 before, on, or after February 17, 2017, see 2017 Acts, ch 2, §48, 49

279.14 Evaluation criteria and procedures.

1. The board shall establish evaluation criteria and evaluation procedures.
2. The determination of standards of performance expected of school district personnel shall be reserved as an exclusive management right of the school board and shall not be subject to mandatory negotiations under chapter 20. Objections to the procedures, use, or content of an evaluation in a teacher termination proceeding brought before the school board in a hearing held in accordance with section 279.16 or 279.27 shall not be subject to any grievance procedures negotiated in accordance with chapter 20.

[C77, 79, 81, §279.14]

98 Acts, ch 1215, §41; 98 Acts, ch 1216, §24; 2010 Acts, ch 1061, §47; 2017 Acts, ch 2, §30, 48, 49

Referred to in §262.9, 279.13, 279.16, 279.19B, 284.3

For provisions relating to applicability of 2017 amendment to employment contracts of school employees under this chapter and collective bargaining agreements and procedures under chapter 20 before, on, or after February 17, 2017, see 2017 Acts, ch 2, §48, 49

279.14A Practitioner performance improvement program. Repealed by 2009 Acts, ch 54, §14.

279.15 Notice of termination — request for hearing.

1. The superintendent or the superintendent’s designee shall notify the teacher not later than April 30 that the superintendent will recommend in writing to the board at a regular or special meeting of the board, held not later than May 15, that the teacher’s continuing contract be terminated effective at the end of the current school year. However, if the district is subject to reorganization under chapter 275, the notification shall not occur until after the first organizational meeting of the board of the newly formed district.

2. a. Notification of recommendation of termination of a teacher’s contract shall be in writing and shall be personally delivered to the teacher, or mailed by certified mail.

The notification shall be complete when received by the teacher. The notification and the recommendation to terminate shall contain a short and plain statement of the reasons, which shall be for just cause, why the recommendation is being made. The notification shall be given at or before the time the recommendation is given to the board.

b. As a part of the termination proceedings, the teacher's complete personnel file of employment by that board shall be available to the teacher, which file shall contain a record of all periodic evaluations between the teacher and appropriate supervisors.

c. Within five days of the receipt of the written notice that the superintendent is recommending termination of the contract, the teacher may request, in writing to the secretary of the board, a private hearing with the board. The private hearing shall not be subject to chapter 21 and shall be held no sooner than twenty days and no later than forty days following the receipt of the request unless the parties otherwise agree. The secretary of the board shall notify the teacher in writing of the date, time, and location of the private hearing, and at least ten days before the hearing shall also furnish to the teacher any documentation which may be presented to the board at the private hearing and a list of persons who may address the board in support of the superintendent's recommendation at the private hearing. At least seven days before the hearing, the teacher shall provide any documentation the teacher expects to present at the private hearing, along with the names of any persons who may address the board on behalf of the teacher. This exchange of information shall be at the time specified unless otherwise agreed.

[R60, §2055; C73, §1757; C97, §2778; SS15, §2778; C24, 27, 31, 35, 39, §4229; C46, 50, 54, 58, 62, 66, 71, 73, 75, §279.13; C77, 79, 81, §279.15]

86 Acts, ch 1239, §4; 91 Acts, ch 174, §7; 92 Acts, ch 1227, §18; 2010 Acts, ch 1061, §180; 2017 Acts, ch 2, §31, 48, 49

Referred to in §260C.39, 262.9, 272.15, 273.22, 275.33, 279.13, 279.16, 279.19, 279.19B, 279.27, 284.8

For provisions relating to applicability of 2017 amendment to employment contracts of school employees under this chapter and collective bargaining agreements and procedures under chapter 20 before, on, or after February 17, 2017, see 2017 Acts, ch 2, §48, 49

279.16 Private hearing — decision — record.

1. The participants at the private hearing shall be at least a majority of the members of the board and their legal representatives, if any, and the witnesses for the parties. The superintendent, the superintendent's designated representatives, if any, the teacher's immediate supervisor, the teacher, and the teacher's representatives, if any, may participate in the hearing as well. The evidence at the private hearing shall be limited to the specific reasons stated in the superintendent's notice of recommendation of termination. A participant in the hearing shall not be liable for any damages to any person if any statement at the hearing is determined to be erroneous as long as the statement was made in good faith. The superintendent shall present evidence and argument on all issues involved and the teacher may cross-examine, respond, and present evidence and argument in the teacher's behalf relevant to all issues involved. Evidence may be by stipulation of the parties and informal settlement may be made by stipulation, consent, or default or by any other method agreed upon by the parties in writing. The board shall keep a record of the private hearing. The proceedings or any part thereof shall be transcribed at the request of either party with the expense of transcription charged to the requesting party.

2. The presiding officer of the board may administer oaths in the same manner and with like effect and under the same penalties as in the case of magistrates exercising criminal or civil jurisdiction.

3. The board shall not be bound by common law or statutory rules of evidence or by technical or formal rules of procedure, but it shall hold the hearing in such manner as is best suited to ascertain and conserve the substantial rights of the parties. Process and procedure under sections 279.13 through 279.15, this section, and sections 279.18 and 279.19 shall be as summary as reasonably may be.

4. If the teacher fails to timely request a private hearing or does not appear at the private hearing, the board may proceed and make a determination upon the superintendent's recommendation. The board shall convene in open session and by roll call vote determine the termination or continuance of the teacher's contract and, if the board votes to continue

the teacher's contract, whether to suspend the teacher with or without pay for a period specified by the board or issue the teacher a one-year, nonrenewable contract.

5. Within five days after the private hearing, the board shall, in executive session, meet to make a final decision upon the recommendation and the evidence as herein provided.

6. *a.* The record for a private hearing shall include:

- (1) All pleadings, motions, and intermediate rulings.
- (2) All evidence received or considered and all other submissions.
- (3) A statement of all matters officially noticed.
- (4) All questions and offers of proof, objections, and rulings thereon.
- (5) All findings and exceptions.
- (6) Any decision, opinion, or conclusion by the board.

b. The decision of the board shall be based solely on the evidence in the record and on matters officially noticed in the record.

7. The decision of the board shall be in writing.

8. When the board has reached a decision, opinion, or conclusion, it shall convene in open meeting and by roll call vote determine the continuance or discontinuance of the teacher's contract and, if the board votes to continue the teacher's contract, whether to suspend the teacher with or without pay for a period specified by the board or issue the teacher a one-year, nonrenewable contract. The record of the private hearing and written decision of the board shall be exempt from the provisions of chapter 22. The secretary of the board shall immediately mail notice of the board's action to the teacher.

[C77, 79, 81, §279.16]

92 Acts, ch 1008, §1; 92 Acts, ch 1227, §19; 2001 Acts, ch 62, §1; 2017 Acts, ch 2, §32, 33, 48, 49; 2018 Acts, ch 1026, §96; 2019 Acts, ch 24, §37

Referred to in §260C.39, 262.9, 272.15, 273.22, 275.33, 279.13, 279.14, 279.19, 279.19B, 279.27

For provisions relating to applicability of 2017 amendments to employment contracts of school employees under this chapter and collective bargaining agreements and procedures under chapter 20 before, on, or after February 17, 2017, see 2017 Acts, ch 2, §48, 49

279.17 Appeal by teacher to adjudicator. Repealed by 2017 Acts, ch 2, §47 – 49.

For provisions relating to applicability of 2017 repeal to employment contracts of school employees under this chapter and collective bargaining agreements and procedures under chapter 20 before, on, or after February 17, 2017, see 2017 Acts, ch 2, §48, 49

279.18 Appeal by teacher to court.

1. If a teacher rejects the board's decision, the teacher shall, within thirty days of the initial filing of such decision, appeal to the district court of the county in which the administrative office of the school district is located. The notice of appeal shall be immediately mailed by certified mail to the board. The secretary of the board shall transmit to the reviewing court the original or a certified copy of the entire record which may be the subject of the petition. By stipulation of all parties to the review proceedings, the record of such a case may be shortened. A party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional cost. The court may require or permit subsequent corrections or additions to the shortened record.

2. In proceedings for judicial review of the board's decision, the court shall not hear any further evidence but shall hear the case upon the certified record. In such judicial review, especially when considering the credibility of witnesses, the court shall give weight to the decision of the board, but shall not be bound by it. The court may affirm the board's decision or remand to the board for further proceedings upon conditions determined by the court. The court shall reverse, modify, or grant any other appropriate equitable or legal relief from the board decision, including declaratory relief, if substantial rights of the petitioner have been prejudiced because the action is any of the following:

- a.* In violation of constitutional or statutory provisions.
- b.* In excess of the statutory authority of the board.
- c.* In violation of a board rule or policy or contract.
- d.* Made upon unlawful procedure.
- e.* Affected by other error of law.

f. Unsupported by a preponderance of the competent evidence in the record made before the board when that record is viewed as a whole.

g. Unreasonable, arbitrary, or capricious or characterized by an abuse of discretion or a clearly unwarranted exercise of discretion.

3. An aggrieved or adversely affected party to the judicial review proceeding may obtain a review of any final judgment of the district court by appeal to the supreme court. The appeal shall be taken as in other civil cases, although the appeal may be taken regardless of the amount involved.

4. For purposes of this section, unless the context otherwise requires, “teacher” shall include but not be limited to an instructor employed by a community college.

[C77, 79, 81, §279.18]

2002 Acts, ch 1047, §15; 2017 Acts, ch 2, §34, 48, 49

Referred to in §260C.39, 262.9, 272.15, 273.22, 275.33, 279.13, 279.16, 279.19B, 279.27

For provisions relating to applicability of 2017 amendment to employment contracts of school employees under this chapter and collective bargaining agreements and procedures under chapter 20 before, on, or after February 17, 2017, see 2017 Acts, ch 2, §48, 49

279.19 Probationary period.

1. The first three consecutive years of employment of a teacher in the same school district are a probationary period. However, if the teacher has successfully completed a probationary period of employment for another school district located in Iowa, the probationary period in the current district of employment shall not exceed two years. A board of directors may waive the probationary period for any teacher who previously has served a probationary period in another school district and the board may extend the probationary period for an additional year with the consent of the teacher.

2. In the case of the termination of a probationary teacher’s contract, the contract may be terminated by the board of directors effective at the end of a school year without cause. The superintendent or the superintendent’s designee shall notify the teacher not later than April 30 that the board has voted to terminate the contract effective at the end of the school year. The notice shall be in writing by letter, personally delivered, or mailed by certified mail. The notification shall be complete when received by the teacher. Within ten days after receiving the notice, the teacher may request a private conference with the school board to discuss the reasons for termination. The provisions of sections 279.15 and 279.16 shall not apply to such a termination.

3. The board’s decision shall be final and binding unless the termination was based upon an alleged violation of a constitutionally guaranteed right of the teacher.

[C77, 79, 81, §279.19]

98 Acts, ch 1215, §43; 98 Acts, ch 1216, §26, 41; 2001 Acts, ch 161, §18; 2002 Acts, ch 1152, §5; 2017 Acts, ch 2, §35, 48, 49; 2017 Acts, ch 54, §41

Referred to in §262.9, 272.15, 273.22, 275.33, 275.56, 279.13, 279.16, 279.19B, 279.27, 280.15

For provisions relating to applicability of 2017 amendment by 2017 Acts, ch 2, §35, to employment contracts of school employees under this chapter and collective bargaining agreements and procedures under chapter 20 before, on, or after February 17, 2017, see 2017 Acts, ch 2, §48, 49

279.19A Extracurricular contracts.

1. School districts employing individuals to coach interscholastic athletic sports shall issue a separate extracurricular contract for each of these sports. An extracurricular contract offered under this section shall be separate from the contract issued under section 279.13. An extracurricular contract shall be in writing, and shall state the number of contract days for that sport, the annual compensation to be paid, and any other matters as may be mutually agreed upon. The contract shall be for a single school year.

2. a. If the school district offers an extracurricular contract for a sport for the subsequent school year to an employee who is currently performing under an extracurricular contract for that sport, and the employee does not wish to accept the extracurricular contract for the subsequent year, the employee may resign from the extracurricular contract within twenty-one days after it has been received.

b. If the provisions of an extracurricular contract executed under this section conflict with a collective bargaining agreement negotiated under chapter 20 and effective when the extracurricular contract is executed or renewed, the provisions of the collective bargaining agreement shall prevail.

3. The board of directors of a school district may require an employee who has resigned

from an extracurricular contract to accept, as a condition of employment under section 279.13, the extracurricular contract for no longer than one additional school year if all the following conditions apply:

a. The employee has accepted a teaching contract issued by the board pursuant to section 279.13 for the subsequent school year.

b. The board of directors has made a good faith effort to fill the coaching position with a licensed or authorized replacement.

c. The position has not been filled by June 1 of the year in which the employee resigned the extracurricular contract.

4. As a condition of employment under section 279.13, the board of directors of a school district may require an employee who has been issued a teaching contract pursuant to section 279.13 to accept an extracurricular contract for which the employee is licensed, or may require as a condition of employment that an applicant for a teaching contract under section 279.13 accept an extracurricular contract if all of the following conditions apply:

a. The individual who held the coaching position during the year has not been issued a teaching contract by the board pursuant to section 279.13 for the subsequent school year, or has been terminated from the extracurricular contract.

b. The board of directors has made a good faith effort to fill the coaching position with a licensed or authorized replacement.

c. The position has not been filled by June 1 of the year in which the vacancy occurred for the interscholastic athletic sport.

5. a. Within seven days following June 1 of that year, the board shall notify the employee in writing if the board intends to require the employee to accept an extracurricular contract for the subsequent school year under subsection 3 or 4. If the employee believes that the board did not make a good faith effort to fill the position the employee may appeal the decision by notifying the board in writing within ten days after receiving the notification.

b. The appeal shall state why the employee believes that the board did not make a good faith effort to fill the position. If the parties are unable to informally resolve the dispute, the parties shall attempt to agree upon an alternative means of resolving the dispute.

c. If the dispute is not resolved by mutual agreement, either party may appeal to the district court.

6. Subsections 3, 4, and 5 do not apply if the terms of a collective bargaining agreement provide otherwise.

7. An extracurricular contract may be terminated prior to the expiration of that contract for any lawful reason following an informal, private hearing before the board of directors. The decision of the board to terminate an extracurricular contract shall be final.

8. a. A termination proceeding regarding an extracurricular contract shall not affect a contract issued pursuant to section 279.13.

b. A termination of a contract entered into pursuant to section 279.13, or a resignation from that contract by the teacher, constitutes an automatic termination or resignation of the extracurricular contract in effect between the same teacher and the employing school board.

9. For the purposes of this section, “*good faith effort*” includes advertising for the position in an appropriate publication, interviewing applicants, and giving serious consideration to those licensed or authorized, and otherwise qualified, applicants who apply.

10. The licensure requirements of subsections 3, 4, and 9 shall not apply to community colleges.

84 Acts, ch 1296, §1; 85 Acts, ch 74, §1 – 3; 89 Acts, ch 265, §40; 90 Acts, ch 1182, §3, 7; 2002 Acts, ch 1047, §16, 20; 2010 Acts, ch 1069, §78; 2017 Acts, ch 2, §36, 48, 49

Referred to in §256.11, 257.11, 272.2, 272.15, 273.22, 275.33, 279.13, 279.19B, 279.50A

For provisions relating to applicability of 2017 amendment to employment contracts of school employees under this chapter and collective bargaining agreements and procedures under chapter 20 before, on, or after February 17, 2017, see 2017 Acts, ch 2, §48, 49

279.19B Coaching endorsement and authorization.

1. a. The board of directors of a school district may employ for head coach of any interscholastic athletic activities or for assistant coach of any interscholastic athletic activity, an individual who possesses a coaching authorization issued by the board of educational examiners or possesses a teaching license with a coaching endorsement issued pursuant to

chapter 272. However, a board of directors of a school district shall consider applicants with qualifications described below, in the following order of priority:

(1) A qualified individual who possesses a valid teaching license with a proper coaching endorsement.

(2) A qualified individual who meets the requirements of section 272.31, subsection 1, paragraph “a”, and possesses a coaching authorization issued by the board of educational examiners.

(3) A qualified individual who meets the requirements of section 272.31, subsection 1, paragraph “b”, and possesses a transitional coaching authorization issued by the board of educational examiners.

b. Qualifications are to be determined by the board of directors or their designee on a case-by-case basis.

2. For the first two weeks in which a qualified individual who possesses a transitional coaching authorization is employed as a transitional coach and for the first extracurricular interscholastic athletic contest or competition sponsored by an organization as defined in section 280.13, the individual shall be supervised by a certified athletic director, administrator, or other practitioner in a supervisory role. If the individual performs to the supervising practitioner’s satisfaction, the supervising practitioner shall sign and date an evaluation form provided by the organization to certify that the individual meets expectations to work with student athletes as a transitional coach. The organization shall develop and offer on its internet site an evaluation form that meets the requirements of this subsection.

3. An individual who has been issued a coaching authorization or who possesses a teaching license with a coaching endorsement but is not issued a teaching contract under section 279.13 and who is employed by the board of directors of a school district serves at the pleasure of the board of directors and is not subject to sections 279.13 through 279.19, and 279.27. Section 279.19A, subsection 1, applies to coaching authorizations.

4. The licensure and coaching authorization requirements of this section shall not apply to community colleges. An individual employed as a coach of a community college interscholastic athletic activity who is not issued a teaching contract under section 279.13 serves at the pleasure of the board of directors of the community college and is not subject to sections 279.13 through 279.19, and 279.27.

84 Acts, ch 1296, §2; 85 Acts, ch 49, §1; 88 Acts, ch 1284, §46; 89 Acts, ch 265, §35, 42; 93 Acts, ch 66, §1, 2; 2003 Acts, ch 19, §2; 2016 Acts, ch 1066, §3 – 5; 2017 Acts, ch 29, §82

Referred to in §272.15, 273.22, 275.33

279.20 Superintendent — term — employment of support personnel.

1. The board of directors of a school district may employ a superintendent of schools for a term of not to exceed three years. However, the board’s initial contract with a superintendent shall not exceed one year if the board is obligated to pay a former superintendent under an unexpired contract. The superintendent shall be the executive officer of the board and have such powers and duties as may be prescribed by rules adopted by the board or by law. Boards of directors may jointly exercise the powers conferred by this section.

2. The board of directors of a school district may delegate the authority to hire support personnel and sign the support personnel employment contracts, if applicable, if the board adopts a policy authorizing the superintendent to perform such duties and specifying the positions the superintendent is authorized to fill. For purposes of this subsection, the term “*support personnel*” includes, but is not limited to, bus drivers, custodians, educational associates, and clerical and food service employees.

[R60, §2037; C73, §1726; C97, §2776; SS15, §2778; C24, 27, 31, 35, 39, §4230; C46, 50, 54, 58, 62, 66, 71, 73, 75, §279.14; C77, 79, 81, §279.20]

87 Acts, ch 224, §48; 2004 Acts, ch 1175, §94

Referred to in §272.15, 273.3, 273.22, 273.23, 275.25, 275.33, 275.41, 279.23

279.21 Principals.

1. The board of directors of a school district may employ principals, under the provisions of section 279.23. A principal shall hold a current valid principal’s certificate.

Notwithstanding the provisions of section 279.23, after serving at least nine months, a principal may be employed for a term of not to exceed two years.

2. *a.* The principal, under the supervision of the superintendent of the school district and pursuant to rules and policies of the board of directors of the school district, shall be responsible for administration and operation of the attendance center to which the principal is assigned.

b. The principal shall, pursuant to the policies adopted by the board of directors of the school district, be responsible for the planning, management, operation, and evaluation of the educational program offered at the attendance center to which the principal is assigned and shall submit recommendations to the superintendent regarding the appointment, assignment, promotion, transfer, and dismissal of all personnel assigned to the attendance center. The principal shall perform such other duties as may be assigned by the superintendent.

c. For purposes of this section and sections 279.23, 279.23A, 279.24, and 279.25, the term “*principal*” includes school principals, associate principals, and assistant principals.

[C77, 79, 81, §279.21]

93 Acts, ch 32, §1; 2017 Acts, ch 54, §42

Referred to in §272.15, 273.22, 275.33

279.22 Residence of employees.

The board shall not adopt rules under section 279.8 which require its employees to reside within the boundaries of the school district.

[C81, §279.22]

279.23 Continuing contract for administrators.

1. Contracts with administrators shall be in writing and shall contain all of the following:

a. The term of employment which for all administrators except for superintendents may be a term of up to two years. Superintendents may be employed under section 279.20 for a term not to exceed three years.

b. The length of time during the school year services are to be performed.

c. The rate of compensation.

d. A statement that the contract is invalid if the administrator is under contract with another board of directors in this state covering the same period of time, until such contract shall have been released or terminated by its provisions.

e. Such other matters as may be agreed upon.

2. The contract shall be signed by the president and the administrator and shall be filed with the secretary of the board before the administrator enters upon performance of the contract. A contract shall not be tendered by an employing board to an administrator under its jurisdiction prior to March 15. A contract shall not be required to be signed by the administrator and returned to the board in less than twenty-one days after being tendered.

3. Except as otherwise specifically provided, an administrator’s contract shall be governed by the provisions of this section and sections 279.23A, 279.24, and 279.25, and not by section 279.13.

4. For purposes of this section and sections 279.23A, 279.24, and 279.25, the term “*administrator*” includes school superintendents, assistant superintendents, educational directors employed by school districts for grades kindergarten through twelve, educational directors employed by area education agencies under chapter 273, principals, assistant principals, other certified school supervisors employed by school districts for grades kindergarten through twelve as defined under section 20.4, and other certified school supervisors employed by area education agencies under chapter 273. For purposes of this section and sections 279.23A, 279.24, and 279.25, with regard to community college employees, “*administrator*” includes the administrator of an instructional division or an area of instructional responsibility, and the administrator of an instructional unit, department, or section.

5. Notwithstanding the other provisions of this section, a temporary contract may be issued to an administrator for up to nine months. Notwithstanding the other provisions of this section, a temporary contract may also be issued to an administrator to fill a vacancy

created by a leave of absence in accordance with the provisions of section 29A.28, which contract shall automatically terminate upon return from military leave of the former incumbent of the administrator position. Temporary contracts shall not be subject to the provisions of sections 279.24 and 279.25.

[C77, 79, 81, §279.23]

87 Acts, ch 94, §1; 93 Acts, ch 32, §2; 2003 Acts, ch 19, §3; 2003 Acts, ch 180, §32; 2017 Acts, ch 2, §37, 38, 48, 49

Referred to in §272.15, 273.3, 273.22, 273.23, 275.25, 275.33, 275.41, 279.21, 284A.2

For provisions relating to applicability of 2017 amendments to employment contracts of school employees under this chapter and collective bargaining agreements and procedures under chapter 20 before, on, or after February 17, 2017, see 2017 Acts, ch 2, §48, 49

279.23A Evaluation criteria and procedures.

The board shall establish written evaluation criteria and shall establish and annually implement evaluation procedures. The board shall also establish written job descriptions for all supervisory positions.

87 Acts, ch 94, §2

Referred to in §279.21, 279.23, 284A.3, 284A.4, 284A.6

279.24 Contract with administrators — automatic continuation or termination.

1. An administrator's contract shall remain in force and effect for the period stated in the contract. The contract shall be automatically continued in force and effect for additional one-year periods beyond the end of its original term, except and until the contract is modified or terminated by mutual agreement of the board of directors and the administrator, or until terminated as provided by this section.

2. If the board of directors is considering termination of an administrator's contract, prior to any formal action, the board may arrange to meet in closed session, in accordance with the provisions of section 21.5, with the administrator and the administrator's representative. The board shall review the administrator's evaluation, review the reasons for nonrenewal, and give the administrator an opportunity to respond. If, following the closed session, the board of directors and the administrator are unable to mutually agree to a modification or termination of the administrator's contract, the board of directors may issue a one-year nonrenewable contract to the administrator. If the board of directors decides to terminate the administrator's contract, the board shall follow the procedures in this section.

3. An administrator may file a written resignation with the secretary of the school board on or before May 1 of each year or the date specified by the school board for return of the contract, whichever date occurs first.

4. Administrators employed in a school district for less than three consecutive years are probationary administrators. However, a school board may extend the probationary period for an additional year with the consent of the administrator. If a school board determines that it should terminate a probationary administrator's contract, the school board shall notify the administrator not later than May 15 that the contract will not be renewed beyond the current year. The notice shall be in writing by letter, personally delivered, or mailed by certified mail. The notification shall be complete when received by the administrator. Within ten days after receiving the notice, the administrator may request a private conference with the school board to discuss the reasons for termination. The school board's decision to terminate a probationary administrator's contract shall be final unless the termination was based upon an alleged violation of a constitutionally guaranteed right of the administrator.

5. The school board may, by majority vote of the membership of the school board, cause the contract of an administrator to be terminated. If the school board determines that it should consider the termination of a nonprobationary administrator's contract, the following procedure shall apply:

a. On or before May 15, the administrator shall be notified in writing by a letter personally delivered or mailed by certified mail that the school board has voted to consider termination of the contract. The notification shall be complete when received by the administrator.

b. The notice shall state the specific reasons to be used by the school board for considering termination which for all administrators except superintendents shall be for just cause.

c. Within five days after receipt of the written notice that the school board has voted

to consider termination of the contract, the administrator may request a private hearing in writing to the secretary of the school board. The board shall then forward the notification to the board of educational examiners along with a request that the board of educational examiners submit a list of five qualified administrative law judges to the parties. Within three days from receipt of the list the parties shall select an administrative law judge by alternately removing a name from the list until only one name remains. The person whose name remains shall be the administrative law judge. The parties shall determine by lot which party shall remove the first name from the list. The private hearing shall be held no sooner than twenty days and not later than forty days following the administrator's request unless the parties otherwise agree. If the administrator does not request a private hearing, the school board, not later than May 31, may determine the continuance or discontinuance of the contract and, if the board determines to continue the administrator's contract, whether to suspend the administrator with or without pay for a period specified by the board. School board action shall be by majority roll call vote entered on the minutes of the meeting. Notice of school board action shall be personally delivered or mailed to the administrator.

d. The administrative law judge selected shall notify the secretary of the school board and the administrator in writing concerning the date, time, and location of the private hearing. The school board may be represented by a legal representative, if any, and the administrator shall appear and may be represented by counsel or by representative, if any. Any witnesses for the parties at the private hearing shall be sequestered. A transcript or recording shall be made of the proceedings at the private hearing. A school board member or administrator is not liable for any damage to an administrator or school board member if a statement made at the private hearing is determined to be erroneous as long as the statement was made in good faith.

e. The administrative law judge shall, within ten days following the date of the private hearing, make a proposed decision as to whether or not the administrator should be dismissed, and shall give a copy of the proposed decision to the administrator and the school board. Findings of fact shall be prepared by the administrative law judge. The proposed decision of the administrative law judge shall become the final decision of the school board unless within thirty days after the filing of the decision the administrator files a written notice of appeal with the school board, or the school board on its own motion determines to review the decision.

f. If the administrator appeals to the school board, or if the school board determines on its own motion to review the proposed decision of the administrative law judge, a private hearing shall be held before the school board within ten days after the petition for review, or motion for review, has been made or at such other time as the parties agree. The private hearing is not subject to chapter 21. The school board may hear the case de novo upon the record as submitted before the administrative law judge. In cases where there is an appeal from a proposed decision or where a proposed decision is reviewed on motion of the school board, an opportunity shall be afforded to each party to file exceptions, present briefs, and present oral arguments to the school board which is to render the final decision. The secretary of the school board shall give the administrator written notice of the time, place, and date of the private hearing. The school board shall meet within five days after the private hearing to determine the question of continuance or discontinuance of the contract and, if the board determines to continue the administrator's contract, whether to suspend the administrator with or without pay for a period specified by the board or issue the administrator a one-year, nonrenewable contract. The school board shall make findings of fact which shall be based solely on the evidence in the record and on matters officially noticed in the record.

g. The decision of the school board shall be in writing.

h. When the school board has reached a decision, opinion, or conclusion, it shall convene in open meeting and by roll call vote determine the continuance or discontinuance of the administrator's contract and, if the board votes to continue the administrator's contract, whether to suspend the administrator with or without pay for a period specified by the board or issue the administrator a one-year, nonrenewable contract. The record of the private hearing and written decision of the board shall be exempt from the provisions of chapter

22. The secretary of the school board shall immediately personally deliver or mail notice of the school board's action to the administrator.

i. The administrator may within thirty days after notification by the school board of discontinuance of the contract appeal to the district court of the county in which the administrative office of the school district is located.

6. The court may affirm the school board's action. The court shall reverse, modify, or grant any other appropriate relief from the school board's action, equitable or legal, and including declaratory relief, if substantial rights of the administrator have been prejudiced because the school board's action is any of the following:

a. In violation of constitutional or statutory provisions.

b. In excess of the statutory authority of the school board.

c. In violation of school board policy or rule.

d. Made upon unlawful procedure.

e. Affected by other error of law.

f. Unsupported by a preponderance of the evidence in the record made before the school board when that record is reviewed as a whole.

g. Unreasonable, arbitrary, or capricious, or characterized by an abuse of discretion or clearly unwarranted exercise of discretion.

[C77, 79, 81, §279.24]

87 Acts, ch 39, §1; 88 Acts, ch 1109, §21; 90 Acts, ch 1249, §13; 92 Acts, ch 1009, §1; 92 Acts, ch 1227, §20; 93 Acts, ch 32, §3, 4; 2001 Acts, ch 62, §2; 2017 Acts, ch 2, §39, 40, 48, 49

Referred to in §260C.39, 272.14, 272.15, 273.3, 273.22, 273.23, 275.25, 275.33, 275.41, 279.21, 279.23, 279.25

For provisions relating to applicability of 2017 amendments to employment contracts of school employees under this chapter and collective bargaining agreements and procedures under chapter 20 before, on, or after February 17, 2017, see 2017 Acts, ch 2, §48, 49

279.25 Discharge of administrator.

An administrator may be discharged at any time during the contract year for just cause. The administrator shall be notified in writing that the board has voted to consider termination of the administrator's contract and the applicable procedures of section 279.24 shall apply.

[C77, 79, 81, §279.25]

Referred to in §273.3, 279.21, 279.23

279.26 Lease arrangements.

The board of directors of a local school district for which a voter-approved physical plant and equipment levy has been voted pursuant to section 298.2, may enter into a rental or lease arrangement, consistent with the purposes for which the voter-approved physical plant and equipment levy has been voted, for a period not exceeding ten years and not exceeding the period for which the voter-approved physical plant and equipment levy has been authorized by the voters.

[C75, §279.23; C77, 79, 81, §279.26]

89 Acts, ch 135, §73

Referred to in §298.2

279.27 Discharge of teacher.

1. A teacher may be discharged at any time during the contract year for just cause. The superintendent or the superintendent's designee, shall notify the teacher immediately that the superintendent will recommend in writing to the board at a regular or special meeting of the board held not more than fifteen days after notification has been given to the teacher that the teacher's continuing contract be terminated effective immediately following a decision of the board. The procedure for dismissal shall be as provided in section 279.15, subsection 2, and sections 279.16 through 279.19. The superintendent may suspend a teacher under this section pending hearing and determination by the board.

2. For purposes of this section, "*just cause*" includes but is not limited to a violation of the code of professional conduct and ethics of the board of educational examiners if the board

has taken disciplinary action against a teacher, during the six months following issuance by the board of a final written decision and finding of fact after a disciplinary proceeding.

[C73, §1734; C97, §2782; C24, 27, 31, 35, 39, §4237; C46, 50, 54, 58, 62, 66, 71, 73, 75, §279.24; C77, 79, 81, §279.27]

2005 Acts, ch 3, §59; 2017 Acts, ch 2, §41, 48, 49

Referred to in §262.9, 279.13, 279.14, 279.19B, 284.8

For provisions relating to applicability of 2017 amendment to employment contracts of school employees under this chapter and collective bargaining agreements and procedures under chapter 20 before, on, or after February 17, 2017, see 2017 Acts, ch 2, §48, 49

279.28 Insurance — supplies — textbooks.

The board of directors may provide and pay out of the general fund to insure school property a sum as necessary, and may purchase dictionaries, library books, including books for the purpose of teaching vocal music, maps, charts, and apparatus for the use of the schools as deemed necessary by the board of directors for each school building under its charge; and may furnish schoolbooks to indigent children when they are likely to be deprived of the proper benefits of the school unless so aided.

[C73, §1729; C97, §2783; S13, §2783; C24, 27, 31, 35, 39, §4238; C46, 50, 54, 58, 62, 66, 71, 73, 75, §279.25; C77, 79, 81, §279.28]

89 Acts, ch 83, §38

279.29 Claims — investments.

1. The board shall audit and allow all just claims against the corporation, and no order shall be drawn upon the treasury until the claim therefor has been audited and allowed. In any district in which the board consists of five or more members, an audit made by one or more members of the board designated by the board or by a certified public accountant employed by the board, and certified to the board by such member or members of the board or by such accountant, shall satisfy the requirements of this section with respect to the audit of a claim.

2. Pending audit and allowance of claims under this section, the board shall invest moneys of the corporation to the extent practicable, and the board may provide for the joint investment of moneys with one or more school corporations pursuant to a joint investment agreement. All investments of funds shall be subject to sections 12B.10 and 12B.10A and other applicable law.

[C51, §1146, 1149; R60, §2037, 2038; C73, §1732, 1733, 1738, 1813; C97, §2780; S13, §2780; C24, 27, 31, 35, 39, §4239; C46, 50, 54, 58, 62, 66, 71, 73, 75, §279.26; C77, 79, 81, §279.29]

86 Acts, ch 1226, §4; 92 Acts, ch 1156, §11

Referred to in §256F.4, 261E.9

279.30 Payments — exceptions.

Each payment must be made payable to the person entitled to receive the money or deposited directly into an account at a financial institution, as defined in section 527.2, specified by the person entitled to receive the money. The board of directors of a school district or an area education agency may by resolution authorize the secretary, upon approval of the superintendent or designee, or administrator, in the case of an area education agency, to issue payments when the board of directors is not in session in payment of reasonable and necessary expenses, but only upon verified bills filed with the secretary or administrator, and for the payment of salaries pursuant to the terms of a written contract. Each payment must be made payable only to the person performing the service or presenting the verified bill, and must state the purpose for which the payment is issued. All bills and salaries for which payments are issued prior to audit and allowance by the board must be passed upon by the board of directors at the next meeting and be entered in the regular minutes of the secretary.

[C35, §4239-g1; C39, §4239.1; C46, 50, 54, 58, 62, 66, 71, 73, 75, §279.27; C77, 79, 81, §279.30]

92 Acts, ch 1187, §4; 2006 Acts, ch 1152, §34; 2013 Acts, ch 88, §16

279.31 Settlement with treasurer.

The board shall from time to time examine the accounts of the treasurer and make settlements with the treasurer.

[C51, §1146, 1149; R60, §2037, 2038; C73, §1732, 1733, 1738, 1813; C97, §2780; S13, §2780; C24, §4239; C27, 31, 35, §4239-a1; C39, §4239.2; C46, 50, 54, 58, 62, 66, 71, 73, 75, §279.28; C77, 79, 81, §279.31]

279.32 Compensation of officers.

1. The board shall fix the compensation to be paid the secretary. No member of the board shall receive compensation for official services. The board may pay a school treasurer a reasonable compensation.

2. Actual and necessary expenses, including travel, incurred by the board or individual members thereof in the performance of official duties may be paid or reimbursed.

[C51, §1146, 1149; R60, §2037, 2038; C73, §1732, 1733, 1738, 1813; C97, §2780; S13, §2780; C24, §4239; C27, 31, 35, §4239-a3; C39, §4239.3; C46, 50, 54, 58, 62, 66, 71, 73, 75, §279.29; C77, 79, 81, §279.32]

279.33 Annual settlements.

1. At a regular or special meeting held on or after August 31 of each year, and prior to the organizational meeting held after the regular school election, the board of each school corporation shall meet, examine the books of and settle with the secretary and treasurer for the year ending on the preceding June 30, and transact other business as necessary. The treasurer at the time of settlement shall furnish the board with a statement from each depository showing the balance then on deposit in the depository. If the secretary or treasurer fails to make proper reports for the settlement, the board shall take action to obtain the balance information.

2. In the even-numbered year, the board shall, at the meeting described in subsection 1, elect a president for a term of one year.

[SS15, §2757; C24, 27, 31, 35, 39, §4240; C46, 50, 54, 58, 62, 66, 71, 73, 75, §279.30; C77, 79, 81, §279.33]

83 Acts, ch 185, §4, 62; 2001 Acts, ch 47, §2; 2006 Acts, ch 1152, §35; 2010 Acts, ch 1033, §41

279.34 Motor vehicles required to operate on ethanol blended gasoline.

A motor vehicle purchased by or used under the direction of the board of directors to provide services to a school corporation shall not operate on gasoline other than ethanol blended gasoline as defined in section 214A.1. The motor vehicle shall also be affixed with a brightly visible sticker which notifies the traveling public that the motor vehicle is being operated on ethanol blended gasoline. However, the sticker is not required to be affixed to an unmarked vehicle used for purposes of providing law enforcement or security.

91 Acts, ch 254, §16; 93 Acts, ch 26, §5; 2006 Acts, ch 1142, §65; 2007 Acts, ch 126, §50

279.35 Publication of proceedings.

The proceedings of each regular, adjourned, or special meeting of the board, including the schedule of bills allowed, shall be published after the adjournment of the meeting in the manner provided in this section and section 279.36, and the publication of the schedule of the bills allowed shall include a list of claims allowed, including salary claims for services performed. The schedule of bills allowed may be published on a once monthly basis in lieu of publication with the proceedings of each meeting of the board. The list of claims allowed shall include the name of the person or firm making the claim, the purpose of the claim, and the amount of the claim. If the purpose for the claims is the same, two or more claims made by the same vendor, supplier, or claimant may be consolidated if the number of claims consolidated and the total consolidated claim amount are listed in the statement. However, the board shall provide at its office upon request an unconsolidated list of all claims allowed. Salaries paid to individuals regularly employed by the district shall only be published annually and the publication shall include the total amount of the annual salary of each employee. The

secretary shall furnish a copy of the proceedings to be published within two weeks following the adjournment of the meeting.

[C27, 31, 35, §4242-b1; C39, §4242.1; C46, 50, 54, 58, 62, 66, 71, 73, 75, §279.33; C77, 79, 81, §279.35]

83 Acts, ch 185, §6, 62; 87 Acts, ch 224, §49; 2006 Acts, ch 1018, §2
Referred to in §260C.14, 279.36

279.36 Publication procedures and fee.

1. The requirements of section 279.35 are satisfied by publication in at least one newspaper published in the district or, if there is none, in at least one newspaper having general circulation within the district.

2. For the fiscal year beginning July 1, 1989, and each fiscal year thereafter, the fee for the publications shall be the legal publication fee provided by section 618.11.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, §279.34; C77, 79, 81, §279.36]

87 Acts, ch 224, §50; 2018 Acts, ch 1026, §97; 2019 Acts, ch 59, §82
Referred to in §260C.14, 279.6, 279.35

279.37 Employment of counsel.

A school corporation may employ an attorney to represent the school corporation as necessary for the proper conduct of the legal affairs of the school corporation.

[R60, §2040; C73, §1740; C97, §2759; C24, 27, 31, 35, 39, §4245; C46, 50, 54, 58, 62, 66, 71, 73, 75, §279.35; C77, 79, 81, §279.37]

279.38 Membership in association of school boards — audit.

1. Boards of directors of school corporations may pay, out of funds available to them, reasonable annual dues to the Iowa association of school boards. Each board that pays membership dues to the Iowa association of school boards shall annually report to the local community and to the department of education the amount the board pays in annual dues to the Iowa association of school boards, the amount of any fees paid and revenue or dividend payments received for services the board receives from the association or from any of the association's affiliated for-profit entities, and the products or services the school district received inclusive with membership in the association.

2. The financial condition and transactions of the Iowa association of school boards shall be audited as provided in section 11.6. In addition, annually the Iowa association of school boards shall publish a listing of the school districts and the annual dues paid by each, the total revenue the association receives from each school district resulting from the payment of membership fees and the sale of products and services to the school district by the association or its affiliated for-profit entities, and shall publish an accounting of all moneys expended for expenses incurred by and salaries paid to legislative representatives and lobbyists of the association. In addition, the association shall submit to the general assembly copies of all reports the association provides to the United States department of education relating to federal grants and grant amounts that the association or its affiliated for-profit entities administer or distribute to school districts. The Iowa association of school boards is subject to chapters 21 and 22 relating to open meetings and public records.

3. Membership in such an Iowa association of school boards shall be limited to those duly elected members of the boards of directors of local school corporations.

[C71, 73, 75, §279.37; C77, 79, 81, §279.38]

83 Acts, ch 185, §7, 62; 89 Acts, ch 264, §7; 2010 Acts, ch 1183, §30; 2011 Acts, ch 75, §38

279.38A Membership in other organizations — reporting requirements.

1. Duly elected members of boards of directors and designated administrators of school corporations may join, including the payment of dues, and participate in local, regional, and national organizations which directly relate to the functions of the board of directors.

2. Each board that pays membership dues to an organization in accordance with this section shall annually report to the local community and to the department of education the amount the board pays in annual dues to the organization, the amount of any fees paid and revenue or dividend payments received for services the board receives from the organization,

and the products or services the school district received inclusive with membership in the organization. If the organization administers federal education grants on behalf of school districts or distributes federal education grant funds to school districts, the organization shall submit to the general assembly copies of all reports the organization provides to the United States department of education, on the date on which each such report is provided to the United States department of education, relating to federal grants and grant amounts that the organization administers for or distributes to school districts. The governing board of the organization is subject to chapters 21 and 22 relating to open meetings and public records.

93 Acts, ch 117, §3; 2010 Acts, ch 1183, §31

279.39 School buildings.

The board of any school corporation shall establish attendance centers and provide suitable buildings for each school in the district and may at the regular or a special meeting resolve to submit to the registered voters of the district at an election held on a date specified in section 39.2, subsection 4, paragraph “c”, the question of voting a tax or authorizing the board to issue bonds, or both.

93 Acts, ch 160, §15; 95 Acts, ch 67, §53; 2008 Acts, ch 1115, §47, 71
Extended time contracts for facilities, see §278.1

279.40 Sick leave.

1. a. Public school employees are granted leave of absence for medically related disability with full pay in the following minimum amounts:

- (1) The first year of employment..... 10 days.
- (2) The second year of employment..... 11 days.
- (3) The third year of employment 12 days.
- (4) The fourth year of employment 13 days.
- (5) The fifth year of employment..... 14 days.
- (6) The sixth and subsequent years of employment 15 days.

b. The above amounts shall apply only to consecutive years of employment in the same school district and unused portions shall be cumulative to at least a total of ninety days. The school board shall, in each instance, require such reasonable evidence as it may desire confirming the necessity for such leave of absence.

2. Nothing in this section shall be construed as limiting the right of a school board to grant more time than the days herein specified.

3. Cumulation of sick leave under this section shall not be affected or terminated due to the organization or dissolution of a community school district or districts which include all or the portion of the district which employed the particular public school employee for the school year previous to the organization or dissolution, if the employee is employed by one of the community school districts for the first school year following its organization or dissolution.

4. Any amounts due an employee under this section shall be reduced by benefits payable under sections 85.33 and 85.34, subsection 1.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §279.40]
2010 Acts, ch 1061, §99

279.41 Schoolhouses and sites sold — funds.

Moneys received from the condemnation, sale, or other disposition for public purposes of schoolhouses, school sites, or both schoolhouses and school sites, shall be deposited in the physical plant and equipment levy fund and may without a vote of the electorate be used for purposes authorized under section 298.3, as ordered by the board of directors of the school district.

[C62, 66, 71, 73, 75, 77, 79, 81, §279.41]
94 Acts, ch 1029, §18; 2006 Acts, ch 1152, §36

279.42 Gifts to schools.

The board of directors of a school district that receives funds through a gift, devise, or bequest shall deposit the funds in a trust fund, permanent fund, or custodial fund and shall use the funds in accordance with the terms of the gift, devise, or bequest.

[C66, 71, 73, 75, 77, 79, 81, §279.42]

94 Acts, ch 1029, §19; 2013 Acts, ch 88, §17; 2020 Acts, ch 1022, §4

See also §565.6

Section amended

279.43 Reporting inappropriate teaching assignments.

An employee licensed by the board of educational examiners and holding a contract as described in section 279.13 shall disclose any occurrence of a teaching assignment for which that employee is not properly licensed to the school official responsible for determining teaching assignments. Failure of the employee to disclose this occurrence or failure of the school official responsible for determining teaching assignments to make appropriate adjustments to the employee's teaching assignment once the employee discloses the occurrence shall constitute an incident of misconduct as provided in section 272.2, subsection 14, and is actionable by the board. If the school official fails to make appropriate adjustments to the teaching assignment once disclosure by the employee is made, the employee shall report this occurrence to the department or to the board for further action.

2007 Acts, ch 214, §35

279.44 Energy audits.

1. Between July 1, 1986, and June 30, 1991, and on a staggered annual basis each five years thereafter, the board of directors of each school district shall file with the economic development authority, on forms prescribed by the authority, the results of an energy audit of the buildings owned and leased by the school district. The energy audit shall be conducted under rules adopted by the authority pursuant to chapter 17A. The authority may waive the requirement for the initial and subsequent energy audits for school districts that submit evidence that energy audits were conducted prior to January 1, 1987, and energy consumption for the district is at an adjusted statewide average or below.

2. This section takes effect only if funds have been made available to a school district or community college to pay the costs of the energy audit.

86 Acts, ch 1167, §1; 90 Acts, ch 1253, §120; 2009 Acts, ch 108, §14, 41; 2011 Acts, ch 118, §50, 87, 89

279.45 Administrative expenditures.

The administrative expenditures as a percent of a school district's general fund for a base year shall not exceed five percent. Annually, the board of directors shall certify to the department of education the amounts of the school district's administrative expenditures and its general fund. For the purposes of this section, "base year" means the same as defined in section 257.2, and "administrative expenditures" means expenditures for executive administration.

86 Acts, ch 1226, §5; 88 Acts, ch 1158, §56; 89 Acts, ch 135, §74; 2013 Acts, ch 88, §18

279.46 Retirement incentives — tax.

The board of directors of a school district may adopt a program for payment of a monetary bonus, continuation of health or medical insurance coverage, or other incentives for encouraging its employees to retire before the normal retirement date as defined in chapter 97B. The program is available only to employees who notify the board of directors prior to April 1 of the fiscal year that they intend to retire not later than the start of the next following school calendar. The age at which employees shall be designated eligible for the program shall be at the discretion of the board. An employee retiring under this section may apply for a retirement allowance under chapter 97B or chapter 294. The board may include in the district management levy an amount to pay the total estimated accumulated cost to the

school district of the health or medical insurance coverage, bonus, or other incentives for employees fifty-five years of age or older who retire under this section.

87 Acts, ch 224, §51; 89 Acts, ch 135, §75; 92 Acts, ch 1220, §1; 98 Acts, ch 1216, §27, 43; 2002 Acts, ch 1152, §6; 2003 Acts, ch 180, §33; 2014 Acts, ch 1052, §1 – 3

Referred to in §298.4

279.47 Telecommunications — participation by school districts in database development.

The board of directors of each school district utilizing telecommunications as an instructional tool shall participate in procedures adopted by the state board of education under section 256.7, subsection 9.

87 Acts, ch 207, §2

279.48 Equipment purchase.

1. The board of directors of a school corporation may purchase equipment, and may negotiate and enter into a loan agreement and issue a note to pay for the equipment subject to the following terms and procedures:

a. The note must mature within five years, or the useful life of the equipment, whichever is less.

b. The note may bear interest at a rate to be determined by the board of directors in the manner provided in section 74A.3, subsection 1, paragraph “a”. Chapter 75 is not applicable.

c. The board of directors shall provide for the form of the agreement and note.

d. Principal and interest on the note must be payable from budgeted receipts in the debt service fund for each year of a period of up to five years.

2. The total of scheduled annual payments of principal or interest due and payable from current budgeted receipts or future budgeted receipts with respect to all loan agreements authorized under this section or section 285.10, subsection 7, paragraph “b”, must not exceed ten percent of the last authorized budget of the school corporation.

3. Before entering into a loan agreement for an equipment purchase, the school corporation must publish a notice, including a statement of the amount and purpose of the agreement, at least once in a newspaper of general circulation within the school corporation at least ten days before the meeting at which the loan agreement is to be approved.

94 Acts, ch 1175, §7; 2008 Acts, ch 1032, §198

Referred to in §273.3, 279.53

279.49 Child care programs.

1. The board of directors of a school corporation may operate or contract for the operation of a program to provide child care to children not enrolled in school or to students enrolled in kindergarten through grade six before and after school, or to both. Programs operated or contracted by a board shall be licensed by the department of human services under chapter 237A as a child care center unless the program is exempt from licensure under chapter 237A. Notwithstanding requirements of the department of human services regarding space allocated to child care centers licensed under chapter 237A, a program operated or contracted by a board which is located on school grounds may define alternative spaces, in policy and procedures, appropriate to meet the needs of children in the program if the primary space is required for another use.

2. a. The person employed to be responsible for a program operated or contracted by a board shall collaborate with that board in the operation of that program.

b. An employee of a program operated or contracted by a board shall be subject to a background investigation at least once every five years after the employee’s initial date of hire.

3. The facilities housing a program operated under this section shall comply with standards adopted by the state fire marshal for school buildings under chapter 100. In addition, if a program involves children who are younger than school age, the facilities housing those children shall meet the fire safety standards which would apply to that age of child in a child care facility licensed by the department of human services.

4. The board may establish a fee for the cost of participation in a child care program

authorized under this section. The fee shall be established pursuant to a sliding fee schedule based upon staffing costs and other expenses and a family's ability to pay. If a fee is established, the parent or guardian of a child participating in a program shall be responsible for payment of any agreed upon fee. The board may require the parent or guardian to furnish transportation of the child.

5. The board may utilize or make application for program subsidies from any existing child care funding streams.

6. The components of programs established under this section for child care shall include, but are not limited to, parental involvement in program design and direction, activities designed to further children's physical, mental, and emotional development, and a parental education component to educate parents about the physical, mental, and emotional development of children.

85 Acts, ch 173, §26; 89 Acts, ch 206, §10; 89 Acts, ch 265, §40; 92 Acts, ch 1212, §27; 94 Acts, ch 1175, §8; 99 Acts, ch 192, §33; 2015 Acts, ch 88, §2, 3, 5

Referred to in §256.9, 256A.3, 280.3A, 298A.12

279.50 Human growth and development instruction.

1. Each school board shall provide instruction in kindergarten which gives attention to experiences relating to life skills and human growth and development as required in section 256.11. School districts shall use research provided in section 256.9, subsection 46, paragraph "b", to evaluate and upgrade their instructional materials and teaching strategies for human growth and development.

2. Each school board shall provide age-appropriate and research-based instruction in human growth and development including instruction regarding human sexuality, self-esteem, stress management, interpersonal relationships, domestic abuse, HPV and the availability of a vaccine to prevent HPV, and acquired immune deficiency syndrome as required in section 256.11, in grades one through twelve.

3. Each school board shall annually provide to a parent or guardian of any pupil enrolled in the school district, information about the human growth and development curriculum used in the pupil's grade level and the procedure for inspecting the instructional materials prior to their use in the classroom.

4. Each school district shall, upon request by any agency or organization, provide information about the human growth and development curriculum used in each grade level and the procedure for inspecting and updating the instructional materials.

5. A pupil shall not be required to take instruction in human growth and development if the pupil's parent or guardian files with the appropriate principal a written request that the pupil be excused from the instruction. Notification that the written request may be made shall be included in the information provided by the school district.

6. Each school board or community college which offers general adult education classes or courses shall periodically offer an instructional program in parenting skills and in human growth and development for parents, guardians, prospective biological and adoptive parents, and foster parents.

7. Each area education agency shall periodically offer a staff development program for teachers who provide instruction in human growth and development.

8. The department of education shall identify and disseminate information about early intervention programs for students who are at the greatest risk of suffering from the problem of dropping out of school, substance abuse, adolescent pregnancy, or suicide.

9. For purposes of this section and sections 256.9 and 256.11, unless the context otherwise requires:

a. "Age-appropriate" means topics, messages, and teaching methods suitable to particular ages or age groups of children and adolescents, based on developing cognitive, emotional, and behavioral capacity typical for the age or age group.

b. "HIV" means HIV as defined in section 141A.1.

c. "HPV" means human papilloma virus as defined by the centers for disease control and prevention of the United States department of health and human services.

d. "Research-based" means all of the following:

(1) Complete information that is verified or supported by the weight of research conducted in compliance with accepted scientific methods; recognized as medically accurate and objective by leading professional organizations and agencies with relevant expertise in the field, such as the American college of obstetricians and gynecologists, the American public health association, the American academy of pediatrics, and the national association of school nurses; and published in peer-reviewed journals where appropriate.

(2) Information that is free of racial, ethnic, sexual orientation, and gender biases.

10. To the extent not inconsistent with this section and section 256.11, an accredited nonpublic school may also choose curriculum in accordance with doctrinal teachings for the human sexuality component of the human growth and development requirements of this section and section 256.11.

11. Nothing in this section or section 256.11 shall be construed to prohibit a school or school district from developing and making available abstinence-based or abstinence-only materials pursuant to the requirements of section 256.9, subsection 46, and from offering an abstinence-based or abstinence-only curriculum in meeting the human sexuality component of the human growth and development requirements of this section and section 256.11.

88 Acts, ch 1018, §3, 5, 6; 90 Acts, ch 1253, §121; 91 Acts, ch 218, §19; 2007 Acts, ch 98, §4
Referred to in §256.11

279.50A Educational standards — agreements for mathematics and science units.

1. If a school district's total enrollment exceeds six hundred pupils, the school district may enter into an agreement with a community college under which the community college may offer, or provide a community college-employed instructor to teach, one of the units in accordance with section 256.11, subsection 5, paragraph "a", or one of the units in accordance with section 256.11, subsection 5, paragraph "d" or "e", and if the unit of coursework under the agreement meets the requirements specified in section 257.11, subsection 3, paragraph "b", subparagraphs (2) through (7), the unit offered shall be deemed to meet the education program requirement for a unit of mathematics or science, as applicable, under section 256.11, subsection 5, paragraph "a", "d", or "e". The provisions of this subsection are applicable only if all of the following conditions are met:

a. The school district has made every reasonable and good faith effort to employ a teacher licensed under chapter 272 for the unit of science or mathematics, as applicable, and is unable to employ such a teacher. For purposes of this subsection, "good faith effort" means the same as defined in section 279.19A, subsection 9.

b. Enrollment for the unit exceeds five pupils.

c. The unit is offered during the regular school day.

d. The unit is made accessible by the school district to all eligible pupils.

2. Pupils enrolled in a unit of coursework offered pursuant to subsection 1 are not eligible for supplementary weighting under section 257.11, subsection 3.

2019 Acts, ch 164, §4, 5; 2020 Acts, ch 1062, §94; 2020 Acts, ch 1063, §127

Code editor directive applied

Subsection 1, unnumbered paragraph 1 amended

279.51 Programs for at-risk children.

1. There is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, 2007, and each succeeding fiscal year, the sum of twelve million six hundred six thousand one hundred ninety-six dollars. The moneys shall be allocated as follows:

a. Two hundred seventy-five thousand eight hundred sixty-four dollars of the funds appropriated shall be allocated to the area education agencies to assist school districts in developing program plans and budgets under this section and to assist school districts in meeting other responsibilities in early childhood education.

b. For the fiscal year beginning July 1, 2007, and for each succeeding fiscal year, eight million five hundred thirty-six thousand seven hundred forty dollars of the funds appropriated shall be allocated to the child development coordinating council established in chapter 256A for the purposes set out in subsection 2 of this section and section 256A.3.

c. For the fiscal year beginning July 1, 2007, and for each fiscal year thereafter, three

million five hundred ten thousand nine hundred ninety-two dollars of the funds appropriated shall be allocated as grants to school districts that have elementary schools that demonstrate the greatest need for programs for at-risk students with preference given to innovative programs for the early elementary school years. School districts receiving grants under this paragraph shall at a minimum provide activities and materials designed to encourage children's self-esteem, provide role modeling and mentoring techniques in social competence and social skills, and discourage inappropriate drug use. The grant allocations made in this paragraph may be renewed for additional periods of time. Of the amount allocated under this paragraph for each fiscal year, seventy-five thousand dollars shall be allocated to school districts which have an actual student population of ten thousand or less and have an actual non-English speaking student population which represents greater than five percent of the total actual student population for grants to elementary schools in those districts.

d. Notwithstanding section 256A.3, subsection 6, of the amount appropriated in this subsection for the fiscal year beginning July 1, 2007, and for each succeeding fiscal year, up to two hundred eighty-two thousand six hundred dollars may be used for administrative costs.

2. a. Funds allocated under subsection 1, paragraph "b", shall be used by the child development coordinating council for the following:

(1) To continue funding for programs previously funded by grants awarded under section 256A.3 and to provide additional grants under section 256A.3. The council shall seek to provide grants on the basis of the location within the state of children meeting at-risk definitions.

(2) At the discretion of the child development coordinating council, award grants for the following:

(a) To school districts to establish programs for three-year-old, four-year-old, and five-year-old at-risk children which are a combination of preschool and full-day kindergarten.

(b) To provide grants to provide educational support services to parents of at-risk children age birth through three years.

b. A grantee under this subsection may direct the use of moneys received to serve any qualifying child ranging in age from three years old to five years old, regardless of the age of population indicated on the grant request in its initial year of application. A grantee is encouraged to consider the degree to which the program complements existing programs and services for three-year-old, four-year-old, and five-year-old at-risk children available in the area, including other child care and preschool services, services provided through a school district, and services available through an area education agency.

3. The department shall seek assistance from foundations and public and private agencies in the evaluation of the programs funded under this section, and in the provision of support to school districts in developing and implementing the programs funded under this section.

4. The state board of education shall adopt rules under chapter 17A for the administration of this section.

89 Acts, ch 135, §76; 90 Acts, ch 1272, §69, 70; 91 Acts, ch 267, §239, 240; 92 Acts, ch 1227, §21; 94 Acts, ch 1199, §47 – 49; 95 Acts, ch 209, §14; 96 Acts, ch 1186, §23; 96 Acts, ch 1219, §7 – 10; 97 Acts, ch 209, §17, 18; 98 Acts, ch 1133, §1; 98 Acts, ch 1215, §44; 98 Acts, ch 1223, §24, 25; 99 Acts, ch 192, §33; 99 Acts, ch 195, §11, 12; 2000 Acts, ch 1058, §32; 2000 Acts, ch 1198, §2 – 4, 6; 2007 Acts, ch 215, §62; 2010 Acts, ch 1061, §100; 2011 Acts, ch 132, §18, 106

Referred to in §256A.3

Reduction in appropriations contained in this section for certain fiscal years; 2017 Acts, ch 172, §6, 51; 2018 Acts, ch 1163, §5; 2019 Acts, ch 135, §6; 2020 Acts, ch 1121, §1

279.51A Classroom environment — behavioral challenges — reports of violence or assault.

1. A classroom teacher may clear students from the classroom only if necessary to prevent or terminate an imminent threat of bodily injury to a student or another person in the classroom.

2. If a classroom teacher clears all other students from the classroom in accordance with subsection 1, the school principal shall, by the end of the school day if possible but at least within twenty-four hours after the incident giving rise to the classroom clearance, notify

the parents or guardians of all students assigned to the classroom that was cleared. The notification shall not identify, directly or indirectly, any students involved in the incident giving rise to the classroom clearance. The principal of the school shall request that the parent or guardian of the student whose behavior caused the classroom clearance meet with the principal, the classroom teacher, and other staff as appropriate.

3. If the student whose behavior caused the classroom clearance has an individualized education program or a behavioral intervention plan, the classroom teacher shall call for and be included in a review and potential revision of the student's individualized education program or behavioral intervention plan by the student's individualized education program team. The area education agency, in collaboration with the school district, may, when the parent or guardian meets with the individualized education program team during the reevaluation of the student's individualized education program, inform the parent or guardian of individual or family counseling services available in the area.

4. A classroom teacher employed by a school district shall report any incident of violence that results in injury or property damage or assault by a student enrolled in the school to the principal of the school.

5. Each school district shall report to the department of education, in a manner prescribed by the department, an annual count of all incidents of violence that result in injury or property damage or assault by a student in a school building, on school grounds, or at a school-sponsored function, and any time a student is referred for the use of or transfer to a therapeutic classroom. The report shall include but not be limited to demographic information on students reported as victims and reported as perpetrators of incidents of violence that result in injury or property damage or assault, including but not limited to disaggregated information on race, gender, national origin, age, grade level, and disability, along with any other data required for the department to implement the federal Elementary and Secondary Education Act, as amended by the federal Every Student Succeeds Act, Pub. L. No. 114-95, with appropriate safeguards to ensure student privacy. The department shall compile and summarize the reports, categorized by behavior, and shall submit the summary to the general assembly by November 1 annually. A teacher or administrator who submits a report in accordance with this section and who meets the requirements of section 280.27 or section 613.21 shall be immune from civil or criminal liability relating to such action, as well as for participating in any administrative or judicial proceeding resulting from or relating to the report pursuant to the provisions of sections 280.27 and 613.21. The provisions of section 70A.29 shall apply to a teacher or administrator who submits a report in accordance with this section or who reports an incident of violence or assault to a local law enforcement agency in good faith and without fraudulent intent or the intent to deceive. Personal information regarding a student in a report submitted pursuant to this section shall be kept confidential as required under the federal Family Educational Rights and Privacy Act, 20 U.S.C. §1232g, and in the same manner as personal information in student records maintained, created, collected, or assembled by or for a school corporation or educational institution in accordance with section 22.7, subsection 1.

6. For purposes of this section, unless the context otherwise requires, "*bodily injury*" means physical pain, illness, or any other impairment of physical condition.

2020 Acts, ch 1108, §9

Referred to in §256B.2

NEW section

279.52 Optional funding of asbestos projects.

1. The board of directors may pay the actual cost of an asbestos project from any funds in the general fund of the district, funds received from the physical plant and equipment levy, or moneys obtained through a federal asbestos loan program, to be repaid from any of the funds specified in this section over a three-year period.

2. For the purpose of this section, "*cost of an asbestos project*" includes the costs of inspection and reinspection, sampling, analysis, assessment, response actions, operations and maintenance, training, periodic surveillance, developing of management plans and

recordkeeping requirements relating to the presence of asbestos in school buildings of the district and its removal or encapsulation.

89 Acts, ch 135, §77; 2000 Acts, ch 1072, §1; 2000 Acts, ch 1232, §64
Referred to in §279.53

279.53 Loan proceeds.

The proceeds of loans issued to school districts pursuant to section 279.48, 279.52, or 473.20 shall be deposited into either the general fund of a school district or the physical plant and equipment levy fund. The board of directors shall expend the amount of the principal and interest due each year to maturity from the same fund into which the loan proceeds were deposited.

2008 Acts, ch 1041, §1

279.54 School district income surtax. Repealed by 2000 Acts, ch 1072, §3.

279.55 through 279.57 Repealed by 2016 Acts, ch 1036, §15.

279.58 School dress code policies.

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

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

95 Acts, ch 191, §20

279.59 Access by associations.

The board of directors of a school district shall provide not-for-profit, professional education associations that offer membership to teachers or administrators equal access to teacher or administrator mailboxes for distribution of professional literature.

2001 Acts, ch 159, §11

279.60 Assessments — access to data — reports.

1. Each school district shall administer the teaching strategies gold early childhood assessment to every resident prekindergarten or four-year-old child whose parent or guardian enrolls the child in the district, and shall administer a valid and reliable universal screening instrument, as prescribed by the department of education, to every kindergarten student enrolled in the district not later than the date specified in section 257.6, subsection 1. The assessment shall be aligned with state early learning standards and preschool programs shall be encouraged to administer the assessment at least at the beginning and end of the preschool program, with the assessment information entered into the statewide longitudinal data system. The department shall work to develop agreements with head start programs to incorporate similar information about four-year-old children served by head start into the statewide longitudinal data system.

2. The school district shall also collect information from each parent, guardian, or legal custodian of a kindergarten student enrolled in the district, including but not limited to whether the student attended preschool, factors identified by the early childhood Iowa office pursuant to section 2561.5, and other demographic factors. Each school district shall report the results of the community strategies employed during the prior school year pursuant to section 279.68, subsection 3, paragraph "a", the assessment administered pursuant to subsection 1, and the preschool information collected to the department of education in the

manner prescribed by the department not later than January 1 of that school year. The early childhood Iowa office in the department of management shall have access to the raw data. The department shall review the information submitted pursuant to this section and shall submit its findings and recommendations annually in a report to the governor, the general assembly, the early childhood Iowa state board, and the early childhood Iowa area boards.

3. Each school district shall administer the Iowa assessments, created by the state university of Iowa, to all students enrolled in grade ten.

2005 Acts, ch 148, §16; 2006 Acts, ch 1152, §37; 2010 Acts, ch 1031, §306; 2012 Acts, ch 1119, §33; 2013 Acts, ch 121, §105, 107

279.61 Individual career and academic plan — report.

1. For the school year beginning July 1, 2016, and each succeeding school year, the board of directors of each school district shall cooperate with each student enrolled in grade eight to develop an individualized career and academic plan to guide the student.

a. The plan shall be developed to achieve, at a minimum, the following:

(1) Prepare the student for successful completion of the core curriculum developed by the state board of education pursuant to section 256.7, subsection 26, by the time the student graduates from high school.

(2) Identify the coursework needed in grades nine through twelve to support the student's postsecondary education and career options.

(3) Prepare the student to successfully complete, prior to graduation and following a timeline included in the plan, the essential components of a career information and decision-making system that meets standards adopted by the state board of education in accordance with subsection 4.

b. The student's parent or guardian shall sign the student's career and academic plan, and the signed plan shall be included in the student's cumulative records.

2. The board of directors of each school district shall report annually to each student enrolled in grades nine through twelve in the school district, and, if the student is under the age of eighteen, to each student's parent or guardian, the student's progress toward meeting the goal of successfully completing the core curriculum and high school graduation requirements adopted by the state board of education pursuant to section 256.7, subsection 26, and toward achieving the goals of the student's career and academic plan.

3. The superintendent of each school district shall designate a team of education practitioners to carry out the duties assigned to the school district under this section. The team shall include but not be limited to a school counselor; teachers, including career and technical education teachers; and an individual responsible for coordinating work-based learning activities. The team shall regularly consult with representatives of employers, state and local workforce systems and centers, higher education institutions, and postsecondary career training programs.

4. The state board of education shall adopt rules setting forth standards for career information and decision-making systems. The rules adopted under this section shall establish an approval process for the approval of a vendor-provided career information and decision-making system which school districts may use in compliance with this section.

5. For the school year beginning July 1, 2016, and each succeeding school year, the board of directors of each school district shall submit to the local community, and to the department as a component of the school district's comprehensive school improvement plan required by section 256.7, subsection 21, an annual report on student utilization of the district's career information and decision-making system.

6. The director of the department of education shall monitor school districts for compliance with this section through the accreditation process established for school districts under section 256.11. If the department of education finds that a school district is not in substantial compliance with this section, the school district shall submit to the department for approval an action plan which sets forth the steps to be taken to ensure substantial compliance with this section. The department of education shall include in its annual condition of education report a review of school district and student performance required under this section.

7. The state board of education shall adopt rules to administer this section.

2005 Acts, ch 149, §3; 2006 Acts, ch 1152, §13; 2007 Acts, ch 214, §36; 2008 Acts, ch 1127, §4; 2016 Acts, ch 1108, §7, 9

Referred to in §256.11, 256.40, 258.14, 258.15, 261E.4, 261E.6, 261E.8, 261E.9, 261E.10, 261E.13

279.62 Nonprofit school organizations.

The board of directors of a school district may take action to adopt a resolution to establish, and authorize expenditures for the operational support of, an entity or organization for the sole benefit of the school district and its students that is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code. The entity or organization shall reimburse the school district for expenditures made by the school district on behalf of the entity or organization. Prior to establishing such an entity or organization, the board of directors shall hold a public hearing on the proposal to establish such an entity or organization. Such an entity or organization shall maintain its records in accordance with chapter 22, except that the entity or organization shall provide for the anonymity of a donor at the written request of the donor. The board of directors of a school district shall annually report to the department of education and to the local community the administrative expenditures, revenues, and activities of the entity or organization established by the school district pursuant to this section. The department shall include in its annual condition of education report a statewide summary of the expenditures and revenues submitted in accordance with this section.

2005 Acts, ch 179, §92, 97

Referred to in §11.6

279.63 Financial report.

1. The board of directors of each public school district shall develop, maintain, and distribute a financial report on an annual basis. The objective of the financial report shall be to facilitate public access to a variety of information and statistics relating to the education funding received by the school district, enrollment and employment figures, and additional information.

2. The financial report shall contain, at a minimum, information relating to the following:

a. All property tax levies, income surtaxes, and local option sales taxes in place in the school district, listed by type of levy, rate, amount, duration, and notification of the maximum rate and amount limitations permitted by statute.

b. The amount of funding received on a per pupil basis through the operation of the school finance formula, and from any other state appropriation or state funding source.

c. Federal funding received per student or teacher population targeted to receive the funds, and any other federal grants or funding received by the district.

d. Teacher and administrator minimum, maximum, and average salary paid by the district, and the percentage and dollar increase under teacher and administrator salary and benefits settlement agreements.

e. Teacher and administrator health insurance and other alternative health benefit information, including the monthly premium, the percentage of the premium paid by the district, and the percentage of the premium paid by a teacher or administrator for single and family insurance.

f. Teacher and administrator employment statistics, including the annual number of licensed full-time and part-time teachers and administrators employed by the school district during the preceding five years, and including the number of teachers and administrators no longer employed by the district, and new hires.

g. Student enrollment levels during the preceding five years, including regular enrollment, special education enrollment, and enrollment adjustments made pursuant to supplementary weighting.

h. Such additional information as the school district may determine.

3. Copies of a school district's financial report for the previous school year shall be posted on an internet site maintained by the school district by January 1 of each school year. If the school district does not maintain or develop an internet site, the school district shall either

distribute or post written copies of the financial report at specified locations throughout the school district.

2006 Acts, ch 1152, §14; 2009 Acts, ch 54, §9; 2013 Acts, ch 90, §257

279.64 Tax-sharing agreements.

A school district may enter into an agreement under chapter 28E with a contiguous school district for the purpose of sharing all or a percentage of school district taxes collected from that portion of valuation described in section 403.19, subsection 2, that is released by the municipality to the school district.

2006 Acts, ch 1156, §1

Referred to in §403.19

279.65 Student advancement policy — findings — supplemental strategies and educational services grant program. Repealed by 2008 Acts, ch 1181, §40.

279.66 Discipline and personal conduct standards.

The board of directors of a school district shall review and modify existing policies related to student discipline and student conduct that are designed to promote responsible behavior on school property and at school functions in order that the policy shall govern the conduct of students, teachers and other school personnel, and visitors; provide opportunities for students to exercise self-discipline and practice cooperative classroom behavior; and encourage students and practitioners to model fairness, equity, and respect. The policy shall specify the responsibilities of students, parents and guardians, and practitioners in creating an atmosphere where all individuals feel a sense of respect, safety, and belonging, and shall set forth the consequences for unacceptable behavior. The policy shall be published in the student handbook.

2007 Acts, ch 214, §38

279.67 Competitive living wage.

It is the goal of this state that every employee of a public school corporation be provided with a competitive living wage.

2008 Acts, ch 1191, §57

279.68 Student progression — intensive reading instruction — reporting requirements.

1. *Reading proficiency, assessments, and parental notification.*

a. A school district shall assess all students enrolled in kindergarten through grade three at the beginning of each school year for their level of reading or reading readiness on locally determined or statewide assessments, as provided in section 256.7, subsection 31. If a student is not reading proficiently and is persistently at risk in reading, based upon the assessments administered in accordance with this paragraph, the school district shall provide intensive reading instruction to the student. The student's reading proficiency shall be periodically reassessed by locally determined or statewide assessments including periodic universal screening and annual standard-based assessments. The student shall continue to be provided with intensive reading instruction, at grade levels beyond grade three if necessary, until the student is reading at grade level, as determined by the student's consistently proficient performance on valid and reliable measures of reading ability. For purposes of this section, "*persistently at risk*" means the student has not met the grade-level benchmark on two consecutive screening assessments administered under this paragraph.

b. The parent or guardian of any student in kindergarten through grade three who is persistently at risk in reading shall be notified in writing and shall be provided all of the following:

(1) A description of the services currently provided to the student.

(2) A description of the proposed supplemental instructional services and supports that the school district will provide to the student that are designed to remediate the identified areas in which the student is persistently at risk in reading.

(3) Strategies for parents and guardians to use in helping the student read proficiently, including but not limited to the promotion of parent-guided home reading.

(4) Regular updates regarding the student's progress toward reaching or exceeding the targeted level of reading proficiency.

2. *Successful progression for early readers.* If funds are appropriated by the general assembly for purposes of implementing this subsection, a school district shall do all of the following:

a. Provide students who are persistently at risk in reading with intensive instructional services and supports, free of charge, to remediate the identified areas in which students are not proficient in reading, including a minimum of ninety minutes daily of scientific, research-based reading instruction and other strategies prescribed by the school district which may include but are not limited to the following:

- (1) Small group instruction.
- (2) Reduced teacher-student ratios.
- (3) More frequent progress monitoring.
- (4) Tutoring or mentoring.
- (5) Extended school day, week, or year.
- (6) Summer reading programs.

b. At regular intervals, apprise the parent or guardian of academic and other progress being made by the student and give the parent or guardian other useful information.

c. In addition to required reading enhancement and acceleration strategies, provide parents of students who are persistently at risk in reading with a plan outlined in a parental contract, including participation in regular parent-guided home reading.

d. Establish a reading enhancement and acceleration development initiative designed to offer intensive accelerated reading instruction to each kindergarten through grade three student who is persistently at risk in reading. The initiative shall comply with all of the following criteria:

(1) Be provided to all kindergarten through grade three students who are persistently at risk in reading. The assessment initiative shall measure phonemic awareness, phonics, fluency, vocabulary, and comprehension.

(2) Be provided during regular school hours in addition to the regular reading instruction.

(3) Provide a reading curriculum that meets guidelines adopted pursuant to section 256.7, subsection 31, and at a minimum has the following specifications:

(a) Assists students who are persistently at risk in reading to develop the skills to read at grade level. Assistance shall include but not be limited to strategies that formally address dyslexia, when appropriate. For purposes of this subparagraph division (a), "dyslexia" means a specific learning disability that is neurobiological in origin, is characterized by difficulties with accurate or fluent word recognition and by poor spelling and decoding abilities, and may include difficulties that typically result from a deficit in the phonological component of language that is often unexpected in relation to other cognitive abilities and the provision of effective classroom instruction, as well as secondary consequences such as problems in reading comprehension and reduced reading experience that can impede growth of vocabulary and background knowledge.

(b) Provides skill development in phonemic awareness, phonics, fluency, vocabulary, and comprehension.

(c) Includes a scientifically based and reliable assessment.

(d) Provides initial and ongoing analysis of each student's reading progress.

(e) Is implemented during regular school hours.

(f) Provides a curriculum in core academic subjects to assist the student in maintaining or meeting proficiency levels for the appropriate grade in all academic subjects.

e. Report to the department of education the specific intensive reading interventions and supports implemented by the school district pursuant to this section. The department shall annually prescribe the components of required or requested reports.

3. *Ensuring continuous improvement in reading proficiency.*

a. To ensure all children are reading proficiently by the end of third grade, each school district shall address reading proficiency as part of its comprehensive school improvement

plan, drawing upon information about students from assessments and reassessments conducted pursuant to subsection 1 and the prevalence of areas in which students are persistently at risk in reading identified by classroom, elementary school, and other student characteristics. As part of its comprehensive school improvement plan, each school district shall review chronic early elementary absenteeism for its impact on literacy development. If more than fifteen percent of an attendance center's students are not reading proficiently and are persistently at risk in reading by the end of third grade, the comprehensive school improvement plan shall include strategies to reduce that percentage, including school and community strategies to raise the percentage of students who are reading at grade level.

b. Each school district, subject to an appropriation of funds by the general assembly, shall provide professional development services to enhance the skills of elementary teachers in responding to children's unique reading issues and needs and to increase the use of evidence-based strategies.

2012 Acts, ch 1119, §34; 2014 Acts, ch 1077, §2; 2016 Acts, ch 1123, §2; 2016 Acts, ch 1132, §12, 13; 2017 Acts, ch 172, §27 – 30; 2020 Acts, ch 1048, §7

Referred to in §256.7, 279.60, 280.29

Subsection 2, paragraph d, subparagraph (3), subparagraph division (a) amended

279.69 School employees — background investigations.

1. Prior to hiring an applicant for a school employee position, a school district shall have access to and shall review the information in the Iowa court information system available to the general public, the sex offender registry information under section 692A.121 available to the general public, the central registry for child abuse information established under section 235A.14, and the central registry for dependent adult abuse information established under section 235B.5 for information regarding the applicant. A school district shall follow the same procedure by June 30, 2014, for each school employee employed by the school district as of July 1, 2013. A school district shall implement a consistent policy to follow the same procedure for each school employee employed by the school district on or after July 1, 2013, at least every five years after the school employee's initial date of hire. A school district shall not charge an employee for the cost of the registry checks conducted pursuant to this subsection. A school district shall maintain documentation demonstrating compliance with this subsection.

2. Being listed in the sex offender registry established under chapter 692A, the central registry for child abuse information established under section 235A.14, or the central registry for dependent adult abuse information established under section 235B.5 shall constitute grounds for the immediate suspension from duties of a school employee, pending a termination hearing by the board of directors of a school district. A termination hearing conducted pursuant to this subsection shall be limited to the question of whether the school employee was incorrectly listed in the registry.

3. For purposes of this section, "school employee" means an individual employed by a school district, including a part-time, substitute, or contract employee. "School employee" does not include an individual subject to a background investigation pursuant to section 272.2, subsection 17, section 279.13, subsection 1, paragraph "b", or section 321.375, subsection 2.

2013 Acts, ch 140, §137

Referred to in §273.3

279.70 Training on suicide prevention, adverse childhood experiences identification, and toxic stress response mitigation strategies.

1. For purposes of this section, unless the context otherwise requires:

a. "Adverse childhood experience" means a potentially traumatic event occurring in childhood that can have negative, lasting effects on an individual's health and well-being.

b. "Postvention" means the provision of crisis intervention, support, and assistance for those affected by a suicide or suicide attempt to prevent further risk of suicide.

2. By July 1, 2019, the board of directors of a school district shall require annual, evidence-based training at least one hour in length on suicide prevention and postvention for all school personnel who hold a license, certificate, authorization, or statement of recognition issued by the board of educational examiners and who have regular contact with

students in kindergarten through grade twelve. The content of the training shall be based on nationally recognized best practices.

3. By July 1, 2019, the board of directors of a school district shall require annual, evidence-based, evidence-supported training on the identification of adverse childhood experiences and strategies to mitigate toxic stress response for all school personnel who hold a license, certificate, authorization, or statement of recognition issued by the board of educational examiners and who have regular contact with students in kindergarten through grade twelve. The content of the training shall be based on nationally recognized best practices.

2018 Acts, ch 1051, §2
Referred to in §256.7

279.71 Student online personal information protection.

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

a. “*Attendance center*” means a school district building that contains classrooms used for instructional purposes for elementary, middle, or secondary school students.

b. “*Covered information*” means personally identifiable information or material, or information that is linked to personally identifiable information or material, in any media or format that is not publicly available and is any of the following:

(1) Created by or provided to an operator by a student, or the student’s parent or legal guardian, in the course of the student’s, parent’s, or legal guardian’s use of the operator’s site, service, or application for kindergarten through grade twelve school purposes.

(2) Created by or provided to an operator by an employee or agent of a school district or attendance center for kindergarten through grade twelve school purposes.

(3) Gathered by an operator through the operation of its site, service, or application for kindergarten through grade twelve school purposes and personally identifies a student, including but not limited to information in the student’s educational record or electronic mail, first and last name, home address, telephone number, electronic mail address, or other information that allows physical or online contact, discipline records, test results, special education data, juvenile dependency records, grades, evaluations, criminal records, medical records, health records, social security number, biometric information, disabilities, socioeconomic information, food purchases, political affiliations, religious information, text messages, documents, student identifiers, search activity, photos, voice recordings, or geolocation information.

c. “*Interactive computer service*” means that term as defined in 47 U.S.C. §230.

d. “*Kindergarten through grade twelve school purposes*” means purposes that are directed by or that customarily take place at the direction of a kindergarten through grade twelve attendance center, school district, or a practitioner employed by a school district, in the administration of school activities, including but not limited to instruction in the classroom or at home, administrative activities, and collaboration between students, school district or attendance center personnel, or parents, or are otherwise for the use and benefit of the school district or attendance center.

e. “*Operator*” means, to the extent that it is operating in this capacity, the operator of an internet site, online service, online application, or mobile application with actual knowledge that the site, service, or application is used primarily for kindergarten through grade twelve school purposes and was designed and marketed for such purposes.

f. “*School district*” means a public school district described in chapter 274.

g. “*Targeted advertising*” means presenting advertisements to a student where the advertisement is selected based on information obtained or inferred over time from that student’s online behavior, usage of applications, or covered information. “*Targeted advertising*” does not include advertising to a student at an online location based upon that student’s current visit to that location, or in response to that student’s request for information or feedback, without the retention of that student’s online activities or requests over time for the purpose of targeting subsequent ads.

2. a. An operator shall not knowingly do any of the following:

(1) Engage in targeted advertising on the operator’s internet site, service, or application,

or target advertising on any other internet site, service, or application if the targeting of the advertising is based on any information, including covered information and persistent unique identifiers, that the operator has acquired because of the use of that operator's internet site, service, or application for kindergarten through grade twelve school purposes.

(2) Use information, including persistent unique identifiers, created or gathered by the operator's internet site, service, or application, to amass a profile about a student except in furtherance of kindergarten through grade twelve school purposes. "*Amass a profile*" does not include the collection and retention of account information that remains under the control of the student, the student's parent or guardian, or kindergarten through grade twelve school.

(3) Sell or rent a student's information, including covered information. This subparagraph does not apply to the purchase, merger, or other type of acquisition of an operator by another entity, if the operator or successor entity complies with this section regarding previously acquired student information, or to national assessment providers if the provider secures the express written consent of the parent or student, given in response to clear and conspicuous notice, solely to provide access to employment, educational scholarships or financial aid, or postsecondary educational opportunities.

(4) Except as otherwise provided in subsection 4, disclose covered information unless the disclosure is made for the following purposes:

(a) In furtherance of the kindergarten through grade twelve school purpose of the internet site, service, or application, if the recipient of the covered information disclosed under this subparagraph division does not further disclose the information unless done to allow or improve operability and functionality of the operator's internet site, service, or application.

(b) To ensure legal and regulatory compliance or protect against liability.

(c) To respond to or participate in the judicial process.

(d) To protect the safety or integrity of users of the internet site or others or the security of the internet site, service, or application.

(e) For a kindergarten through grade twelve school, educational, or employment purpose requested by the student or the student's parent or guardian, provided that the information is not used or further disclosed for any other purpose.

(f) To a third party, if the operator contractually prohibits the third party from using any covered information for any purpose other than providing the contracted service to or on behalf of the operator and requires the third party to protect student information to the same extent that the operator is required to do pursuant to this section, prohibits the third party from disclosing any covered information provided by the operator with subsequent third parties, and requires the third party to implement and maintain security procedures and practices consistent with current industry standards and all applicable state and federal laws, rules, and regulations.

b. Nothing in paragraph "a" shall prohibit the operator's use of information for maintaining, developing, supporting, improving, or diagnosing the operator's internet site, service, or application.

3. An operator shall do all of the following:

a. Implement and maintain security procedures and practices consistent with current industry standards and all applicable state and federal laws, rules, and regulations appropriate to the nature of the covered information designed to protect that covered information from unauthorized access, destruction, use, modification, or disclosure.

b. Delete as soon as reasonably practicable, a student's covered information if the school district or attendance center requests deletion of covered information under the control of the school district or attendance center, unless a student or parent or guardian consents to the maintenance of the covered information.

4. An operator may use or disclose covered information of a student under all of the following circumstances:

a. If other provisions of federal or state law require the operator to disclose the information, and the operator complies with the requirements of federal and state law in protecting and disclosing that information.

b. If no covered information is used for advertising or to amass a profile on the student

for purposes other than elementary, middle school, or high school purposes; for legitimate research purposes, as required by state or federal law and subject to the restrictions under applicable state and federal law; or as allowed by state or federal law and in furtherance of kindergarten through grade twelve school purposes or postsecondary educational purposes.

c. To a state or local educational agency, including kindergarten through grade twelve attendance centers and school districts, for kindergarten through grade twelve school purposes, as permitted by state or federal law.

5. This section does not prohibit an operator from doing any of the following:

a. Using covered information to improve educational products if that information is not associated with an identified student within the operator's internet site, service, or application or other internet sites, services, or applications owned by the operator.

b. Using covered information that is not associated with an identified student to demonstrate the effectiveness of the operator's products or services, including in the operator's marketing.

c. Sharing covered information that is not associated with an identified student for the development and improvement of educational internet sites, services, or applications.

d. Using recommendation engines to recommend to a student either of the following:

(1) Additional content relating to an educational, other learning, or employment opportunity purpose within an online site, service, or application if the recommendation is not determined in whole or in part by payment or other consideration from a third party.

(2) Additional services relating to an educational, other learning, or employment opportunity purpose within an online site, service, or application if the recommendation is not determined in whole or in part by payment or other consideration from a third party.

e. Responding to a student's request for information or for feedback without the information or response being determined in whole or in part by payment or other consideration from a third party.

6. This section does not do any of the following:

a. Limit the authority of a law enforcement agency to obtain any content or information from an operator as authorized by law or under a court order.

b. Limit the ability of an operator to use student data, including covered information, for adaptive learning or customized student learning purposes.

c. Apply to general audience internet sites, general audience online services, general audience online applications, or general audience mobile applications, even if login credentials created for an operator's internet site, service, or application may be used to access those general audience internet sites, services, or applications.

d. Limit service providers from providing internet connectivity to attendance centers or students and students' families.

e. Prohibit an operator of an internet site, online service, online application, or mobile application from marketing educational products directly to parents if the marketing did not result from the use of covered information obtained by the operator through the provision of services covered under this section.

f. Impose a duty upon a provider of an electronic store, gateway, marketplace, or other means of purchasing or downloading software or applications to review or enforce compliance with this section on those applications or software.

g. Impose a duty on a provider of an interactive computer service to review or enforce compliance with this section by third-party content providers.

h. Prohibit students from downloading, exporting, transferring, saving, or maintaining the students' own student data or documents.

2018 Acts, ch 1042, §1

279.72 Training on dyslexia.

By July 1, 2024, the board of directors of a school district shall require all persons employed by the school district who hold a teaching license with an endorsement for prekindergarten, prekindergarten or elementary special education, or prekindergarten through grade three levels issued under chapter 272, all practitioners and paraprofessionals assigned as Title I teachers and Title I paraprofessionals under the federal Every Student Succeeds Act, Pub. L.

No. 114-95, and all practitioners endorsed to teach English as a second language to complete the Iowa reading research center dyslexia overview module. Such persons employed by the school district after July 1, 2024, shall complete the module within one year of the employee's initial date of hire.

2020 Acts, ch 1048, §8

NEW section

CHAPTER 280

UNIFORM SCHOOL REQUIREMENTS

Referred to in §274.3

Student health screenings, see §135.17, 135.39D, 135.105D, 139A.8, 299.5, and 299.24

For student search restrictions, see chapter 808A

280.1	Title.	280.17	Procedures for handling child abuse reports.
280.2	Definitions.	280.17A	Procedures for handling dangerous weapons.
280.3	Educational program — attendance center requirements.	280.17B	Students suspended or expelled for possession of dangerous weapons.
280.3A	Accredited nonpublic school child care programs.	280.18	Student achievement goals. Repealed by 2001 Acts, ch 159, §18.
280.4	Limited English proficiency — weighting.	280.19	Plans for at-risk children.
280.5	Display of United States flag and Iowa state flag.	280.19A	Alternative options education programs — disclosure of records.
280.6	Religious books.	280.20	Career and technical agriculture education.
280.7	Dental clinics.	280.21	Corporal punishment — burden of proof.
280.7A	Student eye care.	280.21A	Leave — episode of violence.
280.8	Special education.	280.21B	Expulsion — weapons in school.
280.9	Career education.	280.22	Student exercise of free expression.
280.9A	History and government required — voter registration.	280.23	Student health services.
280.9B	Violence prevention curriculum.	280.24	Procedures for reporting drug or alcohol possession or use.
280.10	Eye-protective devices.	280.25	Information sharing — interagency agreements.
280.11	Ear-protective devices.	280.26	Intervention in altercations.
280.12	School improvement advisory committee.	280.27	Reporting violence — immunity.
280.13	Requirements for interscholastic athletic contests and competitions.	280.28	Harassment and bullying prohibited — policy — immunity.
280.13A	Sharing interscholastic activities.	280.29	Enrollment of children adjudicated or in foster care — transfer of educational records — services.
280.13B	Recording and broadcast fees restricted.	280.30	High-quality school building emergency operations plans.
280.13C	Concussion and brain injury policies.		
280.14	School requirements — administration.		
280.15	Joint employment and sharing.		
280.16	Self-administration of asthma or other airway constricting disease medication or epinephrine auto-injectors.		
280.16A	Epinephrine auto-injector supply.		

280.1 Title.

This chapter may be known and shall be cited as the “*Uniform School Requirements*” chapter.

[C75, 77, 79, 81, §280.1]

280.2 Definitions.

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

1. “*Nonpublic school*” means any school, other than a public school, which is accredited pursuant to section 256.11.

2. “*Public school*” means any school directly supported in whole or in part by taxation. [C24, 27, 31, 35, 39, §4251; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §280.2] 91 Acts, ch 200, §1; 2008 Acts, ch 1191, §158; 2018 Acts, ch 1026, §98
Referred to in §135.144, 272.1, 717F.1, 724.4B

280.3 Educational program — attendance center requirements.

1. The board of directors of each public school district and the authorities in charge of each nonpublic school shall prescribe the minimum educational program and an attendance policy which shall require each child to attend school for at least one hundred forty-eight days, to be met by attendance for at least thirty-seven days each school quarter, for the schools under their jurisdictions.

2. The minimum educational program shall be the curriculum set forth in subsection 3 of this section and section 256.11, except as otherwise provided by law. The board of directors of a public school district shall not allow discrimination in any educational program on the basis of race, color, creed, sex, marital status, or place of national origin.

3. The board of directors of each public school district and the authorities in charge of each nonpublic school shall develop and implement a kindergarten through grade twelve computer science plan by July 1, 2022, which incorporates the standards established under section 256.7, subsection 26, paragraph “a”, subparagraph (4), and the minimum educational standards relating to computer science contained in section 256.11.

4. A nonpublic school which is unable to meet the minimum educational program may request an exemption from the state board of education. The authorities in charge of the nonpublic school shall file with the director of the department of education the names and locations of all schools desiring to be exempted and the names, ages, and post office addresses of all pupils of compulsory school age who are enrolled. The director, subject to the approval of the state board, may exempt the nonpublic school from compliance with the minimum educational program for two school years. When the exemption has once been granted, renewal of the exemption for each succeeding school year may be conditioned by the director, with the approval of the board, upon proof of achievement in the basic skills of arithmetic, the communicative arts of reading, writing, grammar, and spelling, and an understanding of United States history, history of Iowa, and the principles of American government, of the pupils of compulsory school age exempted in the preceding year. Proof of achievement shall be determined on the basis of tests or other means of evaluation prescribed by the director of the department of education with the approval of the state board of education. The testing or evaluation, if required, shall be accomplished prior to submission of the request for renewal of the exemption. Renewal requests shall be filed with the director by April 15 of the school year preceding the school year for which the applicants desire exemption. This section shall not apply to schools eligible for exemption under section 299.24.

5. The board of directors of each public school district and the authorities in charge of each nonpublic school shall establish and maintain attendance centers based upon the needs of the school age pupils enrolled in the school district or nonpublic school. Public school kindergarten programs shall and public and nonpublic school prekindergarten programs may be provided. In addition, the board of directors or governing authority may include in the educational program of any school such additional courses, subjects, or activities which it deems fit the needs of the pupils.

[C75, 77, 79, 81, §280.3]

85 Acts, ch 212, §21, 22; 89 Acts, ch 210, §7; 91 Acts, ch 200, §2; 2008 Acts, ch 1127, §5; 2020 Acts, ch 1117, §11

Subsection 3 stricken and rewritten

280.3A Accredited nonpublic school child care programs.

Authorities in charge of an accredited nonpublic school may operate or contract for the operation of a child care program, as described in section 279.49. The provisions of section 279.49 as they relate to child care programs of a school corporation and its board of directors

apply to the child care programs of the accredited nonpublic school and the authority in charge.

94 Acts, ch 1175, §9; 99 Acts, ch 192, §33; 2015 Acts, ch 88, §4, 5

280.4 Limited English proficiency — weighting.

1. The medium of instruction in all secular subjects taught in both public and nonpublic schools shall be the English language, except when the use of a world language is deemed appropriate in the teaching of any subject or when the student is limited English proficient. When the student is limited English proficient, both public and nonpublic schools shall provide special instruction, which shall include but need not be limited to either instruction in English as a second language or transitional bilingual instruction until the student is fully English proficient or demonstrates a functional ability to speak, read, write, and understand the English language. As used in this section, “*limited English proficient*” means a student’s language background is in a language other than English, and the student’s proficiency in English is such that the probability of the student’s academic success in an English-only classroom is below that of an academically successful peer with an English language background. “*Fully English proficient*” means a student who is able to read, understand, write, and speak the English language and to use English to ask questions, to understand teachers and reading materials, to test ideas, and to challenge what is being asked in the classroom.

2. The department of education shall adopt rules relating to the identification of limited English proficient students who require special instruction under this section and to application procedures for funds available under this section.

3. *a.* In order to provide funds for the excess costs of instruction of limited English proficient students specified in paragraph “*b*” above the costs of instruction of pupils in a regular curriculum, students identified as limited English proficient shall be assigned an additional weighting of twenty-two hundredths, and that weighting shall be included in the weighted enrollment of the school district of residence for a period not exceeding five years. However, the school budget review committee may grant supplemental aid or a modified supplemental amount to a school district to continue funding a program for students after the expiration of the five-year period.

b. For students first determined to be limited English proficient for a budget year beginning on or after July 1, 2010, the additional weighting provided under paragraph “*a*” shall be included in the weighted enrollment of the school district of residence for a cumulative period of time not exceeding five years beginning with the budget year for which the student was first determined to be limited English proficient. The five years of eligibility for the additional weighting need not be consecutive and a student’s eligibility for the additional weighting is transferable to another district of residence.

[C24, 27, 31, 35, 39, §4254; C46, 50, 54, 58, 62, 66, 71, 73, §280.5; C75, 77, 79, 81, §280.4; 82 Acts, ch 1260, §48]

87 Acts, ch 224, §52; 89 Acts, ch 135, §80; 91 Acts, ch 193, §2; 93 Acts, ch 127, §3; 2002 Acts, ch 1114, §1; 2006 Acts, ch 1182, §44, 54; 2013 Acts, ch 121, §41, 42; 2013 Acts, ch 140, §90; 2014 Acts, ch 1135, §24; 2018 Acts, ch 1083, §3

Referred to in §256F.3, 257.31, 282.18

280.5 Display of United States flag and Iowa state flag.

The board of directors of each public school district and the authorities in charge of each nonpublic school shall provide and maintain a suitable flagstaff on each school site under its control, and the United States flag and the Iowa state flag shall be raised on all school days when weather conditions are suitable.

[S13, §2804-a, -b; C24, 27, 31, 35, 39, §4253; C46, 50, 54, 58, 62, 66, 71, 73, §280.4; C75, 77, 79, 81, §280.5]

95 Acts, ch 1, §4

Display of flags on public buildings, §1B.3

280.6 Religious books.

Religious books such as the Bible, the Torah, and the Koran shall not be excluded from any public school or institution in the state, nor shall any child be required to read such religious books contrary to the wishes of the child's parent or guardian.

[R60, §2119; C73, §1764; C97, §2805; C24, 27, 31, 35, 39, §4258; C46, 50, 54, 58, 62, 66, 71, 73, §280.9; C75, 77, 79, 81, §280.6]

280.7 Dental clinics.

Boards of directors in all public school districts may establish and maintain dental clinics for children and offer courses of instruction on mouth hygiene. The boards may employ such legally qualified dentists and dental hygienists as may be necessary to accomplish the purpose of this section. The cost of the dental clinic shall be paid from the general fund.

[C24, 27, 31, 35, 39, §4260; C46, 50, 54, 58, 62, 66, 71, 73, §280.11; C75, 77, 79, 81, §280.7]

280.7A Student eye care.

1. A parent or guardian who registers a child for kindergarten or a preschool program shall be given a student vision card provided by the Iowa optometric association and as approved by the department of education with a goal of every child receiving an eye examination by age seven, as needed.

2. School districts may encourage a student to receive an eye examination by a licensed ophthalmologist or optometrist prior to the student receiving special education services pursuant to chapter 256B. The eye examination is not a requirement for a student to receive special education services. A parent or guardian shall be responsible for ensuring that a student receives an eye examination pursuant to this section.

3. Area education agencies, pursuant to section 273.3, shall make every effort to provide, in collaboration with local community organizations, vision screening services to children ages two through four.

2008 Acts, ch 1100, §1, 2

See also §135.39D

280.8 Special education.

The board of directors of each public school district shall make adequate educational provisions for each resident child requiring special education appropriate to the nature and severity of the child's disability pursuant to rules promulgated by the department under the provisions of chapters 256B and 273.

[C71, 73, §280.22; C75, 77, 79, 81, §280.8]

96 Acts, ch 1129, §75

280.9 Career education.

1. The board of directors of each local public school district and the authorities in charge of each nonpublic school shall incorporate into the educational program, in accordance with section 256.7, subsection 21, paragraph "a", the total concept of career education to enable students to become familiar with the values of a work-oriented society. Curricular and cocurricular teaching-learning experiences from the prekindergarten level through grade twelve shall be provided for all students currently enrolled in order to develop an understanding that employment may be meaningful and satisfying. However, career education does not mean a separate career and technical education program is required. A career and technical education program includes units or partial units in subjects which have as their purpose to equip students with marketable skills.

2. Essential elements in career education shall include but not be limited to:

- a. Awareness of self in relation to others and the needs of society.
- b. Exploration of employment opportunities and experience in personal decision making.
- c. Experiences which will help students to integrate work values and work skills into their

lives.

[C75, 77, 79, 81, §280.9]

2001 Acts, ch 159, §12; 2009 Acts, ch 41, §263; 2016 Acts, ch 1108, §63

280.9A History and government required — voter registration.

1. The board of directors of each local public school district and the authorities in charge of each nonpublic school shall require that all students in grades nine through twelve complete, as a condition of graduation, instruction in American history and the governments of Iowa and the United States, including instruction in voting statutes and procedures, voter registration requirements, the use of paper ballots and voting systems in the election process, and the method of acquiring and casting an absentee ballot.

2. The county auditor, upon request and at a site chosen by the county auditor, shall make available to schools within the county voting equipment or sample ballots that are generally used within the county, at times when this equipment or sample ballots are not in use for their recognized purpose.

3. At least twice during each school year, the board of directors of each local public school district operating a high school and the authorities in charge of each accredited nonpublic school operating a high school shall offer the opportunity to register to vote to each student who is at least seventeen years of age, as required by section 48A.23.

88 Acts, ch 1129, §1; 90 Acts, ch 1238, §38; 94 Acts, ch 1169, §57; 2008 Acts, ch 1031, §45; 2009 Acts, ch 57, §78; 2017 Acts, ch 110, §62, 64

Referred to in §256.11, 331.502

280.9B Violence prevention curriculum.

The department of education shall develop a statewide violence prevention program based on law-related education. The department shall contract with a law-related education agency that serves the state and provides a comprehensive plan to develop violence prevention curricula for grades kindergarten through twelve, provide training to teachers and school administrators on violence prevention, and develop school-community partnerships for violence prevention.

94 Acts, ch 1172, §29

280.10 Eye-protective devices.

1. *a.* Every student and teacher in any public or nonpublic school shall wear industrial quality eye-protective devices at all times while participating, and while in a room or other enclosed area where others are participating, in any phase or activity of a course which may subject the student or teacher to the risk or hazard of eye injury from the materials or processes used in any of the following courses:

(1) Career and technical education programs or laboratories involving experience with any of the following:

(a) Hot molten metals.

(b) Milling, sawing, turning, shaping, cutting, grinding, or stamping of any solid materials.

(c) Heat treatment, tempering, or kiln firing of any metal or other materials.

(d) Gas or electric arc welding.

(e) Repair or servicing of any vehicle while in the shop.

(f) Caustic or explosive materials.

(2) Chemical or combined chemical-physical laboratories involving caustic or explosive chemicals or hot liquids or solids when risk is involved.

b. Visitors to such shops and laboratories shall be furnished with and required to wear the necessary safety devices while such programs are in progress.

2. It shall be the duty of the teacher or other person supervising the students in said courses to see that the above requirements are complied with. Any student failing to comply with such requirements may be temporarily suspended from participation in the course and the registration of a student for the course may be canceled for willful, flagrant, or repeated failure to observe the above requirements.

3. The board of directors of each local public school district and the authorities in charge of each nonpublic school shall provide the safety devices required herein. Such devices may be paid for from the general fund, but the board may require students and teachers to pay for

the safety devices and shall make them available to students and teachers at no more than the actual cost to the district or school.

4. “*Industrial quality eye-protective devices*”, as used in this section, means devices meeting American national standard practice for occupational and educational eye and face protection promulgated by the American national standards institute, inc.

[C66, 71, 73, §280.20; C75, 77, 79, 81, §280.10]

2009 Acts, ch 41, §249; 2013 Acts, ch 30, §67; 2016 Acts, ch 1108, §64

280.11 Ear-protective devices.

1. Every student and teacher in any public or nonpublic school shall wear industrial quality ear-protective devices while the student or teacher is participating in any phase or activity of a course which may subject the student or teacher to the risk or hazard of hearing loss from noise in processes or procedures used in career and technical education programs or laboratories involving experiences with any of the following:

- a. Milling, sawing, turning, shaping, cutting, grinding, or stamping of any solid materials.
- b. Kiln firing of any metal or other materials.
- c. Electric arc welding.
- d. Repair or servicing of any vehicle while in shop.
- e. Static tests, maintenance or repair of internal combustion engines.
- f. Letter press, paper folders, monotype.

2. It shall be the duty of the teacher or other person supervising the students in said courses to see that the above requirements are complied with. Any student failing to comply with such requirements may be temporarily suspended from participation in the course and the registration of a student for the course may be canceled for willful, flagrant or repeated failure to observe the above requirements.

3. The board of directors of each local public school district and the authorities in charge of each nonpublic school shall provide the safety devices required in this section. Such devices may be paid for from the general fund, but the board may require students and teachers to pay for the safety devices and shall make them available to students and teachers at no more than the actual cost to the district or school.

4. a. “*Industrial quality ear-protective devices*”, as used in this section, means devices meeting the American national standard for measurement of the real-ear attenuation of ear protectors at threshold promulgated by the American national standards institute, inc.

b. “*Noise*” as used in this section, means a noise level that meets or exceeds damage-risk criteria established by the present standard for occupational noise exposure established by the federal occupational safety and health administration.

[C75, 77, 79, 81, §280.11]

99 Acts, ch 96, §28; 2013 Acts, ch 90, §69; 2016 Acts, ch 1108, §65

280.12 School improvement advisory committee.

The board of directors of each public school district and the authorities in charge of each nonpublic school shall do the following:

1. Appoint a school improvement advisory committee to make recommendations to the board or authorities. The advisory committee shall consist of members representing students, parents, teachers, administrators, and representatives from the local community, which may include representatives of business, industry, labor, community agencies, higher education, or other community constituents. To the extent possible, committee membership shall have balanced representation with regard to race, gender, national origin, and disability.

2. Utilize the recommendations from the school improvement advisory committee to determine the following:

- a. Major educational needs.
- b. Student learning goals.
- c. Long-range and annual improvement goals that include, but are not limited to, the state indicators that address reading, mathematics, and science achievement.
- d. Desired levels of student performance.
- e. Progress toward meeting the goals set out in paragraphs “b” through “d”.

f. Harassment or bullying prevention goals, programs, training, and other initiatives.

3. Consider recommendations from the school improvement advisory committee to infuse character education into the educational program.

[C75, 77, 79, 81, §280.12]

85 Acts, ch 212, §8; 2001 Acts, ch 159, §13; 2003 Acts, ch 27, §2; 2007 Acts, ch 9, §1

Referred to in §256.11

280.13 Requirements for interscholastic athletic contests and competitions.

A public school shall not participate in or allow students representing a public school to participate in any extracurricular interscholastic athletic contest or competition which is sponsored or administered by an organization as defined in this section, unless the organization is registered with the department of education, files financial statements with the department in the form and at the intervals prescribed by the director of the department of education, and is in compliance with rules which the state board of education adopts for the proper administration, supervision, operation, adoption of eligibility requirements, and scheduling of extracurricular interscholastic athletic contests and competitions and the organizations. For the purposes of this section “organization” means a corporation, association, or organization which has as one of its primary purposes the sponsoring or administration of extracurricular interscholastic athletic contests or competitions, but does not include an agency of this state, a public or private school or school board, or an athletic conference or other association whose interscholastic contests or competitions do not include more than twenty-four schools.

[C66, 71, 73, §257.25(10); C75, 77, 79, 81, §280.13]

85 Acts, ch 212, §24; 86 Acts, ch 1245, §1468; 93 Acts, ch 101, §204

Referred to in §256.46, 279.19B, 280.13A, 298A.8

280.13A Sharing interscholastic activities.

1. If a school district or nonpublic school does not provide an interscholastic activity for its students, the board of directors of that school district or the authorities in charge of the nonpublic school may complete an agreement with another school district or nonpublic school to provide for the eligibility of its students in interscholastic activities provided by that other school district or nonpublic school. A copy of each agreement completed under this section shall be filed with the appropriate organization as organization is defined in section 280.13 not later than April 30 of the school year preceding the school year in which the agreement takes effect, unless an exception is granted by the organization for good cause. An agreement completed under this section shall be deemed approved unless denied by the governing organization within ten days after its receipt. A governing organization shall determine whether an agreement would substantially prejudice the interscholastic activities of other schools. An agreement denied by a governing organization under this section may be appealed to the state board of education under chapter 290.

2. For the purpose of this section, “substantial prejudice” includes but is not limited to situations where shared interscholastic activities may result in an unfair domination of an interscholastic activity or substantial disruption of activity classifications and management.

3. It is not necessary that school districts that are parties to an agreement under this section must be engaged in sharing academic programming and receiving supplementary weighting under section 257.11.

87 Acts, ch 224, §53; 88 Acts, ch 1134, §62; 89 Acts, ch 135, §81; 2002 Acts, ch 1129, §3; 2017 Acts, ch 54, §76

280.13B Recording and broadcast fees restricted.

The Iowa high school athletic association or its successor organization, and the Iowa girls high school athletic union or its successor organization, shall not assess a charge for the retransmission of an audio-visual recording of a high school athletic tournament contest or event if the retransmission does not occur earlier than twenty-four hours after the starting time of the live athletic contest or event.

96 Acts, ch 1190, §1; 2013 Acts, ch 90, §70

280.13C Concussion and brain injury policies.

1. *Legislative findings.* The general assembly finds and declares all of the following:

a. Concussions are one of the most commonly reported injuries in children and adolescents who participate in sports and recreational activities. A concussion is caused by a blow or motion to the head or body that causes the brain to move rapidly inside the skull. The risk of catastrophic injuries or death is significant when a concussion or head injury is not properly evaluated and managed.

b. Concussions are a type of brain injury that can range from mild to severe and can disrupt the way the brain normally works. Concussions can occur in any organized or unorganized sport or recreational activity and can result from a fall or from players colliding with each other, the ground, or with obstacles. Concussions can occur with or without loss of consciousness, but the vast majority of concussions occur without loss of consciousness.

c. Continuing to play with a concussion or symptoms of a brain injury leaves a young athlete especially vulnerable to greater injury and even death. The general assembly recognizes that, despite having generally recognized return-to-play standards for concussions and head injuries, some affected youth athletes are prematurely returned to play or expected to learn at full capability, resulting in prolonged symptoms, actual or potential physical injury, or death to youth athletes in this state.

d. A concussion can impair not only the physical abilities of a student athlete, but can also affect how a student athlete thinks, acts, feels, and learns. A student athlete who has sustained a concussion may need informal or formal adjustments, accommodations, modifications of curriculum, and monitoring by medical or educational staff until the student is fully recovered.

2. *Definitions.* For the purposes of this section:

a. “*Contest*” means an interscholastic athletic game or competition.

b. “*Contest official*” means a referee, umpire, judge, or other official in an athletic contest who is registered with the Iowa high school athletic association or the Iowa girls high school athletic union.

c. “*Emergency medical care provider*” means the same as defined in section 147A.1.

d. “*Extracurricular interscholastic activity*” means any dance or cheerleading activity or extracurricular interscholastic activity, contest, or practice governed by the Iowa high school athletic association or the Iowa girls high school athletic union that is a contact or limited contact activity as identified by the American academy of pediatrics.

e. “*Licensed health care provider*” means a physician, physician assistant, chiropractor, advanced registered nurse practitioner, nurse, physical therapist, or athletic trainer licensed by a board designated under section 147.13.

3. *Training.*

a. The department of public health, Iowa high school athletic association, and the Iowa girls high school athletic union shall work together to develop training materials and courses regarding concussions and brain injuries, including training regarding evaluation, prevention, symptoms, risks, and long-term effects of concussions and brain injuries. Each coach or contest official shall complete such training at least every two years.

b. Individuals required to complete training pursuant to this subsection shall submit proof of such completion to the Iowa high school athletic association or the Iowa girls high school athletic union, as applicable.

4. *Guidelines and information sheet.*

a. The department of public health, Iowa high school athletic association, and the Iowa girls high school athletic union shall work together to distribute the guidelines of the centers for disease control and prevention of the United States department of health and human services and other pertinent information to inform and educate coaches, students, and the parents and guardians of students of the risks, signs, symptoms, and behaviors consistent with a concussion or brain injury, including the danger of continuing to participate in extracurricular interscholastic activities after suffering a concussion or brain injury and their responsibility to report such signs, symptoms, and behaviors if they occur.

b. For school years beginning on or after July 1, 2018, each school district and nonpublic school shall provide to the parent or guardian of each student in grades seven through twelve

a concussion and brain injury information sheet, as provided by the department of public health, the Iowa high school athletic association, and the Iowa girls high school athletic union. The student and the student's parent or guardian shall sign and return a copy of the concussion and brain injury information sheet to the student's school prior to the student's participation in any extracurricular interscholastic activity.

5. *Removal from participation.*

a. If a student's coach, contest official, or licensed health care provider or an emergency medical care provider observes signs, symptoms, or behaviors consistent with a concussion or brain injury in an extracurricular interscholastic activity, the student shall be immediately removed from participation.

b. A student who has been removed from participation shall not recommence such participation or participate in any dance or cheerleading activity or activity, contest, or practice governed by the Iowa high school athletic association or the Iowa girls high school athletic union until the student has been evaluated by a licensed health care provider trained in the evaluation and management of concussions and other brain injuries and the student has received written clearance to return to or commence participation from a licensed health care provider.

6. *Return-to-play protocol and return-to-learn plans.*

a. The department of public health, in cooperation with the Iowa high school athletic association and the Iowa girls high school athletic union, shall develop a return-to-play protocol based on peer-reviewed scientific evidence consistent with the guidelines of the centers for disease control and prevention of the United States department of health and human services, for a student's return to participation in any extracurricular interscholastic activity after showing signs, symptoms, or behaviors consistent with a concussion or brain injury. The department of public health shall adopt the return-to-play protocol by rule pursuant to chapter 17A. The board of directors of each school district and the authorities in charge of each accredited nonpublic school with enrolled students who participate in an extracurricular interscholastic activity which is a contest in grades seven through twelve shall adopt such protocol by July 1, 2019.

b. Personnel of a school district or accredited nonpublic school with enrolled students who participate in an extracurricular interscholastic activity which is a contest in grades seven through twelve shall develop a return-to-learn plan based on guidance developed by the brain injury association of America in cooperation with a student removed from participation in an extracurricular interscholastic activity and diagnosed with a concussion or brain injury, the student's parent or guardian, and the student's licensed health care provider to accommodate the student as the student returns to the classroom.

7. *Protective gear.* For school budget years beginning on or after July 1, 2018, the board of directors of each school district and the authorities in charge of each accredited nonpublic school with enrolled students who participate in an extracurricular interscholastic activity which is a contest in grades seven through twelve shall provide students participating in such contests with any protective gear, including but not limited to helmets and pads required for the activity by law, by the rules for such contests, or by Iowa high school athletic association or Iowa girls high school athletic union guidelines. However, an individual student is responsible for other protective gear that the individual student needs but that is not required for participation in the contest as provided in this subsection.

8. *Liability.*

a. A school district or accredited nonpublic school that adopts and follows the protocol required by this section and provides an emergency medical care provider or a licensed health care provider at a contest that is a contact or limited contact activity as identified by the American academy of pediatrics shall not be liable for any claim for injuries or damages based upon the actions or inactions of the emergency medical care provider or the licensed health care provider present at the contest at the request of the school district or accredited nonpublic school so long as the emergency medical care provider or the licensed health care provider acts reasonably and in good faith and in the best interest of the student athlete and without undue influence of the school district or accredited nonpublic school or coaching staff employed by the school district or accredited nonpublic school. A school district or

accredited nonpublic school shall not be liable for any claim for injuries or damages if an emergency medical care provider or a licensed health care provider who was scheduled in accordance with a prearranged agreement with the school district or accredited nonpublic school to be present and available at a contest is not able to be present and available due to documentable, unforeseen circumstances and the school district or accredited nonpublic school otherwise followed the protocol.

b. An emergency medical care provider or a licensed health care provider providing care without compensation for a school district or accredited nonpublic school under this section shall not be liable for any claim for injuries or damages arising out of such care so long as the emergency medical care provider or the licensed health care provider acts reasonably and in good faith and in the best interest of the student athlete and without undue influence of the school district or accredited nonpublic school or coaching staff employed by the school district or accredited nonpublic school.

2011 Acts, ch 32, §1; 2012 Acts, ch 1023, §40; 2018 Acts, ch 1131, §1, 3; 2018 Acts, ch 1172, §25, 26

280.14 School requirements — administration.

1. The board or governing authority of each school or school district subject to the provisions of this chapter shall establish and maintain adequate administration, school staffing, personnel assignment policies, teacher qualifications, certification requirements, facilities, equipment, grounds, graduation requirements, instructional requirements, instructional materials, maintenance procedures, and policies on extracurricular activities. In addition, the board or governing authority of each school or school district shall provide such principals as it finds necessary to provide effective supervision and administration for each school and its faculty and student body.

2. An individual who is employed or contracted as a superintendent by a school or school district may also serve as an elementary or secondary principal in the same school or school district.

[C66, 71, 73, §257.25(11, 15); C75, 77, 79, 81, §280.14]

93 Acts, ch 4, §2; 2003 Acts, ch 180, §34

Credit towards graduation for military basic training, see §256.11(15)

280.15 Joint employment and sharing.

1. Two or more public school districts may jointly employ and share the services of any school personnel, or acquire and share the use of classrooms, laboratories, equipment and facilities. Classes made available to students in the manner provided in this section shall be considered as complying with the requirements of section 275.1 relating to the maintenance of kindergarten and twelve grades by a school district. If students attend classes in another school district under this section under an agreement that provides for whole grade sharing, the boards of directors of districts entering into these agreements shall provide for sharing the costs and expenses as provided in sections 282.10 through 282.12. If a district that has entered into a whole grade sharing agreement determines that a need exists to hire additional employees because of the whole grade sharing agreement, the district shall determine the nature and number of the necessary new positions. The district terminating employees as a result of a whole grade sharing agreement shall notify any other district, which is a party to the agreement, of the names and addresses of those terminated. Individuals who were employed by a district that entered into a whole grade sharing agreement and who were terminated as a result of the agreement shall be notified that the new positions exist and that they may apply for the new positions. The board shall offer the new position to an applicant from among those who were terminated as a result of the agreement if the applicant is licensed for the new position or, in the case of unlicensed personnel, is otherwise qualified. If two or more individuals from among those terminated as a result of the agreement apply for a single position, the applicant who is best qualified in the opinion of the board shall be offered the new position. However, the board is not required to offer a new position to applicants who were among those who were terminated as a result of the agreement beyond two school years. An employee who accrued benefits before a whole grade sharing agreement resulted

in the employee's termination shall not, as a result of reemployment under this section, forfeit accrued vacation, accrued sick leave, longevity, completion of probationary status as defined by section 279.19, or salary or placement on a salary schedule based upon the employee's years of experience.

2. a. When a special education personnel pooling agreement, which has been entered into between an area education agency and a public school district pursuant to section 273.5, is terminated, the public school district shall assume the contractual obligations for any teachers assigned to the district under the agreement. Teachers, for whom the contractual obligations are assumed by a district, shall be given credit for completion of any probationary status under section 279.19, be placed on the salary schedule, and retain all leaves, benefits, and seniority rights accumulated as if the teacher had been originally employed under the agreement which exists between the public school district and the district's collective bargaining unit, consistent with the teacher's education and experience.

b. A teacher who is employed under a pooling agreement and assigned to special education facilities that are separate from and not part of local school district facilities shall, if the teacher's employment terminates upon termination of the pooling agreement, be offered any teaching position that is similar to the position previously held by the teacher under the pooling agreement, which is vacant in any of the local school districts which participated in the pooling agreement, provided that the teacher possesses the appropriate license for the position. Teachers employed by a local school district under this paragraph shall have the same rights, privileges, and protection as teachers whose contractual obligations are assumed by a district to which the teacher previously had been assigned under a special education personnel pooling agreement.

[C66, 71, 73, §257.25(16); C75, 77, 79, 81, §280.15]

85 Acts, ch 212, §9; 87 Acts, ch 224, §54; 90 Acts, ch 1219, §1; 91 Acts, ch 117, §1; 94 Acts, ch 1083, §1; 2010 Acts, ch 1061, §180

Referred to in §257.11, 257.31, 275.1, 275.2, 282.10

See also §256.12

Section not amended; editorial change applied

280.16 Self-administration of asthma or other airway constricting disease medication or epinephrine auto-injectors.

1. *Definitions.* For purposes of this section:

a. "*Epinephrine auto-injector*" means a device for immediate self-administration or administration by another trained individual of a measured dose of epinephrine to a person at risk of anaphylaxis.

b. "*Licensed health care professional*" means a person licensed under chapter 148 to practice medicine and surgery or osteopathic medicine and surgery, an advanced registered nurse practitioner licensed under chapter 152 or 152E and registered with the board of nursing, or a physician assistant licensed to practice under the supervision of a physician as authorized in chapters 147 and 148C.

c. "*Medication*" means a drug that meets the definition provided in section 126.2, subsection 8, has an individual prescription label, is prescribed by a licensed health care professional for a student, and pertains to the student's asthma or other airway constricting disease or risk of anaphylaxis.

d. "*Self-administration*" means a student's discretionary use of medication prescribed by a licensed health care professional for the student.

2. The board of directors of a school district and the authorities in charge of an accredited nonpublic school shall permit the self-administration of medication by a student with asthma or other airway constricting disease or the use of an epinephrine auto-injector by a student with a risk of anaphylaxis if the following conditions are met:

a. The student's parent or guardian provides to the school written authorization for the self-administration of medication or for the use of an epinephrine auto-injector.

b. The student's parent or guardian provides to the school a written statement from the student's licensed health care professional containing the following information:

- (1) The name and purpose of the medication or epinephrine auto-injector.
- (2) The prescribed dosage.

(3) The times at which or the special circumstances under which the medication or epinephrine auto-injector is to be administered.

c. The parent or guardian and the school meet the requirements of subsection 3.

3. The school district or accredited nonpublic school shall notify the parent or guardian of the student, in writing, that the school district or accredited nonpublic school and its employees are to incur no liability, except for gross negligence, as a result of any injury arising from self-administration of medication or use of an epinephrine auto-injector by the student. The parent or guardian of the student shall sign a statement acknowledging that the school district or nonpublic school is to incur no liability, except for gross negligence, as a result of self-administration of medication or use of an epinephrine auto-injector by the student. A school district or accredited nonpublic school and its employees acting reasonably and in good faith shall incur no liability for any improper use of medication or an epinephrine auto-injector as defined in this section or for supervising, monitoring, or interfering with a student's self-administration of medication or use of an epinephrine auto-injector as defined in this section.

4. The permission for self-administration of medication or use of an epinephrine auto-injector is effective for the school year for which it is granted and shall be renewed each subsequent school year upon fulfillment of the requirements of this section. However, the parent or guardian shall immediately notify the school of any changes in the conditions listed under subsection 2.

5. Provided that the requirements of this section are fulfilled, a student with asthma or other airway constricting disease may possess and use the student's medication and a student with a written statement from a licensed health care professional on file pursuant to subsection 2, paragraph "a", may use an epinephrine auto-injector while in school, at school-sponsored activities, under the supervision of school personnel, and before or after normal school activities, such as while in before-school or after-school care on school-operated property. If the student misuses this privilege, the privilege may be withdrawn. A school district or nonpublic school shall notify a student's parent or guardian before withdrawing the privilege to use an epinephrine auto-injector.

6. Information provided to the school under subsection 2 shall be kept on file in the office of the school nurse or, in the absence of a school nurse, the school's administrator.

7. The Iowa braille and sight saving school, the Iowa school for the deaf, and the institutions under the control of the department of human services as provided in section 218.1 are exempt from the provisions of this section.

2004 Acts, ch 1059, §1; 2008 Acts, ch 1088, §117; 2015 Acts, ch 29, §114; 2015 Acts, ch 68, §2; 2020 Acts, ch 1102, §20

Referred to in §135.185, 135.190, 147A.1, 280.16A
Subsection 7 amended

280.16A Epinephrine auto-injector supply.

1. For purposes of this section, unless the context otherwise requires:

a. "*Epinephrine auto-injector*" means the same as provided in section 280.16.

b. "*Licensed health care professional*" means the same as provided in section 280.16.

c. "*Personnel authorized to administer epinephrine*" means a school nurse or other employee of a school district or accredited nonpublic school trained and authorized to administer an epinephrine auto-injector.

2. Notwithstanding any other provision of law to the contrary, a licensed health care professional may prescribe epinephrine auto-injectors in the name of a school district or accredited nonpublic school to be maintained for use as provided in this section.

3. The board of directors in charge of each school district and the authorities in charge of each accredited nonpublic school may obtain a prescription for epinephrine auto-injectors and maintain a supply of such auto-injectors in a secure location at each school for use as provided in this section. The board and the authorities shall replace epinephrine auto-injectors in the supply upon use or expiration. Personnel authorized to administer epinephrine may possess and administer epinephrine auto-injectors from the supply as provided in this section.

4. Personnel authorized to administer epinephrine may provide or administer an epinephrine auto-injector from the school's supply to a student or other individual if such personnel reasonably and in good faith believe the student or other individual is having an anaphylactic reaction.

5. The following persons, provided they have acted reasonably and in good faith, shall not be liable for any injury arising from the provision, administration, or assistance in the administration of an epinephrine auto-injector as provided in this section:

a. Any personnel authorized to administer epinephrine who provide, administer, or assist in the administration of an epinephrine auto-injector to a student or other individual present at the school who such personnel believe to be having an anaphylactic reaction.

b. A school district or accredited nonpublic school employing the personnel.

c. The board of directors in charge of the school district or authorities in charge of the accredited nonpublic school.

d. The prescriber of the epinephrine auto-injector.

6. The department of education, the board of medicine, the board of nursing, and the board of pharmacy shall, in consultation with an organization representing school nurses, adopt rules pursuant to chapter 17A to implement and administer this section, including but not limited to standards and procedures for the prescription, distribution, storage, replacement, and administration of epinephrine auto-injectors, and for training and authorization to be required for personnel authorized to administer epinephrine.

2015 Acts, ch 68, §3

280.17 Procedures for handling child abuse reports.

1. The board of directors of a school district and the authorities in charge of a nonpublic school shall prescribe procedures, in accordance with the guidelines contained in the model policy developed by the department of education in consultation with the department of human services, and adopted by the department of education pursuant to chapter 17A, for the handling of reports of child abuse, as defined in section 232.68, subsection 2, paragraph "a", subparagraph (1), (3), or (5), alleged to have been committed by an employee or agent of the public or nonpublic school.

2. a. The board of directors of a school district and the authorities in charge of an accredited nonpublic school shall place on administrative leave a school employee who is the subject of an investigation of an alleged incident of abuse of a student conducted in accordance with 281 IAC ch. 102.

b. If the results of an investigation of abuse of a student by a school employee who holds a license, certificate, authorization, or statement of recognition issued by the board of educational examiners finds that the school employee's conduct constitutes a crime under any other statute, the board or the authorities, as appropriate, shall report the results of the investigation to the board of educational examiners.

85 Acts, ch 173, §27; 98 Acts, ch 1100, §36; 2011 Acts, ch 132, §95, 106; 2015 Acts, ch 29, §42

Referred to in §321.375

280.17A Procedures for handling dangerous weapons.

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

95 Acts, ch 191, §21

280.17B Students suspended or expelled for possession of dangerous weapons.

The board of directors of a public school and the authorities in control of a nonpublic school shall prescribe procedures for continued school involvement with a student who is suspended or expelled for possession of a dangerous weapon, as defined in section 702.7, on school

premises in violation of state law and for the reintegration of the student into the school following the suspension or expulsion.

95 Acts, ch 191, §22

280.18 Student achievement goals. Repealed by 2001 Acts, ch 159, §18.

280.19 Plans for at-risk children.

The board of directors of each public school district shall incorporate, into the kindergarten admissions program, criteria and procedures for identification and integration of at-risk children and their developmental needs. This incorporation shall be part of the comprehensive school improvement plan developed and implemented in accordance with section 256.7, subsection 21, paragraph “a”.

88 Acts, ch 1114, §4; 2001 Acts, ch 159, §14; 2018 Acts, ch 1057, §9

280.19A Alternative options education programs — disclosure of records.

1. By January 15, 1995, each school district shall adopt a plan to provide alternative options education programs to students who are either at risk of dropping out or have dropped out. An alternative options education program may be provided in a district, through a sharing agreement with a school in a contiguous district, or through an areawide program available at the community college serving the merged area in which the school district is located. Each area education agency shall provide assistance in establishing a plan to provide alternative education options to students attending a public school in a district served by the agency.

2. If a district has not adopted a plan as required in this section and implemented the plan by January 15, 1996, the area education agency serving the district shall assist the district with developing a plan and an alternative options education program for the pupil. When a plan is developed, the district shall be responsible for the operation of the program and shall reimburse the area education agency for the actual costs incurred by the area education agency under this section.

3. Notwithstanding section 22.7, subsection 1, records kept regarding a student who has participated in a program under this section shall be requested by school officials of a public or nonpublic receiving school in which the student seeks to enroll, and shall be provided by the sending school. A school official who receives information under this section shall disclose this information only to those school officials and employees whose duties require them to be involved with the student. A school official or employee who discloses information received under this section in violation of this subsection shall be subject to disciplinary action, including but not limited to reprimand, suspension, or termination. “*School officials and employees*” means those officials and persons employed by a nonpublic school or public school district, and area education agency staff members who provide services to schools or school districts.

90 Acts, ch 1271, §1102; 94 Acts, ch 1131, §4; 94 Acts, ch 1172, §30; 2017 Acts, ch 54, §43

Referred to in §279.9A

Minimum hours of instruction requirement adopted by state board of education not applicable to alternative programs; 90 Acts, ch 1271, §1104

280.20 Career and technical agriculture education.

1. It is the intent of the general assembly to encourage the public secondary schools to develop comprehensive programs for career and technical education in agriculture technology to meet the diverse needs of Iowa’s students and to ensure an adequate supply of trained and skilled individuals in all phases of the agriculture industry. The board of directors of each public school district may develop, as part of the curriculum in grades nine through twelve, programs for career and technical education in agriculture technology.

2. a. It is also the intent of the general assembly to encourage the development of programs for career and technical education in agriculture technology which are structured on a twelve-month basis and which include the following:

(1) Provision for twelve-month extended contracts to permit entrepreneurial agricultural experience, summer program planning, and recordkeeping.

(2) Submission of an annual summer program by each career and technical agriculture instructor employed on an extended contract basis.

(3) Provision for instructional supervision for agricultural occupational experience programs.

b. Supervision and accountability of career and technical agriculture teachers employed for extended contracts are the responsibility of the local school board.

88 Acts, ch 1264, §2; 2010 Acts, ch 1031, §274; 2010 Acts, ch 1069, §79; 2016 Acts, ch 1108, §66

280.21 Corporal punishment — burden of proof.

1. An employee of a public school district, accredited nonpublic school, or area education agency shall not inflict, or cause to be inflicted, corporal punishment upon a student. For purposes of this section, “*corporal punishment*” means the intentional physical punishment of a student. An employee’s physical contact with the body of a student shall not be considered corporal punishment if it is reasonable and necessary under the circumstances and is not designed or intended to cause pain or if the employee uses reasonable force, as defined under section 704.1, for the protection of the employee, the student, or other students; to obtain the possession of a weapon or other dangerous object within a student’s control; or for the protection of property. The department of education shall adopt rules to implement this section.

2. A school employee who, in the reasonable course of the employee’s employment responsibilities, comes into physical contact with a student shall be granted immunity from any civil or criminal liability which might otherwise be incurred or imposed as a result of such physical contact, if the physical contact is reasonable under the circumstances and involves any of the following:

- a. Encouraging, supporting, or disciplining the student.
- b. Protecting the employee, the student, or other students.
- c. Obtaining possession of a weapon or other dangerous object within a student’s control.
- d. Protecting employee, student, or school property.
- e. Quelling a disturbance or preventing an act threatening physical harm to any person.
- f. Removing a disruptive student from class or any area of the school premises, or from school-sponsored activities off school premises.
- g. Preventing a student from the self-infliction of harm.
- h. Self-defense.
- i. Any other legitimate educational activity.

3. To prevail in a civil action alleging a violation of this section the party bringing the action shall prove the violation by clear and convincing evidence. Any school employee determined in a civil action to have been wrongfully accused under this section shall be awarded reasonable monetary damages, in light of the circumstances involved, against the party bringing the action.

4. A school employee’s employer and the board of educational examiners shall not engage in reprisal or retaliation against a school employee who, in the reasonable course of the employee’s employment responsibilities, comes into physical contact with a student in accordance with this section.

89 Acts, ch 71, §1; 90 Acts, ch 1218, §1; 94 Acts, ch 1131, §5; 98 Acts, ch 1195, §1; 2018 Acts, ch 1057, §10; 2020 Acts, ch 1108, §10, 11

Referred to in §232.71B, 256.9

Subsection 2, unnumbered paragraph 1 amended

NEW subsection 4

280.21A Leave — episode of violence.

1. a. A school employee who, in the course of employment, suffers a personal injury causing temporary total disability, or a permanent partial or total disability, resulting from an episode of violence toward that employee, for which workers’ compensation under chapter 85 is payable, shall be entitled to receive workers’ compensation, which the district shall supplement in order for the employee to receive full salary and benefits for the shortest of the following periods:

- (1) One year from the date of the disability.
 - (2) The period during which the employee is disabled and incapable of employment.
 - b. During the period described in paragraph “a”, subparagraph (1) or (2), the school employee shall not be required to use accumulated sick leave or vacation.
 2. The school district may require the employee, as a condition of receiving benefits under this section, to provide a signed statement that justifies the use of this leave and, if medical attention is required, a certificate from a licensed physician that states the nature and duration of the leave.
 3. For purposes of this section, “*school employee*” means a person employed by a nonpublic school or school district, or any area education agency staff member who provides services to a school or school district.
- 94 Acts, ch 1131, §6; 2010 Acts, ch 1061, §101

280.21B Expulsion — weapons in school.

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

95 Acts, ch 191, §23

Referred to in §279.9A

280.22 Student exercise of free expression.

1. Except as limited by this section, students of the public schools have the right to exercise freedom of speech, including the right of expression in official school publications.
2. Students shall not express, publish, or distribute any of the following:
 - a. Materials which are obscene.
 - b. Materials which are libelous or slanderous under chapter 659.
 - c. Materials which encourage students to do any of the following:
 - (1) Commit unlawful acts.
 - (2) Violate lawful school regulations.
 - (3) Cause the material and substantial disruption of the orderly operation of the school.
3. There shall be no prior restraint of material prepared for official school publications except when the material violates this section.
4. Each board of directors of a public school shall adopt rules in the form of a written publications code, which shall include reasonable provisions for the time, place, and manner of conducting such activities within its jurisdiction. The board shall make the code available to the students and their parents.
5. Student editors of official school publications shall assign and edit the news, editorial, and feature content of their publications subject to the limitations of this section. Journalism advisers of students producing official school publications shall supervise the production of the student staff, to maintain professional standards of English and journalism, and to comply with this section.
6. Any expression made by students in the exercise of free speech, including student expression in official school publications, shall not be deemed to be an expression of school policy, and the public school district and school employees or officials shall not be liable in any civil or criminal action for any student expression made or published by students, unless the school employees or officials have interfered with or altered the content of the student speech

or expression, and then only to the extent of the interference or alteration of the speech or expression.

7. “*Official school publications*” means material produced by students in the journalism, newspaper, yearbook, or writing classes and distributed to the student body either free or for a fee.

8. This section does not prohibit a board of directors of a public school from adopting otherwise valid rules relating to oral communications by students upon the premises of each school.

89 Acts, ch 155, §1

Referred to in §279.58

280.23 Student health services.

The board of directors of each public school district and the authorities in charge of each nonpublic school shall not require nonadministrative personnel to perform any special health services or intrusive nonemergency medical services for students unless the nonadministrative personnel are licensed or otherwise qualified and have consented to perform the services.

92 Acts, ch 1033, §1

280.24 Procedures for reporting drug or alcohol possession or use.

The board of directors of each public school and the authorities in charge of each accredited nonpublic school shall prescribe procedures to report any use or possession of alcoholic liquor, wine, or beer or any controlled substance on school premises to local law enforcement agencies, if the use or possession is in violation of school policy or state law. The procedures may include a provision which does not require a report when the school officials have determined that a school at-risk or other student assistance program would be jeopardized if a student self reports.

97 Acts, ch 126, §38

280.25 Information sharing — interagency agreements.

1. The board of directors of each public school and the authorities in charge of each accredited nonpublic school shall adopt a policy and the superintendent of each public school shall adopt rules which provide that the school district or school may share information contained within a student’s permanent record pursuant to an interagency agreement with state and local agencies that are part of the juvenile justice system. These agencies include, but are not limited to, juvenile court services, the department of human services, and local law enforcement authorities. The disclosure of information shall be directly related to the juvenile justice system’s ability to effectively serve, prior to adjudication, the student whose records are being released.

2. The purpose of the agreement shall be to reduce juvenile crime by promoting cooperation and collaboration and the sharing of appropriate information among the parties in a joint effort to improve school safety, reduce alcohol and illegal drug use, reduce truancy, reduce in-school and out-of-school suspensions, and to support alternatives to in-school and out-of-school suspensions and expulsions which provide structured and well-supervised educational programs supplemented by coordinated and appropriate services designed to correct behaviors that lead to truancy, suspension, and expulsions and to support students in successfully completing their education.

3. Information shared under the agreement shall be used solely for determining the programs and services appropriate to the needs of the juvenile or the juvenile’s family, or coordinating the delivery of programs and services to the juvenile or the juvenile’s family.

4. Information shared by the school district or school under the agreement is not admissible in any court proceedings which take place prior to a disposition hearing, unless written consent is obtained from a student’s parent, guardian, or legal or actual custodian.

5. Information shared by another party to the agreement with a school district or school pursuant to an interagency agreement shall not be used as a basis for a school disciplinary action against a student.

6. The interagency agreement shall provide, and each signatory agency to the agreement shall certify in the agreement, that confidential information shared among the parties to the agreement shall remain confidential and shall not be shared with any other person, school, school district, or agency, unless otherwise provided by law.

7. Juvenile court social records may be disclosed in accordance with section 232.147, subsection 9.

8. A school or school district entering into an interagency agreement under this section shall adopt a policy implementing the provisions of the interagency agreement. The policy shall include, but not be limited to, the provisions of the interagency agreement and the procedures to be used by the school or school district to share information from the student's permanent record with participating agencies. The policy shall be published in the student handbook.

97 Acts, ch 126, §39; 2000 Acts, ch 1123, §4

Referred to in §232.147, 235A.15

280.26 Intervention in altercations.

1. An employee of a public school district, accredited nonpublic school, or area education agency may intervene in a fight or physical struggle occurring among students or between students and nonstudents that takes place in the presence of the school employee in a school building, on school premises, or at any school function or school-sponsored activity regardless of its location. The degree and force of the intervention may be as reasonably necessary, in the opinion of the school employee, to restore order and protect the safety of the individuals involved in the altercation and others in the vicinity of the altercation.

2. A person who is not an employee of a public school district, accredited nonpublic school, or area education agency may intervene in a fight or physical struggle occurring among students, or between students and nonstudents, that takes place in the presence of the nonemployee in a school building, on school premises, or at any school function or school-sponsored activity regardless of its location. The intervention may occur in the absence of an employee of a public school district, accredited nonpublic school, or area education agency, or at the request of such an employee, utilizing the degree and force of intervention reasonably necessary to restore order and protect the safety of the individuals involved in the altercation and others in the vicinity of the altercation. However, a person who intervenes in the absence of an employee of a public school district, accredited nonpublic school, or area education agency shall report the intervention and all relevant information regarding the situation as soon as reasonably possible to such an employee.

3. An employee of a public school district, accredited nonpublic school, or area education agency who intervenes in a fight or physical struggle pursuant to subsection 1 shall be awarded reasonable monetary damages against a party bringing a civil action alleging a violation of this section, if it is determined in the action that the employee has been wrongfully accused. A nonemployee of a public school district, accredited nonpublic school, or area education agency who intervenes in a fight or physical struggle pursuant to subsection 2 shall be limited to the recovery of reasonable attorney fees and court costs, if it is determined in a civil action alleging a violation of this section that the nonemployee has been wrongfully accused.

98 Acts, ch 1195, §2; 2018 Acts, ch 1057, §11

280.27 Reporting violence — immunity.

An employee of a school district, an accredited nonpublic school, or an area education agency who participates in good faith and acts reasonably in the making of a report to, or investigation by, an appropriate person or agency regarding violence, threats of violence, physical or sexual abuse of a student, or other inappropriate activity against a school employee or student in a school building, on school grounds, or at a school-sponsored function shall be immune from civil or criminal liability relating to such action, as well as for

participating in any administrative or judicial proceeding resulting from or relating to the report or investigation.

2000 Acts, ch 1162, §1; 2011 Acts, ch 132, §96, 106

Referred to in §279.51A, 613.21

Similar provision, see §613.21

280.28 Harassment and bullying prohibited — policy — immunity.

1. *Purpose — findings — policy.* The state of Iowa is committed to providing all students with a safe and civil school environment in which all members of the school community are treated with dignity and respect. The general assembly finds that a safe and civil school environment is necessary for students to learn and achieve at high academic levels. Harassing and bullying behavior can seriously disrupt the ability of school employees to maintain a safe and civil environment, and the ability of students to learn and succeed. Therefore, it is the policy of the state of Iowa that school employees, volunteers, and students in Iowa schools shall not engage in harassing or bullying behavior.

2. *Definitions.* For purposes of this section, unless the context otherwise requires:

a. “*Electronic*” means any communication involving the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means. “*Electronic*” includes but is not limited to communication via electronic mail, internet-based communications, pager service, cell phones, and electronic text messaging.

b. “*Harassment*” and “*bullying*” shall be construed to mean any electronic, written, verbal, or physical act or conduct toward a student which is based on any actual or perceived trait or characteristic of the student and which creates an objectively hostile school environment that meets one or more of the following conditions:

(1) Places the student in reasonable fear of harm to the student’s person or property.

(2) Has a substantially detrimental effect on the student’s physical or mental health.

(3) Has the effect of substantially interfering with a student’s academic performance.

(4) Has the effect of substantially interfering with the student’s ability to participate in or benefit from the services, activities, or privileges provided by a school.

c. “*Trait or characteristic of the student*” includes but is not limited to age, color, creed, national origin, race, religion, marital status, sex, sexual orientation, gender identity, physical attributes, physical or mental ability or disability, ancestry, political party preference, political belief, socioeconomic status, or familial status.

d. “*Volunteer*” means an individual who has regular, significant contact with students.

3. *Policy.* On or before September 1, 2007, the board of directors of a school district and the authorities in charge of each accredited nonpublic school shall adopt a policy declaring harassment and bullying in schools, on school property, and at any school function, or school-sponsored activity regardless of its location, in a manner consistent with this section, as against state and school policy. The board and the authorities shall make a copy of the policy available to all school employees, volunteers, students, and parents or guardians and shall take all appropriate steps to bring the policy against harassment and bullying and the responsibilities set forth in the policy to the attention of school employees, volunteers, students, and parents or guardians. Each policy shall, at a minimum, include all of the following components:

a. A statement declaring harassment and bullying to be against state and school policy. The statement shall include but not be limited to the following provisions:

(1) School employees, volunteers, and students in school, on school property, or at any school function or school-sponsored activity shall not engage in harassing and bullying behavior.

(2) School employees, volunteers, and students shall not engage in reprisal, retaliation, or false accusation against a victim, witness, or an individual who has reliable information about such an act of harassment or bullying.

b. A definition of harassment and bullying as set forth in this section.

c. A description of the type of behavior expected from school employees, volunteers, parents or guardians, and students relative to prevention measures, reporting, and investigation of harassment or bullying.

d. The consequences and appropriate remedial action for a person who violates the antiharassment and antibullying policy.

e. A procedure for reporting an act of harassment or bullying, including the identification by job title of the school official responsible for ensuring that the policy is implemented, and the identification of the person or persons responsible for receiving reports of harassment or bullying.

f. A procedure for the prompt investigation of complaints, either identifying the school superintendent or the superintendent's designee as the individual responsible for conducting the investigation, including a statement that investigators will consider the totality of circumstances presented in determining whether conduct objectively constitutes harassment or bullying under this section.

g. A statement of the manner in which the policy will be publicized.

4. *Programs encouraged.* The board of directors of a school district and the authorities in charge of each accredited nonpublic school are encouraged to establish programs designed to eliminate harassment and bullying in schools. To the extent that funds are available for these purposes, school districts and accredited nonpublic schools shall do the following:

a. Provide training on antiharassment and antibullying policies to school employees and volunteers who have significant contact with students.

b. Develop a process to provide school employees, volunteers, and students with the skills and knowledge to help reduce incidents of harassment and bullying.

5. *Immunity.* A school employee, volunteer, or student, or a student's parent or guardian who promptly, reasonably, and in good faith reports an incident of harassment or bullying, in compliance with the procedures in the policy adopted pursuant to this section, to the appropriate school official designated by the school district or accredited nonpublic school, shall be immune from civil or criminal liability relating to such report and to participation in any administrative or judicial proceeding resulting from or relating to the report.

6. *Collection requirement.* The board of directors of a school district and the authorities in charge of each nonpublic school shall develop and maintain a system to collect harassment and bullying incidence data.

7. *Integration of policy and reporting.* The board of directors of a school district and the authorities in charge of each nonpublic school shall integrate its antiharassment and antibullying policy into the comprehensive school improvement plan required under section 256.7, subsection 21, and shall report data collected under subsection 6, as specified by the department, to the local community.

8. *Existing remedies not affected.* This section shall not be construed to preclude a victim from seeking administrative or legal remedies under any applicable provision of law.

2007 Acts, ch 9, §2

Referred to in §279.10, 282.18

280.29 Enrollment of children adjudicated or in foster care — transfer of educational records — services.

1. In order to facilitate the educational stability of children adjudicated under chapter 232 or receiving foster care services, a school district, upon notification by an agency of the state that a child adjudicated under chapter 232 or receiving foster care services is transferring to and enrolling in the school district, shall provide for the immediate and appropriate enrollment of the child. The school district shall do the following:

a. Work with an area education agency child welfare liaison, if the area education agency has employed such a liaison in accordance with section 273.2, subsection 10, to develop systems to ease the enrollment transition of a child adjudicated under chapter 232 or receiving foster care services to another school.

b. Develop procedures for awarding credit for coursework, including electives, completed by a child adjudicated under chapter 232 or receiving foster care services while enrolled at another school.

(1) Credits and grades earned and offered for acceptance shall be based on official transcripts and shall be accepted without validation unless required under the receiving school district's accreditation requirements.

(2) If the child earned less than a passing grade for a unit of coursework, the school district may require the child to retake the class in middle or high school. If the school district determines the child's proficiencies in an elementary grade are substantially deficient, the child's parent or guardian shall be notified and intensive instructional services and supports pursuant to section 279.68 shall be provided if appropriate.

c. Promote practices that facilitate access by a child adjudicated under chapter 232 or receiving foster care services to extracurricular programs, summer programs, and credit transfer services.

d. Establish procedures to lessen the adverse impact of the enrollment transfer of a child adjudicated under chapter 232 or receiving foster care services to another school.

e. Enter into a memorandum of understanding with the department of human services regarding the exchange of information as appropriate to facilitate the enrollment transition of children adjudicated under chapter 232 or receiving foster care services from one school to another school.

f. Provide other assistance as identified by the area education child welfare liaison.

2. A school district or an accredited nonpublic school, upon notification by an agency of the state that a child adjudicated under chapter 232 or in foster care is transferring enrollment from the school district or accredited nonpublic school to another school district or accredited nonpublic school, shall promptly provide for the transfer of all of the educational records of the child not later than five school days after receiving the notification.

2009 Acts, ch 120, §5; 2014 Acts, ch 1091, §2

280.30 High-quality school building emergency operations plans.

1. The board of directors of a school district and the authorities in charge of each accredited nonpublic school shall develop a high-quality emergency operations plan for the district and individual school buildings in which students are educated no later than June 30, 2019. The plan shall include but not be limited to responses to active shooter scenarios and natural disasters. The plan shall provide that any alert regarding an emergency situation that is transmitted to school personnel or students by electronic means shall also be transmitted to the employer of any individual who is not a school employee but who is required as a part of the individual's employment to regularly be present in a school building during the school year. The plan shall include publication of procedures for school personnel, parents, and guardians to report possible threats to the safety of students or school personnel on school grounds or at school activities. The board and authorities shall consider any recommendations of the department of education relating to the development of a high-quality emergency operations plan and shall consult with local emergency management coordinators and local law enforcement agencies in the development of the plan. The board and authorities shall review and update the plan on an annual basis. The plan shall be confidential and shall not be a public record subject to disclosure under chapter 22.

2. The board of directors of a school district and the authorities in charge of each accredited nonpublic school shall require that at least once per school year an emergency operations drill based on the emergency operations plan be conducted in each individual school building in which students are educated. The board and authorities shall determine which school personnel participate in the drill and whether students or local law enforcement agencies participate in the drill. The drill may include but is not limited to a table top exercise, walk-through, partial drill, or full drill. This subsection shall not be construed to affect the requirements of section 100.31, subsection 1.

2018 Acts, ch 1109, §1

CHAPTER 280A

BEHAVIORAL HEALTH SERVICES — SCHOOL SETTINGS

Referred to in §274.3

280A.1	Definitions.	280A.4	Behavioral health services provided via telehealth in a school setting.
280A.2	Behavioral health screenings and assessments in school settings.		
280A.3	Establishment of provider-patient relationship for services provided via telehealth in a school setting.		

280A.1 Definitions.

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

1. “*Accredited nonpublic school*” means any school, other than a public school, that is accredited pursuant to section 256.11 for any and all levels for grades one through twelve.
2. “*Area education agency*” means an area education agency established pursuant to chapter 273.
3. “*Behavioral health screening*” or “*screening*” means a screening and assessment performed using a universal behavioral health screening and assessment tool, approved for use by the department of education in consultation with the department of public health and the department of human services, to identify factors that place children at higher risk for behavioral health conditions, to determine appropriate treatment or intervention, and to identify the need for referral for appropriate services.
4. “*Behavioral health services*” means services provided by a health care professional operating within the scope of the health care professional’s practice which address mental, emotional, medical, or behavioral conditions, illnesses, diseases, or problems.
5. “*Health care professional*” means a physician or other health care practitioner licensed, accredited, registered, or certified to perform specified health care services consistent with state law.
6. “*In-person encounter*” means that the mental health professional and the student are in the physical presence of each other and are in the same physical location during the provision of behavioral health services.
7. “*Mental health professional*” means the same as defined in section 228.1.
8. “*Patient*” means a student receiving a behavioral health screening or other behavioral health services in accordance with this chapter.
9. “*Primary care provider*” means the personal provider trained to provide the first contact and continuous and comprehensive care to a patient and includes but is not limited to any of the following licensed or certified health care professionals who provide primary care:
 - a. A physician who is a family or general practitioner or a pediatrician.
 - b. An advanced registered nurse practitioner.
 - c. A physician assistant.
10. “*Provider-patient relationship*” means the relationship between the patient and the mental health professional that meets the requirements for commencement and establishment of a valid provider-patient relationship as specified in this chapter.
11. “*Public school*” means any school directly supported in whole or in part by taxation.
12. “*School district*” means a school district described in chapter 274.
13. “*Student*” means a person enrolled in and attending an accredited nonpublic school or a public school in grades one through twelve.
14. “*Telehealth*” means the same as defined in section 514C.34.

2020 Acts, ch 1105, §1

NEW section

280A.2 Behavioral health screenings and assessments in school settings.

1. a. A school district, an accredited nonpublic school, or an area education agency may

contract with a mental health professional or a nationally accredited behavioral health care organization to provide behavioral health screenings to students in person.

b. (1) A behavioral health screening may be conducted following provision of written consent by the student's parent or guardian for the student to participate in such screening.

(2) The consent shall also allow for the disclosure of the results of such screenings to the school district, accredited nonpublic school, or area education agency, if the mental health professional believes there is a credible threat to the health and safety of the student or others.

2. If a mental health professional conducts an initial behavioral health screening on the premises of a public school, an accredited nonpublic school, or an area education agency and determines that a student should be referred for additional behavioral health services, all of the following shall apply:

a. The mental health professional shall notify the parent or guardian of the student of the results of the screening.

b. The mental health professional may notify the student's primary care provider following provision of written consent by the student's parent or guardian. If a student does not have a primary care provider, the mental health professional may provide a listing of local primary care providers to the student's parent or guardian.

2020 Acts, ch 1105, §2

NEW section

280A.3 Establishment of provider-patient relationship for services provided via telehealth in a school setting.

1. A mental health professional who provides services via telehealth in a public school, an accredited nonpublic school, or an area education agency shall establish a valid provider-patient relationship with the student who receives telehealth services.

2. The provider-patient relationship commences when all of the following conditions are met:

a. The student with the health-related matter with the consent of the student's parent or guardian seeks assistance from a mental health professional.

b. The mental health professional agrees to undertake diagnosis and treatment of the student.

c. The student's parent or guardian agrees to have the student treated by the mental health professional.

3. A valid provider-patient relationship may be established through any of the following means:

a. Through an in-person encounter which includes an in-person medical interview and physical examination conducted under the standard of care required for an in-person encounter.

b. Through consultation with a primary care provider who has an established relationship with the patient and who agrees to participate in or supervise the patient's care.

c. Through telehealth, if the standard of care does not require an in-person encounter, in accordance with evidence-based standards of practice and telehealth practice guidelines that address the clinical and technological aspects of telehealth, and the student's parent or guardian is present.

4. The parent or guardian of a student shall consent prior to the student receiving behavioral health services via telehealth under this chapter after a provider-patient relationship is established pursuant to this section. The school district shall maintain any such consent form completed by a parent or guardian.

2020 Acts, ch 1105, §3

NEW section

280A.4 Behavioral health services provided via telehealth in a school setting.

1. A public school, accredited nonpublic school, or an area education agency may provide access to behavioral health services via telehealth on the premises of the public school, accredited nonpublic school, or area education agency. If a public school, an accredited

nonpublic school, or an area education agency provides such access, the school or area education agency shall do all of the following:

a. Provide a secure, confidential, and private room for such services and the technology necessary to conduct telehealth services.

b. Maintain parent or guardian consent forms for the provision of such services. Consent forms shall be required for each academic year in which the student receives such services.

c. Maintain scheduling requests for student appointments for such services and provide the student access to the room by a school nurse or other appropriately trained school or area education agency employee.

d. Ensure that no school or area education agency employee is present in the same room as the student during the provision of such services.

e. Provide information to the student participating in telehealth services about how and to whom to report inappropriate behavior by a mental health professional.

f. Provide access to the student's parent or guardian to participate in any of the student's telehealth sessions.

2. The public school, accredited nonpublic school, or area education agency shall not have access to or handle any of the student's medical records or be responsible for billing for the telehealth services provided.

3. A mental health professional with prescribing authority who provides telehealth services in accordance with this section shall not prescribe any new medication to a student during a telehealth session. However, a mental health professional with prescribing authority may initiate new prescriptions, alter the dosage of an existing medication, or discontinue an existing medication for the treatment of the student's behavioral health condition after consultation with the student's parent or guardian.

4. The mental health professional shall notify the student's parent or guardian of the time and place for each scheduled telehealth session and specify the means available for the parent or guardian to participate in the session.

5. Protected health information, including but not limited to medical records and medical billing information, created by the mental health professional or primary care provider shall not be shared with or disclosed to a public school, accredited nonpublic school, or area education agency, unless disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of the student or to a clearly identifiable person or persons and the mental health professional determines the student has the apparent intent and ability to carry out the threat.

6. A school district, an accredited nonpublic school, an area education agency, the board of directors of a school district or an area education agency, authorities in charge of the accredited nonpublic school, and employees of the school district, accredited nonpublic school or area education agency, shall not be liable for any injury arising from the provision of voluntary behavioral health screenings or behavioral health services in accordance with this chapter, provided such person has acted reasonably and in good faith and in accordance with the provisions of this chapter.

2020 Acts, ch 1105, §4
NEW section

CHAPTERS 280B to 281

RESERVED

CHAPTER 282

SCHOOL ATTENDANCE AND TUITION

Referred to in §274.3, 321.194

282.1	School age — nonresidents.	282.20	Tuition fees — payment.
282.1A	Extended school programs. Repealed by 2006 Acts, ch 1152, §56.	282.21	Collection of tuition fees. and 282.23 Reserved.
282.2	Offsetting tax.	282.22	Tuition fees established.
282.3	Admission and exclusion of pupils.	282.24	Reserved.
282.4	Suspension — expulsion.	282.25	High school students attending advanced courses.
282.5	Readmission of student.	282.26	Children living in psychiatric hospitals or institutions — payment.
282.6	Tuition.	282.27	Children at Eldora and Toledo. Repealed by 2003 Acts, ch 178, §59.
282.7	Attending in another corporation — payment.	282.28	Children placed by district court.
282.8	Attending school outside state.	282.29	Special programs.
282.9	Enrollment of person listed on sex offender registry.	282.30	Funding for special programs.
282.10	Whole grade sharing.	282.31	Appeal.
282.11	Procedure for whole grade sharing agreements.	282.32	Funding for children residing in state mental health institutes or institutions.
282.12	Funding of whole grade sharing agreements.	282.33	Educational programs for children's residential facilities.
282.13	through 282.17 Reserved.		
282.18	Open enrollment.		
282.19	Child living in substance abuse or foster care placement.	282.34	

282.1 School age — nonresidents.

1. Persons between five and twenty-one years of age are of school age. Nonresident children shall be charged the maximum tuition rate as determined in section 282.24, with the exception that those residing temporarily in a school corporation may attend school in the corporation upon terms prescribed by the board. A school district discontinuing grades under section 282.7, subsection 1 or 3, shall be charged tuition as provided in section 282.24.

2. For purposes of this section, “resident” means a child who meets either of the following requirements:

a. Is physically present in a district, whose residence has not been established in another district by operation of law, and who meets any of the following conditions:

(1) Is in the district for the purpose of making a home and not solely for school purposes.

(2) Meets the definitional requirements of the term “homeless individual” under 42 U.S.C. §11302(a) and (c).

(3) Lives in a juvenile detention center or residential facility in the district.

b. Is domiciled with the child’s parent or guardian who is on active duty in the military service of the United States and is stationed at and resides or is domiciled within a federal military installation located contiguous to a county in this state.

3. The parent or guardian of a child who meets the requirements of subsection 2, paragraph “b”, may enroll the child in a school district in a county in this state that is located contiguous to the out-of-state federal military installation. Notwithstanding section 285.1 relating to transportation of resident pupils, the parent or guardian is responsible for transporting the child without reimbursement to and from a point on a regular school bus route of the district of enrollment.

4. Notwithstanding section 282.6, if a parent or guardian enrolls a child in a school district in accordance with subsection 3, the school district shall be free of tuition for such child.

[C73, §1795; C97, §2804; C24, 27, 31, 35, 39, §4268; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §282.1]

83 Acts, ch 31, §3; 88 Acts, ch 1263, §6; 89 Acts, ch 210, §8; 92 Acts, ch 1130, §1; 2006 Acts, ch 1152, §38; 2009 Acts, ch 120, §6; 2010 Acts, ch 1061, §48; 2012 Acts, ch 1021, §61; 2018 Acts, ch 1172, §88, 89; 2019 Acts, ch 59, §237, 239

Referred to in §257.6, 282.8, 282.18

282.1A Extended school programs. Repealed by 2006 Acts, ch 1152, §56.

282.2 Offsetting tax.

The parent or guardian whose child or ward attends school in a district of which the parent or guardian is not a resident shall be allowed to deduct the amount of school tax paid by the parent or guardian in said district from the amount of tuition required to be paid.

[C97, §2804; C24, 27, 31, 35, 39, §4269; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §282.2]
88 Acts, ch 1158, §59

282.3 Admission and exclusion of pupils.

1. The board may exclude from school children under the age of six years when in its judgment such children are not sufficiently mature to be benefited by regular instruction, or any child who is found to be physically or mentally unable to attend school under section 299.5, or whose presence in school has been found to be injurious to the health of other pupils, or is efficiently taught for the scholastic year at a state institution. However, the board shall provide special education programs and services under chapters 256B, 257, and 273 for all children requiring special education.

2. The conditions of admission to public schools for work in the year immediately preceding the first grade and in the first grade shall be as follows:

a. A child under the age of six years on the fifteenth of September of the current school year shall not be admitted to a public school unless the board of directors of the school has adopted and put into effect courses of study for the school year immediately preceding the first grade, approved by the department of education, and has employed a practitioner or practitioners for this work with standards of training approved by the board of educational examiners.

b. No child shall be admitted to school work for the year immediately preceding the first grade unless the child is five years of age on or before the fifteenth of September of the current school year.

c. No child shall be admitted to the first grade unless the child is six years of age on or before the fifteenth of September of the current school year; except that a child under six years of age who has been admitted to school work for the year immediately preceding the first grade under conditions approved by the department of education, or who has demonstrated the possession of sufficient ability to profit by first-grade work on the basis of tests or other means of evaluation recommended or approved by the department of education, may be admitted to first grade at any time before December 31.

3. This section does not prohibit a school board from requiring the attainment of a greater age than the age requirements set forth in this section.

[C97, §2782; C24, 27, 31, 35, 39, §4270; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §282.3]
89 Acts, ch 135, §85; 89 Acts, ch 210, §9; 89 Acts, ch 265, §36; 2010 Acts, ch 1061, §180; 2020 Acts, ch 1063, §128

Referred to in §279.9A
Subsection 3 amended

282.4 Suspension — expulsion.

1. The board may, by a majority vote, expel any student from school for a violation of the regulations or rules established by the board, or when the presence of the student is detrimental to the best interests of the school. The board may confer upon any teacher,

principal, or superintendent the power temporarily to suspend a student, notice of the suspension being at once given in writing to the president of the board.

2. A student who commits an assault, as defined under section 708.1, against a school employee in a school building, on school grounds, or at a school-sponsored function shall be suspended for a time to be determined by the principal. Notice of the suspension shall be immediately sent to the president of the board. By special meeting or at the next regularly scheduled board meeting, the board shall review the suspension and decide whether to hold a disciplinary hearing to determine whether or not to order further sanctions against the student, which may include expelling the student. In making its decision, the board shall consider the best interests of the school district, which shall include what is best to protect and ensure the safety of the school employees and students from the student committing the assault.

3. A student shall not be suspended or expelled pursuant to this section if the suspension or expulsion would violate the federal Individuals with Disabilities Education Act.

4. Notwithstanding section 282.6, if a student has been expelled or suspended from school and has not met the conditions of the expulsion or suspension, the student shall not be permitted to enroll in a school district until the board of directors of the school district approves, by a majority vote, the enrollment of the student.

[C73, §1735, 1756; C97, §2782; C24, 27, 31, 35, 39, §4271; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §282.4]

89 Acts, ch 210, §10; 94 Acts, ch 1131, §7; 94 Acts, ch 1199, §66; 95 Acts, ch 218, §27; 96 Acts, ch 1215, §51; 2010 Acts, ch 1061, §180; 2013 Acts, ch 90, §71

Referred to in §279.9A, 280.21B, 282.5

282.5 Readmission of student.

When a student is suspended by a teacher, principal, or superintendent, pursuant to section 282.4, the student may be readmitted by the teacher, principal, or superintendent when the conditions of the suspension have been met, but when expelled by the board the student may be readmitted only by the board or in the manner prescribed by the board.

[R60, §2054; C73, §1735, 1756; C97, §2782; C24, 27, 31, 35, 39, §4272; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §282.5]

94 Acts, ch 1091, §23; 95 Acts, ch 218, §28; 96 Acts, ch 1215, §52

Referred to in §279.9A

282.6 Tuition.

1. For purposes of this section, “resident” means a person who is physically present in a district, whose residence has not been established in another district by operation of law, and who meets any of the following conditions:

a. Is in the district for the purpose of making a home and not solely for school purposes.

b. Meets the definitional requirements of the term “homeless individual” under 42 U.S.C. §11302(a) and (c).

c. Lives in a residential correctional facility in the district.

2. Every school shall be free of tuition to all actual residents between the ages of five and twenty-one years and to resident veterans as defined in section 35.1, as many months after becoming twenty-one years of age as they have spent in the armed forces of the United States before they became twenty-one, provided, however, fees may be charged covering instructional costs for a summer school or driver education program. The board of education may, in a hardship case, exempt a student from payment of the above fees. Every person, however, who shall attend any school after graduation from a four-year course in an approved high school or its equivalent shall be charged a sufficient tuition fee to cover the cost of the instruction received by the person.

3. This section shall not apply to tuition authorized by chapter 260C.

[C73, §1724, 1727; C97, §2773; S13, §2773; C24, 27, 31, 35, 39, §4273; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §282.6]

89 Acts, ch 210, §11; 92 Acts, ch 1135, §2; 99 Acts, ch 180, §14; 2010 Acts, ch 1069, §80; 2011 Acts, ch 25, §23

Referred to in §282.1, 282.4

282.7 Attending in another corporation — payment.

1. The board of directors of a school district by record action may discontinue any or all of grades seven through twelve and negotiate an agreement for attendance of the pupils enrolled in those grades in the schools of one or more contiguous school districts having accredited school systems. If the board designates more than one contiguous district for attendance of its pupils, the board shall draw boundary lines within the school district for determining the school districts of attendance of the pupils. The portion of a district so designated shall be contiguous to the accredited school district designated for attendance. Only entire grades may be discontinued under this subsection and if a grade is discontinued, all higher grades in that district shall also be discontinued. A school district that has discontinued one or more grades under this subsection has complied with the requirements of section 275.1 relating to the maintenance of kindergarten and twelve grades. A pupil who graduates from another school district under this subsection shall receive a diploma from the receiving district. The boards of directors entering into an agreement under this section shall provide for sharing the costs and expenses as provided in sections 282.10 through 282.12. The agreement shall provide for transportation and authority and liability of the affected boards.

2. If the career and technical education program offered by a school district does not meet standards for program approval adopted by the state board for career and technical education, the district shall be granted one year to meet the standards for approval. If a district chooses to waive the one-year grace period, or the district fails to meet the approval standards after one year, the director of the department of education shall delegate the authority to the regional career and technical education planning partnership established pursuant to section 258.14 to direct the district to contract with another school district or a community college which has an approved program, for the provision of career and technical education for students of the district. The district that has waived the one-year grace period or has failed to meet the approval standards shall pay to the district or community college that has an approved program an amount equal to the percent of the school day in which a pupil is receiving career and technical education in the approved program times the district cost per pupil of the district of residence of the pupil. The regional career and technical education planning partnership established pursuant to section 258.14 shall contract with an approved program for delivery of career and technical education in the district which has failed to meet the approval standards or has waived the one-year grace period. Transportation to and from the approved program shall be provided by the school district that has waived the one-year grace period or has failed to meet approval standards. Reasonable effort shall be made to conduct the approved program at an attendance center in the district that has failed to meet the approval standards or has waived the one-year grace period.

3. Notwithstanding sections 28E.9 and 282.8, a school district may negotiate an agreement under subsection 1 for attendance of its pupils in a school district located in a contiguous state subject to a reciprocal agreement by the two state boards in the manner provided in this subsection. Prior to negotiating an agreement with the school district in the contiguous state, the board of directors shall file a written request with the state board of education for a determination whether the school district in the contiguous state meets requirements substantially similar to those required for accredited or approved school districts in this state and the school district receives or has available services equivalent to those that would be provided in this state by an area education agency. The school district shall also obtain approval by the department of education of the sharing proposal, before the agreement becomes effective. Six months before making the request for approval, the district shall request a feasibility study from the department of education. If the state board of this state and the corresponding state board in the contiguous state agree that the school districts of their respective states meet substantially similar requirements and have substantially similar services available to the school district, and if the Iowa department of education approves the proposed contract, the two state boards may sign a reciprocal agreement for attendance of their pupils in the school district of the other state, subject to the agreement signed between the boards of directors of the two districts. A school district that

negotiates an agreement with a school district in a contiguous state under this subsection is not eligible for supplementary weighting under section 257.11 as a result of that agreement.

[C51, §1143; R60, §2024; C73, §1793; C97, §2803; C24, 27, 31, 35, 39, §4274; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §282.7]

83 Acts, ch 31, §4, 5; 85 Acts, ch 212, §13; 86 Acts, ch 1245, §1484; 87 Acts, ch 224, §59; 88 Acts, ch 1263, §7; 89 Acts, ch 135, §86; 89 Acts, ch 278, §7; 2008 Acts, ch 1032, §108; 2016 Acts, ch 1108, §67; 2017 Acts, ch 29, §83

Referred to in §256.9, 275.1, 275.2, 282.1, 282.10, 282.24

282.8 Attending school outside state.

1. The boards of directors of school districts located near the state boundaries may designate schools of equivalent standing across the state line for attendance of both elementary and secondary school pupils when the public school in the adjoining state is nearer than any appropriate public school in a pupil's district of residence or in Iowa. Distance shall be measured by the nearest traveled public road. Arrangements shall be subject to reciprocal agreements made between the chief state school officers of the respective states. Notwithstanding section 282.1, arrangements between districts pursuant to the reciprocal agreements made under this section shall establish tuition and transportation fees in an amount acceptable to the affected boards, but the tuition fee established shall not be less than the lower of the tuition fee established pursuant to section 282.24 for the school district or the equivalent tuition rate for the non-Iowa school district for the previous school year, and the transportation fee established shall not be less than the lower average transportation cost per mile for yellow school buses as described in section 321.373 for the previous school year of the two affected school districts. The agreement shall provide that if the tuition fee for the school district in the adjoining state is a variable rate, the test of which tuition fee is lower shall be determined for each student by the affected boards.

2. A person attending school in another state pursuant to this section shall continue to be treated as a pupil of the district of residence for state school foundation aid purposes under section 257.6.

3. Notwithstanding the tuition provisions of subsection 1, the tuition fee established for a child requiring special education under chapter 256B shall be equal to the actual cost of the special education instructional program provided to that child under the child's individualized education program.

4. If the chief state school officers of the respective states have not entered into a reciprocal agreement under this section, or the agreement has expired or been terminated, or the distance to the public school in the adjoining state is not nearer than an appropriate public school in the pupil's district of residence or an appropriate public school in Iowa, the pupil attending school outside the state shall be considered a nonresident child for purposes of tuition payments to the receiving district and shall not be treated as a pupil of the district of residence for state school foundation aid purposes under section 257.6.

5. The whole grade sharing provisions of sections 282.10 through 282.12 and the open enrollment provisions of section 282.18 shall not apply to agreements made between districts under this section.

[C31, 35, §4274-c1, -c2, 4275; C39, §4274.01, 4274.02, 4275; C46, §282.8, 282.9, 282.17; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §282.8, 282.17; 81 Acts, ch 89, §1]

87 Acts, ch 4, §1; 2006 Acts, ch 1152, §39; 2016 Acts, ch 1036, §6

Referred to in §275.1, 282.7

282.9 Enrollment of person listed on sex offender registry.

1. Notwithstanding sections 275.55A, 256F.4, and 282.18, or any other provision to the contrary, prior to knowingly enrolling an individual who is required to register as a sex offender under chapter 692A, but who is otherwise eligible to enroll in a public school, the board of directors of a school district shall determine the educational placement of the individual. Upon receipt of notice that a student who is enrolled in the district is required to register as a sex offender under chapter 692A, the board shall determine the educational placement of the student. The tentative agenda for the meeting of the board of directors at

which the board will consider such enrollment or educational placement shall specifically state that the board is considering the enrollment or educational placement of an individual who is required to register as a sex offender under chapter 692A. If the individual is denied enrollment in a school district under this section, the school district of residence shall provide the individual with educational services in an alternative setting.

2. Notwithstanding section 692A.121, or any other provision of law to the contrary, the county sheriff shall provide to the boards of directors of the school districts located within the county the name of any individual under the age of twenty-one who is required to register as a sex offender under chapter 692A.

2004 Acts, ch 1140, §1; 2009 Acts, ch 119, §41

Referred to in §692A.120

282.10 Whole grade sharing.

1. Whole grade sharing is a procedure used by school districts whereby all or a substantial portion of the pupils in any grade in two or more school districts share an educational program for all or a substantial portion of a school day under a written agreement pursuant to section 256.13, 280.15, or 282.7, subsection 1 or 3. Whole grade sharing may either be one-way or two-way sharing.

2. One-way whole grade sharing occurs when a school district sends pupils to one or more other school districts for instruction and does not receive a substantial number of pupils from those districts in return.

3. Two-way whole grade sharing occurs when a school district sends pupils to one or more other school districts for instruction and receives a substantial number of pupils from those school districts in return.

4. A whole grade sharing agreement shall be signed by the boards of the districts involved in the agreement not later than February 1 of the school year preceding the school year for which the agreement is to take effect. The boards of the districts shall negotiate as part of the new or existing agreement the disposition of funding provided under chapter 284, including the teacher leadership supplement state cost per pupil as provided in section 257.9, unless all of the districts subject to the agreement are receiving such funding.

87 Acts, ch 224, §60; 88 Acts, ch 1263, §8; 2008 Acts, ch 1181, §75; 2012 Acts, ch 1021, §62; 2013 Acts, ch 88, §19; 2016 Acts, ch 1036, §7; 2017 Acts, ch 172, §31; 2019 Acts, ch 24, §38

Referred to in §256.9, 256.13, 257.11, 275.2, 280.15, 282.7, 282.8, 285.1

282.11 Procedure for whole grade sharing agreements.

1. For the purposes of this section, “*affected pupils*” are those who under the whole grade sharing agreement are attending or scheduled to attend the school district specified in the agreement, other than the district of residence, during the term of the agreement.

2. Not less than ninety days prior to signing a whole grade sharing agreement whereby all or a substantial portion of the pupils in a grade in the district will attend school in another district, the board of directors of each school district that is negotiating, extending, or renewing a sharing agreement, shall publicly announce its intent to negotiate a sharing agreement under section 21.4, subsection 1. Within thirty days of the board’s public notice, a petition may be filed with the department of education requesting that a feasibility study be completed. The petition shall be signed by twenty percent of the eligible electors in the district. The director of the department of education may determine that a feasibility study conducted by the board satisfies the request, provided that the study conforms with the criteria contained in section 256.9.

3. Not less than thirty days prior to signing a whole grade sharing agreement whereby all or a substantial portion of the pupils in a grade in the district will attend school in another district, the board of directors of each school district that is a party to a proposed sharing agreement shall hold a public hearing at which the proposed agreement is described, and at which the parent or guardian of an affected pupil and certificated employees of the school district shall have an opportunity to comment on the proposed agreement.

4. a. Within the thirty-day period prior to the signing of the agreement, the parent or

guardian of an affected pupil may request the board of directors to send the pupil to another contiguous school district. The request shall be based upon one of the following:

- (1) That the agreement will not meet the educational program needs of the pupil.
- (2) That adequate consideration was not given to geographical factors.

b. The board shall allow or disallow the request prior to the signing of the agreement, or the request shall be deemed granted. If the board disallows the request, the board shall indicate the reasons why the request is disallowed and shall notify the parent or guardian that the decision of the board may be appealed as provided in this section.

c. If the board disallows the request of a parent or guardian of an affected pupil, the parent or guardian, not later than March 1, may appeal the sending of that pupil to the school district specified in the agreement, to the state board of education. The basis for the appeal shall be the same as the basis for the request to the board. An appeal shall specify a contiguous school district to which the parent or guardian wishes to send the affected pupil.

d. If the parent or guardian appeals, the standard of review of the appeal is a preponderance of evidence that the parent's or guardian's hardship outweighs the benefits and integrity of the sharing agreement. The state board may require the district of residence to pay tuition to the contiguous school district specified by the parent or guardian, or may deny the appeal by the parent or guardian. If the state board requires the district of residence to pay tuition to the contiguous school district specified by the parent or guardian, the tuition shall be equal to the tuition established in the sharing agreement. The decision of the state board is binding on the boards of directors of the school districts affected, except that the decision of the state board may be appealed by either party to the district court.

87 Acts, ch 224, §61; 88 Acts, ch 1263, §10; 93 Acts, ch 160, §16; 2010 Acts, ch 1069, §81
 Referred to in §256.9, 256.13, 257.11, 280.15, 282.7, 282.8, 291.6

282.12 Funding of whole grade sharing agreements.

1. An agreement for whole grade sharing shall establish a method for determination of costs, if any, associated with the sharing agreement.

2. For one-way sharing, the sending district shall pay no less than one-half of the district cost per pupil of the sending district.

3. For two-way sharing, the costs shall be determined by mutual agreement of the boards.

4. The number of pupils participating in a whole grade sharing agreement shall be determined on the date specified in section 257.6, subsection 1, and on the second Friday of January of each year.

87 Acts, ch 224, §62; 2006 Acts, ch 1152, §40; 2016 Acts, ch 1036, §8
 Referred to in §256.13, 257.11, 280.15, 282.7, 282.8

282.13 through 282.17 Reserved.

282.18 Open enrollment.

1. a. It is the goal of the general assembly to permit a wide range of educational choices for children enrolled in schools in this state and to maximize ability to use those choices. It is therefore the intent that this section be construed broadly to maximize parental choice and access to educational opportunities which are not available to children because of where they live.

b. For the school year commencing July 1, 1989, and each succeeding school year, a parent or guardian residing in a school district may enroll the parent's or guardian's child in a public school in another school district in the manner provided in this section.

2. a. By March 1 of the preceding school year for students entering grades one through twelve, or by September 1 of the current school year for students entering kindergarten, the parent or guardian shall send notification to the district of residence and the receiving district, on forms prescribed by the department of education, that the parent or guardian intends to enroll the parent's or guardian's child in a public school in another school district. If a parent or guardian fails to file a notification that the parent intends to enroll the parent's or guardian's child in a public school in another district by the deadline specified in this subsection, the procedures of subsection 4 apply.

b. The board of the receiving district shall enroll the pupil in a school in the receiving district for the following school year unless the receiving district has insufficient classroom space for the pupil. The board of directors of a receiving district may adopt a policy granting the superintendent of the school district authority to approve open enrollment applications. If the request is granted, the board shall transmit a copy of the form to the parent or guardian and the school district of residence within five days after board action, but not later than June 1 of the preceding school year. The parent or guardian may withdraw the request at any time prior to the start of the school year. A denial of a request by the board of a receiving district is not subject to appeal.

c. Every school district shall adopt a policy which defines the term “*insufficient classroom space*” for that district.

3. a. The superintendent of a district subject to a voluntary diversity or court-ordered desegregation plan, as recognized by rule of the state board of education, may deny a request for transfer under this section if the superintendent finds that enrollment or release of a pupil will adversely affect the district’s implementation of the desegregation order or diversity plan, unless the transfer is requested by a pupil whose sibling is already participating in open enrollment to another district, or unless the request for transfer is submitted to the district in a timely manner as required under subsection 2 prior to the adoption of a desegregation plan by the district. If a transfer request would facilitate a voluntary diversity or court-ordered desegregation plan, the district shall give priority to granting the request over other requests.

b. A parent or guardian, whose request has been denied because of a desegregation order or diversity plan, may appeal the decision of the superintendent to the board of the district in which the request was denied. The board may either uphold or overturn the superintendent’s decision. A decision of the board to uphold the denial of the request is subject to appeal to the district court in the county in which the primary business office of the district is located. The state board of education shall adopt rules establishing definitions, guidelines, and a review process for school districts that adopt voluntary diversity plans. The guidelines shall include criteria and standards that school districts must follow when developing a voluntary diversity plan. The department of education shall provide technical assistance to a school district that is seeking to adopt a voluntary diversity plan. A school district implementing a voluntary diversity plan prior to July 1, 2008, shall have until July 1, 2009, to comply with guidelines adopted by the state board pursuant to this section.

c. The board of directors of a school district subject to voluntary diversity or court-ordered desegregation shall develop a policy for implementation of open enrollment in the district. The policy shall contain objective criteria for determining when a request would adversely impact the desegregation order or voluntary diversity plan and criteria for prioritizing requests that do not have an adverse impact on the order or plan.

4. a. After March 1 of the preceding school year and until the date specified in section 257.6, subsection 1, the parent or guardian shall send notification to the district of residence and the receiving district, on forms prescribed by the department of education, that good cause, as defined in paragraph “b”, exists for failure to meet the March 1 deadline. The board of directors of a receiving school district may adopt a policy granting the superintendent of the school district authority to approve open enrollment applications submitted after the March 1 deadline. The board of the receiving district shall take action to approve the request if good cause exists. If the request is granted, the board shall transmit a copy of the form to the parent or guardian and the school district of residence within five days after board action. A denial of a request by the board of a receiving district is not subject to appeal.

b. For purposes of this section, “*good cause*” means a change in a child’s residence due to a change in family residence, a change in the state in which the family residence is located, a change in a child’s parents’ marital status, a guardianship or custody proceeding, placement in foster care, adoption, participation in a foreign exchange program, or participation in a substance abuse or mental health treatment program, a change in the status of a child’s resident district such as removal of accreditation by the state board, surrender of accreditation, or permanent closure of a nonpublic school, revocation of a charter school contract as provided in section 256F.8, the failure of negotiations for a whole grade sharing, reorganization, dissolution agreement or the rejection of a current whole grade sharing

agreement, or reorganization plan. If the good cause relates to a change in status of a child's school district of residence, however, action by a parent or guardian must be taken to file the notification within forty-five days of the last board action or within thirty days of the certification of the election, whichever is applicable to the circumstances.

c. If a resident district believes that a receiving district is violating this subsection, the resident district may, within fifteen days after board action by the receiving district, submit an appeal to the director of the department of education.

d. The director, or the director's designee, shall attempt to mediate the dispute to reach approval by both boards as provided in subsection 15. If approval is not reached under mediation, the director or the director's designee shall conduct a hearing and shall hear testimony from both boards. Within ten days following the hearing, the director shall render a decision upholding or reversing the decision by the board of the receiving district. Within five days of the director's decision, the board may appeal the decision of the director to the state board of education under the procedures set forth in chapter 290.

5. Open enrollment applications filed after March 1 of the preceding school year that do not qualify for good cause as provided in subsection 4 shall be subject to the approval of the board of the resident district and the board of the receiving district. The parent or guardian shall send notification to the district of residence and the receiving district that the parent or guardian seeks to enroll the parent's or guardian's child in the receiving district. A decision of either board to deny an application filed under this subsection involving repeated acts of harassment of the student or serious health condition of the student that the resident district cannot adequately address is subject to appeal under section 290.1. The state board shall exercise broad discretion to achieve just and equitable results that are in the best interest of the affected child or children.

6. A request under this section is for a period of not less than one year. If the request is for more than one year and the parent or guardian desires to have the pupil enroll in a different district, the parent or guardian may petition the current receiving district by March 1 of the previous school year for permission to enroll the pupil in a different district for a period of not less than one year. Upon receipt of such a request, the current receiving district board may act on the request to transfer to the other school district at the next regularly scheduled board meeting after the receipt of the request. The new receiving district shall enroll the pupil in a school in the district unless there is insufficient classroom space in the district or unless enrollment of the pupil would adversely affect the court-ordered or voluntary desegregation plan of the district. A denial of a request to change district enrollment within the approved period is not subject to appeal. However, a pupil who has been in attendance in another district under this section may return to the district of residence and enroll at any time, once the parent or guardian has notified the district of residence and the receiving district in writing of the decision to enroll the pupil in the district of residence.

7. a. A pupil participating in open enrollment shall be counted, for state school foundation aid purposes, in the pupil's district of residence. A pupil's residence, for purposes of this section, means a residence under section 282.1.

b. (1) The board of directors of the district of residence shall pay to the receiving district the sum of the state cost per pupil for the previous school year plus either the teacher leadership supplement state cost per pupil for the previous fiscal year as provided in section 257.9 or the teacher leadership supplement foundation aid for the previous fiscal year as provided in section 284.13, subsection 1, paragraph "d", if both the district of residence and the receiving district are receiving such supplements, plus any moneys received for the pupil as a result of the non-English speaking weighting under section 280.4, subsection 3, for the previous school year multiplied by the state cost per pupil for the previous year. If the pupil participating in open enrollment is also an eligible pupil under section 261E.6, the receiving district shall pay the tuition reimbursement amount to an eligible postsecondary institution as provided in section 261E.7.

(2) If a pupil participates in cocurricular or extracurricular activities in accordance with subsection 12, the district of residence may deduct up to two hundred dollars per activity, for up to two activities, from the amount calculated in subparagraph (1). For a cocurricular activity, one semester shall equal one activity. Extracurricular activities for which such a

resident district may charge up to two hundred dollars per activity for up to two activities under this subparagraph include interscholastic athletics, music, drama, and any other activity with a general fund expenditure exceeding five thousand dollars annually. A pupil may participate in additional extracurricular activities at the discretion of the resident district. The school district of residence may charge the pupil a fee for participation in such cocurricular or extracurricular activities equivalent to the fee charged to and paid in the same manner by other resident pupils.

8. *a.* If a request filed under this section is for a child requiring special education under chapter 256B, the request to transfer to the other district shall only be granted if the following conditions are met:

(1) The receiving district maintains a special education instructional program which is appropriate to meet the child's educational needs and the enrollment of the child in the receiving district's program would not cause the size of the class or caseload in that special education instructional program in the receiving district to exceed the maximum class size or caseload established pursuant to rules adopted by the state board of education.

(2) If the child would be assigned to a general education class, there is sufficient classroom space for the general education class to which the child would be assigned.

b. For children requiring special education, the board of directors of the district of residence shall pay to the receiving district the actual costs incurred in providing the appropriate special education.

9. *a.* If a parent or guardian of a child, who is participating in open enrollment under this section, moves to a different school district during the course of either district's academic year, the child's first district of residence shall be responsible for payment of the cost per pupil plus weightings or special education costs to the receiving school district for the balance of the school year in which the move took place. The new district of residence shall be responsible for the payments during succeeding years.

b. If a request to transfer is due to a change in family residence, change in the state in which the family residence is located, a change in a child's parents' marital status, a guardianship proceeding, placement in foster care, adoption, participation in a foreign exchange program, or participation in a substance abuse or mental health treatment program, and the child who is the subject of the request is enrolled in any grade from kindergarten through grade twelve at the time of the request and is not currently using any provision of open enrollment, the parent or guardian of the child shall have the option to have the child remain in the child's original district of residence under open enrollment with no interruption in the child's kindergarten through grade twelve educational program. If a parent or guardian exercises this option, the child's new district of residence is not required to pay the amount calculated in subsection 7 until the start of the first full year of enrollment of the child.

c. The receiving district shall bill the first resident district according to the timeline in section 282.20, subsection 3. Payments shall be made to the receiving district in a timely manner.

d. If the transfer of a pupil from one district to another results in a transfer from one area education agency to another, the sending district shall forward a copy of the request to the sending district's area education agency. The receiving district shall forward a copy of the request to the receiving district's area education agency. Any moneys received by the area education agency of the sending district for the pupil who is the subject of the request shall be forwarded to the receiving district's area education agency.

e. A district of residence may apply to the school budget review committee if a student was not included in the resident district's enrollment count during the fall of the year preceding the student's transfer under open enrollment.

10. *a.* Notwithstanding section 285.1 relating to transportation of nonresident pupils, the parent or guardian is responsible for transporting the pupil without reimbursement to and from a point on a regular school bus route of the receiving district. For purposes of this subsection, "a point on a regular school bus route of the receiving district" includes any school bus stop on the regular school bus route of the receiving district that existed prior to road construction that necessitates a change in the regular school bus route, whether or not the

change in the regular school bus route resulting from the road construction necessitates sending school vehicles from the receiving district into the district of residence in order to safely, economically, or efficiently transport students to or from the preexisting point.

b. A receiving district may send school vehicles into the district of residence of the pupil using the open enrollment option under this section, for the purpose of transporting the pupil to and from school in the receiving district, if the boards of both the sending and receiving districts agree to this arrangement.

c. If the pupil meets the economic eligibility requirements established by the department and state board of education, the sending district is responsible for providing transportation or paying the pro rata cost of the transportation to a parent or guardian for transporting the pupil to and from a point on a regular school bus route of a contiguous receiving district unless the cost of providing transportation or the pro rata cost of the transportation to a parent or guardian exceeds the average transportation cost per pupil transported for the previous school year in the district. If the cost exceeds the average transportation cost per pupil transported for the previous school year, the sending district shall only be responsible for that average per pupil amount. A sending district which provides transportation for a pupil to a contiguous receiving district under this subsection may withhold, from the district cost per pupil amount that is to be paid to the receiving district, an amount which represents the average or pro rata cost per pupil for transportation, whichever is less.

11. a. A pupil who participates in open enrollment for purposes of attending a grade in grades nine through twelve in a school district other than the district of residence is ineligible to participate in varsity interscholastic athletic contests and athletic competitions during the pupil's first ninety school days of enrollment in the district. However, a pupil may participate immediately in a varsity interscholastic sport under any of the following circumstances:

(1) If the pupil is entering grade nine for the first time and did not participate in an interscholastic athletic competition for another school or school district during the summer immediately following eighth grade.

(2) If the district of residence and the other school district jointly participate in the sport.

(3) If the sport in which the pupil wishes to participate is not offered in the district of residence.

(4) If the pupil chooses to use open enrollment to attend school in another school district because the district in which the student previously attended school was dissolved and merged with one or more contiguous school districts under section 256.11, subsection 12.

(5) If the pupil participates in open enrollment because the pupil's district of residence has entered into a whole grade sharing agreement with another district for the pupil's grade.

(6) If the parent or guardian of the pupil participating in open enrollment is an active member of the armed forces and resides in permanent housing on government property provided by a branch of the armed services.

(7) If the district of residence determines that the pupil was previously subject to a founded incident of harassment or bullying as defined in section 280.28 while attending school in the district of residence.

b. A pupil who has paid tuition and attended school, or has attended school pursuant to a mutual agreement between the two districts, in a district other than the pupil's district of residence for at least one school year is also eligible to participate immediately in interscholastic athletic contests and athletic competitions under this section, but only as a member of a team from the district that pupil had attended.

c. For purposes of this subsection, "*school days of enrollment*" does not include enrollment in summer school. For purposes of this subsection, "*varsity*" means the same as defined in section 256.46, subsection 3.

12. A pupil participating in open enrollment for purposes of receiving educational instruction and course content primarily over the internet in accordance with section 256.7, subsection 32, may participate in any cocurricular or extracurricular activities offered to children in the pupil's grade or group and sponsored by the district of residence under the same conditions and requirements as the pupils enrolled in the district of residence. The pupil may participate in not more than two cocurricular or extracurricular activities during a school year unless the resident district approves the student's participation in additional

activities. The student shall comply with the eligibility, conduct, and other requirements relating to the activity that are established by the district of residence for any student who applies to participate or who is participating in the activity.

13. If a pupil, for whom a request to transfer has been filed with a district, has been suspended or expelled in the district, the pupil shall not be permitted to transfer until the pupil has been reinstated in the sending district. Once the pupil has been reinstated, however, the pupil shall be permitted to transfer in the same manner as if the pupil had not been suspended or expelled by the sending district. If a pupil, for whom a request to transfer has been filed with a district, is expelled in the district, the pupil shall be permitted to transfer to a receiving district under this section if the pupil applies for and is reinstated in the sending district. However, if the pupil applies for reinstatement but is not reinstated in the sending district, the receiving district may deny the request to transfer. The decision of the receiving district is not subject to appeal.

14. If a request under this section is for transfer to a laboratory school, as described in chapter 265, the student, who is the subject of the request, shall not be included in the basic enrollment of the student's district of residence, and the laboratory school shall report the enrollment of the student directly to the department of education, unless the number of students from the district attending the laboratory school during the current school year, as a result of open enrollment under this section, exceeds the number of students enrolled in the laboratory school from that district during the 1989-1990 school year. If the number of students enrolled in the laboratory school from a district during the current year exceeds the number of students enrolled from that district during the 1989-1990 school year, those students who represent the difference between the current and the 1988-1989 school year enrollment figures shall be included in the basic enrollment of the students' districts of residence and the districts shall retain any moneys received as a result of the inclusion of the student in the district enrollment. The total number of students enrolled at a laboratory school during a school year shall not exceed six hundred seventy students. The regents institution operating the laboratory school and the board of directors of the school district in the community in which the regents institution is located shall develop a student transfer policy designed to protect and promote the quality and integrity of the teacher education program at the laboratory school, the viability of the education program of the local school district in which the regents institution is located, and to indicate the order in which and reasons why requests to transfer to a laboratory school shall be considered. A laboratory school may deny a request for transfer under the policy. A denial of a request to transfer under this subsection is not subject to appeal under section 290.1.

15. An application for open enrollment may be granted at any time with approval of the resident and receiving districts.

16. The director of the department of education shall recommend rules to the state board of education for the orderly implementation of this section. The state board shall adopt rules as needed for the implementation of this section.

88 Acts, ch 1113, §1; 89 Acts, ch 12, §1; 89 Acts, ch 319, §81; 90 Acts, ch 1182, §1, 5; 90 Acts, ch 1233, §10; 91 Acts, ch 97, §62; 91 Acts, ch 202, §1; 92 Acts, ch 1135, §3 - 5; 92 Acts, ch 1163, §64; 93 Acts, ch 149, §1; 94 Acts, ch 1091, §24; 94 Acts, ch 1131, §8; 94 Acts, ch 1175, §10; 96 Acts, ch 1157, §1 - 3; 97 Acts, ch 23, §31, 32; 2002 Acts, ch 1129, §4; 2002 Acts, ch 1140, §17 - 23; 2002 Acts, ch 1124, §13, 16; 2003 Acts, ch 79, §5, 7, 8; 2003 Acts, ch 180, §35, 36, 72; 2005 Acts, ch 79, §2; 2005 Acts, ch 179, §93 - 95; 2006 Acts, ch 1152, §41 - 43; 2008 Acts, ch 1071, §1; 2008 Acts, ch 1181, §64; 2009 Acts, ch 18, §1; 2009 Acts, ch 133, §104; 2009 Acts, ch 177, §54, 57; 2010 Acts, ch 1069, §39, 40; 2012 Acts, ch 1021, §63; 2013 Acts, ch 121, §57, 75; 2016 Acts, ch 1036, §9, 10; 2016 Acts, ch 1079, §1, 2; 2017 Acts, ch 54, §44; 2018 Acts, ch 1026, §99; 2018 Acts, ch 1119, §15, 16; 2019 Acts, ch 24, §103; 2020 Acts, ch 1022, §5; 2020 Acts, ch 1045, §21

Referred to in §85.20, 85.61, 256.43, 256.46, 256F.4, 256F.9, 257.6, 261E.7, 275.15, 282.8, 282.9, 284.13, 290.1, 321.178, 321.194

Subsection 8 amended

Subsections 16 and 17 stricken and former subsection 18 renumbered as 16

282.19 Child living in substance abuse or foster care placement.

1. A child who is living in a facility that provides residential treatment as "*facility*" is

defined in section 125.2, which is located in a school district other than the school district in which the child resided before entering the facility may enroll in and attend an accredited school in the school district in which the child is living.

2. A child who is living in a licensed individual or agency child foster care facility, as defined in section 237.1, or in an unlicensed relative foster care placement, shall remain enrolled in and attend an accredited school in the school district in which the child resided and is enrolled at the time of placement, unless it is determined by the juvenile court or the public or private agency of this state that has responsibility for the child's placement that remaining in such school is not in the best interests of the child. If such a determination is made, the child may attend an accredited school located in the school district in which the child is living and not in the school district in which the child resided prior to receiving foster care.

3. The instructional costs for students who do not require special education shall be paid as provided in section 282.31, subsection 1, paragraph "b", or for students who require special education shall be paid as provided in section 282.31, subsection 2 or 3.

[C24, 27, 31, 35, §4283; C39, §4275.1, 4283, 4283.01; C46, 50, 54, 58, 62, §282.18, 282.22, 282.23; C66, 71, 73, 75, 77, 79, 81, §282.18, 282.22, 282.23, 282.25; 81 Acts, ch 90, §1]

85 Acts, ch 212, §21; 86 Acts, ch 1244, §34; 86 Acts, ch 1245, §1485; 87 Acts, ch 233, §480; 89 Acts, ch 319, §74; 2009 Acts, ch 120, §7

Referred to in §282.31

282.20 Tuition fees — payment.

1. The school corporation in which the student resides shall pay from the general fund to the secretary of the corporation in which the student is permitted to enroll, a tuition fee as prescribed in section 282.24.

2. It shall be unlawful for any school district to rebate to any pupils or their parents, directly or indirectly, any portion of the tuition collected or to be collected or to authorize or permit such pupils to receive at the expense of the district, directly or indirectly, any special compensation, benefit, privilege, or other thing of value that is not and cannot legally be made available to all other pupils enrolled in its schools. Any superintendent or board members responsible for such unlawful act shall each be personally liable to a fine of not to exceed one hundred dollars. Action to recover such penalty or action to enjoin such unlawful act may be instituted by the board of any school district or by a taxpayer in any school district.

3. On or before February 15 and July 15 of each year the secretary of the creditor district shall deliver to the secretary of the debtor district an itemized statement of such tuition fees.

[SS15, §2733-1a; C24, 27, 31, 35, 39, §4277; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §282.20]

83 Acts, ch 31, §6; 2013 Acts, ch 88, §20

Referred to in §282.18

282.21 Collection of tuition fees.

If payment is not made, the board of the creditor corporation shall file with the auditor of the county of the pupil's residence a statement certified by its president specifying the amount due for tuition, and the time for which the same is claimed. The auditor shall transmit to the county treasurer an order directing the county treasurer to transfer the amount of such account from the funds of the debtor corporation to the creditor corporation, and the county treasurer shall pay the same accordingly.

[SS15, §2733-1a; C24, 27, 31, 35, 39, §4278; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §282.21]

Referred to in §275.26, 331.502, 331.552

282.22 and 282.23 Reserved.

282.24 Tuition fees established.

1. The maximum tuition fee that may be charged for elementary and secondary school students residing within another school district or corporation except students attending

school in another district under section 282.7, subsection 1 or 3, is the district cost per pupil of the receiving district as computed in section 257.10.

2. A school corporation which owns facilities used as attendance centers for students shall maintain an itemized statement of the appraised value of all buildings owned by the school corporation. The appraisal shall be updated at least once every five years.

3. This section does not prevent the corporation or district in which the student resides from paying a tuition in excess of the maximum computed tuition rates, if the actual per pupil cost of the preceding year so warrants, but the receiving district or corporation shall not demand more than the maximum rate.

[C35, §4233-e3; C39, §4233.3; C46, §279.18; C50, 54, 58, 62, 66, 71, 73, 75, §279.18, 282.24; C77, 79, 81, §282.24]

83 Acts, ch 31, §7; 85 Acts, ch 212, §21; 87 Acts, ch 224, §63; 88 Acts, ch 1263, §9; 89 Acts, ch 135, §87; 2009 Acts, ch 54, §10; 2010 Acts, ch 1069, §82; 2013 Acts, ch 90, §72; 2016 Acts, ch 1036, §11, 12

Referred to in §257.11, 257.41, 275.55A, 282.1, 282.8, 282.20, 282.27, 291.6

282.25 Reserved.

282.26 High school students attending advanced courses.

1. The board of any community college may, by mutual agreement with any college or university, permit any specially qualified high school student to attend advanced courses of academic instruction at the college or university.

2. The state board of regents and the state board of education may by rule permit such students to attend any institution of higher learning under their jurisdiction. Credit earned in any such course at a college or university may be applied toward credit for high school graduation. Public school funds shall not be expended for payment of tuition or other costs for such attendance at a college or university, unless the payment is expressly permitted or required by law.

3. Subsections 1 and 2 shall also apply to colleges and universities in adjacent states when the institutions are located nearer to the homes or schools of the school district than the closest college or university within the state.

[C66, 71, 73, 75, 77, 79, 81, §282.26]

90 Acts, ch 1233, §11; 90 Acts, ch 1253, §89; 2009 Acts, ch 133, §105

282.27 Children living in psychiatric hospitals or institutions — payment.

1. The public school district in which a psychiatric unit of a hospital licensed under chapter 135B or a psychiatric medical institution for children licensed under chapter 135H, which is not operated by the state, is located shall be responsible for the provision of educational services to children residing in the unit or institution. Children residing in the unit or institution shall be included in the basic enrollment of their districts of residence, as defined in section 282.31, subsection 4.

2. The board of directors of each district of residence shall pay to the school district in which such psychiatric unit or institution is located, for the provision of educational services to the child, a portion of the tuition rate prescribed by section 282.24 for students residing within another school district for each of such children who does not require special education, based upon the proportion that the time each child is provided educational services while in such unit or institution is to the total time for which the child is provided educational services during a normal school year. The actual special education instructional costs incurred for a child who resides in the unit or institution shall be paid by the district of residence of the child to the district in which the unit or institution is located.

3. Notwithstanding section 282.24, if a child for whom all of the following applies is placed in the psychiatric unit or institution, the district of residence may use amounts received as supplementary weighting pursuant to section 257.11, subsection 4, to pay the instructional costs necessary to address the child's behavior during instructional time when those services are not otherwise provided to students who do not require special education and the costs

exceed the costs of instruction of pupils in a regular curriculum and the costs exceed the maximum tuition rate prescribed by section 282.24:

- a. The child does not require special education.
 - b. The child is not placed by the department of human services or a court in a day program treatment program in such psychiatric unit or institution.
 - c. The board of directors of the district of residence has determined that the child is likely to inflict self-harm or likely to harm another student.
4. Notwithstanding section 282.24, if a child for whom all of the following applies is placed in the psychiatric unit or institution, the district of residence may use the funding for programs for returning dropouts and dropout prevention calculated pursuant to section 257.41, to pay the instructional costs necessary to address the child's behavior during instructional time when those services are not otherwise provided to students who do not require special education and the costs exceed the costs of instruction of pupils in a regular curriculum, the costs exceed the maximum tuition rate prescribed by section 282.24, and the child meets the definition of a returning dropout or potential dropout in section 257.39:
- a. The child does not require special education.
 - b. The child is not placed by the department of human services or a court in a day program treatment program in such psychiatric unit or institution.
 - c. The board of directors of the district of residence has determined that the child is likely to inflict self-harm or likely to harm another student.
5. Notwithstanding section 282.31, subsection 1, paragraph "b", subparagraph (1), if a child placed in the psychiatric unit or institution was not enrolled in the educational program of the district of residence of the child on October 1 of the current school year, the district of residence may include that student in a claim submitted to the department of education pursuant to section 282.31, subsection 1, paragraph "b", subparagraph (2).

92 Acts, ch 1230, §10; 2015 Acts, ch 22, §1

282.28 Children at Eldora and Toledo. Repealed by 2003 Acts, ch 178, §59.

282.29 Children placed by district court.

Notwithstanding section 282.31, subsection 1, a child who has been identified as requiring special education, who has been placed in a facility, home, or other placement by the district court, and for whom parental rights have been terminated by the district court, shall be provided special education programs and services on the same basis as the programs and services are provided for children requiring special education who are residents of the school district in which the child has been placed. The special education instructional costs shall be paid as provided in section 282.31, subsection 2 or 3.

87 Acts, ch 233, §482; 2009 Acts, ch 120, §8

Referred to in §256.7, 282.31

282.30 Special programs.

1. a. An area education agency shall provide or make provision for an appropriate educational program for each child living in the following types of facilities located within its boundaries:

- (1) An approved or licensed shelter care home, as defined in section 232.2, subsection 34.
 - (2) An approved juvenile detention home, as defined in section 232.2, subsection 32.
- b. The area education agency shall provide the educational program by any one of, but not limited to, the following:
- (1) Providing for the enrollment of the child in the district of residence of the child, subject to the approval of the district in which the child is living.
 - (2) Cooperating with the district of residence of the child and obtaining the course of study and textbooks of the child for use in the special facility into which the child has been placed.
 - (3) Providing for the enrollment of the child in the district in which the child is living, subject to the approval of the district in which the child is living.
- c. An area education agency shall not provide educational services to a facility specified

in paragraph “a” unless the facility makes a request for educational services to the area education agency by either of the following dates:

(1) December 1 of the school year prior to the beginning of the school year for which the services are being requested.

(2) Ninety days prior to the beginning of the time for which the services are being requested if the facility is a newly established facility.

2. The area education agency where the child is living, the school district of residence, the other appropriate area education agency or agencies, and other appropriate agencies involved with the care or placement of the child shall cooperate with the school district where the child is living in sharing educational information, textbooks, curriculum, assignments, and materials in order to plan and to provide for the appropriate education of the child living in such facility specified in subsection 1.

87 Acts, ch 233, §483; 2000 Acts, ch 1121, §1, 2

Referred to in §256.7, 282.31

282.31 Funding for special programs.

1. *a.* A child who lives in a facility pursuant to section 282.30, subsection 1, paragraph “a”, and who is not enrolled in the educational program of the district of residence of the child, shall receive appropriate educational services. The area education agency shall submit a proposed program and budget to the department of education by January 1 for the next succeeding school year. The department of education shall review and approve or modify the program and proposed budget and shall notify the department of administrative services and the area education agency of its action by February 1. The department of administrative services shall pay the approved budget amount for an area education agency in monthly installments beginning September 15 and ending June 15 of the next succeeding school year. The installments shall be as nearly equal as possible as determined by the department of management, taking into consideration the relative budget and cash position of the state’s resources. The department of administrative services shall transfer the approved budget amount for an area education agency from the moneys appropriated under section 257.16 and make the payment to the area education agency. The area education agency shall submit an accounting for the actual cost of the program to the department of education by August 1 of the following school year. The department shall review and approve or modify all expenditures incurred in compliance with the guidelines pursuant to section 256.7, subsection 10, and shall notify the department of administrative services of the approved accounting amount. The approved accounting amount shall be compared with any amounts paid by the department of administrative services to the area education agency and any differences added to or subtracted from the October payment made under this paragraph for the next school year. Any amount paid by the department of administrative services shall be deducted monthly from the state foundation aid paid under section 257.16 to all school districts in the state during the subsequent fiscal year. The portion of the total amount of the approved budget that shall be deducted from the state aid of a school district shall be the same as the ratio that the budget enrollment for the budget year of the school district bears to the total budget enrollment in the state for that budget year in which the deduction is made.

b. (1) A child who lives in a facility or other placement pursuant to section 282.19, and who does not require special education and who is enrolled in the educational program of the district of residence at the time the child is placed, shall be included in the basic enrollment of the school district in which the child is enrolled. A child who lives in a facility or other placement pursuant to section 282.19, and who does not require special education and who is not enrolled in the educational program of the district of residence of the child, shall be included in the basic enrollment of the school district in which the facility or other placement is located.

(2) However, on June 30 of a school year, if the board of directors of a school district determines that the number of children under this paragraph “b” who were counted in the basic enrollment of the school district in that school year in accordance with section 257.6, subsection 1, is fewer than the sum of the number of months all children were enrolled in the school district under this paragraph “b” during the school year divided by nine, the secretary

of the school district may submit a claim to the department of education by August 1 following the school year for an amount equal to the district cost per pupil of the district for the previous school year multiplied by the difference between the number of children counted and the number of children calculated by the number of months of enrollment. The amount of the claim shall be paid by the department of administrative services to the school district by October 1. The department of administrative services shall transfer the total amount of the approved claim of a school district from the moneys appropriated under section 257.16 and the amount paid shall be deducted monthly from the state foundation aid paid to all school districts in the state during the remainder of the subsequent fiscal year in the manner provided in paragraph "a".

2. a. The actual special education instructional costs incurred for a child who lives in a facility or other placement pursuant to section 282.19 or for a child who is placed in a facility or home pursuant to section 282.29, who requires special education and who is not enrolled in the educational program of the district of residence of the child but who receives an educational program from the district in which the facility, home, or other placement is located, shall be paid by the district of residence of the child to the district in which the facility, home, or other placement is located, and the costs shall include the cost of transportation.

b. A child shall not be denied special education programs and services because of a dispute over the determination of district of residence of the child. The director of the department of education shall determine the district of residence when a dispute arises regarding the determination of the district of residence for a child who requires special education pursuant to this subsection.

3. The actual special education instructional costs, including transportation, for a child who requires special education shall be paid by the department of administrative services to the school district in which the facility or home is located, only when a district of residence cannot be determined, and the child was not included in the weighted enrollment of any district pursuant to section 256B.9, and the payment pursuant to subsection 2, paragraph "a", was not made by any district. The district shall submit a proposed program and budget to the department of education by January 1 for the next succeeding school year. The department of education shall review and approve or modify the program and proposed budget and shall notify the district by February 1. The district shall submit a claim by August 1 following the school year for the actual cost of the program. The department shall review and approve or modify the claim and shall notify the department of administrative services of the approved claim amount by September 1. The total amount of the approved claim shall be paid by the department of administrative services to the school district by October 1. The total amount paid by the department of administrative services shall be deducted monthly from the state foundation aid paid under section 257.16 to all school districts in the state during the subsequent fiscal year. The portion of the total amount of the approved claims that shall be deducted from the state aid of a school district shall be the same as the ratio that the budget enrollment for the budget year of the school district bears to the total budget enrollment in the state for the budget year in which the deduction is made. The department of administrative services shall transfer the total amount of the approved claims from moneys appropriated under section 257.16 for payment to the school district.

4. For purposes of this section, "*district of residence*" means the school district in which the parent or legal guardian of the child resides or the district in which the district court is located if the district court is the guardian of the child.

5. Programs may be provided during the summer and funded under this section if the school district or area education agency determines a valid educational reason to do so.

87 Acts, ch 233, §484; 88 Acts, ch 1284, §48; 90 Acts, ch 1272, §72; 92 Acts, ch 1163, §66; 95 Acts, ch 214, §6, 7; 2003 Acts, ch 145, §286; 2006 Acts, ch 1152, §44; 2007 Acts, ch 22, §66; 2009 Acts, ch 120, §9, 10

Referred to in §256.7, 282.19, 282.27, 282.29, 282.32

282.32 Appeal.

An area education agency or local school district may appeal a decision made pursuant to section 282.31 to the state board of education. The decision of the state board is final.

87 Acts, ch 233, §485; 2003 Acts, ch 178, §57

282.33 Funding for children residing in state mental health institutes or institutions.

1. A child who resides in an institution for children under the jurisdiction of the director of human services referred to in section 218.1, subsection 3, 4, 5, or 6, and who is not enrolled in the educational program of the district of residence of the child, shall receive appropriate educational services. The institution in which the child resides shall submit a proposed program and budget based on the average daily attendance of the children residing in the institution to the department of education and the department of human services by January 1 for the next succeeding school year. The department of education shall review and approve or modify the proposed program and budget and shall notify the department of administrative services of its action by February 1. The department of administrative services shall pay the approved budget amount to the department of human services in monthly installments beginning September 15 and ending June 15 of the next succeeding school year. The installments shall be as nearly equal as possible as determined by the department of administrative services, taking into consideration the relative budget and cash position of the state's resources. The department of administrative services shall pay the approved budget amount for the department of human services from the moneys appropriated under section 257.16 and the department of human services shall distribute the payment to the institution. The institution shall submit an accounting for the actual cost of the program to the department of education by August 1 of the following school year. The department shall review and approve or modify all expenditures incurred in compliance with the guidelines adopted pursuant to section 256.7, subsection 10, and shall notify the department of administrative services of the approved accounting amount. The approved accounting amount shall be compared with any amounts paid by the department of administrative services to the department of human services and any differences added to or subtracted from the October payment made under this subsection for the next school year. Any amount paid by the department of administrative services shall be deducted monthly from the state foundation aid paid under section 257.16 to all school districts in the state during the subsequent fiscal year. The portion of the total amount of the approved budget that shall be deducted from the state aid of a school district shall be the same as the ratio that the budget enrollment for the budget year of the school district bears to the total budget enrollment in the state for that budget year in which the deduction is made.

2. Programs may be provided during the summer and funded under this section if the institution determines a valid educational reason to do so and the department of education approves the program in the manner provided in subsection 1.

2003 Acts, ch 145, §286; 2003 Acts, ch 178, §58; 2004 Acts, ch 1101, §32

Referred to in §256.7

282.34 Educational programs for children's residential facilities.

1. A children's residential facility operating under a certificate of approval issued under chapter 237C shall do all of the following:

a. Provide an educational program and appropriate education services to children residing in the children's residential facility by contracting with the school district in which the children's residential facility is located, contracting with an accredited nonpublic school, or becoming accredited as a nonpublic school through the standards and accreditation process described in section 256.11 and adopted by rule by the state board of education.

b. Display prominently in all of its major publications and on its internet site a notice accurately describing the educational program and educational services provided by the children's residential facility.

c. Include in any promotional, advertising, or marketing materials regarding the children's residential facility available in print, broadcast, or via the internet or by any other means all fees charged by the children's residential facility for the services offered

or provided by the children's residential facility and its refund policy for the return of refundable portions of any fees. This paragraph shall not apply to sponsorship by a children's residential facility of public radio or public television broadcasts.

2. The state board of education shall adopt by rule pursuant to chapter 17A standards for the following:

a. Educational programs and appropriate educational services provided under this section.

b. Contracts between children's residential facilities and school districts or accredited nonpublic schools.

c. Notices displayed in accordance with subsection 1, paragraph "b".

3. The department of education shall comply with the requirements of section 237C.4, subsection 7, regarding standards, rules, and modifications, and the responsibilities set forth for publication, notification, and receipt and maintenance of information filed with the department.

4. A contract that fails to comply with any of the requirements of subsection 1, or with standards adopted by the state board of education under subsection 2, is void.

5. Rules adopted under this section shall not regulate religious education curricula at children's residential facilities.

2016 Acts, ch 1114, §11

Referred to in §237C.4, 237C.6, 237C.9

CHAPTER 283

ACCEPTANCE AND DISTRIBUTION OF FEDERAL FUNDS

Referred to in §274.3

283.1 Federal funds accepted.

283.2 Reserved.

283.1 Federal funds accepted.

The director of the department of education is the "*state educational authority*" for the purpose of accepting and administering funds appropriated by Congress for educational purposes and the funds shall be deposited with the treasurer of state and disbursed through the department of administrative services on vouchers audited as provided by law. When state matching funds are required as a condition to the acceptance of federal funds, the director of the department of education may make expenditures for matching only from funds provided by the legislature for that purpose. However, when federal funds may be matched with expenditures from funds appropriated for the general operation of the department of education, this may be done with the approval of the legislative council.

[C39, §4283.02 – 4283.08, 4283.10; C46, 50, 54, 58, §283.1 – 283.7, 283.9; C62, 66, 71, 73, 75, 77, 79, 81, §283.1]

84 Acts, ch 1067, §29; 86 Acts, ch 1245, §1487; 2003 Acts, ch 145, §286

283.2 Reserved.

CHAPTER 283A

SCHOOL MEAL PROGRAMS

Referred to in §256.7, 256F.3, 274.3, 298A.11

<p>283A.1 Definitions.</p> <p>283A.2 School lunch and breakfast programs.</p> <p>283A.3 Expenditure of federal funds.</p> <p>283A.4 Administration of program.</p> <p>283A.5 Accounts, records, reports, and operations.</p> <p>283A.6 Reserved.</p> <p>283A.7 Federal benefits accepted.</p>	<p>283A.8 Use of school meal facilities by senior citizens.</p> <p>283A.9 Building for school meal facility.</p> <p>283A.10 School breakfast or lunch in nonpublic schools.</p> <p>283A.11 Participation by students — school prohibitions and responsibilities.</p>
---	--

283A.1 Definitions.

For the purpose of this chapter, unless the context otherwise requires:

1. “*Nutritionally adequate meal*” means a lunch or breakfast which meets the guidelines established by the department of education.
2. “*School*” means a public school of high school grade or under.
3. “*School board*” means a board of school directors regularly elected by the registered voters of a school corporation or district of the state of Iowa.
4. “*School breakfast or lunch program*” means a program under which breakfasts or lunches are served by any public school in the state of Iowa on a nonprofit basis to children in attendance, including any such program under which a school receives assistance out of funds appropriated by the Congress of the United States.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §283A.1]

90 Acts, ch 1152, §2; 94 Acts, ch 1169, §58; 94 Acts, ch 1193, §23; 2014 Acts, ch 1092, §61

Referred to in §283A.10

283A.2 School lunch and breakfast programs.

1. School boards may use gifts, funds disbursed to them under the provisions of this chapter, funds received from sale of school breakfasts or lunches, and any other funds legally available for the purpose of operating a school breakfast or lunch program.

2. A school district shall operate or provide for the operation of lunch programs at all attendance centers in the district. A school district may operate or provide for the operation of school breakfast programs at all attendance centers in the district, or provide access to a school breakfast program at an alternative site to students who wish to participate in a school breakfast program. The programs shall provide students with nutritionally adequate meals and shall be operated in compliance with the rules of the state board of education and pertinent federal law and regulation. The school lunch program shall be provided for all students in each district who attend public school four or more hours each school day and wish to participate in a school lunch program. School districts may provide school breakfast and lunch programs for other students.

3. Each school district that operates or provides for a school breakfast or lunch program shall provide for the forwarding of information from the applications for the school breakfast or lunch program, for which federal funding is provided, to identify children for enrollment in the medical assistance program pursuant to chapter 249A or the healthy and well kids in Iowa program pursuant to chapter 514I to the department of human services.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §283A.2]

90 Acts, ch 1152, §3; 94 Acts, ch 1193, §24, 36, 38; 99 Acts, ch 147, §1, 2; 2000 Acts, ch 1223, §32; 2002 Acts, ch 1140, §24, 25; 2007 Acts, ch 218, §105

283A.3 Expenditure of federal funds.

The director of the department of education shall accept and direct the disbursement of funds appropriated by any Act of Congress and appropriated to the state of Iowa for use in connection with school breakfast or lunch programs. The director shall deposit the funds

with the treasurer of the state of Iowa, who shall make disbursements upon the direction of the director.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §283A.3]
85 Acts, ch 212, §21; 94 Acts, ch 1193, §25

283A.4 Administration of program.

The director of the department of education may enter into agreements with any agency of the federal government, with any school board, or with any other agency or person, adopt rules, employ personnel, and take other action as the director may deem necessary to provide for the establishment, maintenance, operation, and expansion of any school breakfast or lunch program, and to direct the disbursement of federal and state funds, in accordance with any applicable provisions of federal or state law. The director may give technical advice and assistance to any school board in connection with the establishment and operation of any school breakfast or lunch program and may assist in training personnel engaged in the operation of the program. The director of the department of education and any school board may accept any gift for use in connection with any school breakfast or lunch program.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §283A.4]
85 Acts, ch 212, §21, 22; 94 Acts, ch 1193, §26

283A.5 Accounts, records, reports, and operations.

The director of the department of education shall adopt rules for the keeping of accounts and records and the making of reports by or under the supervision of school boards. The accounts and records shall at all times be available for inspection and audit by authorized officials and shall be preserved for such period of time, not in excess of five years, as the director may lawfully prescribe. The director shall conduct or cause to be conducted such audits and inspections with respect to school breakfast or lunch programs as may be necessary to determine whether its agreement with school boards and rules adopted pursuant to this chapter are being complied with, and to insure that school breakfast or lunch programs are effectively administered and nutritionally adequate meals are served.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §283A.5]
85 Acts, ch 212, §21; 90 Acts, ch 1152, §4; 94 Acts, ch 1193, §27

283A.6 Reserved.

283A.7 Federal benefits accepted.

The provisions of the federal National School Lunch Act and the federal Child Nutrition Act of 1966, 42 U.S.C. §1751 – 1785, and the benefit of all funds appropriated under the Acts, are accepted by the state of Iowa.

[C71, 73, 75, 77, 79, 81, §283A.7]
94 Acts, ch 1193, §28

283A.8 Use of school meal facilities by senior citizens.

Boards of directors of school corporations may authorize the use by senior citizen organizations of school meal facilities subject to reasonable rules and regulations of the board. Such use shall not interfere with the use of the facilities for public school purposes. The board may charge for such use an amount not to exceed the cost to the district.

[C71, 73, 75, 77, 79, 81, §283A.8]
94 Acts, ch 1193, §29

283A.9 Building for school meal facility.

School districts may purchase, erect, or otherwise acquire a building for use as a school meal facility, and equip a building for that use, and pay for the acquisition or equipping from funds available in the physical plant and equipment levy fund, subject to the terms of section 298.2.

[C75, 77, 79, 81, §283A.9]
89 Acts, ch 135, §91; 94 Acts, ch 1029, §20; 94 Acts, ch 1193, §30

283A.10 School breakfast or lunch in nonpublic schools.

The authorities in charge of nonpublic schools may operate or provide for the operation of school breakfast or lunch programs in schools under their jurisdiction and may use funds appropriated to them by the general assembly, gifts, funds received from sale of school breakfasts or lunches under such programs, and any other funds available to the nonpublic school. However, school breakfast or lunch programs shall not be required in nonpublic schools. The department of education shall direct the disbursement of state funds to nonpublic schools for school breakfast or lunch programs in the same manner as state funds are disbursed to public schools. If a nonpublic school receives state funds for the operation of a school breakfast or lunch program, meals served under the program shall be nutritionally adequate meals, as defined in section 283A.1.

[C75, 77, 79, 81, §283A.10]

90 Acts, ch 1152, §5; 94 Acts, ch 1193, §31

Referred to in §256.9

283A.11 Participation by students — school prohibitions and responsibilities.

1. For purposes of this section, unless the context otherwise requires, “school” includes a school district, a school district attendance center, or an accredited nonpublic school.

2. A school shall provide notice, at least twice annually, to the parents or guardians of all enrolled students regarding the availability of applications for free or reduced-fee meals for categorically eligible students under the federal National School Lunch Act of 1966, 42 U.S.C. §1751 et seq., and the federal Child Nutrition Act of 1966, 42 U.S.C. §1771 et seq. Notice may be provided via letter or electronic communication.

3. If a student owes money for five or more meals, school personnel may contact the student’s parent or guardian to provide information regarding the application for free or reduced-fee meals pursuant to the federal National School Lunch Act of 1966, 42 U.S.C. §1751 et seq., and the federal Child Nutrition Act of 1966, 42 U.S.C. §1771 et seq., or to provide information on other options or assistance available.

4. A school is encouraged to provide a reimbursable meal, as specified under regulations promulgated by the United States department of agriculture pursuant to the federal Healthy, Hunger-Free Kids Act of 2010, Pub. L. No. 111-296, to a student who requests a reimbursable meal unless the student’s parent or guardian has specifically provided written direction to the school to withhold a meal from the student.

5. *a.* A school is prohibited from posting a list of students who owe money for school meals and from engaging in any of the following acts directed toward a student because the student cannot pay for a meal or owes a meal debt:

(1) Publicly identifying or stigmatizing the student, including but not limited to requiring the student to consume the meal at a table set aside for such purpose or to discard a meal after the meal has been served.

(2) Requiring the student to wear a wristband, hand stamp, or identification marks, or to do chores or other work to pay for meals.

(3) Denying participation in an afterschool program or other extracurricular activity to the student.

(4) Providing an alternative meal that is only offered to a student who has accrued meal debt. A school that offers the option of an alternative meal shall present the meal in the same manner to any student requesting an alternative meal so as not to identify a student as having accrued meal debt.

b. A school shall direct communications about a student’s meal debt to a parent or guardian and may discreetly provide information about the student’s meal account to the student as long as the communication with the student does not violate paragraph “a”. This paragraph does not prohibit a school from sending a letter home with a student addressed to the student’s parent or guardian, or from contacting the parent or guardian via phone or other electronic means.

6. A school district may establish an unpaid student meals account in a school nutrition fund established by the school district under section 298A.11 and may deposit in the account moneys received from private sources for purposes of paying student meal debt accrued by

individual students as well as amounts designated for the account from the school district’s flexibility account under section 298A.2, subsection 2. Moneys deposited in the unpaid student meals fund shall be used by the school district only to pay individual student meal debt. The school district shall set fair and equitable procedures for such expenditures.

2018 Acts, ch 1127, §2
 Referred to in §298A.2

CHAPTER 284

TEACHER PERFORMANCE, COMPENSATION, AND CAREER DEVELOPMENT

Referred to in §256.9, 256C.3, 256F4, 257.10, 257.37A, 261E.9, 274.3, 282.10, 298A.2

Legislative intent; 2001 Acts, ch 161, §1

<p>284.1 Student achievement and teacher quality program.</p> <p>284.2 Definitions.</p> <p>284.3 Iowa teaching standards.</p> <p>284.3A Teacher compensation — single salary system.</p> <p>284.4 Participation.</p> <p>284.5 Beginning teacher mentoring and induction program — rules.</p> <p>284.6 Teacher professional development.</p> <p>284.6A Computer science professional development incentive fund — legislative findings.</p> <p>284.7 Iowa teacher career path — future repeal. Repealed by its own terms; 2013 Acts, ch 121, §64.</p>	<p>284.8 Performance review requirements for teachers — peer group reviews.</p> <p>284.9 Review panel — future repeal. Repealed by its own terms; 2013 Acts, ch 121, §65.</p> <p>284.10 Evaluator training program.</p> <p>284.11 State supplemental assistance for high-need schools.</p> <p>284.12 Rules.</p> <p>284.13 State program allocation.</p> <p>284.14 Pay-for-performance program.</p> <p>284.14A Career ladder pilots. Repealed by 2012 Acts, ch 1119, §8.</p> <p>284.15 Iowa teacher career paths, leadership roles, and compensation framework.</p> <p>284.16 Instructional coach model.</p> <p>284.17 Comparable system criteria.</p>
--	---

284.1 Student achievement and teacher quality program.

A student achievement and teacher quality program is established to promote high student achievement. The program shall consist of the following major elements:

1. Career paths with compensation levels that strengthen Iowa’s ability to recruit and retain teachers.
2. Professional development designed to directly support best teaching practices.
3. Evaluation of teachers against the Iowa teaching standards.

2001 Acts, ch 161, §2; 2006 Acts, ch 1182, §5, 6; 2007 Acts, ch 108, §12; 2011 Acts, ch 34, §73; 2017 Acts, ch 172, §32; 2018 Acts, ch 1026, §100

284.2 Definitions.

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

1. “*Beginning teacher*” means an individual serving under an initial or intern license, issued under chapter 272, who is assuming a position as a teacher. “*Beginning teacher*” includes an individual who is an initial teacher. For purposes of the beginning teacher mentoring and induction program created pursuant to section 284.5, “*beginning teacher*” also includes preschool teachers who are licensed under chapter 272 and are employed by a school district or area education agency. “*Beginning teacher*” does not include a teacher whose employment with a school district or area education agency is probationary unless the teacher is serving under an initial or teacher intern license issued under chapter 272.
2. “*Comprehensive evaluation*” means a summative evaluation of a beginning teacher conducted by an evaluator for purposes of determining a beginning teacher’s level of competency, for recommendation for licensure based upon the Iowa teaching standards,

and to determine whether the teacher’s practice meets the school district expectations for a career teacher.

3. “*Department*” means the department of education.
4. “*Director*” means the director of the department of education.
5. “*Evaluator*” means an administrator or other practitioner who successfully completes an evaluator training program pursuant to section 284.10.
6. “*Intensive assistance*” means the provision of organizational support and technical assistance to teachers, other than beginning teachers, for the remediation of identified teaching and classroom management concerns for a period not to exceed twelve months.
7. “*Mentor*” means an individual employed by a school district or area education agency as a teacher or a retired teacher who holds a valid license issued under chapter 272. The individual must have a record of three years of successful teaching practice, must be employed on a nonprobationary basis, and must demonstrate professional commitment to both the improvement of teaching and learning and the development of beginning teachers.
8. “*Performance review*” means a summative evaluation of a teacher other than a beginning teacher that is used to determine whether the teacher’s practice meets school district expectations and the Iowa teaching standards in accordance with section 284.8.
9. “*School board*” means the board of directors of a school district, a collaboration of boards of directors of school districts, or the board of directors of an area education agency, as the context requires.
10. “*State board*” means the state board of education.
11. “*Teacher*” means an individual who holds a practitioner’s license issued under chapter 272, or a statement of professional recognition issued under chapter 272 who is employed in a nonadministrative position by a school district or area education agency pursuant to a contract issued by a board of directors under section 279.13. A teacher may be employed in both an administrative and a nonadministrative position by a board of directors and shall be considered a part-time teacher for the portion of time that the teacher is employed in a nonadministrative position.

2001 Acts, ch 161, §3; 2002 Acts, ch 1152, §7, 8; 2003 Acts, ch 180, §37; 2006 Acts, ch 1182, §7 – 10; 2007 Acts, ch 108, §13, 14; 2008 Acts, ch 1181, §76; 2009 Acts, ch 177, §34; 2013 Acts, ch 121, §58

284.3 Iowa teaching standards.

1. For purposes of this chapter and for developing teacher evaluation criteria under chapter 279, the Iowa teaching standards are as follows:
 - a. Demonstrates ability to enhance academic performance and support for and implementation of the school district’s student achievement goals.
 - b. Demonstrates competence in content knowledge appropriate to the teaching position.
 - c. Demonstrates competence in planning and preparing for instruction.
 - d. Uses strategies to deliver instruction that meets the multiple learning needs of students.
 - e. Uses a variety of methods to monitor student learning.
 - f. Demonstrates competence in classroom management.
 - g. Engages in professional growth.
 - h. Fulfills professional responsibilities established by the school district.
2. A school board shall provide for the following:
 - a. For purposes of comprehensive evaluations, standards and criteria which measure a beginning teacher’s performance against the Iowa teaching standards specified in subsection 1, and the criteria for the Iowa teaching standards developed by the department in accordance with section 256.9, to determine whether the teacher’s practice meets the requirements specified for a career teacher. These standards and criteria shall be set forth in an instrument provided by the department. The comprehensive evaluation and instrument are not subject to negotiations or grievance procedures pursuant to chapter 20 or determinations made by the board of directors under section 279.14.
 - b. For purposes of performance reviews for teachers other than beginning teachers, evaluations that contain, at a minimum, the Iowa teaching standards specified in subsection

1, as well as the criteria for the Iowa teaching standards developed by the department in accordance with section 256.9, subsection 42.

3. The state board shall adopt by rule pursuant to chapter 17A the criteria developed by the department in accordance with section 256.9, subsection 42.

2001 Acts, ch 161, §4; 2002 Acts, ch 1152, §9, 10; 2003 Acts, ch 108, §49; 2003 Acts, ch 180, §38, 39; 2007 Acts, ch 108, §15; 2013 Acts, ch 121, §59; 2017 Acts, ch 2, §42, 48, 49

Referred to in §284.8, 284.15

For provisions relating to applicability of 2017 amendment to employment contracts of school employees under chapter 279 and collective bargaining agreements and procedures under chapter 20 before, on, or after February 17, 2017, see 2017 Acts, ch 2, §48, 49

284.3A Teacher compensation — single salary system.

1. a. For the school year beginning July 1, 2009, if the licensed employees of a school district or area education agency receiving funds pursuant to sections 257.10 and 257.37A are organized under chapter 20 for collective bargaining purposes, the school board and the certified bargaining representative for the licensed employees shall negotiate the distribution of the funds among the teachers employed by the school district or area education agency according to chapter 20.

b. If the licensed employees of a school district or area education agency are not organized for collective bargaining purposes, the board of directors shall determine the method of distribution of such funds.

c. For the school years beginning July 1, 2008, and July 1, 2009, a school district or area education agency receiving funds pursuant to sections 257.10 and 257.37A, shall determine the amount to be paid to teachers in accordance with this subsection and the amount determined to be paid to an individual teacher shall be divided evenly by the appropriate number of pay periods and paid in each pay period of the fiscal year beginning with the October payroll.

2. a. For the school budget year beginning July 1, 2010, and each succeeding school year, school districts and area education agencies shall combine payments made to teachers under sections 257.10 and 257.37A with regular wages to create a combined salary. The teacher contract issued under section 279.13 must include the combined salary. If a school district or area education agency uses a salary schedule, a combined salary schedule shall be used for regular wages and for distribution of payments under sections 257.10 and 257.37A, incorporating the salary minimums required under a framework or comparable system approved pursuant to section 284.15. The combined salary schedule must use only the combined salary and cannot differentiate regular salaries and distribution of payments under sections 257.10 and 257.37A.

b. If the licensed employees of a school district or area education agency are organized under chapter 20 for collective bargaining purposes, the creation of the new combined salary shall be subject to the scope of negotiations specified in section 20.9. A reduction in the teacher salary supplement per pupil amount shall also be subject to the scope of negotiations specified in section 20.9.

c. If the licensed employees of a school district or area education agency are not organized for collective bargaining purposes, the board of directors shall create the new combined salary. The board of directors shall determine adjustments in salaries resulting from a reduction in the teacher salary supplement per pupil amount.

3. A school district or area education agency shall not be required to maintain a separate account within its budget based on source of funds for payments received and expenditures made pursuant to this section. The school district or area education agency shall annually certify to the department that funding received pursuant to sections 257.10 and 257.37A was expended on salaries for qualified teachers.

4. The teacher salary supplement district cost as calculated under section 257.10, subsection 9, and the area education agency teacher salary supplement district cost as calculated under section 257.37A, subsection 1, are not subject to a uniform reduction in accordance with section 8.31.

2009 Acts, ch 68, §9; 2010 Acts, ch 1183, §32, 33, 43; 2013 Acts, ch 121, §60, 74; 2018 Acts, ch 1026, §101

Referred to in §257.10, 257.37A, 284.15

284.4 Participation.

1. A school district or area education agency is eligible to receive moneys appropriated for purposes specified in this chapter if the school board applies to the department to participate in the student achievement and teacher quality program and submits a written statement declaring the school district’s or agency’s willingness to do all of the following:

a. Commit and expend local moneys to improve student achievement and teacher quality.

b. Create a teacher quality committee. The committee shall have equal representation of administrators and teachers. The teacher members shall be appointed by the certified employee organization if one exists, and if not, by the school district’s or agency’s administration. The administrator members shall be appointed by the school board. However, if a school district can demonstrate that an existing professional development, curriculum, or student improvement committee has significant stakeholder involvement and a leadership role in the school district, the appointing authorities may mutually agree to assign to the existing committee the responsibilities set forth in this paragraph “b”, to appoint members of the existing committee to the teacher quality committee, or to authorize the existing committee to serve in an advisory capacity to the teacher quality committee. The committee shall do all of the following:

(1) Monitor the implementation of the requirements of statutes and administrative code provisions relating to this chapter, including requirements that affect any agreement negotiated pursuant to chapter 20.

(2) Monitor the evaluation requirements of this chapter to ensure evaluations are conducted in a fair and consistent manner throughout the school district or agency. The committee shall develop model evidence for the Iowa teaching standards and criteria. The model evidence will minimize paperwork and focus on teacher improvement. The model evidence will determine which standards and criteria can be met with observation and which evidence meets multiple standards and criteria.

(3) Determine, following the adoption of the Iowa professional development model by the state board of education, the use and distribution of the professional development funds calculated and paid to the school district or agency as provided in section 257.9, subsection 10, or section 257.10, subsection 10, based upon school district or agency, attendance center, and individual teacher and professional development plans.

(4) Monitor the professional development in each attendance center to ensure that the professional development meets school district or agency, attendance center, and individual professional development plans.

(5) Determine the compensation for teachers on the committee for work responsibilities required beyond the normal work day.

c. Adopt school district, attendance center, and teacher professional development plans in accordance with this chapter.

d. Adopt a teacher evaluation plan that, at minimum, requires a performance review of teachers in the district at least once every three years based upon the Iowa teaching standards and individual professional development plans, and requires administrators to complete evaluator training in accordance with section 284.10.

e. Adopt teacher career paths based upon demonstrated knowledge and skills in accordance with this chapter.

2. By July 1, 2002, each school district shall participate in the student achievement and teacher quality program if the general assembly appropriates moneys for purposes of the student achievement and teacher quality program established pursuant to this chapter.

2001 Acts, ch 161, §5; 2001 Acts, ch 177, §3, 15; 2002 Acts, ch 1152, §11, 12; 2003 Acts, ch 180, §40; 2005 Acts, ch 169, §29; 2006 Acts, ch 1182, §11; 2007 Acts, ch 108, §16 – 19; 2009 Acts, ch 177, §35; 2017 Acts, ch 2, §43, 48, 49; 2017 Acts, ch 172, §33

Referred to in §284.13

For provisions relating to applicability of 2017 amendment by 2017 Acts, ch 2, §43, to employment contracts of school employees under chapter 279 and collective bargaining agreements and procedures under chapter 20 before, on, or after February 17, 2017, see 2017 Acts, ch 2, §48, 49

284.5 Beginning teacher mentoring and induction program — rules.

1. A beginning teacher mentoring and induction program is created to promote excellence

in teaching, enhance student achievement, build a supportive environment within school districts and area education agencies, increase the retention of promising beginning teachers, and promote the personal and professional well-being of teachers.

2. Each school district and area education agency may provide a beginning teacher mentoring and induction program for all teachers who are beginning teachers.

3. Each school district and area education agency that provides a beginning teacher mentoring and induction program under this chapter shall develop a plan for the program. A school district shall include its plan in the school district's comprehensive school improvement plan submitted pursuant to section 256.7, subsection 21. The plan shall, at a minimum, provide for a two-year sequence of induction program content and activities to support the Iowa teaching standards and beginning teacher professional and personal needs; mentor training that includes, at a minimum, skills of classroom demonstration and coaching, and district expectations for beginning teacher competence on Iowa teaching standards; placement of mentors and beginning teachers; the process for dissolving mentor and beginning teacher partnerships; district organizational support for release time for mentors and beginning teachers to plan, provide demonstration of classroom practices, observe teaching, and provide feedback; structure for mentor selection and assignment of mentors to beginning teachers; a district facilitator; and program evaluation.

4. A beginning teacher shall be informed by the school district or the area education agency, prior to the beginning teacher's participation in a mentoring and induction program, of the criteria upon which the beginning teacher shall be evaluated and of the evaluation process utilized by the school district or area education agency.

5. Upon completion of the program, the beginning teacher shall be comprehensively evaluated to determine if the teacher meets expectations to move to the career level. The school district or area education agency that employs the beginning teacher shall recommend for a standard license a beginning teacher who is determined through a comprehensive evaluation to demonstrate competence in the Iowa teaching standards. A school district or area education agency may offer a beginning teacher a third year of participation in the program if, after conducting a comprehensive evaluation, the school district determines that the teacher is likely to successfully complete the mentoring and induction program by the end of the third year of eligibility. A teacher granted a third year of eligibility shall develop a teacher's mentoring and induction program plan in accordance with this chapter and shall undergo a comprehensive evaluation at the end of the third year. The board of educational examiners shall grant a one-year extension of the beginning teacher's initial license upon notification by the school district that the teacher will participate in a third year of the school district's program.

6. If a beginning teacher who is participating in a mentoring and induction program leaves the employ of a school district or area education agency prior to completion of the program, the school district or area education agency subsequently hiring the beginning teacher shall credit the beginning teacher with the time earned in the program prior to the subsequent hiring.

7. If the general assembly appropriates moneys for purposes of this section, a school district or area education agency is eligible to receive state assistance for up to two years under this section for each teacher the school district or area education agency employs who was formerly employed in an accredited nonpublic school or in another state as a first-year teacher. The school district or area education agency employing the teacher shall determine the conditions and requirements of a teacher participating in a program in accordance with this subsection. The school district or area education agency that employs the teacher shall recommend the teacher for an educational license if the teacher, through a comprehensive evaluation, is determined to demonstrate competence in the Iowa teaching standards.

8. The state board shall adopt rules to administer this section.

2001 Acts, ch 161, §6; 2001 Acts, ch 177, §4, 15; 2002 Acts, ch 1152, §13; 2003 Acts, ch 180, §41; 2003 Acts, ch 182, §15; 2006 Acts, ch 1182, §12; 2013 Acts, ch 121, §61, 62; 2014 Acts, ch 1013, §20; 2017 Acts, ch 172, §34

Referred to in §256.34, 272.28, 284.2, 284.6

284.6 Teacher professional development.

1. The department shall coordinate a statewide network of professional development for Iowa teachers. A school district or professional development provider that offers a professional development program in accordance with section 256.9, subsection 42, shall demonstrate that the program contains the following:

a. Support that meets the professional development needs of individual teachers and is aligned with the Iowa teaching standards.

b. Research-based instructional strategies aligned with the school district's student achievement needs and the long-range improvement goals established by the district.

c. Instructional improvement components including student achievement data, analysis, theory, classroom demonstration and practice, technology integration, observation, reflection, and peer coaching.

d. An evaluation component that documents the improvement in instructional practice and the effect on student learning.

2. The department shall identify models of professional development practices that produce evidence of the link between teacher training and improved student learning.

3. A school district shall incorporate a district professional development plan into the district's comprehensive school improvement plan submitted to the department in accordance with section 256.7, subsection 21. The district professional development plan shall include a description of the means by which the school district will provide access to all teachers in the district to professional development programs or offerings that meet the requirements of subsection 1. The plan shall align all professional development with the school district's long-range student learning goals and the Iowa teaching standards. The plan shall indicate the school district's approved professional development provider or providers.

4. In cooperation with the teacher's evaluator, the career teacher employed by a school district shall develop an individual teacher professional development plan. The evaluator shall consult with the teacher's supervisor on the development of the individual teacher professional development plan. The purpose of the plan is to promote individual and group professional development. The individual plan shall be based, at minimum, on the needs of the teacher, the Iowa teaching standards, and the student achievement goals of the attendance center and the school district as outlined in the comprehensive school improvement plan. The individual plan shall include goals for the individual which are beyond those required under the attendance center professional development plan developed pursuant to subsection 7.

5. The teacher's evaluator shall annually meet with the teacher to review progress in meeting the goals in the teacher's individual plan. The teacher shall present to the evaluator evidence of progress. The purpose of the meeting shall be to review the teacher's progress in meeting professional development goals in the plan and to review collaborative work with other staff on student achievement goals and to modify as necessary the teacher's individual plan to reflect the individual teacher's and the school district's needs and the individual's progress in meeting the goals in the plan. The teacher's supervisor and the evaluator shall review, modify, or accept modifications made to the teacher's individual plan.

6. School districts, a consortium of school districts, area education agencies, higher education institutions, and other public or private entities including professional associations may be approved by the state board to provide teacher professional development. The professional development program or offering shall, at minimum, meet the requirements of subsection 1. The state board shall adopt rules for the approval of professional development providers and standards for the district development plan.

7. Each attendance center shall develop an attendance center professional development plan. The purpose of the plan is to promote group professional development. The attendance center plan shall be based, at a minimum, on the needs of the teachers, the Iowa teaching standards, district professional development plans, and the student achievement goals of the attendance center and the school district as set forth in the comprehensive school improvement plan.

8. For each year in which a school district receives funds calculated and paid to

school districts for professional development pursuant to section 257.10, subsection 10, or section 257.37A, subsection 2, the school district shall create quality professional development opportunities. Not less than thirty-six hours in the school calendar, held outside of the minimum school day, shall be set aside during nonpreparation time or designated professional development time to allow practitioners to collaborate with each other to deliver educational programs and assess student learning, or to engage in peer review pursuant to section 284.8, subsection 1. The funds may be used to implement the professional development provisions of the teacher career paths and leadership roles specified in section 284.15, including but not limited to providing professional development to teachers, including additional salaries for time beyond the normal negotiated agreement; activities and pay to support a beginning teacher mentoring and induction program that meets the requirements of section 284.5; pay for substitute teachers, professional development materials, speakers, and professional development content; textbooks and curriculum materials used for classroom purposes if such textbooks and curriculum materials include professional development; administering assessments pursuant to section 256.7, subsection 21, paragraph “b”, subparagraphs (1) and (2), if such assessments include professional development; and costs associated with implementing the individual professional development plans. The use of the funds shall be balanced between school district, attendance center, and individual professional development plans, making every reasonable effort to provide equal access to all teachers.

9. Moneys received pursuant to section 257.10, subsection 10, or section 257.37A, subsection 2, shall be maintained as a separate listing within a school district’s or area education agency’s budget for funds received and expenditures made pursuant to this subsection. The department shall not require a school district or area education agency to allocate a specific amount or percentage of moneys received pursuant to section 257.10, subsection 10, or section 257.37A, subsection 2, for professional development related to implementation of the core curriculum under section 256.7, subsection 26. A school district shall certify to the department how the school district allocated the funds and that moneys received under this subsection were used to supplement, not supplant, the professional development opportunities the school district would otherwise make available. For budget years beginning on or after July 1, 2017, all or a portion of the moneys received pursuant to section 257.10, subsection 10, that remain unexpended and unobligated at the end of a fiscal year may, pursuant to section 257.10, subsection 10, paragraph “d”, be transferred for deposit in the school district’s flexibility account established under section 298A.2, subsection 2.

10. If funds are allocated for purposes of professional development pursuant to section 284.13, subsection 1, paragraph “c”, the department shall, in collaboration with the area education agencies, establish teacher development academies for school-based teams of teachers and instructional leaders. Each academy shall include an institute and shall provide follow-up training and coaching.

2001 Acts, ch 161, §7; 2002 Acts, ch 1152, §14; 2003 Acts, ch 180, §42; 2006 Acts, ch 1182, §13, 14; 2007 Acts, ch 108, §20 – 23; 2009 Acts, ch 177, §36; 2011 Acts, ch 34, §74; 2012 Acts, ch 1119, §5; 2013 Acts, ch 121, §63, 74; 2017 Acts, ch 153, §1 - 3; 2017 Acts, ch 154, §5; 2017 Acts, ch 172, §35; 2018 Acts, ch 1026, §102

Referred to in §256.7, 256C.3, 284.13

2017 amendment to subsections 8 and 9 by 2017 Acts, ch 153, §1, takes effect May 11, 2017, and applies to school budget years beginning on or after July 1, 2017; 2017 Acts, ch 153, §2, 3

284.6A Computer science professional development incentive fund — legislative findings.

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

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

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

c. It is the intent of the general assembly to appropriate moneys for purposes of the computer science professional development incentive fund for the fiscal year beginning July 1, 2018.

2. A computer science professional development incentive fund is established in the state treasury under the control of the department. The department may accept gifts, grants, bequests, and other private contributions, as well as state or federal moneys, for deposit in the fund. If state, federal, or private moneys deposited in the fund are sufficient, the department may disburse moneys contained in the fund for professional development activities or tuition reimbursement as follows:

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

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

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

2017 Acts, ch 106, §3

Referred to in §256.7

284.7 Iowa teacher career path — future repeal. Repealed by its own terms; 2013 Acts, ch 121, §64.

284.8 Performance review requirements for teachers — peer group reviews.

1. A school district shall provide for an annual review of each teacher's performance for purposes of assisting teachers in making continuous improvement, documenting continued competence in the Iowa teaching standards, identifying teachers in need of improvement, or to determine whether the teacher's practice meets school district expectations for career advancement. The review shall include, at minimum, classroom observation of the teacher, the teacher's progress, and implementation of the teacher's individual professional development plan, subject to the level of resources provided to implement the plan; and shall include supporting documentation from parents, students, and other teachers. The first and second year of review shall be conducted by a peer group of teachers. The peer group shall review all of the peer group members. Peer group reviews shall be formative and shall be conducted on an informal, collaborative basis that is focused on assisting each peer group member in achieving the goals of the teacher's individual professional development plan. Peer group reviews shall not be the basis for recommending that a teacher participate in an intensive assistance program, and shall not be used to determine the compensation, promotion, layoff, or termination of a teacher, or any other determination affecting a teacher's employment status. However, as a result of a peer group review, a teacher may elect to participate in an intensive assistance program. Members of the peer group shall be reviewed every third year by at least one evaluator certified in accordance with section 284.10.

2. If a supervisor or an evaluator determines, at any time, as a result of a teacher's performance that the teacher is not meeting district expectations under the Iowa teaching standards specified in section 284.3, subsection 1, paragraphs "a" through "h", and the criteria for the Iowa teaching standards developed by the department in accordance with section 256.9, subsection 42, the evaluator shall, at the direction of the teacher's supervisor, recommend to the district that the teacher participate in an intensive assistance program. The intensive assistance program and its implementation are not subject to negotiation

and grievance procedures established pursuant to chapter 20. All school districts shall be prepared to offer an intensive assistance program.

3. A teacher who is not meeting the applicable standards and criteria based on a determination made pursuant to subsection 2 shall participate in an intensive assistance program. However, a teacher who has previously participated in an intensive assistance program relating to particular Iowa teaching standards or criteria shall not be entitled to participate in another intensive assistance program relating to the same standards or criteria and shall be subject to the provisions of subsection 4.

4. Following a teacher's participation in an intensive assistance program, the teacher shall be reevaluated to determine whether the teacher successfully completed the intensive assistance program and is meeting district expectations under the applicable Iowa teaching standards or criteria. If the teacher did not successfully complete the intensive assistance program or continues not to meet the applicable Iowa teaching standards or criteria, the board may do any of the following:

a. Terminate the teacher's contract immediately pursuant to section 279.27.

b. Terminate the teacher's contract at the end of the school year pursuant to section 279.15.

c. Continue the teacher's contract for a period not to exceed one year. However, the contract shall not be renewed and shall not be subject to section 279.15.

2001 Acts, ch 161, §9; 2002 Acts, ch 1152, §17; 2003 Acts, ch 180, §47; 2006 Acts, ch 1182, §22; 2007 Acts, ch 108, §31, 32; 2007 Acts, ch 215, §253; 2008 Acts, ch 1181, §81; 2012 Acts, ch 1119, §6; 2013 Acts, ch 121, §74; 2017 Acts, ch 2, §44 – 46, 48, 49

Referred to in §284.2, 284.6

For provisions relating to applicability of 2017 amendments to employment contracts of school employees under chapter 279 and collective bargaining agreements and procedures under chapter 20 before, on, or after February 17, 2017, see 2017 Acts, ch 2, §48, 49

284.9 Review panel — future repeal. Repealed by its own terms; 2013 Acts, ch 121, §65.

284.10 Evaluator training program.

1. The department shall establish an evaluator training program to improve the skills of school district evaluators in making employment decisions, making recommendations for licensure, and moving teachers through a career path as established under this chapter. The department shall consult with persons representing teachers, national board-certified teachers, administrators, school boards, higher education institutions with approved practitioner and administrator preparation programs, and with persons from the private sector knowledgeable in employment evaluation and evaluator training in order to develop standards and requirements for the program. Evaluator training programs offered pursuant to this chapter may be provided by a public or private entity. The department shall distribute a list of evaluator training program providers to each school district.

2. An administrator licensed under chapter 272 who conducts evaluations of teachers for purposes of this chapter shall complete the evaluator training program. A practitioner licensed under chapter 272 who is not an administrator may enroll in the evaluator training program. Enrollment preference shall be given to administrators. Upon successful completion, the provider shall certify that the administrator or other practitioner is qualified to conduct evaluations for employment, make recommendations for licensure, and make recommendations that a teacher is qualified to advance from one career path level to the next career path level pursuant to this chapter. Certification is for a period of five years and may be renewed.

3. A higher education institution approved by the state board to provide an administrator preparation program shall incorporate the evaluator training program into the program offered by the institution.

4. The board of educational examiners shall require certification as a condition of issuing or renewing an administrator's license.

5. By July 1, 2007, the director shall develop and implement an evaluator training

certification renewal program for administrators and other practitioners who need to renew a certificate issued pursuant to this section.

2001 Acts, ch 161, §11, 25; 2001 Acts, ch 177, §8, 15; 2002 Acts, ch 1152, §18; 2003 Acts, ch 180, §49; 2004 Acts, ch 1175, §95; 2006 Acts, ch 1182, §23

Referred to in §284.2, 284.4, 284.8, 284.13

284.11 State supplemental assistance for high-need schools.

1. *Findings and intent.* The general assembly finds that students whose first language is not English, who have special needs, or who come from low-income backgrounds face potential obstacles to learning. Schools across Iowa, both urban and rural, have increasing numbers of students who face these challenges. Therefore, it is the intent of the general assembly to provide supplemental assistance to the highest-need schools in Iowa to address these challenges. This section provides for state assistance to allow school districts to develop extended learning time programs, hire instructional support staff, provide additional professional development, or supplement the salary of teachers in the identified schools.

2. *Department's responsibilities.* The department shall do the following:

a. Collect relevant data and establish a list of high-need schools eligible for state supplemental assistance. The department shall establish a process and criteria to determine which schools are placed on the list and the department shall revise the list annually. Criteria for the determination of which high-need schools shall be placed on the list shall be based upon factors that include but are not limited to the socioeconomic status of the students enrolled in the school, the percentage of the school's student body who are limited English proficient students, student academic growth, certified instructional staff attrition, and geographic balance. The department may approve or disapprove requests for revision of the list, which a school district submits pursuant to subsection 3.

b. Develop a standardized process for distributing moneys appropriated for supplemental assistance for high-need schools under section 284.13, subsection 1, paragraph "g", to school districts. In determining the process for distribution of such moneys, the department shall take into consideration the amount of moneys appropriated for supplemental assistance in high-need schools for the given year and the minimal amount of moneys needed to increase the academic achievement of students. A school district receiving moneys pursuant to this section shall certify annually to the department how the moneys distributed to the school district pursuant to this section were used by the school district.

c. Review the use and effectiveness of the funds distributed to school districts for supplemental assistance in high-need schools under this section, and consider the findings and recommendations of the commission on educator leadership and compensation submitted pursuant to section 284.15, subsection 13, relating to the use and effectiveness of the funds distributed to school districts under this section. The department shall submit its findings and recommendations in a report to the general assembly by January 15 annually.

3. *School district request for approval.* A school district may request on an annual basis approval from the department for additions to the list of high-need schools the department maintains pursuant to subsection 2 based upon the unique local conditions and needs of the school district. The criteria used to determine the placement of high-need schools on the list in accordance with subsection 2 does not restrict the department from adding a high-need school to the list as requested by a school district on the basis of unique local conditions and needs pursuant to this subsection.

4. *Moneys received and miscellaneous income.* The distribution of moneys allocated pursuant to section 284.13, subsection 1, paragraph "g", to a school district shall be made in one payment on or about October 15 of the fiscal year for which the appropriation is made, taking into consideration the relative budget and cash position of the state resources. Such moneys shall not be commingled with state aid payments made under section 257.16 to a school district and shall be accounted for by the local school district separately from state aid payments. Payments made to school districts under this section are miscellaneous income for purposes of chapter 257. A school district shall maintain a separate listing within its budget for payments received and expenditures made pursuant to this section.

5. *Moneys received to supplement salaries.* Moneys received by a school district

pursuant to section 284.13, subsection 1, paragraph “g”, shall be used to supplement and not supplant the salary being received by a teacher in a high-need school, and shall not be considered under chapter 20 by an arbitrator or other third party in determining a comparison of the wages of teachers in that high-need school with the wages of teachers in other buildings or in another school district.

2013 Acts, ch 121, §66
Referred to in §284.13, 284.15

284.12 Rules.

In developing administrative rules for consideration by the state board, the department shall consult with stakeholders who might reasonably be affected by the proposed rule, including persons representing teachers, administrators, school boards, approved practitioner preparation institutions, and other appropriate education stakeholders.

2001 Acts, ch 161, §13; 2001 Acts, ch 177, §11, 15; 2003 Acts, ch 45, §1; 2005 Acts, ch 19, §39; 2007 Acts, ch 108, §34, 35; 2016 Acts, ch 1036, §13

284.13 State program allocation.

1. For each fiscal year in which moneys are appropriated by the general assembly for purposes of the student achievement and teacher quality program, the moneys shall be allocated as follows in the following priority order:

a. For the fiscal year beginning July 1, 2019, and ending June 30, 2020, to the department, the amount of five hundred eight thousand two hundred fifty dollars for the issuance of national board certification awards in accordance with section 256.44. Of the amount allocated under this paragraph, not less than eighty-five thousand dollars shall be used to administer the ambassador to education position in accordance with section 256.45.

b. For the fiscal year beginning July 1, 2019, and ending June 30, 2020, up to seven hundred twenty-eight thousand two hundred sixteen dollars to the department for purposes of implementing the professional development program requirements of section 284.6, assistance in developing model evidence for teacher quality committees established pursuant to section 284.4, subsection 1, paragraph “b”, and the evaluator training program in section 284.10. A portion of the funds allocated to the department for purposes of this paragraph may be used by the department for administrative purposes and for not more than four full-time equivalent positions.

c. For the fiscal year beginning July 1, 2019, and ending June 30, 2020, an amount up to one million seventy-seven thousand eight hundred ten dollars to the department for the establishment of teacher development academies in accordance with section 284.6, subsection 10. A portion of the funds allocated to the department for purposes of this paragraph may be used for administrative purposes.

d. (1) For the following years, to the department, for purposes of teacher leadership supplemental aid payments to school districts for implementing the career paths, leadership roles, and compensation framework or comparable system approved in accordance with section 284.15, subsection 6, the following amounts:

(a) For the fiscal year beginning July 1, 2015, and ending June 30, 2016, fifty million six hundred thousand dollars.

(b) For the fiscal year beginning July 1, 2016, and ending June 30, 2017, fifty million six hundred thousand dollars.

(2) (a) For the initial school year for which a school district receives department approval for and implements a framework or comparable system in accordance with section 284.15, teacher leadership supplement foundation aid payable to that school district shall be paid from the allocation made in subparagraph (1) for that school year. For that school year, the teacher leadership supplement foundation aid payable to the school district is the product of the teacher leadership district cost per pupil for the school year multiplied by the school district’s budget enrollment. The board of directors of the district of residence shall pay to the receiving district any moneys received for a pupil under subparagraph (1) if the pupil is participating in open enrollment under section 282.18 and both the district of residence and the receiving district are receiving an allocation under subparagraph (1).

(b) For budget years subsequent to the initial school year for which a school district implemented a system and received funding pursuant to subparagraph division (a), the teacher leadership supplement foundation aid payable to that school district shall be paid from the appropriation made in section 257.16.

(3) Of the moneys allocated to the department for the purposes of this paragraph “d”, for each fiscal year included in subparagraph (1), not more than six hundred twenty-six thousand one hundred ninety-one dollars shall be used by the department for the development of a delivery system, in collaboration with area education agencies, to assist in implementing the career paths and leadership roles considered pursuant to sections 284.15, 284.16, and 284.17, including but not limited to planning grants to school districts and area education agencies, technical assistance for the department, technical assistance for districts and area education agencies, training and staff development, and the contracting of external expertise and services. In using moneys allocated for purposes of this subparagraph (3), the department shall give priority to school districts with certified enrollments of fewer than six hundred students. A portion of the moneys allocated annually to the department for purposes of this subparagraph (3) may be used by the department for administrative purposes and for not more than five full-time equivalent positions.

(4) Of the moneys allocated to the department for purposes of this paragraph “d”, for each fiscal year of the fiscal period beginning July 1, 2014, and ending June 30, 2017, the amount remaining after the allocations in subparagraph (3) shall be payable to the school districts that have an approved career path, leadership roles, and compensation framework or approved comparable system as provided in section 284.15.

(5) For each fiscal year of the fiscal period beginning July 1, 2014, and ending June 30, 2017, moneys received by a school district pursuant to this paragraph “d” shall not be considered under chapter 20 by an arbitrator or other third party in determining a comparison of the wages of teachers in that school district with the wages of teachers in another school district.

(6) The receipt of funding by a school district for the purposes of this paragraph “d”, and the need for additional funding for the purposes of this paragraph “d”, or the enrollment count of eligible students under this chapter, shall not be considered to be unusual circumstances, create an unusual need for additional funds, or qualify under any other circumstances that may be used by the school budget review committee to grant supplemental aid to or establish a modified supplemental amount for a school district under section 257.31.

e. For the fiscal year beginning July 1, 2019, and ending June 30, 2020, to the department an amount up to twenty-five thousand dollars for purposes of the fine arts beginning teacher mentoring program established under section 256.34.

f. For the fiscal year beginning July 1, 2019, and ending June 30, 2020, to the department an amount up to six hundred twenty-six thousand one hundred ninety-one dollars shall be used by the department for a delivery system, in collaboration with area education agencies, to assist in implementing the career paths and leadership roles considered pursuant to sections 284.15, 284.16, and 284.17, including but not limited to planning grants to school districts and area education agencies, technical assistance for the department, technical assistance for districts and area education agencies, training and staff development, and the contracting of external expertise and services. In using moneys allocated for purposes of this paragraph, the department shall give priority to school districts with certified enrollments of fewer than six hundred students. A portion of the moneys allocated annually to the department for purposes of this paragraph may be used by the department for administrative purposes and for not more than five full-time equivalent positions.

g. For the fiscal year beginning July 1, 2020, and for each subsequent fiscal year, to the department, ten million dollars for purposes of implementing the supplemental assistance for high-need schools provisions of section 284.11. Annually, of the moneys allocated to the department for purposes of this paragraph, up to one hundred thousand dollars may be used by the department for administrative purposes and for not more than one full-time equivalent position.

h. Notwithstanding section 8.33, any moneys remaining unencumbered or unobligated from the moneys allocated for purposes of paragraphs “a” through “g” shall not revert

but shall remain available in the succeeding fiscal year for expenditure for the purposes designated. The provisions of section 8.39 shall not apply to the funds appropriated pursuant to this subsection.

2. Moneys received by a school district under this chapter are miscellaneous income for purposes of chapter 257 or are considered encumbered. A school district shall maintain a separate listing within its budget for payments received and expenditures made pursuant to this section.

3. The state board may adopt rules which assure the allocation of resources under this section in a manner that optimizes the fulfillment of the purposes specified in sections 284.11, 284.15, 284.16, and 284.17.

2001 Acts, ch 177, §12, 15; 2002 Acts, ch 1152, §19, 20; 2003 Acts, ch 179, §116, 117; 2003 Acts, ch 182, §16, 17, 19, 20; 2004 Acts, ch 1175, §97, 98, 100; 2005 Acts, ch 169, §30 – 33; 2006 Acts, ch 1180, §26, 27; 2006 Acts, ch 1182, §25, 26; 2007 Acts, ch 108, §36 – 45, 64; 2007 Acts, ch 215, §103; 2008 Acts, ch 1181, §82 – 85; 2009 Acts, ch 177, §40 – 42, 45, 48; 2010 Acts, ch 1183, §34; 2011 Acts, ch 132, §19, 106; 2012 Acts, ch 1132, §13; 2013 Acts, ch 121, §67 – 69; 2013 Acts, ch 141, §20; 2014 Acts, ch 1135, §25 – 27; 2015 Acts, ch 140, §15 – 17, 58, 59; 2016 Acts, ch 1132, §14 – 16; 2017 Acts, ch 172, §36 – 38; 2018 Acts, ch 1026, §103, 104; 2018 Acts, ch 1163, §21; 2019 Acts, ch 135, §17

Referred to in §257.9, 257.10, 282.18, 284.6, 284.11

284.14 Pay-for-performance program.

1. *Intent.* The intent of this section is to create a process by which select Iowa school districts research, develop, and implement projects designed to identify promising practices related to enhanced teacher compensation career ladders and performance pay models.

2. *Commission.* A pay-for-performance commission is established to design and implement a pay-for-performance pilot project and provide a study relating to teacher and staff compensation containing a pay-for-performance component. The study shall measure the cost and effectiveness in raising student achievement of a compensation system that provides financial incentives based on student performance. The commission is part of the executive branch of government.

3. *Development of program.* Beginning July 1, 2006, the commission shall gather sufficient information to identify a pay-for-performance program based upon student achievement gains and global content standards where student achievement gains cannot be easily measured. The commission shall review pay-for-performance programs in both the public and private sectors.

a. Commencing with the school year beginning July 1, 2007, the commission shall initiate planning pilots, in selected kindergarten through grade twelve schools, to test the effectiveness of the pay-for-performance program. The purpose of the planning pilots is to identify the strengths and weaknesses of various pay-for-performance program designs, evaluate cost effectiveness, analyze student achievement needs, select formative and summative student achievement measures that align to identify needs, consider necessary supports related to the student achievement goals in the school district's comprehensive school improvement plan, review assessment needs, identify mechanisms to account for existing teacher contract provisions within the proposed career ladder salary increments, allow thorough review of data, and make necessary adjustments before proposing implementation of the pay-for-performance program statewide.

b. Commencing with the school year beginning July 1, 2007, the commission shall select two school districts as planning pilots. Participants shall provide reports or other information as required by the commission.

c. Commencing with the school year beginning July 1, 2008, the commission shall administer two implementation pilots in the school districts selected for planning pilots under paragraph "b".

4. *Reports and final study.* Based on the information generated by the planning and implementation pilots, the commission shall prepare an interim report by January 14, 2008, followed by interim progress reports annually, followed by a final study report analyzing the effectiveness of pay-for-performance in raising student achievement levels. The final study

report shall be completed no later than six months after the completion of the planning and implementation pilots. The commission shall provide copies of the final study report to the department of education and to the general assembly.

5. *Iowa excellence fund.*

a. An Iowa excellence fund is created within the office of the treasurer of state, to be administered by the commission. Notwithstanding section 8.33, moneys in the fund that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain in the fund.

b. The commission may provide grants from this fund, according to criteria developed by the commission, for implementation of the pay-for-performance program.

2006 Acts, ch 1182, §27; 2007 Acts, ch 108, §46 – 48; 2010 Acts, ch 1061, §102

284.14A Career ladder pilots. Repealed by 2012 Acts, ch 1119, §8.

284.15 Iowa teacher career paths, leadership roles, and compensation framework.

1. To promote continuous improvement in Iowa’s quality teaching workforce and to give Iowa teachers the opportunity for career recognition that reflects the various roles teachers play as educational leaders, a framework for Iowa teacher career paths, leadership roles, and compensation is established under subsection 2 for teachers employed by school districts. Pursuant to subsection 6, a school district may apply to the department for approval to implement the framework or a comparable system of career paths and compensation for teachers that contains differentiated, multiple leadership roles as provided in this section, and sections 284.16 and 284.17. A teacher employed by an area education agency may be included in a framework or comparable system established by a school district if the area education agency and the school district enter into a contract for such purpose. The framework is designed to accomplish the following goals:

a. To attract able and promising new teachers by offering competitive starting salaries and offering short-term and long-term professional development and leadership opportunities.

b. To retain effective teachers by providing enhanced career opportunities.

c. To promote collaboration by developing and supporting opportunities for teachers in schools and school districts statewide to learn from each other.

d. To reward professional growth and effective teaching by providing pathways for career opportunities that come with increased leadership responsibilities and involve increased compensation.

e. To improve student achievement by strengthening instruction.

2. The Iowa teacher career paths, leadership roles, and compensation requirements under the framework shall be as follows:

a. *Initial teacher.*

(1) The salary for an initial teacher who has successfully completed an approved practitioner preparation program as defined in section 272.1 or holds an initial or intern teacher license issued under chapter 272 shall be at least thirty-three thousand five hundred dollars, which shall also constitute the minimum salary for an Iowa teacher.

(2) An initial teacher shall complete a teacher residency during the first year of employment that has all of the following characteristics:

(a) Intensive supervision or mentoring by a mentor teacher or lead teacher.

(b) Sufficient collaboration time for the initial teacher in the residency year to be able to observe and learn from model teachers, mentor teachers, and lead teachers employed by school districts located in this state.

(c) A teaching contract issued under section 279.13 that establishes an employment period which is five days longer than that required for career teachers employed by the school district of employment. The five additional contract days shall be used to strengthen instructional leadership in accordance with this subsection.

(d) Frequent observation, evaluation, and professional development opportunities.

b. *Career teacher.* A career teacher is a teacher who holds a statement of professional recognition issued under chapter 272 or who meets all of the following requirements:

(1) Has demonstrated the competencies of a career teacher as determined under the school district's comprehensive evaluation of the initial teacher.

(2) Holds a valid license issued under chapter 272.

(3) Participates in teacher professional development as set forth in this chapter and demonstrates continuous improvement in teaching.

c. *Model teacher.* A model teacher is a teacher who meets the requirements of paragraph "b", has met the requirements established by the school district that employs the teacher, is evaluated by the school district as demonstrating the competencies of a model teacher, has participated in a rigorous review process, and has been recommended for a one-year assignment as a model teacher by a site-based review council appointed pursuant to subsection 4. A school district shall designate at least ten percent of its teachers as model teachers, though the district may enter into an agreement with one or more other districts or an area education agency to meet this requirement through a collaborative arrangement. The terms of the teaching contracts issued under section 279.13 to model teachers shall exceed by five days the terms of teaching contracts issued under section 279.13 to career teachers, and the five additional contract days shall be used to strengthen instructional leadership in accordance with this subsection. A model teacher shall receive annually a salary supplement of at least two thousand dollars.

d. *Mentor teacher.* A mentor teacher is a teacher who is evaluated by the school district as demonstrating the competencies and superior teaching skills of a mentor teacher, and has been recommended for a one-year assignment as a mentor teacher by a site-based review council appointed pursuant to subsection 4. In addition, a mentor teacher shall hold a valid license issued under chapter 272, participate in teacher professional development as outlined in this chapter, demonstrate continuous improvement in teaching, and possess the skills and qualifications to assume leadership roles. A mentor teacher shall have a teaching load of not more than seventy-five percent student instruction to allow the teacher to mentor other teachers. A school district shall designate at least ten percent of its teachers as mentor teachers, though the district may enter into an agreement with one or more other districts or an area education agency to meet this requirement through a collaborative arrangement. The terms of the teaching contracts issued under section 279.13 to mentor teachers shall exceed by ten days the terms of teaching contracts issued under section 279.13 to career teachers, and the ten additional contract days shall be used to strengthen instructional leadership in accordance with this subsection. A mentor teacher shall receive annually a salary supplement of at least five thousand dollars.

e. *Lead teacher.* A lead teacher is a teacher who holds a valid license issued under chapter 272 and has been recommended for a one-year assignment as a lead teacher by a site-based review council appointed pursuant to subsection 4. The recommendation from the council must assert that the teacher possesses superior teaching skills and the ability to lead adult learners. A lead teacher shall assume leadership roles that may include but are not limited to the planning and delivery of professional development activities designed to improve instructional strategies; the facilitation of an instructional leadership team within the lead teacher's building, school district, or other school districts; the mentoring of other teachers; and participation in the evaluation of student teachers. A lead teacher shall have a teaching load of not more than fifty percent student instruction to allow the lead teacher to spend time on co-teaching; co-planning; peer reviews; observing career teachers, model teachers, and mentor teachers; and other duties mutually agreed upon by the superintendent and the lead teacher. A school district shall designate at least five percent of its teachers as lead teachers, though the district may enter into an agreement with one or more other districts or an area education agency to meet this requirement through a collaborative arrangement. The terms of the teaching contracts issued under section 279.13 to lead teachers shall exceed by fifteen days the terms of teaching contracts issued under section 279.13 to career teachers, and the fifteen additional contract days shall be used to strengthen instructional leadership in accordance with this subsection. A lead teacher shall receive annually a salary supplement of at least ten thousand dollars.

3. The salary supplement received by a teacher assigned to a leadership role shall fully cover the salary costs of the additional contract days required of teachers in those leadership

roles. Notwithstanding any provision of law to the contrary, the determinations of salary supplements paid pursuant to this section are not subject to appeal.

4. The school board shall appoint a site-based review council for the district's attendance centers. Attendance centers may share a site-based review council if the appointments meet the requirements specified in paragraph "a".

a. Each council shall be comprised of equal numbers of teachers and administrators.

b. The council shall accept and review applications submitted to the school's or the school district's administration for assignment or reassignment in a teacher leadership role, and shall make recommendations regarding the applications to the superintendent of the school district. In developing recommendations, the council shall utilize measures of teacher effectiveness and professional growth, consider the needs of the school district, and review the performance and professional development of the applicants. Any teacher recommended for assignment or reassignment in a teacher leadership role shall have demonstrated to the council's satisfaction competency on the Iowa teaching standards as set forth in section 284.3.

c. An assignment in a teacher leadership role under an approved framework or comparable system shall be subject to review by the school's or the school district's administration at least annually. The review shall include peer feedback on the effectiveness of the teacher's performance of duty specific to the teacher's career path. A teacher who completes the time period of assignment in a teacher leadership role may apply to the school's or the school district's administration for assignment in a new role, if appropriate, or for reassignment.

5. A teacher employed in a school district shall not receive less compensation in that district than the teacher received in the school year preceding implementation of the framework or a comparable system approved pursuant to this section. A teacher who achieves national board for professional teaching standards certification and meets the requirements of section 256.44 shall continue to receive the award as specified in section 256.44 in addition to the compensation set forth in this section.

6. a. A school district may apply to the department for approval to implement the career paths, leadership roles, and compensation framework specified in subsection 2, or a comparable system of career paths and compensation for teachers that contains differentiated multiple leadership roles. The director shall consider the recommendations of the commission established pursuant to subsection 12 when approving or disapproving applications submitted pursuant to this section. A school district may modify an approved framework or comparable system if the director or the director's designee approves the modification. A school district may appeal the director's or the director's designee's decision to the state board and the state board's decision is final.

b. At any time during a school year, a school district approved to implement the framework or a comparable system pursuant to this subsection may apply to the department to waive full or partial implementation of the approved framework or system for the current school year. The school district shall submit to the department for approval a modified implementation plan for the school year following the school year for which the district received a waiver pursuant to this paragraph if the school district wishes to continue partial implementation beyond the school year for which the district received a waiver. The state board may adopt by rule a limitation on the number of times a school district may apply for a waiver in accordance with this paragraph.

c. A school district approved to implement the framework or a comparable system pursuant to this subsection shall submit to the director or the director's designee for approval any proposed modification to the framework or comparable system.

d. By March 1 of the school year preceding implementation, a school district that has been approved to implement the framework or a comparable system pursuant to this subsection may opt out of implementation of the framework or comparable system by notifying the department of its intent to withdraw from implementation. The department shall notify the department of management that the school district is no longer approved to implement the framework or comparable system and is not eligible to receive teacher leadership supplement foundation aid under chapter 257 or this chapter.

e. A school district whose application for approval to implement a comparable system or modified comparable system is denied may appeal the department's decision to the state board.

7. The department shall establish criteria and a process for application and approval of the framework established under subsection 1, and for comparable systems that meet the requirements of section 284.16 or 284.17, which a school district may implement pursuant to subsection 6 in order to receive teacher leadership supplement foundation aid calculated under section 257.10, subsection 12.

8. For purposes of this section a comparable system means either of the following:

a. An instructional coach model as set forth in section 284.16 and approved by the department pursuant to this section.

b. A system of career paths and compensation for teachers that contains differentiated, multiple leadership roles as set forth in section 284.17 and approved by the department pursuant to this section.

9. A school district is encouraged to utilize appropriately licensed teachers emeritus in the implementation of this section and sections 284.16 and 284.17.

10. The framework or comparable system approved and implemented by a school district in accordance with this section shall be applicable to teachers in every attendance center operated by the school district.

11. Subject to an appropriation by the general assembly for purposes of this subsection, a school district may apply to the department for a planning grant to design an implementation strategy for the framework established pursuant to subsection 1 or a comparable system of career paths and compensation for teachers that contains differentiated multiple leadership roles. The planning grant shall be used to facilitate a local decision-making process that includes representation of administrators, teachers, and parents and guardians of students. The department shall establish and make available an application for the awarding of planning grants for purposes of this subsection.

12. The department shall establish, and provide staffing and administrative support for a commission on educator leadership and compensation. The commission shall monitor with fidelity the implementation of the frameworks and comparable systems by school districts pursuant to this section and sections 284.16 and 284.17. The commission shall also evaluate and make recommendations to the department on applications for approval of a framework or comparable system submitted to the department pursuant to subsection 6, and on the expenditure of moneys appropriated for purposes of this section. In addition, the commission shall review the use and effectiveness of the funds distributed to school districts for supplemental assistance to high-need schools under section 284.11.

a. The commission shall be comprised of nineteen voting members. The director of the department or the director's designee shall serve as a nonvoting, ex officio member. The voting members shall include the following:

(1) Members appointed by the following designated organizations, at the discretion of the organization:

(a) Five teachers by the Iowa state education association.

(b) Three school administrators by the school administrators of Iowa.

(c) Two school board members by the Iowa association of school boards.

(d) One person appointed jointly by the administrators of the area education agencies created under chapter 273.

(2) Members appointed by the director as follows:

(a) Two teachers, each of whom shall be employed by a school district, an area education agency, or an accredited nonpublic school.

(b) One person who is a parent of a child enrolled in a school district.

(c) One person who is a business leader.

(d) One person who represents the largest approved practitioner preparation institution in the state.

(3) The executive director of the Iowa state education association or the executive director's designee.

(4) The executive director of the school administrators of Iowa or the executive director's designee.

(5) The executive director of the Iowa association of school boards or the executive director's designee.

b. Members shall be appointed to staggered three-year terms which begin and end as provided in section 69.19. Appointments shall comply with sections 69.16, 69.16A, and 69.16C. Vacancies on the commission shall be filled in the same manner as the original appointment. A person appointed to fill a vacancy shall serve only for the unexpired portion of the term. Members are entitled to reimbursement of actual expenses incurred in performance of their official duties.

c. By December 15 annually, the commission shall submit its findings and any recommendations, including but not limited to any recommendations for changes to the framework established in subsections 1 and 2, and the comparable systems set forth in sections 284.16 and 284.17, and for changes to section 284.11 relating to state supplemental assistance to high-need schools, in a report to the director, the state board, the governor, and the general assembly.

13. a. Teacher leadership supplement foundation aid calculated under section 257.10, subsection 12, shall be paid as part of the state aid payments made to school districts in accordance with section 257.16.

b. Notwithstanding section 284.3A, teacher leadership supplement foundation aid shall not be combined with regular wages to create a combined salary.

c. The teacher leadership supplement district cost as calculated under section 257.10, subsection 12, is not subject to a uniform reduction in accordance with section 8.31.

14. The provisions of this chapter shall be subject to legislative review at least every three years. The review shall be based upon a status report from the commission on educator leadership and compensation, which shall be prepared with the assistance of the departments of education, management, and revenue. The status report shall review and report on the department's assignment and utilization of full-time equivalent positions, and shall include information on teacher retention, teacher compensation, academic quality of beginning teachers, teacher evaluation results, student achievement trend and comparative data, and recommendations for changes to the teacher leadership supplement foundation aid and the framework or comparable systems approved pursuant to this section. The first status report shall be submitted to the general assembly by January 15, 2017, with subsequent status reports prepared and submitted to the general assembly by January 15 at least every third year thereafter.

2013 Acts, ch 121, §70; 2015 Acts, ch 29, §43, 44; 2016 Acts, ch 1036, §14; 2017 Acts, ch 172, §39, 40

Referred to in §256.9, 257.10, 272.28, 284.3A, 284.6, 284.11, 284.13, 284.16, 284.17

284.16 Instructional coach model.

1. *Instructional coach model.* The instructional coach and curriculum and professional development leader model shall include, at a minimum, the following levels and requirements:

a. *Beginning teacher level.* The beginning teacher shall be paid not less than thirty-three thousand five hundred dollars and shall meet the following requirements:

(1) Has successfully completed an approved practitioner preparation program as defined in section 272.1 or holds an intern teacher license issued under chapter 272.

(2) Holds an initial or intern teacher license issued under chapter 272.

(3) Completes, during the initial year of teaching, a teacher residency that meets the requirements set forth in section 284.15, subsection 2, paragraph "a", subparagraph (1).

b. *Career teacher level.* A career teacher is a teacher who holds a statement of professional recognition issued under chapter 272 or who meets the following requirements:

(1) Has successfully completed a comprehensive evaluation.

(2) Is reviewed by the school district as demonstrating the competencies of a career teacher.

(3) Holds a valid license issued under chapter 272.

(4) Participates in teacher professional development as set forth in this chapter and demonstrates continuous improvement in teaching.

c. Instructional coach level.

(1) An instructional coach shall, at a minimum, meet the requirements specified for a career teacher in paragraph “b”, and engage full-time in instructional coaching.

(2) For purposes of this paragraph, “*instructional coaching*” means additional guidance in one or more aspects of the teaching profession provided to teachers.

(3) Assignment as an instructional coach to an individual teacher shall be based on either a request from a principal or from an individual teacher upon approval of a principal.

(4) Instructional coaching shall include detailed preliminary discussions as to areas in which the teachers being coached desire to improve; formulation of an action plan to bring about such improvement; in-class supervision by the instructional coach; postclass discussion of strengths, weaknesses, and strategies for improvement; and dialogue between the instructional coach and students and school officials regarding the teachers being coached. An instructional coach shall coordinate instructional coaching activities relating to training and professional development with an area education agency where appropriate.

(5) The contract term for an instructional coach shall exceed by ten days the contract term issued to career teachers under section 279.13. An instructional coach shall receive a stipend of not less than five thousand nor more than seven thousand dollars annually in addition to the teacher’s salary as a career teacher.

d. Curriculum and professional development leader level. The contract term for a curriculum and professional development leader shall exceed by fifteen days the contract term issued to model teachers under section 279.13, and the curriculum and professional development leader shall receive a stipend of not less than ten thousand nor more than twelve thousand dollars annually in addition to the teacher’s salary as a career teacher. A curriculum and professional development leader shall do the following:

(1) Provide and demonstrate teaching on an ongoing basis.

(2) Routinely work strategically with teachers in planning, monitoring, reviewing, and implementing best instructional practices.

(3) Observe and coach teachers in effective instructional practices.

(4) Support teacher growth and reflective practices.

(5) Work with and train classroom teachers to provide interventions aligned by subject area.

(6) Support instruction and learning through the use of technology.

(7) Actively participate in collaborative problem solving and reflective practices which include but are not limited to professional study groups, peer observations, grade level planning, and weekly team meetings.

(8) Plan and deliver professional development activities designed to improve instructional strategies.

(9) Engage in the development, adoption, and implementation of curriculum and curricular materials.

e. Model teacher level.

(1) A model teacher is a teacher who meets the requirements of paragraph “b”, has met the requirements established by the school district that employs the teacher, is evaluated by the school district as demonstrating the competencies of a model teacher, has participated in a rigorous review process, and has been recommended for a one-year assignment as a model teacher by a site-based review council in the manner provided under section 284.15, subsection 4.

(2) The contract term for a model teacher shall exceed by five days the contract term issued to career teachers under section 279.13, and the five additional contract days shall be used to strengthen instructional leadership. A model teacher shall receive annually a salary supplement of at least two thousand dollars.

2. *Goals.* Each school district approved under section 284.15 to implement the instructional coach model as specified in this section shall establish the following goals for leadership participation:

a. Instructional coach goal. Assignment, annually, of at least one instructional coach at

each attendance center or at least one instructional coach for every five hundred students enrolled in an attendance center, whichever number is greater.

b. Model teacher goal. Assignment of at least ten percent of its teachers annually as model teachers.

c. Equivalent leadership participation goal. As nearly as possible, the total number of hours of coaching and leadership duties performed by instructional coaches and curriculum and professional development leaders shall be equal to the total number of hours of noninstructional, mentoring, and leadership duties for a school district teaching staff of equal size implementing the framework as set forth in section 284.15, subsection 2.

3. Requirements for implementation and receipt of teacher leadership supplement funds. A school district implementing the instructional coach model shall receive funds under section 257.10, subsection 12.

4. Applicability. The provisions of section 284.15, subsections 3 through 11, shall apply to school districts implementing the instructional coach model.

2013 Acts, ch 121, §71; 2017 Acts, ch 172, §41, 42

Referred to in §256.9, 284.13, 284.15, 284.17

284.17 Comparable system criteria.

Any comparable system of career paths and compensation for teachers approved pursuant to section 284.15, including the instructional coach model set forth in section 284.16, shall include, at a minimum, all of the following components:

1. A minimum salary of thirty-three thousand five hundred dollars for a full-time teacher.
2. Increased support for new teachers and veteran teachers where appropriate, such as additional coaching, mentoring, and opportunities for observing exceptional instructional practice.

3. Differentiated, multiple teacher leadership roles beyond the initial teacher and career teacher levels, in which a goal of at least twenty-five percent of the teacher workforce serves additional contract days with compensation commensurate with the responsibilities for the leadership role. A district shall demonstrate that a good faith effort has been made to attain participation by twenty-five percent of the teacher workforce and that no other practical alternative is available to meet the goal. These leadership roles may include but shall not be limited to all of the following:

- a.* Instructional coaches who engage full-time or part-time in instructional coaching.
- b.* Peer coaches who provide additional guidance in one or more aspects of the teaching profession to other teachers during normal noninstructional time. Peer coaches may be used only as one element of a more extensive teacher leadership plan.
- c.* Curriculum and professional development leaders who engage full-time or part-time in the planning, development, and implementation of curriculum and professional development.
- d.* Model teachers who teach full-time and serve as models of exemplary teaching practice.
- e.* Mentor teachers who teach full-time or part-time and also support the professional development of initial and career teachers.
- f.* Lead teachers who teach full-time or part-time and also plan and deliver professional development activities or engage in other activities designed to improve instructional strategies.

4. A rigorous selection process for placement into and retention in teacher leadership roles. The process shall include all of the following components:

- a.* The use of measures of effectiveness and professional growth to determine suitability for the role.
- b.* A selection committee that includes teachers and administrators who shall accept and review applications for assignment or reassignment to a teacher leadership role and shall make recommendations regarding the applications to the superintendent of the school district.

c. An annual review of the assignment to a teacher leadership role by the school's or school district's administration. The review shall include peer feedback on the effectiveness of the teacher's performance of duty specific to the teacher's leadership role. A teacher who completes the time period of assignment to a leadership role may apply to the school's or the

school district's administration for assignment in a new leadership role, if appropriate, or for reassignment.

d. A requirement that a teacher assigned to a leadership role must have at least three years of teaching experience, and at least one year of experience in the school district.

5. A professional development system facilitated by teachers and other education experts and aligned with the Iowa professional development model adopted by the state board.

6. A school district approved to implement a comparable system pursuant to section 284.15, and which meets the requirements of this section, shall receive funds under section 257.10, subsection 12.

2013 Acts, ch 121, §72; 2020 Acts, ch 1062, §94

Referred to in §256.9, 284.13, 284.15

Code editor directive applied

CHAPTER 284A

ADMINISTRATOR QUALITY PROGRAM

Referred to in §256.9, 274.3

284A.1	Administrator quality program.	284A.6	Administrator professional development.
284A.2	Definitions.	284A.7	Evaluation requirements for administrators.
284A.3	Administrator evaluations.	284A.8	Beginning administrator mentoring and induction program — program funds.
284A.4	Participation.		
284A.5	Beginning administrator mentoring and induction program.		

284A.1 Administrator quality program.

An administrator quality program is established to promote high student achievement and enhanced educator quality. The program shall consist of the following three major components:

1. Mentoring and induction programs that provide support for administrators in accordance with section 284A.5.

2. Professional development designed to directly support best practices for leadership.

3. Evaluation of administrators against the Iowa standards for school administrators.

2007 Acts, ch 108, §54

284A.2 Definitions.

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

1. “*Administrator*” means an individual holding a professional administrator license issued under chapter 272 who is employed in a school district administrative position by a school district or area education agency pursuant to a contract issued by a board of directors under section 279.23 and is engaged in instructional leadership. An administrator may be employed in both an administrative and a nonadministrative position by a board of directors and shall be considered a part-time administrator for the portion of time that the individual is employed in an administrative position.

2. “*Beginning administrator*” means an individual serving under an administrator license, issued by the board of educational examiners under chapter 272, who is assuming a position as a school district principal or superintendent for the first time.

3. “*Comprehensive evaluation*” means a summative evaluation of a beginning administrator conducted by an evaluator in accordance with section 284A.3 for purposes of determining a beginning administrator’s level of competency for recommendation for licensure based on the Iowa standards for school administrators adopted pursuant to section 256.7, subsection 27.

4. “*Department*” means the department of education.

5. “*Director*” means the director of the department of education.

6. “*Evaluation*” means a summative evaluation of an administrator used to determine whether the administrator’s practice meets school district expectations and the Iowa standards for school administrators adopted pursuant to section 256.7, subsection 27.

7. “*Mentor*” means an individual employed by a school district or area education agency as a school district administrator or a retired administrator who holds a valid license issued under chapter 272. The individual must have a record of four years of successful administrative experience and must demonstrate professional commitment to both the improvement of teaching and learning and the development of beginning administrators.

8. “*School board*” means the board of directors of a school district or a collaboration of boards of directors of school districts.

9. “*State board*” means the state board of education.

2006 Acts, ch 1182, §28

C2007, §284A.1

2007 Acts, ch 108, §50, 60

CS2007, §284A.2

2009 Acts, ch 177, §43; 2010 Acts, ch 1183, §35; 2014 Acts, ch 1135, §28

284A.3 Administrator evaluations.

By July 1, 2008, each school board shall provide for evaluations for administrators under individual professional development plans developed in accordance with section 279.23A, and the Iowa standards for school administrators and related criteria adopted by the state board in accordance with section 256.7, subsection 27. A local school board may establish additional administrator standards and related criteria.

2007 Acts, ch 108, §55

Referred to in §272.9A, 284A.2

284A.4 Participation.

Effective July 1, 2007, each school district shall participate in the administrator quality program, and the board of directors of each school district shall do all of the following:

1. Implement a beginning administrator mentoring and induction program as provided in this chapter.

2. Adopt individual administrator professional development plans in accordance with this chapter.

3. Adopt an administrator evaluation plan that, at a minimum, requires an evaluation of administrators in the school district annually pursuant to section 279.23A and based upon the Iowa standards for school administrators and individual administrator professional development plans.

2007 Acts, ch 108, §56

284A.5 Beginning administrator mentoring and induction program.

1. A beginning administrator mentoring and induction program is created to promote excellence in school leadership, improve classroom instruction, enhance student achievement, build a supportive environment within school districts, increase the retention of promising school leaders, and promote the personal and professional well-being of administrators.

2. The department, in collaboration with other educational partners, shall develop a model beginning administrator mentoring and induction program for all beginning administrators.

3. Each school board shall establish an administrator mentoring program for all beginning administrators. The school board may adopt the model program developed by the department pursuant to subsection 2. Each school board’s beginning administrator mentoring and induction program shall, at a minimum, provide for one year of programming to support the Iowa standards for school administrators adopted pursuant to section 256.7, subsection 27, and beginning administrators’ professional and personal needs. Each school board shall develop and implement a beginning administrator mentoring and induction plan. The plan shall describe the mentor selection process, describe supports for beginning administrators, describe program organizational and collaborative structures, provide a

budget, provide for sustainability of the program, and provide for program evaluation. The school board employing an administrator shall determine the conditions and requirements of an administrator participating in a program established pursuant to this section. A school board shall include its plan in the school district's comprehensive school improvement plan submitted pursuant to section 256.7, subsection 21.

4. A beginning administrator shall be informed by the school district or the area education agency, prior to the beginning administrator's participation in a mentoring and induction program, of the criteria upon which the administrator will be evaluated and of the evaluation process utilized by the school district or area education agency.

5. By the end of a beginning administrator's first year of employment, the beginning administrator may be comprehensively evaluated to determine if the administrator meets expectations to move to a professional administrator license, where appropriate. The school district or area education agency that employs a beginning administrator shall recommend the beginning administrator for a professional administrator license, where appropriate, if the beginning administrator is determined through a comprehensive evaluation to demonstrate competence in the Iowa standards for school administrators adopted pursuant to section 256.7, subsection 27. A school district or area education agency may allow a beginning administrator a second year to demonstrate competence in the Iowa standards for school administrators if, after conducting a comprehensive evaluation, the school district or area education agency determines that the administrator is likely to successfully demonstrate competence in the Iowa standards for school administrators by the end of the second year. Upon notification by the school district or area education agency, the board of educational examiners shall grant a beginning administrator who has been allowed a second year to demonstrate competence a one-year extension of the beginning administrator's initial license. An administrator granted a second year to demonstrate competence shall undergo a comprehensive evaluation at the end of the second year.

2006 Acts, ch 1182, §29

C2007, §284A.2

2007 Acts, ch 108, §51 – 53, 61

CS2007, §284A.5

2010 Acts, ch 1183, §36

Referred to in §256.9, 284A.1

284A.6 Administrator professional development.

1. Each school district shall be responsible for the provision of professional growth programming for individuals employed in a school district administrative position by the school district or area education agency as deemed appropriate by the board of directors of the school district or area education agency. School districts may collaborate with other educational stakeholders including other school districts, area education agencies, professional organizations, higher education institutions, and private providers regarding the provision of professional development for school district administrators. Professional development programming for school district administrators may include support that meets the professional development needs of individual administrators aligned to the Iowa standards for school administrators adopted pursuant to section 256.7, subsection 27, and meets individual administrator professional development plans.

2. In cooperation with the administrator's evaluator, the administrator who has a professional administrator license issued by the board of educational examiners pursuant to chapter 272 and is employed by a school district or area education agency in a school district administrative position shall develop an individual administrator professional development plan. The purpose of the plan is to promote individual and group professional development. The individual plan shall be based, at a minimum, on the needs of the administrator, the Iowa standards for school administrators adopted pursuant to section 256.7, subsection 27, and the student achievement goals of the attendance center and the school district as outlined in the comprehensive school improvement plan.

3. The administrator's evaluator shall meet annually as provided in section 279.23A with the administrator to review progress in meeting the goals in the administrator's individual

plan. The purpose of the meeting shall be to review collaborative work with other staff on student achievement goals and to modify as necessary the administrator's individual plan to reflect the individual administrator's and the school district's needs and the individual's progress in meeting the goals in the plan. The administrator shall present to the evaluator evidence of progress. The administrator's supervisor and the evaluator shall review and the supervisor may modify the administrator's individual plan.

2007 Acts, ch 108, §57; 2010 Acts, ch 1183, §37

Referred to in §272.9A

284A.7 Evaluation requirements for administrators.

A school district shall conduct an annual evaluation of an administrator who holds a professional administrator license issued under chapter 272 for purposes of assisting the administrator in making continuous improvement, documenting continued competence in the Iowa standards for school administrators adopted pursuant to section 256.7, subsection 27, or to determine whether the administrator's practice meets school district expectations. The evaluation shall include, at a minimum, an assessment of the administrator's competence in meeting the Iowa standards for school administrators and the goals of the administrator's individual professional development plan, including supporting documentation or artifacts aligned to the Iowa standards for school administrators and the individual administrator's professional development plan.

2007 Acts, ch 108, §58; 2010 Acts, ch 1183, §38; 2012 Acts, ch 1119, §7

284A.8 Beginning administrator mentoring and induction program — program funds.

1. To the extent moneys are available, a school district shall receive one thousand five hundred dollars per beginning administrator participating in the program. Moneys received by a school district pursuant to this section shall be expended to provide each mentor with an award of five hundred dollars per semester, at a minimum, for participation in the school district's beginning administrator mentoring and induction program; to implement the plan; and to pay any applicable costs of the employer's share of contributions to federal social security and the Iowa public employees' retirement system or a pension and annuity retirement system established under chapter 294, for such amounts paid by the district.

2. If the funds appropriated for the program are insufficient to pay mentors and school districts as provided in this section, the department shall prorate the amount distributed to school districts based upon the amount appropriated. A school district shall give priority to fully funding the obligation to principal mentors. Remaining moneys, if any, shall first be used to fund superintendent mentors and then to fund other program costs and applicable costs described in subsection 1.

2006 Acts, ch 1182, §30

C2007, §284A.3

2007 Acts, ch 108, §62; 2007 Acts, ch 214, §39

CS2007, §284.8

2010 Acts, ch 1183, §39

CHAPTER 285

STATE AID FOR TRANSPORTATION

Referred to in §256F.4, 261E.9, 274.3

285.1	When entitled to state aid.	285.8	Powers and duties of department.
285.2	Payment of claims for nonpublic school pupil transportation.	285.9	Powers and duties of area boards.
285.3	Parental reimbursement for nonpublic school pupil transportation.	285.10	Powers and duties of local boards.
285.4	Pupils sent to another district.	285.11	Bus routes — basis of operation.
285.5	Contracts for transportation.	285.12	Disputes — hearings and appeals.
285.6	Personnel — expenses.	285.13	Disagreements between boards.
285.7	Repealed by 67 Acts, ch 356, §28.	285.14	Nonstandard buses — penalties.
		285.15	Forfeiture of reimbursement rights.
		285.16	“Nonpublic school” defined.

285.1 When entitled to state aid.

1. *a.* The board of directors in every school district shall provide transportation, either directly or by reimbursement for transportation, for all resident pupils attending public school, kindergarten through twelfth grade, except that:

(1) Elementary pupils shall be entitled to transportation only if they live more than two miles from the school designated for attendance.

(2) High school pupils shall be entitled to transportation only if they live more than three miles from the school designated for attendance.

(3) Children attending prekindergarten programs offered or sponsored by the district or nonpublic school and approved by the department of education or department of human services or children participating in preschool in an approved local program under chapter 256C may be provided transportation services. However, transportation services provided to nonpublic school children are not eligible for reimbursement under this chapter.

(4) Districts are not required to maintain seating space on school buses for students who are otherwise to be provided transportation under this subsection if the students do not or will not regularly utilize the district's transportation service for extended periods during the school year. The student, or the student's parent or legal guardian if the student is less than eighteen years of age, shall be notified by the district before transportation services may be suspended, and the suspension may continue until the student, or the student's parent or legal guardian, notifies the district that regular student ridership will continue.

b. For the purposes of this subsection, “*high school*” means a school which commences with either grade nine or grade ten, as determined by the board of directors of the school district or by the governing authority of the nonpublic school in the case of nonpublic schools.

c. Boards in their discretion may provide transportation for some or all resident pupils attending public school or pupils who attend nonpublic schools who are not entitled to transportation. Boards in their discretion may collect from the parent or guardian of the pupil not more than the pro rata cost for such optional transportation, determined as provided in subsection 12.

2. Any pupil may be required to meet a school bus on the approved route a distance of not to exceed three-fourths of a mile without reimbursement.

3. In a district where transportation by school bus is impracticable, where necessary to implement a whole grade sharing agreement under section 282.10, or where school bus service is not available, the board may require parents or guardians to furnish transportation for their children to the schools designated for attendance. Except as provided in section 285.3, the parent or guardian shall be reimbursed for such transportation service for public and nonpublic school pupils by the board of the resident district in an amount equal to eighty dollars plus seventy-five percent of the difference between eighty dollars and the previous school year's statewide average per pupil transportation cost, as determined by the department of education. However, a parent or guardian shall not receive reimbursement for furnishing transportation for more than three family members who attend elementary school and one family member who attends high school.

4. In all districts where unsatisfactory roads or other conditions make it advisable, the board at its discretion may require the parents or guardians of public and nonpublic school pupils to furnish transportation for their children up to two miles to connect with vehicles of transportation. The parents or guardians shall be reimbursed for such transportation by the boards of the resident districts at the rate of twenty-eight cents per mile per day, one way, per family for the distance from the pupil's residence to the bus route.

5. Where transportation by school bus is impracticable or not available or other existing conditions warrant it, arrangements may be made for use of common carriers according to uniform standards established by the director of the department of education and at a cost based upon the actual cost of service and approved by the board.

6. When the school designated for attendance of pupils is engaged in the transportation of pupils, the sending or designating school shall use these facilities and pay the pro rata cost of transportation except that a district sending pupils to another school may make other arrangements when it can be shown that such arrangements will be more efficient and economical than to use facilities of the receiving school, providing such arrangements are approved by the board of the area education agency.

7. If a local board closes either elementary or high school facilities and is approved by the board of the area education agency to operate its own transportation equipment, the full cost of transportation shall be paid by the board for all pupils living beyond the statutory walking distance from the school designated for attendance.

8. Transportation service may be suspended upon any day or days, due to inclemency of the weather, conditions of roads, or the existence of other conditions, by the board of the school district operating the buses, when in their judgment it is deemed advisable and when the school or schools are closed to all children.

9. Distance to school or to a bus route shall in all cases be measured on the public highway only and over the most passable and safest route as determined by the area education agency board, starting in the roadway opposite the private entrance to the residence of the pupil and ending in the roadway opposite the entrance to the school grounds or designated point on bus route.

10. The board in any district providing transportation for nonresident pupils shall collect the pro rata cost of transportation from the district of pupil's residence for all properly designated pupils so transported.

11. Boards in districts operating buses may transport nonresident pupils who attend public school, kindergarten through junior college, who are not entitled to free transportation provided they collect the pro rata cost of transportation from the parents.

12. The pro rata cost of transportation shall be based upon the actual cost for all the children transported in all school buses. It shall include one-seventh of the original net cost of the bus and other items as determined and approved by the director of the department of education but no part of the capital outlay cost for school buses and transportation equipment for which the school district is reimbursed from state funds or that portion of the cost of the operation of a school bus used in transporting pupils to and from extracurricular activities shall be included in determining the pro rata cost. In a district where, because of unusual conditions, the cost of transportation is in excess of the actual operating cost of the bus route used to furnish transportation to nonresident pupils, the board of the local district may charge a cost equal to the cost of other schools supplying such service to that area, upon receiving approval of the director of the department of education.

13. When a local board fails to pay transportation costs due to another school for transportation service rendered, the board of the creditor corporation shall file a sworn statement with the area education agency board specifying the amount due. The agency board shall check such claim and if the claim is valid shall certify to the county auditor. The auditor shall transmit to the county treasurer an order directing the county treasurer to transfer the amount of such claim from the funds of the debtor corporation to the creditor corporation and the treasurer shall pay the same accordingly.

14. Resident pupils attending a nonpublic school located either within or without the school district of the pupil's residence shall be entitled to transportation on the same basis as provided for resident public school pupils under this section. The public school district

providing transportation to a nonpublic school pupil shall determine the days on which bus service is provided, which shall be based upon the days for which bus service is provided to public school pupils, and the public school district shall determine bus schedules and routes. In the case of nonpublic school pupils the term “*school designated for attendance*” means the nonpublic school which is designated for attendance by the parents of the nonpublic school pupil.

15. If the nonpublic school designated for attendance is located within the public school district in which the pupil is a resident, the pupil shall be transported to the nonpublic school designated for attendance as provided in this section.

16. *a.* If the nonpublic school designated for attendance of a pupil is located outside the boundary line of the school district of the pupil’s residence, the pupil may be transported by the district of residence to a public school or other location within the district of the pupil’s residence. A public school district in which a nonpublic school is located may establish school bus collection locations within its district from which nonresident nonpublic school pupils may be transported to and from a nonpublic school located in the district. If a pupil receives such transportation, the district of the pupil’s residence shall be relieved of any requirement to provide transportation.

b. As an alternative to paragraph “*a*” of this subsection, subject to section 285.9, subsection 3, where practicable, and at the option of the public school district in which a nonpublic school pupil resides, the school district may transport a nonpublic school pupil to a nonpublic school located outside the boundary lines of the public school district if the nonpublic school is located in a school district contiguous to the school district which is transporting the nonpublic school pupils, or may contract with the contiguous public school district in which a nonpublic school is located for the contiguous school district to transport the nonpublic school pupils to the nonpublic school of attendance within the boundary lines of the contiguous school district.

c. If the nonpublic school designated for attendance of a pupil is located outside the boundary line of the school district of the pupil’s residence and the district of residence meets the requirements of subsections 14 to 16 of this section by using subsection 17, paragraph “*c*”, of this section and the district in which the nonpublic school is located is contiguous to the district of the pupil’s residence and is willing to provide transportation under subsection 17, paragraph “*a*” or “*b*”, of this section, the district in which the nonpublic school is located may provide transportation services, subject to section 285.9, subsection 3, and may make the claim for reimbursement under section 285.2. The district in which the nonpublic school is located shall notify the district of the pupil’s residence that it is making the claim for reimbursement, and the district of the pupil’s residence shall be relieved of the requirement for providing transportation and shall not make a claim for reimbursement for those nonpublic school pupils for which a claim is filed by the district in which the nonpublic school is located.

17. The public school district may meet the requirements of subsections 14 to 16 by any of the following:

a. Transportation in a school bus operated by a public school district.

b. Contracting with private parties as provided in section 285.5. However, contracts shall not provide payment in excess of the average per pupil transportation costs of the school district for that year.

c. Utilizing the transportation reimbursement provision of subsection 3.

d. Contracting with a contiguous public school district to transport resident nonpublic school pupils the entire distance from the nonpublic pupil’s residence to the nonpublic school located in the contiguous public school district or from the boundary line of the public school district to the nonpublic school.

18. The director of the department of education may review all transportation arrangements to see that they meet all legal and established uniform standard requirements.

19. Transportation authorized by this chapter is exempt from all laws of this state regulating common carriers.

20. Transportation for which the pro rata cost or other charge is collected shall not be provided outside the state of Iowa except in accordance with rules adopted by the department

of education in accordance with chapter 17A. The rules shall take into account any applicable federal requirements.

21. Boards in districts operating buses may in their discretion transport senior citizens, children, persons with disabilities, and other persons and groups, who are not otherwise entitled to free transportation, and shall collect the pro rata cost of transportation. Transportation under this subsection shall not be provided when the school bus is being used to transport pupils to or from school unless the board determines that such transportation is desirable and will not interfere with or delay the transportation of pupils.

22. Notwithstanding subsection 1, paragraph “a”, subparagraph (1), a parent or guardian of an elementary pupil entitled to transportation pursuant to subsection 1, may request that a child care facility be designated for purposes of subsection 9 rather than the residence of the pupil. The request shall be submitted for a period of time of at least one semester and may not be submitted more than twice during a school year.

[S13, §2794-b, -c, -d, -e; SS15, §2794-a, -g; C24, 27, 31, §4179 – 4181, 4184, 4186; C35, §4179 – 4181, 4184, 4186, 4233-e5; C39, §4179 – 4181, 4184, 4186, 4233.5; C46, §276.26, 276.28, 276.29, 276.32, 276.34, 279.20, 285.1, 285.5; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §285.1]

85 Acts, ch 212, §21; 86 Acts, ch 1246, §135; 87 Acts, ch 6, §1; 87 Acts, ch 115, §42; 87 Acts, ch 233, §488; 88 Acts, ch 1263, §11; 93 Acts, ch 127, §4; 94 Acts, ch 1060, §1, 2; 95 Acts, ch 209, §15; 96 Acts, ch 1129, §113; 99 Acts, ch 192, §33; 2007 Acts, ch 148, §9; 2009 Acts, ch 41, §109

Referred to in §257.16C, 257.31, 282.1, 282.18, 285.2, 285.3, 285.11, 321.18, 331.502

Parent or guardian required to pay cost of transporting pupil participating in open enrollment to receiving district’s regular school bus route; §282.18

285.2 Payment of claims for nonpublic school pupil transportation.

1. a. Boards of directors of school districts shall be required to provide transportation services to nonpublic school pupils as provided in section 285.1 when the general assembly appropriates funds to the department of education for the payment of claims for transportation costs submitted by the school district.

b. There is appropriated from the general fund of the state to the department of education funds sufficient to pay the approved claims of public school districts for transportation services to nonpublic school pupils as provided in this section. The portion of the amount appropriated for approved claims under section 285.1, subsection 3, shall be determined under section 285.3.

2. The costs of providing transportation to nonpublic school pupils as provided in section 285.1 shall not be included in the computation of district cost under chapter 257, but shall be shown in the budget as an expense from miscellaneous income. Any transportation reimbursements received by a local school district for transporting nonpublic school pupils shall not affect district cost limitations of chapter 257. The reimbursements provided in this section are miscellaneous income as defined in section 257.2.

3. a. Claims for reimbursement shall be made to the department of education by the public school district providing transportation or transportation reimbursement during a school year on a form prescribed by the department, and the claim shall state the services provided and the actual costs incurred. A claim shall not exceed the average transportation costs of the district per pupil transported except as otherwise provided. If transportation is provided under section 285.1, subsection 3, the amount of a claim shall be determined under section 285.3 regardless of the average transportation costs of the district per pupil transported.

b. Claims shall be accompanied by an affidavit of an officer of the public school district affirming the accuracy of the claim.

c. By February 1 and on or about June 15 of each year, the department shall certify to the department of administrative services the amounts of approved claims to be paid, and the department of administrative services shall draw warrants payable to school districts which have established claims.

4. a. Claims shall be allowed where practical, and at the option of the public school district of the pupil’s residence, subject to approval by the area education agency of the pupil’s residence, under section 285.9, subsection 3, the public school district of the pupil’s

residence may transport a pupil to a school located in a contiguous public school district outside the boundary lines of the public school district of the pupil's residence.

b. The public school district of the pupil's residence may contract with the contiguous public school district or with a private contractor under section 285.5 to transport the pupils to the school of attendance within the boundary lines of the contiguous public school district. The public school district in which the pupil resides may contract with the contiguous public school district or with a private contractor under section 285.5 to transport the pupil from the pupil's residence or from designated school bus collection locations to the school located within the boundary lines of the contiguous public school district, subject to the approval of the area education agency of the pupil's residence. The public school district of the pupil's residence may utilize the reimbursement provisions of section 285.1, subsection 3.

[C75, 77, 79, 81, §285.2]

84 Acts, ch 1302, §19; 86 Acts, ch 1246, §136, 137; 89 Acts, ch 135, §92; 94 Acts, ch 1181, §14, 18; 95 Acts, ch 214, §10, 11; 2003 Acts, ch 145, §286; 2010 Acts, ch 1061, §180

Referred to in §285.1

285.3 Parental reimbursement for nonpublic school pupil transportation.

1. A parent or legal guardian of a student attending an accredited nonpublic school, who furnishes transportation for the student pursuant to section 285.1, subsection 17, paragraph "c", and who meets the requirements of subsection 2 of this section, is entitled to reimbursement equal to an amount calculated under the provisions of section 285.1, subsection 3. In addition, a parent or guardian who transports one or more family members more than four miles to their nonpublic school of attendance shall be entitled to one supplemental mileage payment per family, per claim period, equal to thirteen percent of the parental reimbursement for the claim period rounded to the nearest whole dollar.

2. To qualify for parental reimbursement under subsection 1, a parent or guardian of a student attending an accredited nonpublic school who furnishes transportation for the student in accordance with this section, shall submit a notice of nonpublic school attendance to the resident public school district, notifying the district that the student is enrolled in and will attend an accredited nonpublic school during the period for which parental reimbursement is being requested. The notice shall be filed with the resident public school district not later than December 1 for the first semester claim and May 1 for the second semester claim each year. The notice shall include the parent's name and address, the name, age, and grade level of the student, and the name of the nonpublic school and its location. The resident public school district shall submit claims for reimbursement to the department of education on behalf of the parent or guardian if the parent or guardian meets the requirements of this section.

87 Acts, ch 6, §2; 2002 Acts, ch 1140, §26

Referred to in §285.1, 285.2

285.4 Pupils sent to another district.

When a board closes its elementary school facilities for lack of pupils or by action of the board, it shall, if there is a school bus service available in the area, designate for attendance the school operating the buses, provided the board of such school is willing to receive them and the facilities and curricular offerings are adequate. The board of the district where the pupils reside may with the approval of the area education agency board, subject to legal limitations and established uniform standards, designate another rural school and provide their own transportation if the transportation costs will be less than to use the established bus service.

All designations must be submitted to the area education agency board on or before July 15, for review and approval. The agency board shall after due investigation alter or change designations to make them conform to legal requirements and established uniform standards for making designations and for locating and establishing bus routes. After designations are made, they will remain the same from year to year except that on or before July 15, of each year, the rural board or parents may petition the agency board for a change of designation to another school. Appeals from the decision of the agency board on designations may be made

by either the parents or board to the director of the department of education as provided in section 285.12 and section 285.13.

[C35, §4274-e1, -e3, -e4, -e6; C39, §4274.03, 4274.05, 4274.06, 4274.08; C46, §282.10, 282.12, 282.13, 282.15, 285.4; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §285.4]
85 Acts, ch 212, §21

285.5 Contracts for transportation.

1. a. Contracts for school bus service with private parties shall be in writing and be for the transportation of children who attend public school and children who attend nonpublic school. Such contracts shall define the route, the length of time, service contracted for, the compensation, and the vehicle to be used. The contract shall prescribe the duties of the contractor and driver of the vehicles and shall provide that every person in charge of a vehicle conveying children to and from school shall be at all times subject to any rules said board shall adopt for the protection of the children, or to govern the conduct of the persons in charge of said conveyance. Contracts may be made for a period not to exceed three years.

b. The contract shall provide that the contractor will sell the equipment to the board should the contractor desire to terminate the contract, provided the board should desire to purchase said equipment, the price of the equipment to be determined by an appraisal board composed of one person appointed by the school board, one appointed by the owner of the equipment, and a third selected by these two.

2. The contractor shall operate the vehicle or provide a driver who must be approved by the board. The contractor and driver shall be subject to all laws and prescribed standards for school bus drivers. Failure to comply shall constitute grounds for dismissal of the driver or cancellation of the contract if the board so desires.

3. All vehicles of transportation provided by contractor shall be inspected, approved and certified before being put into operation.

4. All contracts may be terminated by either party on a ninety-day notice.

5. The director of the department of education shall prepare a uniform contract containing provisions not in conflict with this chapter which shall be used by all schools in contracting for transportation service.

6. All contractors shall carry liability insurance in amounts and kind as provided in the official contract.

7. All contracts for transportation service and for drivers of school-owned and operated buses shall be made with someone outside the board except where no other transportation service is available, a board member may transport the member's own children.

8. Private buses other than common carriers not used exclusively in transportation of pupils while under contract to a school district shall meet all requirements for school-owned buses, as to construction and operation.

9. All bus drivers for school-owned equipment shall be under contract with the board. The director of the department of education shall prepare a uniform contract containing provision not in conflict with this chapter which shall be used by all school boards in contracting with drivers of school-owned vehicles.

[SS15, §2794-a; C24, 27, 31, 35, 39, §4182, 4183; C46, §276.30, 276.31; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §285.5]

85 Acts, ch 212, §21; 2010 Acts, ch 1061, §180; 2011 Acts, ch 25, §24

Referred to in §285.1, 285.2, 452A.17

285.6 Personnel — expenses.

The director of the department of education shall employ the necessary qualified personnel to implement this chapter. The appropriation provided by this chapter may be expended in part for the direction and supervision provided by the chapter which shall include salaries and all necessary traveling expense incurred by personnel in the performance of their official duties.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §285.6]

85 Acts, ch 212, §22; 86 Acts, ch 1245, §1488

285.7 Repealed by 67 Acts, ch 356, §28.

285.8 Powers and duties of department.

The powers and duties of the department shall be to:

1. Exercise general supervision over the school transportation system in the state.
 2. Review and establish the location of bus routes which are located in more than one area education agency when the area education agency boards of the affected area education agencies after formal action do not approve.
 3. Establish uniform standards for locating and operating bus routes and for the protection of the health and safety of pupils transported.
 4. Inspect or cause to be inspected all vehicles used as school buses to transport school children to determine if such vehicles meet all legal and established standards of construction and can be operated with safety, comfort, and economy. When it is determined that further use of such vehicles is dangerous to the pupils transported and to the safety and welfare of the traveling public, the department of education shall order such vehicle to be withdrawn from further use on a specified date. School buses which do not conform to the requirements of the department of education may be issued a temporary certificate of operation provided that such school buses can be operated with safety, and provided further that no such certificate shall be issued for a period in excess of one year. All equipment can be required to be altered, or safety equipment added in order to make vehicles reasonably safe for operation. New buses after initial inspection and approval shall be issued a seal of inspection. After each annual inspection a seal of inspection and approval shall be issued. Said seals shall be mounted on the lower right hand corner of the windshield.
 5. Aid in the enforcement of the motor vehicle laws relating to the transportation of school children.
 6. Prescribe uniform standards and regulations:
 - a. For the efficient operation and maintenance of school transportation equipment and for the protection of the health and safety of children transported.
 - b. For locating and establishing bus routes.
 - c. For procedures and requirements in making designations.
 - d. For standard of safety in construction of school transportation equipment.
 - e. For procedures for purchase of buses.
 - f. For qualification of school bus drivers.
 - g. As deemed necessary for the efficient administration of this chapter.
 7. Review all transportation arrangements when deemed necessary and shall disapprove any arrangements that are not in conformity with the law and established standards and require the same to be altered or changed so that they do conform.
 8. Conduct schools of instruction for transportation personnel as needed or requested.
 9. Establish a fee for conducting school bus inspections in accordance with subsection 4 and issuing school bus driver authorizations in accordance with section 321.376, which shall not exceed the budgeted cost for conducting inspections and administering authorizations.
- [C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §285.8]
85 Acts, ch 212, §24; 2002 Acts, ch 1140, §27

285.9 Powers and duties of area boards.

The powers and duties of the respective area education agency boards shall be to:

1. Enforce all laws and all rules and regulations of the department of education relating to transportation.
2. Review and approve all transportation arrangements between districts in the agency and in all districts in the agency not operating high schools. If such transportation arrangements, designations, and contracts are not in conformity to law or established uniform standards for the locating and operating of bus routes, the agency board shall, after receiving all facts, make such alterations or changes as necessary to make the arrangements, designations, and contracts conform to the legal and established requirements and shall notify local board of such action.

3. Approve all bus routes outside the boundary of the district of the school operating buses.

4. When a local board fails to make designations and other necessary arrangements for transportation as required by law, the agency board shall, after due notice to the local board, make necessary arrangements in conformity with law and established requirements. Notice shall be given to the local board of the arrangements as made. The arrangements shall be binding on the local board which shall pay the costs for service as arranged.

[C35, §4274-e1, -e2; C39, §4274.03, 4274.04; C46, §282.10, 282.11, 285.9; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §285.9]

Referred to in §285.1, 285.2

285.10 Powers and duties of local boards.

The powers and duties of the local school boards shall be to:

1. Provide transportation for each resident pupil who attends public school, and each resident pupil who attends a nonpublic school, and who is entitled to transportation under the laws of this state.

2. Establish, maintain, and operate bus routes for the transportation of pupils so as to provide for the economical and efficient operation thereof without duplication of facilities, and to properly safeguard the health and safety of the pupils transported.

3. Purchase or lease buses and other transportation facilities, and maintain same, and to enter into contracts for transportation subject to any provisions of law affecting same.

4. Employ such drivers and other employees as may be necessary and prescribe their qualifications and adopt rules for their conduct.

5. Exercise any and all powers and duties relating to transportation of pupils enjoined upon them by law.

6. Shall purchase liability insurance and other insurance coverage which the board deems advisable to insure the school district, its officers, employees, and agents against liability incurred as a result of operating school buses, including but not limited to liability to pupils or other persons lawfully transported. Section 670.7 shall apply to such insurance. However, the board of directors in its discretion shall determine the insurance coverages and limits, and the school district and directors shall not be liable as a result of any such discretionary decision.

7. When a school qualifies to purchase buses, they may be purchased as follows:

a. From funds available in the general fund or in the physical plant and equipment levy fund.

b. By purchasing buses and entering into contracts to pay for such buses over a five-year period as follows: one-fourth of the cost when the bus is delivered and the balance in equal annual installments, plus simple interest due. The interest rate shall be the lowest rate available and shall not exceed the rate in effect under section 74A.2. The bus shall serve as security for balance due. Competitive bids on comparable equipment shall be requested on all school bus purchases and shall be based upon minimum construction standards established by the department of education. Bids shall be requested unless the bus is a used or demonstrator bus.

8. Boards in school districts which have sufficient resident pupils they are required to transport to warrant the purchase of transportation equipment may purchase buses needed to provide the transportation.

9. In the discretion of the board, furnish a school bus and services of a qualified driver to an organization of, or sponsoring activities for, senior citizens, children, persons with disabilities, or other persons and groups in this state. The board shall charge and collect an amount sufficient to reimburse all costs of furnishing the bus and driver except when the bus is used for transporting pupils to and from extracurricular activities sponsored by the school. A school bus shall be used as provided in this subsection only at times when it is not needed for transportation of pupils.

10. In the discretion of the board, furnish a school bus and services of a qualified driver for transportation of persons other than pupils to activities in which pupils from the school are participants or are attending the activity or for which the school is a sponsor. The board

shall charge and collect an amount sufficient to reimburse all costs of furnishing the bus and driver. A school bus shall be used as provided in this subsection only at times when it is not needed for transportation of pupils.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §285.10]

92 Acts, ch 1187, §5; 93 Acts, ch 127, §5; 94 Acts, ch 1029, §21; 96 Acts, ch 1129, §113; 2003 Acts, ch 180, §52; 2004 Acts, ch 1086, §58

Referred to in §279.48, 285.11, 321.18

285.11 Bus routes — basis of operation.

The establishment and operation of bus routes and the contracting for transportation shall be based upon the following considerations:

1. Each bus route shall be planned and adjusted to utilize the normal seating capacity of each bus insofar as it is possible to do so.

2. Each bus route shall serve only those pupils living in those areas where transportation by bus is the most economical method for providing adequate transportation facilities.

3. A route shall not be extended for the purpose of accommodating pupils whose homes are nearer another bus route.

4. Special contracts for transportation of pupils entitled to transportation shall be entered into only when it is more economical to make such special provision than to provide same by regular bus route, or when by reason of physical or mental disability of the pupil such pupil cannot be transported with safety by bus.

5. The boards shall take advantage of all tax exemptions on fuel, equipment, and of such other economies as are available.

6. The use of school buses shall be restricted to transporting pupils to and from school and to and from extracurricular activities sponsored by the school when such extracurricular activity is under the direction of a qualified member of the faculty and a part of the regular school program and to transporting other persons to the extent permitted by section 285.1, subsection 1, and section 285.10, subsections 9 and 10. School employees of districts operating buses may be transported to and from school and approved activities which they are required to attend as a result of their responsibilities. Provided, however, nothing in this subsection shall prohibit the use of school buses in transporting a school teacher going to and from the teacher's school when such school is on an established school bus route and such teacher makes arrangements with the district operating such school bus.

7. No bus shall leave the public highway to receive or discharge pupils unless their safety is enhanced thereby, or the private road is maintained in the same manner as a public roadway.

8. Bus routes shall be established only to give service to properly designated pupils.

[C39, §4179.1; C46, §276.27, 285.11; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §285.11]

90 Acts, ch 1230, §4; 96 Acts, ch 1129, §113; 2006 Acts, ch 1152, §45

285.12 Disputes — hearings and appeals.

In the event of a disagreement between a school patron and the board of the school district, the patron if dissatisfied with the decision of the district board, may appeal to the area education agency board, notifying the secretary of the district in writing within ten days of the decision of the board and by filing an affidavit of appeal with the agency board within the ten-day period. The affidavit of appeal shall include the reasons for the appeal and points at issue. The secretary of the local board on receiving notice of appeal shall certify all papers to the agency board which shall hear the appeal within ten days of the receipt of the papers and decide it within three days of the conclusion of the hearing and shall immediately notify all parties of its decision. Either party may appeal the decision of the agency board to the director of the department of education by notifying the opposite party and the agency administrator in writing within five days after receipt of notice of the decision of the agency board and by filing with the director of the department of education an affidavit of appeal, reasons for appeal, and the facts involved in the disagreement within five days after receipt of notice of the decision of the agency board. The agency administrator shall, within ten days of receipt of the notice, file with the director all records and papers pertaining to the case, including action of the agency board. The director shall hear the appeal within fifteen

days of the filing of the records in the director's office, notifying all parties and the agency administrator of the date and time of hearing. The director shall notify all parties of the decision and return all papers with a copy of the decision to the agency administrator. The decision of the director shall be subject to judicial review in accordance with chapter 17A. Pending final order made by the director, upon any appeal prosecuted to such director, the order of the agency board from which the appeal is taken shall be operative and be in full force and effect.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §285.12]

85 Acts, ch 212, §21 – 23; 2001 Acts, ch 159, §15; 2002 Acts, ch 1140, §28; 2003 Acts, ch 108, §127, 132

Referred to in §285.4, 285.13

285.13 Disagreements between boards.

In the event of a disagreement between the board of a school district and the board of an area education agency, the board of the school district may appeal to the director of the department of education and the procedure and times provided for in section 285.12 shall prevail in any such case. The decision of the director shall be subject to judicial review in accordance with the terms of the Iowa administrative procedure Act, chapter 17A.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §285.13]

85 Acts, ch 212, §21; 2003 Acts, ch 44, §114

Referred to in §285.4

285.14 Nonstandard buses — penalties.

Any person who operates or permits to be operated as a school bus to transport pupils, any vehicle which does not comply with the requirements provided by law or by the rules and regulations of the department of education, or for which there is not a valid temporary certificate for operation, shall be guilty of a simple misdemeanor.

A vehicle used for an approved driver education course in which the driver education teacher transports driver education students from their residences for street or highway driving is not a school bus.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §285.14]

285.15 Forfeiture of reimbursement rights.

The failure of any local district to comply with the provisions of this chapter or any other laws relating to the transportation of pupils, or any rules made by the department of education under this chapter or the final decisions of the area education agency board, or the final decisions of the department of education shall during the period such failure to comply existed forfeit the rights to collect transportation costs from school or parents while operating in such illegal manner. Any superintendent, board, or board member who knowingly operates or permits to be operated any school bus transporting public school pupils in violation of any school transportation law shall be deemed guilty of a simple misdemeanor.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §285.15]

285.16 “Nonpublic school” defined.

As used in this chapter, “*nonpublic school*” means those nonpublic schools accredited by the department of education as provided in section 256.11 and nonpublic institutions which comply with state board of education standards for providing special education programs.

[C79, 81, §285.16]

87 Acts, ch 115, §43

CHAPTER 287

SOCIETIES AND FRATERNITIES

Referred to in §274.3

287.1	Secret societies and fraternities.	287.4	Repealed by 76 Acts, ch 1245(4), §525.
287.2	Enforcement.		
287.3	Suspension or dismissal.		

287.1 Secret societies and fraternities.

It shall be unlawful for any pupil, registered as such, and attending any public high school, district, primary, or graded school, which is partially or wholly maintained by public funds, to join, become a member of, or to solicit any other pupil of any such school to join, or become a member of, any fraternity or society wholly or partially formed from the membership of pupils attending any such schools, or to take part in the organization or formation of any such fraternity or society, except such societies or associations as are sanctioned by the directors of such schools.

[S13, §2782-a; C24, 27, 31, 35, 39, §4284; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §287.1]

Referred to in §287.2, 287.3

287.2 Enforcement.

The directors of all schools shall enforce the provisions of section 287.1 and shall have full power and authority to make, adopt, and modify all rules and regulations which, in their judgment and discretion, may be necessary for the proper governing of such schools and enforcing all the provisions of section 287.1.

[S13, §2782-b; C24, 27, 31, 35, 39, §4285; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §287.2]

287.3 Suspension or dismissal.

The directors of such schools shall have full power and authority, pursuant to the adoption of such rules and regulations made and adopted by them, to suspend or dismiss any pupil or pupils of such schools therefrom, or to prevent them, or any of them, from graduating or participating in school honors when, after investigation, in the judgment of such directors, or a majority of them, such pupil or pupils are guilty of violating any of the provisions of section 287.1, or are guilty of violating any rule, rules, or regulations adopted by such directors for the purpose of governing such schools or enforcing said section.

[S13, §2782-c; C24, 27, 31, 35, 39, §4286; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §287.3]

287.4 Repealed by 76 Acts, ch 1245(4), §525.

CHAPTER 288

EVENING SCHOOLS

Repealed by 2006 Acts, ch 1152, §55

CHAPTER 289

PART-TIME SCHOOLS

Repealed by 2006 Acts, ch 1152, §55

CHAPTER 290

APPEAL FROM DECISIONS OF BOARDS OF DIRECTORS

Referred to in §256.7, 256F.3, 256F.8, 274.3, 275.15, 280.13A, 282.18, 296.3

290.1	Appeal to state board.	290.4	Witnesses — fees — collection.
290.2	Notice — transcript — hearing.	290.5	Decision of state board — rules for appeals.
290.3	Hearing — shorthand reporter — decision.	290.6	Money judgment.

290.1 Appeal to state board.

An affected pupil, or the parent or guardian of an affected pupil who is a minor, who is aggrieved by a decision or order of the board of directors of a school corporation in a matter of law or fact, or a decision or order of a board of directors under section 282.18, subsection 5, may, within thirty days after the rendition of the decision or the making of the order, appeal the decision or order to the state board of education; the basis of the proceedings shall be an affidavit filed with the state board by the party aggrieved within the time for taking the appeal, which affidavit shall set forth any error complained of in a plain and concise manner.

[R60, §2133 – 2135; C73, §1829 – 1831; C97, §2818; C24, 27, 31, 35, 39, §4298; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §290.1]

87 Acts, ch 224, §64; 88 Acts, ch 1263, §12; 89 Acts, ch 12, §4; 2002 Acts, ch 1140, §29
Referred to in §282.18

290.2 Notice — transcript — hearing.

The state board of education shall, within five days after the filing of such affidavit, notify the secretary of the proper school corporation in writing of the taking of such appeal, who shall, within ten days after being thus notified, file with the state board a complete certified transcript of the record and proceedings relating to the decision appealed from. Thereupon, the state board shall notify in writing all persons adversely interested of the time when and place where the matter of appeal will be heard.

[R60, §2136, 2137; C73, §1832 – 1834; C97, §2819; C24, 27, 31, 35, 39, §4299; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §290.2]

290.3 Hearing — shorthand reporter — decision.

At the time fixed for the hearing, it shall hear testimony for either party, and may cause the same to be taken down and transcribed by a shorthand reporter, whose fees shall be fixed by the state board and be taxed as a part of the costs in the case, and it shall make such decision as may be just and equitable, which shall be final unless appealed from as hereinafter provided.

[C97, §2819; C24, 27, 31, 35, 39, §4300; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §290.3]

290.4 Witnesses — fees — collection.

The state board of education in all matters triable before it shall have power to issue subpoenas for witnesses, which may be served by any peace officer, compel the attendance of those thus served, and the giving of evidence by them, in the same manner and to the same extent as the district court may do, and such witnesses and officers may be allowed the same compensation as is paid for like attendance or service in such court, which shall be paid out of the general fund of the proper school corporation, upon the certificate of the state board to and warrant of the secretary upon the treasurer; but if the board is of the opinion that the proceedings were instituted without reasonable cause therefor, or if, in case of an appeal, it shall not be sustained, it shall enter such findings in the record, and tax all costs to the party responsible therefor. A transcript thereof shall be filed in the office of the clerk of the district court and a judgment entered thereon by the clerk, which shall be collected as other judgments.

[C97, §2821; C24, 27, 31, 35, 39, §4301; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §290.4]

Referred to in §602.8102(49)
Contempts, chapter 665

Fees for serving subpoenas, §331.655(1)(c)
 Witness fees and mileage; §622.69 – 622.75

290.5 Decision of state board — rules for appeals.

The decision of the state board shall be final. The state board may adopt rules of procedure for hearing appeals which shall include the power to delegate the actual hearing of the appeal to the director of the department of education or the director's designee, and members of the director's staff designated by the director. The record of appeal so heard shall be available to the state board and the decision recommended by the director of the department of education or the designated administrative law judge shall be approved by the state board in the manner provided in section 256.7, subsection 6.

[R60, §2139; C73, §1835; C97, §2820; C24, 27, 31, 35, 39, §4302; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §290.5]

85 Acts, ch 212, §21 – 23; 89 Acts, ch 210, §12

290.6 Money judgment.

Nothing in this chapter shall be so construed as to authorize the state board of education to render judgment for money; neither shall they be allowed any other compensation than is now allowed by law. All necessary postage must first be paid by the party aggrieved.

[R60, §2140; C73, §1836; C97, §2820; C24, 27, 31, 35, 39, §4303; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §290.6]

CHAPTER 291

PRESIDENT, SECRETARY, AND TREASURER OF BOARD

Referred to in §260C.12, 274.3

291.1	President — duties.	291.9	Reserved.
291.2	Bonds of secretary and treasurer.	291.10	Reports by secretary.
291.3	Cost of bond.	291.11	Officers reported.
291.4	Oath.	291.12	Duties of treasurer — receipts and expenditures.
291.5	Action on bond.	291.13	Repealed by 94 Acts, ch 1029, §32, 33.
291.6	Duties of secretary.	291.14	Financial statement.
291.7	Monthly receipts, disbursements, and balances.	291.15	Repealed by 92 Acts, ch 1187, §11.
291.8	Payments and electronic funds transfers.		

291.1 President — duties.

The president of the board of directors shall preside at all of its meetings, sign all contracts made by the board, and appear on behalf of the corporation in all actions brought by or against it, unless individually a party, in which case this duty shall be performed by the secretary. The president or the president's designee shall sign, using an original or facsimile signature, all school district payments drawn and authorize electronic funds transfers as provided by law. The board of directors, by resolution, may designate an individual, who shall not be the secretary, to sign payments or authorize electronic funds transfers on behalf of the president.

[C51, §1122, 1123, 1125; R60, §2039, 2040; C73, §1739, 1740; C97, §2759; C24, 27, 31, 35, 39, §4304; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §291.1]

94 Acts, ch 1175, §11; 2013 Acts, ch 88, §21

291.2 Bonds of secretary and treasurer.

The secretary and treasurer, within ten days after appointment and before entering upon the duties of the office, shall execute to the school corporation a surety bond in an amount sufficient to cover current operations as determined by the board. All such bonds shall be continued to the faithful discharge of the duties of the office. The amount and sufficiency of all surety bonds shall be determined and approved by the board and shall be filed with

the president. The cost of the surety bond shall be paid by the school corporation. If a single person serves as secretary and treasurer, pursuant to section 279.3 or 260C.12, only one bond is necessary for that person. The secretary and treasurer may give bond under a single bond covering other employees of the district.

[C51, §1144; R60, §2037; C73, §1731; C97, §2760; C24, 27, 31, 35, 39, §4305; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §291.2; 82 Acts, ch 1012, §2, ch 1086, §2]
93 Acts, ch 127, §6
Referred to in §260C.12, 279.3

291.3 Cost of bond.

If the bond of an association or corporation as surety is furnished, the reasonable cost of such bond may be paid by the school corporation.

[C27, 31, 35, §4305-a1; C39, §4305.1; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §291.3]

291.4 Oath.

Each shall take the oath required of civil officers, which shall be endorsed upon the bond, and shall complete the qualification within ten days.

[C97, §2760; C24, 27, 31, 35, 39, §4306; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §291.4]
Oath of office, §63.10

291.5 Action on bond.

In case of a breach of the bond, the president shall bring action thereon in the name of the school corporation.

[C51, §1144; R60, §2037; C73, §1731; C97, §2760; C24, 27, 31, 35, 39, §4307; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §291.5]

291.6 Duties of secretary.

The secretary shall:

1. *Preservation of records.* File and preserve copies of all reports made and all papers transmitted pertaining to the business of the corporation.
2. *Minutes.* Keep a complete record of all the proceedings of the meetings of the board and of all regular or special elections in the corporation in separate books.
3. *Accounting records.* Keep an accurate accounting record of each payment or electronic funds transfer from each fund which shall be provided monthly to the board of directors. The secretary of the creditor district shall prepare and deliver to debtor districts an itemized statement of tuition fees charged in accordance with sections 275.55A, 282.11, and 282.24.
4. *Claims.* Keep an accurate accounting of all expenses incurred by the corporation, and present the same to the board for audit and payment.

[C51, §1126, 1128; R60, §2041, 2042; C73, §1741, 1743; C97, §2761; S13, §2761; C24, 27, 31, 35, 39, §4308; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §291.6]
2013 Acts, ch 88, §22, 23

291.7 Monthly receipts, disbursements, and balances.

The secretary of each district shall file monthly with the board of directors a complete statement of all receipts and disbursements from each individual fund during the preceding month, and also the balance remaining on hand in each individual fund at the close of the period covered by the statement, which monthly statements shall be open to public inspection.

[S13, §2761; C24, 27, 31, 35, 39, §4309; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §291.7]
93 Acts, ch 127, §7; 2013 Acts, ch 88, §24

291.8 Payments and electronic funds transfers.

The secretary shall make each authorized payment, countersign using an original or facsimile signature, and maintain accounting records of the payments or electronic funds transfers, showing the number, date, payee, originating fund, the purpose, and the amount,

and shall provide to the board at each regular annual meeting a copy of the accounting records maintained by the secretary.

[C51, §1122, 1123, 1126; R60, §2039, 2041, 2061; C73, §1739, 1741, 1782; C97, §2762; S13, §2762; C24, 27, 31, 35, 39, §4310; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §291.8]

94 Acts, ch 1175, §12; 2013 Acts, ch 88, §25

291.9 Reserved.

291.10 Reports by secretary.

1. The school district shall file an annual report with the director of the department of education on forms prepared for that purpose.

2. The annual report shall include the financial information required in section 423F.5, subsection 1, as related to moneys received under chapter 423E or 423F, as applicable, for each budget year.

[C51, §1127; R60, §2046; C73, §1744, 1745; C97, §2765; S13, §2765; C24, 27, 31, 35, 39, §4313; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §291.10]

84 Acts, ch 1219, §17; 85 Acts, ch 212, §21, 22; 86 Acts, ch 1016, §4, 5; 92 Acts, ch 1187, §6; 2010 Acts, ch 1193, §120

Referred to in §256.9

291.11 Officers reported.

The secretary shall report to the director of the department of education, the county auditor, and county treasurer the name and post office address of the president, treasurer and secretary of the board as soon as practicable after the qualification of each.

[C73, §1736; C97, §2766; C24, 27, 31, 35, 39, §4314; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §291.11]

85 Acts, ch 212, §21

291.12 Duties of treasurer — receipts and expenditures.

The treasurer shall receive all moneys belonging to the corporation, pay the same out only upon the order of the president countersigned by the secretary, and shall keep an accurate accounting record of all receipts and expenditures. The treasurer shall register all payments and electronic funds transfers made and reported to the treasurer by the secretary, showing the number, date, to whom drawn, the fund from which each payment and transfer was made, the purpose and amount.

[C51, §1138 – 1140; R60, §2048 – 2050; C73, §1747 – 1750; C97, §2768; S13, §2768; C24, 27, 31, 35, 39, §4316; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §291.12]

2013 Acts, ch 88, §26

291.13 Repealed by 94 Acts, ch 1029, §32, 33.

291.14 Financial statement.

The treasurer shall render a statement of the finances of the corporation whenever required by the board, and the treasurer's accounting records shall always be open for inspection.

[C51, §1141; R60, §2051; C73, §1751; C97, §2769; S13, §2769; C24, 27, 31, 35, 39, §4320; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §291.14]

2013 Acts, ch 88, §27

291.15 Repealed by 92 Acts, ch 1187, §11.

CHAPTER 292

SCHOOL INFRASTRUCTURE PROGRAM

Referred to in §274.3

292.1	Definitions.	292.4	Appropriation. Repealed by
292.2	School infrastructure program.		2005 Acts, ch 179, §28, 29.
292.3	Rules.		

292.1 Definitions.

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

1. “*Capacity per pupil*” means the sum of a school district’s property tax infrastructure capacity per pupil and the sales tax capacity per pupil.
2. “*Committee*” means the school budget review committee established in section 257.30.
3. “*Department*” means the department of education established in section 256.1.
4. “*Fund*” means the school infrastructure fund created in section 12.82.
5. “*Local match percentage*” means a percentage equivalent to either of the following, whichever is less:
 - a. Fifty percent.
 - b. The quotient of a school district’s capacity per pupil divided by the capacity per pupil of the school district at the fortieth percentile, multiplied by fifty percent, except that the percentage in this paragraph shall not be less than twenty percent.
6. “*Program*” means the school infrastructure program established in section 292.2.
7. “*Property tax infrastructure capacity per pupil*” means the sum of a school district’s levies under sections 298.2 and 298.18 when the levies are imposed to the maximum extent allowable under law in the budget year divided by the school district’s basic enrollment for the budget year.
8. “*Sales tax capacity per pupil*” means the estimated amount of revenues that a school district receives or would receive from the secure an advanced vision for education fund pursuant to section 423F.2, divided by the school district’s basic enrollment for the budget year.
9. “*School infrastructure*” means activities initiated on or after July 1, 2000, as authorized in section 296.1 but does not include those activities related to stadiums, bus barns, a home or homes of a teacher or superintendent, procuring and improving a site for an athletic field, or improving a site already owned for an athletic field.

2000 Acts, ch 1174, §26; 2008 Acts, ch 1134, §39

292.2 School infrastructure program.

1. a. The department shall establish and administer a school infrastructure program to provide financial assistance in the form of grants to school districts with school infrastructure needs.
- b. The department of education, in consultation with the department of management, shall annually compute the property tax infrastructure capacity per pupil for each school district in the state.
- c. The department of education, in consultation with the department of revenue and the legislative services agency, shall annually calculate the estimated tax for school infrastructure that is or would be received by each school district in the state pursuant to section 423F.2. These calculations shall be made on a total tax and on a tax per pupil basis for each school district.
- d. The department of education, in consultation with the department of revenue and the department of management, shall annually compute capacity per pupil and the local match percentage for each school district in the state. The calculations shall be released not later than September 1 of each year.
2. a. A school district’s local match requirement is equivalent to the total investment of a project multiplied by the school district’s local match percentage. A school district may submit an application to the department for financial assistance under the program if

the school district meets the district's local match requirement through one or more of the following sources:

- (1) The issuance of bonds pursuant to section 298.18.
- (2) Tax moneys received pursuant to section 423F.2.
- (3) A physical plant and equipment levy under chapter 298.
- (4) Other moneys locally obtained by the school district excluding other state or federal grant moneys.

b. If the project is in collaboration with other public or private entities, the school district shall be eligible to apply for only the school district's portion of the project. As such, state or federal grants received by the other entities cannot be used toward the local match requirement under paragraph "a", subparagraph (4).

c. A school district may submit an application for a project which includes activities at more than one attendance center. However, if the activities relate to new construction, the project shall only relate to one attendance center.

d. A school district may submit an application for conditional approval to the department for financial assistance under the program if the school district submits a plan for securing the school district's local match requirement under paragraph "a". If a school district does not meet the local match requirement of paragraph "a" within nine months of receiving conditional approval from the department, the application for financial assistance shall be denied by the department and the financial assistance shall be carried forward to be made available under the allocation provided under subsection 4, paragraph "d", for the next available grant cycle.

e. For the fiscal year beginning July 1, 2000, applications shall be submitted to the department by March 1, 2001. For the fiscal year beginning July 1, 2001, and every fiscal year thereafter, applications shall be submitted to the department by October 15 of each year.

f. For the fiscal year beginning July 1, 2000, the department shall notify all approved applicants by May 1, 2001, regarding the approval of the application. For the fiscal year beginning July 1, 2001, and every fiscal year thereafter, the department shall notify all approved applicants by December 15 of each year regarding the approval of the application.

g. An applicant which is not successful in obtaining financial assistance under the program may reapply for financial assistance in succeeding years.

3. The application shall include, but shall not be limited to, the following information:

a. The total capital investment of the project.

b. The amount and percentage of moneys which the school district will be providing for the project.

c. The infrastructure needs of the school district, especially the fire and health safety needs of the school district, and including the extent to which the project would allow the school district to meet the infrastructure needs of the school district on a long-term basis.

d. The financial assistance needed by the school district based upon the capacity per pupil.

e. Any previous efforts by the school district to secure infrastructure funding from federal, state, or local resources, including any funding received for any project under the Iowa demonstration construction grant program. The previous efforts shall be evaluated on a case-by-case basis.

f. Evidence that the school district meets or will meet the local match requirement in subsection 2, paragraph "a".

g. The nature of the proposed project and its relationship to improving educational opportunities for the students.

h. Evidence that the school district has reorganized on or after July 1, 2000, or that the school district has initiated a resolution to reorganize by July 1, 2004, or entered into an innovative collaboration with another school district or school districts.

4. A school district shall not receive more than one grant under the program. The financial assistance shall be in the form of grants and shall be allocated in the following manner:

a. Twenty-five percent of the financial assistance each year shall be awarded to school districts with an enrollment of one thousand one hundred ninety-nine students or less.

b. Twenty-five percent of the financial assistance each year shall be awarded to school

districts with an enrollment of more than one thousand one hundred ninety-nine students but not more than four thousand seven hundred fifty students.

c. Twenty-five percent of the financial assistance each year shall be awarded to school districts with an enrollment of more than four thousand seven hundred fifty students.

d. Twenty-five percent of the financial assistance each year, any financial assistance not awarded under paragraphs “a” through “c”, and financial assistance not awarded in previous fiscal years shall be awarded to school districts with any size enrollment.

5. A district shall receive the lesser of one million dollars of financial assistance under the program, or the total capital investment of the project minus the local match requirement. The program shall provide grants in an amount of not more than ten million dollars during the fiscal year beginning July 1, 2000, not more than twenty million dollars during the fiscal year beginning July 1, 2001, and not more than twenty million dollars during the fiscal year beginning July 1, 2002. If the amount of grants awarded in a fiscal year is less than the maximum amount provided for grants for that fiscal year in this subsection, the amount of the difference shall be carried forward to subsequent fiscal years for purposes of providing grants under the program and the maximum amount of grants for each fiscal year, as provided in this subsection, shall be adjusted accordingly.

6. The school budget review committee shall review all applications for financial assistance under the program and make recommendations regarding the applications to the department. The department shall make the final determination on grant awards. The school budget review committee shall base the recommendations on the criteria established pursuant to subsections 3 and 7.

7. The department shall form a task force to review applications for financial assistance and provide recommendations to the school budget review committee. The task force shall include, at a minimum, representatives from the kindergarten through grade twelve education community, the state fire marshal, and individuals knowledgeable in school infrastructure and construction issues. The department, in consultation with the task force, shall establish the parameters and the details of the criteria for awarding grants based on the information listed in subsection 3, including greater priority to the following:

- a. A school district with a lower capacity per pupil.
- b. A school district whose plans address specific occupant safety issues.
- c. A school district reorganizing or collaborating as described in subsection 3, paragraph “h”.
- d. A school district receiving minimal revenues under section 423F.2 when the total enrollment of the school district is considered.

8. An applicant receiving financial assistance under the program shall submit a progress report to the department of education as requested by the department which shall include a description of the activities under the project, the status of the implementation of the project, and any other information required by the department.

9. If a school district receives financial assistance under the vision Iowa program created under section 15F.302 pursuant to a joint application submitted under section 15F.302, subsection 3, the school district shall not be eligible to receive financial assistance under the school infrastructure program.

2000 Acts, ch 1174, §27; 2002 Acts, ch 1129, §5; 2003 Acts, ch 35, §45, 49; 2003 Acts, ch 145, §286; 2008 Acts, ch 1134, §40 – 44

Referred to in §12.81, 12.82, 12.83, 292.1

292.3 Rules.

The department shall adopt rules, pursuant to chapter 17A, necessary for administering the school infrastructure program and fund.

2000 Acts, ch 1174, §28

292.4 Appropriation. Repealed by 2005 Acts, ch 179, §28, 29.

CHAPTER 293

RESERVED

CHAPTER 294

TEACHERS

Referred to in §12B.10, 12B.10A, 12B.10B, 12B.10C, 97B.42C, 274.3, 279.46, 284A.8

	SUBCHAPTER I		294.9	Fund.
	GENERAL PROVISIONS		294.10	Management.
294.1	Qualifications — compensation prohibited.		294.10A	Pickup of teacher assessments.
294.2	Reserved.		294.10B	Rights not transferable or subject to legal process — exceptions.
294.3	State aid and tuition.		294.11	Termination resolution adopted.
294.4	Daily register.		294.12	Pension fund held for survivors upon termination.
294.5	Reports.		294.13	General fund replacements.
294.6	and 294.7 Reserved.		294.14	Estimate of funds needed — levy.
			294.15	Retirement allowance — teachers who retired before July 4, 1953. Repealed by 96 Acts, ch 1215, §59.
	SUBCHAPTER II			
	PENSION AND ANNUITY RETIREMENT SYSTEM			
294.8	Pension system.		294.16	Investment contracts.

SUBCHAPTER I

GENERAL PROVISIONS

294.1 Qualifications — compensation prohibited.

1. A person shall not be employed as a teacher in a public or accredited nonpublic school without having a certificate issued by some officer duly authorized by law.

2. Compensation shall not be recovered by a teacher for services rendered while without such certificate.

[R60, §2062; C73, §1758; C97, §2788; C24, 27, 31, 35, 39, §4336; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §294.1]

2018 Acts, ch 1026, §105

294.2 Reserved.

294.3 State aid and tuition.

A school shall not be deprived of its right to be approved for state aid or approved for tuition by reason of the employment of any practitioner as authorized under section 272.9.

[C24, 27, 31, 35, 39, §4338; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §294.3]

89 Acts, ch 265, §37

294.4 Daily register.

Each teacher shall keep a daily register which shall correctly exhibit the name or number of the school, the district and county in which it is located, the day of the week, month, year, and the name, age, and attendance of each scholar, and the branches taught; and when scholars reside in different districts separate registers shall be kept for each district, and a certified copy of the register shall, immediately at the close of the school, be filed by the teacher in the office of the secretary of the board.

[R60, §2062; C73, §1759, 1760; C97, §2789; C24, 27, 31, 35, 39, §4339; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §294.4]

294.5 Reports.

The teacher shall file with the school superintendent and the director of the department of education such reports and in such manner as may be required.

[C97, §2789; C24, 27, 31, 35, 39, §4340; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §294.5] 85 Acts, ch 212, §21

294.6 and 294.7 Reserved.

SUBCHAPTER II

PENSION AND ANNUITY RETIREMENT SYSTEM

294.8 Pension system.

A school district located in whole or in part within a city having a population of twenty-five thousand one hundred or more may establish a pension and annuity retirement system for the public school teachers of such district. However, in cities having a population less than seventy-five thousand, establishment of the system shall be ratified by a vote of the people at a regular school election.

[C24, 27, 31, 35, 39, §4345; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §294.8] 2009 Acts, ch 57, §79
Referred to in §294.11, 294.12

294.9 Fund.

The fund for such retirement system shall be created from the following sources:

1. From the proceeds of an assessment of teachers in the school district not exceeding one percent of their salaries in a given school year, or such greater percentage as the board of directors of such school district may authorize and a majority of such teachers shall, at the time of such authorization by the board, agree to pay.
2. From the proceeds of an annual tax levy.
3. From the interest on any permanent fund which may be created by gift, bequest, or otherwise.

[C24, 27, 31, 35, 39, §4346; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §294.9] Referred to in §294.10A, 294.11

294.10 Management.

The board of directors of the school district shall constitute the board of trustees and shall formulate the plan of the retirement; and shall make all necessary rules and regulations for the operation of said retirement system.

[C24, 27, 31, 35, 39, §4347; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §294.10] Referred to in §294.11

294.10A Pickup of teacher assessments.

1. Notwithstanding section 294.9 or other provisions of this chapter, for federal income tax purposes beginning January 1 following the submission by a board of trustees of an application to the federal internal revenue service requesting qualification of a plan in accordance with the requirements of the Internal Revenue Code, as defined in section 422.3, and for state income tax purposes beginning January 1, 1999, or January 1 following an application for qualification, whichever is later, teacher assessments required under section 294.9 which are picked up by an employing school district shall be considered employer contributions for federal and state income tax purposes, and each employing school district establishing a pension and annuity retirement system pursuant to this chapter shall pick up the teacher assessments to be made under section 294.9 by its employees commencing on the applicable date on which the assessments shall be considered employer contributions for income tax purposes under this subsection. Each employing school district shall pick up these teacher assessments by reducing the salary of each of the teachers covered by this chapter by the amount which each teacher is required to contribute through assessments

under section 294.9 and shall pay to the board of trustees the amount picked up in lieu of the teacher assessments for recording and deposit in the fund.

2. Teacher assessments picked up by each employing school district under subsection 1 shall be treated as employer contributions for federal and state income tax purposes only and for all other purposes of this chapter shall be treated as teacher assessments and deemed part of the teacher's wages or salary.

94 Acts, ch 1183, §64; 95 Acts, ch 67, §22; 98 Acts, ch 1174, §3, 6

294.10B Rights not transferable or subject to legal process — exceptions.

The right of any person to any future payment under a pension and annuity retirement system established in this chapter shall not be transferable or assignable, at law or in equity, and shall not be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law, except for the purposes of enforcing child, spousal, or medical support obligations, or marital property orders. For the purposes of enforcing child, spousal, or medical support obligations, the garnishment or attachment of or the execution against benefits due a person under such a retirement system shall not exceed the amount specified in 15 U.S.C. §1673(b).

96 Acts, ch 1187, §79

294.11 Termination resolution adopted.

Any school district which has in operation the pension and annuity retirement system created pursuant to sections 294.8 to 294.10 may terminate such system by the adoption by the board of directors of such district, of a resolution declaring such system terminated as of a date specified therein.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §294.11]

Referred to in §294.12

294.12 Pension fund held for survivors upon termination.

1. In the event of such termination, all assessments of teachers shall cease upon such date of termination, or upon such earlier date as may be prescribed in such resolution, and no additional taxes shall be levied or assessed for the operation of such system, save as in section 294.13. All undisposed of funds and accumulations derived from the operation of said system, including the proceeds, when collected, of any annual tax heretofore levied for the operation of said system, and including the proceeds of any annual tax levied hereafter pursuant to the provisions of section 294.13, shall constitute a retirement liquidation fund. Such liquidation fund shall be held for the benefit of those surviving beneficiaries under such system as of said date of termination, and of members of such system as of the date of termination. There shall be set aside from such retirement liquidation fund an amount sufficient to provide for the payment of all surviving beneficiaries who shall be entitled to receive benefits under such system as of said date of termination, providing an actuarial computation has been made of the amount required to meet such benefit payments, providing the amount in the retirement liquidation fund is sufficient for this purpose, and the amount set aside shall be used for no other purpose than for the payment of claims to such beneficiaries. Any amount in excess of the actuarial equivalent of the sum required to pay such benefit payments shall be apportioned to persons who were as of the effective date of the termination of the system, members of such system, in proportion to the amount which the accumulated contribution of each such person bears to the total funds of such retirement system subject to such apportionment. Any member of such system as of the date of termination thereof, may, in lieu of receiving the cash refund of the member's share of the liquidation fund, elect to come under the coverage of any new pension and annuity retirement system established by the district, to which the member is eligible, with credits toward future benefits in consideration of the member's prior contributions and length of service, and may direct the transfer of the amount payable to the member to the assets of the new pension and annuity retirement system. In any case where the board of directors of a school district including a teachers retirement system established under the provisions of section 294.8, whose members were not under coverage of the Iowa old-age and survivors' insurance system prior to May 1, 1953, the board of directors may

authorize the payment from funds in excess of the actuarial amount estimated as required for the payment of benefits to persons entitled to them, and for the purpose of obtaining retroactive social security coverage from January 1, 1951, until the effective date of federal coverage of Iowa public employees as provided by chapter 97C. Each surviving beneficiary entitled to receive retirement benefits of the date of termination of the system will be entitled to receive retirement benefits at the time and in the amount in effect with respect to such beneficiary immediately prior to the date of termination.

2. In any school district which has pursuant to section 294.11 terminated a previously existing pension and annuity retirement system and has after actuarial computation established a retirement reserve fund pursuant to this section in order to pay to surviving beneficiaries entitled to receive retirement benefits at the date of termination of said system in the amount in effect with respect to such beneficiaries immediately prior to the date of termination, the board of directors may authorize each and every payment to each surviving beneficiary falling due subsequent to June 30, 1971, to be increased by an amount to be determined by the board such increased payments to be paid from the retirement reserve fund according to an actuarial computation thereof plus such additional amounts transferred from the general fund as may be required. In order to provide the additional amounts required from the general fund for such increased payments, the board of directors may annually at the meeting at which it estimates the amount required for the general fund in accordance with section 298.1 estimate such additional amount as an actuarial computation shall show is necessary from the general fund for the payment of such increased benefits for the current school year; provided the amount estimated and certified to be transferred from the general fund to the retirement reserve fund shall not exceed one and four-tenths cents per thousand dollars of the assessed valuation of the taxable property of the school corporation. The board of supervisors shall in accordance with the provisions of section 298.8 levy the taxes necessary to raise the amount estimated by the board of directors as above provided and certified to the board of supervisors. Upon the death of the last beneficiary to survive, any balance remaining in said retirement reserve fund shall be transferred to the general fund of said school district.

3. Notwithstanding the provisions of this section, the plan provisions of a pension and annuity retirement system of a school district established under this chapter regarding the determination and distribution of benefits upon termination of the retirement system shall be effective if the school district has received a favorable determination letter from the federal internal revenue service as to the qualified status of such retirement system under applicable provisions of the Internal Revenue Code.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §294.12]

98 Acts, ch 1183, §109; 2017 Acts, ch 54, §76

Referred to in §294.14

294.13 General fund replacements.

The board of directors of said district shall each year at the meeting at which it estimates the amount required for the general fund, in accordance with the provisions of section 298.1, estimate the additional amount, if any, necessary to provide the required annual payments to surviving beneficiaries, which amount shall be levied by the board of supervisors in accordance with the provisions of section 298.8. Upon the death of the last beneficiary to survive, any balance remaining in said fund, including any undisposed of accumulations, shall be transferred to the general fund of said school district.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §294.13]

Referred to in §294.12

294.14 Estimate of funds needed — levy.

The board of directors of said district shall annually, for a period of five years after the effective date of the termination of its pension system, at the meeting at which it estimates the amount required for the general fund, in accordance with the provisions of section 298.1, estimate the additional amount if any necessary to pay to participants in the pension system who are not entitled to receive benefits under such system at the date of termination thereof,

one-fifth of the amount paid into said pension fund by such participants therein, without interest, which amount shall be levied by the board of supervisors, in accordance with provisions of section 298.8 and, in addition thereto, the board of directors of said district shall each year at the meeting at which it estimates the amount required for the general fund, in accordance with the provisions of section 298.1, estimate the additional amount, if any, necessary to provide the required annual payments to surviving beneficiaries of said pension system, as provided in section 294.12, which amount shall be levied by the board of supervisors, in accordance with the provisions of section 298.8. Upon the death of the last beneficiary to survive, any balance remaining in said fund, including any undisposed of accumulations, shall be transferred to the general fund of said school district.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §294.14]

2017 Acts, ch 29, §84

294.15 Retirement allowance — teachers who retired before July 4, 1953. Repealed by 96 Acts, ch 1215, §59.

294.16 Investment contracts.

1. The school district may establish a plan, in accordance with section 403(b) of the Internal Revenue Code, as defined in section 422.3, for employees, which plan shall consist of one or more investment contracts, on a group or individual basis, acquired from a company, or a salesperson for that company, that is authorized to do business in this state.

2. The selection of investment contracts to be included within the plan established by the school district shall be made either pursuant to a competitive bidding process conducted by the school district, in coordination with employee organizations representing employees eligible to participate in the plan, or pursuant to an agreement with the department of administrative services to make available investment contracts included in a deferred compensation or similar plan established by the department pursuant to section 8A.438, which plan meets the requirements of this section. The determination of whether to select investment contracts for the plan pursuant to a competitive bidding process or by agreement with the department of administrative services shall be made by agreement between the school district and the employee organizations representing employees eligible to participate in the plan.

3. The school district may make elective deferrals in accordance with the plan as authorized by an eligible employee for the purpose of making contributions to the investment contract on behalf of the employee. The deferrals shall be made in the manner which will qualify contributions to the investment contract for the benefits under section 403(b) of the Internal Revenue Code, as defined in section 422.3. In addition, the school district may make nonelective employer contributions to the plan.

4. As used in this section, unless the context otherwise requires, “*investment contract*” shall mean a custodial account utilizing mutual funds or an annuity contract which meets the requirements of section 403(b) of the Internal Revenue Code, as defined in section 422.3.

[C66, 71, 73, 75, 77, 79, 81, §294.16]

86 Acts, ch 1213, §7; 88 Acts, ch 1112, §701; 94 Acts, ch 1183, §65; 2008 Acts, ch 1171, §65, 68

CHAPTER 294A

EDUCATIONAL EXCELLENCE PROGRAM — TEACHERS

Section 294A.22 repealed by 2010 Acts, ch 1069, §67, 147; balance of chapter repealed by 89 Acts, ch 135, §135, 136; 2003 Acts, ch 180, §70; 2008 Acts, ch 1181, §104; 2009 Acts, ch 68, §11; and 2009 Acts, ch 179, §50, 53

CHAPTER 295
SCHOOL IMPROVEMENT TECHNOLOGY PROGRAM

Repealed by its own terms effective July 1, 2001;
 96 Acts, ch 1086, §5

CHAPTER 296
INDEBTEDNESS OF SCHOOL CORPORATIONS

Referred to in §28E.41, 28E.42, 274.3

296.1 296.2 296.3 296.4	Indebtedness authorized. Petition for election. Election called. Notice — ballots.	296.5 296.6 296.7	Repealed by 75 Acts, ch 81, §154. Bonds. Indebtedness for insurance authorized — tax levy.
----------------------------------	---	-------------------------	---

296.1 Indebtedness authorized.

Subject to the approval of the voters thereof, school districts are hereby authorized to contract indebtedness and to issue general obligation bonds to provide funds to defray the cost of purchasing, building, furnishing, reconstructing, repairing, improving or remodeling a schoolhouse or schoolhouses and additions thereto, gymnasium, stadium, field house, school bus garage, teachers' or superintendent's home or homes, and procuring a site or sites therefor, or purchasing land to add to a site already owned, or procuring and improving a site for an athletic field, or improving a site already owned for an athletic field, and for any one or more of such purposes. Taxes for the payment of said bonds shall be levied in accordance with chapter 76, and said bonds shall mature within a period not exceeding twenty years from date of issue, shall bear interest at a rate or rates not exceeding that permitted by chapter 74A and shall be of such form as the board of directors of such school district shall by resolution provide, but the aggregate indebtedness of any school district shall not exceed five percent of the actual value of the taxable property within said school district, as ascertained by the last preceding state and county tax lists.

[S13, §2820-d1; C24, 27, 31, 35, 39, §4353; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §296.1]

Referred to in §292.1, 423E.4

296.2 Petition for election.

Before indebtedness can be contracted in excess of one and one-quarter percent of the assessed value of the taxable property, a petition signed by eligible electors equal in number to twenty-five percent of those voting at the last election of school officials shall be filed with the president of the board of directors, asking that an election be called, stating the amount of bonds proposed to be issued and the purpose or purposes for which the indebtedness is to be created, and that the purpose or purposes cannot be accomplished within the limit of one and one-quarter percent of the valuation. The petition may request the calling of an election on one or more propositions and a proposition may include one or more purposes.

[S13, §2820-d2; C24, 27, 31, 35, 39, §4354; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §296.2]

83 Acts, ch 90, §18; 95 Acts, ch 189, §20

Referred to in §296.3

296.3 Election called.

Within ten days of receipt of a petition filed under section 296.2, the president of the board of directors shall call a meeting of the board. The meeting shall be held within thirty days after the petition was received. At the meeting, the board shall call the election, fixing the time of the election, which may be at the time and place of holding the regular school election. However, if the board determines by unanimous vote that the proposition or propositions requested by a petition to be submitted at an election are grossly unrealistic or contrary to

the needs of the school district, no election shall be called. If more than one petition has been received by the time the board meets to consider the petition triggering the meeting, the board shall act upon the petitions in the order they were received at the meeting called to consider the initial petition. The decision of the board may be appealed to the state board of education as provided in chapter 290. The president shall notify the county commissioner of elections of the time of the election.

[S13, §2820-d3; C24, 27, 31, 35, 39, §4355; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §296.3; 81 Acts, ch 91, §1]

83 Acts, ch 90, §19; 85 Acts, ch 67, §33; 2002 Acts, ch 1134, §92, 115

296.4 Notice — ballots.

Notice of the election shall be given by the county commissioner of elections by publication in accordance with section 49.53. The county commissioner of elections shall conduct the election pursuant to the provisions of chapters 39 to 53 and certify the results to the board of directors.

[S13, §2820-d3; C24, 27, 31, 35, 39, §4356; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §296.4]

Form of ballot, §49.43 et seq.

296.5 Repealed by 75 Acts, ch 81, §154.

296.6 Bonds.

If the vote in favor of the issuance of such bonds is equal to at least sixty percent of the total vote cast for and against said proposition at said election, the board of directors shall issue the same and make provision for payment thereof.

[S13, §2820-d4; C24, 27, 31, 35, 39, §4358; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §296.6]

Referred to in §275.12

Vote required to authorize bonds, §75.1

296.7 Indebtedness for insurance authorized — tax levy.

1. *a.* A school district or community college corporation may contract indebtedness and issue general obligation bonds or enter into insurance agreements obligating the school district or corporation to make payments beyond its current budget year for one or more of the following mechanisms to protect the school district or corporation from tort liability, loss of property, environmental hazards, or any other risk associated with the operation of the school district or corporation:

- (1) To procure or provide for a policy of insurance.
- (2) To provide a self-insurance program.
- (3) To establish and maintain a local government risk pool.

b. However, this subsection does not apply to an insurance program described in subsection 3.

2. For purposes of subsection 1, an employee benefit plan which includes a specific or aggregate excess loss coverage or a program that self-insures only a per-employee or per-family deductible for each year and which transfers the risk remaining beyond this deductible is not a self-insurance program, but is instead an insurance program. As used in this section, an “*employee benefit plan*” includes, but is not limited to benefits for hospital and surgical, medical expense, major medical, dental, prescription drug, disability, or life insurance costs or benefits.

3. A school district, providing an insurance program as described in subsection 2, shall not contract indebtedness and issue general obligation bonds or enter into insurance agreements obligating the school district to make payments beyond its current budget year for that employee benefit plan. A school district may, however, apply to the school budget review committee for relief if necessitated by the expenses in the school district’s insurance program as described in subsection 2.

4. *a.* Taxes may be levied in excess of any limitation imposed by statute for payment of one or more of the following authorized by subsection 1:

- (1) Principal, premium, or interest on bonds.
- (2) Premium on an insurance policy, including a stop loss or reinsurance policy, except as limited by subsection 3.
- (3) Costs of a self-insurance program.
- (4) Costs of a local government risk pool.
- (5) Amounts payable under an insurance agreement.

b. However, for a school district, a tax levied under this section shall be included in the district management levy under section 298.4.

5. A self-insurance program or local government risk pool authorized by subsection 1 is not insurance and is not subject to regulation under chapters 505 through 523C. However, those self-insurance plans regulated pursuant to section 509A.14 shall remain subject to the requirements of section 509A.14 and rules adopted pursuant to that section.

6. Notwithstanding the other provisions of this section or any other statute, the tax levy authorized by this section shall not be used to pay the costs of employee benefits, including, but not limited to costs for hospital and surgical, medical expense, major medical, dental, prescription drug, disability, or life insurance benefits.

7. If the board by resolution restricts the use of money in a fund as a reserve for uninsured liability or a self-insurance program, the use shall be restricted and unavailable for any other purpose until the board removes the restriction. The removal is not effective until all obligations of the restricted fund have been satisfied, or the next fiscal year, whichever occurs later.

86 Acts, ch 1211, §18; 89 Acts, ch 135, §103; 90 Acts, ch 1234, §1; 90 Acts, ch 1253, §121; 2010 Acts, ch 1061, §180

Referred to in §298.4, 670.7

CHAPTER 297

SCHOOLHOUSES AND SCHOOLHOUSE SITES

Referred to in §99B.45, 99B.61, 274.3

	SUBCHAPTER I	297.18	Appraisement.
	GENERAL PROVISIONS	297.19	Public sale.
297.1	Location.	297.20	Sale of improvements.
297.2	Ten-acre limitation.	297.21	Sale of unnecessary schoolhouse sites. Repealed by 97 Acts, ch 184, §7.
297.3	Thirty-acre limitation.		
297.4	Vacancy notification.		
297.5	Reserved.		
297.6	Condemnation.		SUBCHAPTER II
297.7	Construction, renovation, and repair of school buildings — review of plans — aviation programs.	297.22	SALE OR LEASE OF PROPERTY
297.8	Emergency repairs.	297.23	Power to sell, lease, or dispose of property — tax.
297.9	Use for other than school purposes.	297.25	and 297.24 Repealed by 97 Acts, ch 184, §7.
297.10	Compensation.		Rule of construction.
297.11	Use forbidden.		
297.12	Renting schoolroom.		SUBCHAPTER III
297.13	Fence around schoolhouse sites. Repealed by 2006 Acts, ch 1152, §56.	297.26	MINING CAMP SCHOOLS
297.14	Barbed wire.	297.27	Sale by department.
297.15	Reversion of schoolhouse site.	297.28	Preference to owner of tract.
297.16	Appraisers.	297.29	Appraisers.
297.17	Notice.	297.30	Report filed.
			Public sale.

297.31	Improvements.	SUBCHAPTER IV
297.32	Equipment and supplies.	LOAN AGREEMENTS
297.33	and 297.34 Reserved.	
	297.35	Continuation of loan agreement. Repealed by 2013 Acts, ch 88, §37.
	297.36	Loan agreements.

SUBCHAPTER I

GENERAL PROVISIONS

297.1 Location.

1. The board of each school district may fix the site for each schoolhouse, which shall be upon some public highway already established or procured by such board and not in any public park, and except in cities and villages, not less than thirty rods from the residence of any landowner who objects thereto.

2. In fixing such site, the board shall take into consideration the number of scholars residing in the various portions of the school district and the geographical location and convenience of any proposed site.

[R60, §2037; C73, §1724, 1825, 1826; C97, §2773, 2814; S13, §2773, 2814; C24, 27, 31, 35, 39, §4359; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §297.1]

297.2 Ten-acre limitation.

Except as hereinafter provided, any school district may take and hold so much real estate as may be required for such site, for the location or construction thereon of schoolhouses, and the convenient use thereof, but not to exceed ten acres exclusive of public highway.

[C73, §1825; C97, §2814; S13, §2814; C24, 27, 31, 35, 39, §4360; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §297.2]

297.3 Thirty-acre limitation.

Any school district, including a city or village, may take and hold an area equal to two blocks exclusive of the street or highway, for a schoolhouse site, and not exceeding thirty acres for school playground, stadium, or field house, or other purposes for each such site.

[C97, §2814; S13, §2814; C24, 27, 31, 35, 39, §4361; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §297.3]

297.4 Vacancy notification.

The board of directors shall notify the cities located within the school district, the counties in which the school district may be located, and the department of administrative services annually of the facilities and buildings owned by the public school corporation which are vacant and available to be leased or purchased.

[82 Acts, ch 1148, §2]
2003 Acts, ch 145, §286

297.5 Reserved.**297.6 Condemnation.**

If the owner of real estate desired for any purpose for which any school may be authorized to take and hold real estate refuses to convey the same, or is dead or unknown or cannot be found, or if in the judgment of the board of directors of the corporation they cannot agree with such owner as to the price to be paid therefor, such real estate may be taken under condemnation proceedings in accordance with the provisions of chapter 6B.

[C73, §1827; C97, §2815; C24, 27, 31, 35, 39, §4364; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §297.6]

297.7 Construction, renovation, and repair of school buildings — review of plans — aviation programs.

1. Chapter 26 is applicable to the construction and repair of school buildings and other public improvements as defined in section 26.2.

2. Any other law to the contrary notwithstanding, the board of directors of a school district may acquire by purchase, lease, or other arrangement real estate located within or adjoining the boundaries of a municipal airport, and may take title, leasehold, or other interest, subject to a right of purchase or repurchase by the city owning or controlling the municipal airport. The city may purchase, repurchase, or repossess such real estate and the improvements constructed on the real estate upon terms and conditions as agreed to by the board of directors and the city council. The board of directors of any such school district may construct a career and technical education school on the real estate to carry on career and technical training or instruction in aviation mechanics and other aviation programs upon compliance with conditions and limitations otherwise provided by law.

[R60, §2037; C73, §1723; C97, §2779; C24, 27, 31, 35, 39, §4370; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §297.7; 81 Acts, ch 28, §7, ch 91, §2]

84 Acts, ch 1036, §1; 2002 Acts, ch 1140, §30; 2006 Acts, ch 1017, §25, 42, 43; 2016 Acts, ch 1108, §68

Referred to in §278.3, 314.1

297.8 Emergency repairs.

When emergency repairs costing more than the competitive bid threshold in section 26.3, or as established in section 314.1B, are necessary in order to ensure the continued use of any school or school facility, the provisions of the law with reference to advertising for bids shall not apply, and in that event the board may contract for such emergency repairs without advertising for bids. However, before such emergency repairs can be made to any schoolhouse or school facility, it shall be necessary to procure a certificate from the area education agency administrator that such emergency repairs are necessary to ensure the continued use of the school or school facility.

[C31, 35, §4370-c1; C39, §4370.1; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §297.8; 81 Acts, ch 28, §8]

2006 Acts, ch 1017, §26, 42, 43; 2009 Acts, ch 65, §8

297.9 Use for other than school purposes.

The board of directors of any school district may authorize the use of any schoolhouse and its grounds within such district for the purpose of meetings of granges, lodges, agricultural societies, and similar societies, for parent-teacher associations, for community recreational activities, community education programs, election purposes, other meetings of public interest, public forums and similar community purposes; provided that such use shall in no way interfere with school activities; such use to be for such compensation and upon such terms and conditions as may be fixed by said board for the proper protection of the schoolhouse and the property belonging therein, including that of pupils, except that in the case of community education programs, any compensation necessary for programs provided specifically by community education and not those provided through community education by other agencies or organizations shall be compensated from the funding provided for community education programs.

[C24, 27, 31, 35, 39, §4371; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §297.9]

Schoolhouses as polling places, §49.24

Use by county conservation board, §350.8

297.10 Compensation.

Any compensation for the use of a schoolhouse and schoolhouse grounds shall be paid into the general fund and be expended in the upkeep and repair of and in purchasing supplies for that school property.

[C24, 27, 31, 35, 39, §4372; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §297.10]

2009 Acts, ch 133, §108

297.11 Use forbidden.

If the voters of such district at a regular election forbid the use of any schoolhouse or grounds, the board shall not permit that use until the action of the voters is rescinded by the voters at an election held on a date specified in section 39.2, subsection 4, paragraph "c".

[C24, 27, 31, 35, 39, §4373; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §297.11]

2008 Acts, ch 1115, §48, 71; 2009 Acts, ch 41, §110

297.12 Renting schoolroom.

The board may, when necessary, rent a room and employ a teacher, where there are ten children for whose accommodation there is no schoolhouse.

[C73, §1725; C97, §2774; C24, 27, 31, 35, 39, §4374; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §297.12]

297.13 Fence around schoolhouse sites. Repealed by 2006 Acts, ch 1152, §56.**297.14 Barbed wire.**

No school attendance center fence shall be constructed of barbed wire, nor shall any barbed wire fence be placed within ten feet of any school attendance center. Any person violating the provisions of this section shall be guilty of a simple misdemeanor.

[C97, §2817; C24, 27, 31, 35, 39, §4378; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §297.14]

2006 Acts, ch 1152, §47; 2007 Acts, ch 126, §51

297.15 Reversion of schoolhouse site.

1. Any real estate, owned by a school district, containing less than two acres, situated wholly outside of a city, and not adjacent thereto, and heretofore used as a schoolhouse site shall revert to the then owner of the tract from which the same was taken, provided that said owner of the tract last aforesaid shall, within the time hereinafter prescribed, pay the value thereof to such school district.

2. Any such schoolhouse site containing two or more acres shall be subject to the law as otherwise provided.

[C73, §1828; C97, §2816; S13, §2816; C24, 27, 31, 35, 39, §4379; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §297.15]

Referred to in §297.22

297.16 Appraisers.

In case the school district and said owner of the tract from which such school site was taken, do not agree as to the value of such site, the chief judge of the judicial district of the county in which the greater part of such school district is situated, shall, on the written application of either party, appoint three disinterested voters of the county from the list of persons eligible to serve as compensation commissioners to appraise the site.

[C97, §2816; S13, §2816; C24, 27, 31, 35, 39, §4380; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §297.16]

Referred to in §297.22

297.17 Notice.

The county sheriff shall give notice to both parties of the time and place of making such appraisal, which notice shall be served in the same manner and for the same time as for the commencement of action in the district court.

[C24, 27, 31, 35, 39, §4381; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §297.17]

Referred to in §297.22, 331.653

Time and manner of service, R.C.P. 1.302 - 1.315

297.18 Appraisal.

Such appraisers shall inspect the premises and, at the time and place designated in the notice, appraise said site in writing, which appraisal, after being duly verified, shall be filed with the county sheriff.

[C24, 27, 31, 35, 39, §4382; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §297.18]

Referred to in §297.22

297.19 Public sale.

If the owner of the tract from which said site was taken fails to pay the amount of such appraisal to such school district within twenty days after the filing of same with the county sheriff, the school district may sell said site to any other person at the appraised value, or may sell the same at public sale to the highest bidder.

[C24, 27, 31, 35, 39, §4383; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §297.19]
Referred to in §297.22

297.20 Sale of improvements.

If there are improvements on said site, the improvements may, at the request of either party, be appraised and sold separately.

[C97, §2816; S13, §2816; C24, 27, 31, 35, 39, §4384; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §297.20]
Referred to in §297.22

297.21 Sale of unnecessary schoolhouse sites. Repealed by 97 Acts, ch 184, §7.

SUBCHAPTER II

SALE OR LEASE OF PROPERTY

297.22 Power to sell, lease, or dispose of property — tax.

1. *a.* The board of directors of a school district may sell, lease, or dispose of, in whole or in part, a schoolhouse, school site, or other property belonging to the district. If the real property contains less than two acres, is located outside of a city, is not adjacent to a city, and was previously used as a schoolhouse site, the procedure contained in sections 297.15 through 297.20 shall be followed in lieu of this section.

b. Proceeds from the sale or disposition of real or other property shall be deposited into the fund which was used to account for the acquisition of the property. If the district is unable to determine which fund was used to account for the acquisition of the property or if the fund no longer exists in the district, the proceeds from the sale or disposition of real property shall be placed in the physical plant and equipment levy fund, and the proceeds from the sale or disposition of property other than real property shall be placed in the general fund. Proceeds from the lease of real or other property shall be placed in the general fund.

c. Before the board of directors may sell, lease for a period in excess of one year, or dispose of any property belonging to the school, the board shall hold a public hearing on the proposal. The board shall set forth its proposal in a resolution and shall publish notice of the time and the place of the public hearing on the resolution. The notice shall also describe the property. A locally known address for real property may be substituted for a legal description of real property contained in the resolution. Notice of the time and place of the public hearing shall be published at least once not less than ten days but not more than twenty days prior to the date of the hearing in a newspaper of general circulation in the district. After the public hearing, the board may make a final determination on the proposal contained in the resolution.

d. However, property having a value of not more than five thousand dollars, other than real property, may be sold or disposed of by any procedure which is adopted by the board. Each such sale shall be published by at least one insertion each week for two consecutive weeks in a newspaper having general circulation in the district and any other disposition shall be published by at least one insertion in a newspaper having general circulation in the district.

2. *a.* The board of directors of a school district may sell, lease, exchange, give, or grant, and accept any interest in real property to, with, or from a county, municipal corporation, school district, township, or area education agency if the real property is within the jurisdiction of both the grantor and grantee.

b. The board of directors of a school district may lease a portion of an existing school building or lease a portion of existing school property. The lease may be renewed at the option

of the board. The notice and public hearing requirements of subsection 1 of this section do not apply to the lease of a portion of an existing school building. A school district shall pay out of the revenue from a lease to the state of Iowa, and to the city, school district and any other political subdivision authorized to levy taxes, an amount as determined by this section. The amount shall be determined by applying the annual tax rate of the taxing district to the assessed value of the portion of the building leased, prorated for the term of the lease during the appropriate taxing period. The provisions of this section relating to the payment of property tax because of leases shall only apply to leases to private, for-profit entities which lease a portion of a school building for a period of thirty or more consecutive days, but shall not apply to property or equipment leased as part of a project designed to generate electricity for the school district.

3. The provisions in subsections 1 and 2 relating to the sale, lease, or disposition of school district property do not apply to student-constructed buildings and the property on which student-constructed buildings are located. The board of directors of a school district may sell, lease, or dispose of a student-constructed building and the property on which the student-constructed building is located, and may purchase sites for the erection of additional student-constructed structures, by any procedure which is adopted by the board. The proceeds from disposition of a student-constructed structure shall be placed in the school district's student construction fund. Moneys remaining in the school district's student construction fund after the board discontinues the student construction program shall first be used to reimburse the fund or funds from which the student construction program's start-up costs were paid and any moneys remaining after such reimbursement shall be transferred by board resolution to the school district's general fund.

[C27, 31, 35, §4385-a1; C39, §4385.1; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §297.22; 81 Acts, ch 93, §1 – 4]

85 Acts, ch 8, §1; 86 Acts, ch 1223, §1 – 3; 90 Acts, ch 1018, §1; 94 Acts, ch 1029, §22; 94 Acts, ch 1089, §2; 97 Acts, ch 184, §3; 98 Acts, ch 1100, §37; 2008 Acts, ch 1148, §2; 2009 Acts, ch 10, §2, 4; 2014 Acts, ch 1013, §21, 22; 2018 Acts, ch 1112, §12, 16, 17

Referred to in §7.20, 273.3, 278.1, 297.25, 331.361, 364.21

Property for defense projects, §274.39 – 274.45

2018 amendment to subsection 2, paragraph b, applies to school budget years beginning on or after July 1, 2018; 2018 Acts, ch 1112, §17

297.23 and 297.24 Repealed by 97 Acts, ch 184, §7.

297.25 Rule of construction.

Section 297.22 shall be construed as independent of the power vested in the electors by section 278.1, and as additional to such power. If a board of directors has exercised its independent power under section 297.22 regarding the disposition of real or personal property of the school district and has by resolution approved such action, the electors may subsequently proceed to exercise their power under section 278.1 for a purpose directly contrary to an action previously approved by the board of directors in accordance with section 297.22. However, the electors shall be limited to ten days after an action by the board to exercise such power for a purpose directly contrary to the board's action.

[C27, 31, 35, §4385-a4; C39, §4385.4; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §297.25]

97 Acts, ch 184, §4; 2008 Acts, ch 1148, §3; 2009 Acts, ch 10, §3, 4

Referred to in §278.1

SUBCHAPTER III

MINING CAMP SCHOOLS

297.26 Sale by department.

Any school building or any school site, the title of which is vested in the state of Iowa by reason of it having been provided by state mining camp funds for schools in mining camps,

shall be sold by the department when the director of the department of education determines it is no longer needed for school purposes.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §297.26]

86 Acts, ch 1238, §55, 56, 58; 86 Acts, ch 1245, §1489, 1984

297.27 Preference to owner of tract.

When the buildings or sites are sold, the owners of the tract from which the same was originally taken shall have first option on the purchase of the same.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §297.27]

86 Acts, ch 1245, §1985

297.28 Appraisers.

If the department and the owner of the tract from which the school site was taken do not agree as to the value of such site or building, the chief judge of the judicial district of the county in which the greater part of such school site is situated shall, on the written application of either party, appoint three disinterested voters of the county from the list of compensation commissioners to appraise such site. The county sheriff shall give notice to both parties of the time and place of making such appraisal, which notice shall be served in the same manner and for the same time as for the commencement of an action in the district court.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §297.28]

86 Acts, ch 1245, §1986

Referred to in §331.653

297.29 Report filed.

Such appraisers shall inspect the premises and at the time and place designated in the notice, appraise such site or building in writing, which appraisal, after being duly verified, shall be filed with the sheriff.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §297.29]

297.30 Public sale.

If the owner of the tract from which said site was taken fails to pay the amount of such appraisal to the department within thirty days after the filing of the same with the sheriff, the department may sell said site or building to any other person at the appraised value, or may sell the same at public sale to the highest bidder and the proceeds of such sale are to be added to the permanent school fund of the state.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §297.30]

2014 Acts, ch 1092, §62

297.31 Improvements.

If there are improvements on a school site, the improvements may at the request of either party be appraised and sold separately.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §297.31]

2019 Acts, ch 59, §83

297.32 Equipment and supplies.

If there is any school equipment, supplies, or other usable school materials, such as desks, blackboards, playground equipment, or the like, in or on said buildings or grounds, the director of the department of education may remove the same and divert their use to other public school districts.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §297.32]

85 Acts, ch 212, §21

297.33 and 297.34 Reserved.

SUBCHAPTER IV
LOAN AGREEMENTS

297.35 Continuation of loan agreement. Repealed by 2013 Acts, ch 88, §37.

297.36 Loan agreements.

1. *a.* In order to make immediately available proceeds of the voter-approved physical plant and equipment levy which has been approved by the voters as provided in section 298.2, the board of directors may, with or without notice, borrow money and enter into loan agreements in anticipation of the collection of the tax with a bank, investment banker, trust company, insurance company, or insurance group.

b. By resolution, the board shall provide for an annual levy which is within the limits of the voter-approved physical plant and equipment levy to pay for the amount of the principal and interest due each year until maturity. The board shall file a certified copy of the resolution with the auditor of each county in which the district is located. The filing of the resolution with the auditor makes it the duty of the auditor to annually levy the amount certified for collection until funds are realized to repay the loan and interest on the loan in full.

c. The loan must mature within the period of time authorized by the voters and shall bear interest at a rate which does not exceed the limits under chapter 74A. A loan agreement entered into pursuant to this section shall be in a form as the board of directors shall by resolution provide and the loan shall be payable as to both principal and interest from the proceeds of the annual levy of the voter-approved physical plant and equipment levy, or so much thereof as will be sufficient to pay the loan and interest on the loan.

d. The proceeds of a loan must be deposited in the physical plant and equipment levy fund. Warrants paid from this fund must be for purposes authorized for the voter-approved physical plant and equipment levy.

2. This section does not limit the authority of the board of directors to levy the full amount of the voter-approved physical plant and equipment levy, but if and to whatever extent the tax is levied in any year in excess of the amount of principal and interest falling due in that year under a loan agreement, the first available proceeds, to an amount sufficient to meet maturing installments of principal and interest under the loan agreement, shall be paid into the debt service fund for the loan before the taxes are otherwise made available to the school corporation for other school purposes, and the amount required to be annually set aside to pay principal of and interest on the money borrowed under the loan agreement constitutes a first charge upon the proceeds of the voter-approved physical plant and equipment levy, which tax shall be pledged to pay the loan and the interest on the loan.

3. This section is supplemental and in addition to existing statutory authority to finance the purposes specified in section 298.2 for the physical plant and equipment levy, and for the borrowing of money and execution of loan agreements in connection with that section, and is not subject to any other law. The fact that a school corporation may have previously borrowed money and entered into loan agreements under authority of this section does not prevent the school corporation from borrowing additional money and entering into further loan agreements if the aggregate of the amount payable under all of the loan agreements does not exceed the proceeds of the voter-approved physical plant and equipment levy.

83 Acts, ch 185, §8, 62; 89 Acts, ch 135, §105; 94 Acts, ch 1029, §23; 2014 Acts, ch 1026, §75
Referred to in §298.2

CHAPTER 298

SCHOOL TAXES AND BONDS

Referred to in §28E.41, 28E.42, 274.3, 292.2

298.1	School taxes.	298.13	Direct deposit of tax revenue.
298.2	Imposition of physical plant and equipment levy.	298.14	School district income surtaxes.
298.3	Revenues from the levies.	298.15	Payment of judgment.
298.4	District management levy.	298.16	Judgment tax.
298.5	Taxes estimated.	298.17	Reserved.
298.6	Public disclosure of outstanding levies.	298.18	Bond tax — election — leasing buildings.
298.7	Contract for use of library — tax levy.	298.18A	Levy adjustment.
298.8	Levy by board of supervisors.	298.19	Levy.
298.9	Special levies.	298.20	Funding or refunding bonds.
298.10	Levy for cash reserve.	298.21	School bonds.
298.11	Apportionment of school funds.	298.22	Form — rate of interest — where registered.
298.12	Reserved.	298.23	Redemption.
		298.24	Record of bond buyers.

298.1 School taxes.

The board of each school district shall estimate the amount of the proposed expenditures and proposed receipts for the general school purposes at a time and in a manner to effectuate the provisions of chapter 257 and sections 256B.9 and 256B.11. Compliance with chapter 24 shall be observed.

[C51, §1152; R60, §2033, 2034, 2037, 2038, 2044, 2088; C73, §1777, 1778; C97, §2806; S13, §2806; SS15, §2794-a; C24, 27, 31, 35, 39, §4386; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §298.1]

89 Acts, ch 135, §106

Referred to in §294.12, 294.13, 294.14

298.2 Imposition of physical plant and equipment levy.

1. *a.* A physical plant and equipment levy of not exceeding one dollar and sixty-seven cents per thousand dollars of assessed valuation in the district is established except as otherwise provided in this subsection. The physical plant and equipment levy consists of the regular physical plant and equipment levy of not exceeding thirty-three cents per thousand dollars of assessed valuation in the district and a voter-approved physical plant and equipment levy of not exceeding one dollar and thirty-four cents per thousand dollars of assessed valuation in the district. However, the voter-approved physical plant and equipment levy may consist of a combination of a physical plant and equipment property tax levy and a physical plant and equipment income surtax as provided in subsection 4 with the maximum amount levied and imposed limited to an amount that could be raised by a one dollar and thirty-four cent property tax levy.

b. For school budget years beginning on or after July 1, 2015, a school district may by resolution of the board of directors adopted prior to April 15 preceding the budget year impose a physical plant and equipment levy at a rate in excess of the levy rate limitations under paragraph “a” if the board has refunded or refinanced a loan agreement entered into under section 297.36 and such refunding or refinancing complies with the maturity period authorized under section 297.36, subsection 1, paragraph “c”, and results in a lower amount of interest on the amount of the loan agreement. However, the rate imposed by a school district under this paragraph shall not exceed the rate imposed during the budget year in which the loan agreement was refunded or refinanced. Authorization to exceed the levy rate limitations of paragraph “a” shall terminate upon the maturity of the loan agreement after refunding or refinancing. Upon adoption of the resolution under this paragraph “b”, the board shall comply with the requirements of section 297.36, subsection 1, paragraph “b”.

2. If the electors of a school district have authorized a voter-approved physical plant and equipment levy not exceeding sixty-seven cents per thousand dollars of assessed valuation in the district prior to July 1, 1997, the levy shall continue for the period authorized under

the voter-approved levy, and the maximum levy that can be authorized by the electors under the voter-approved levy on or after July 1, 1997, under this section, is an additional sixty-seven cents for a period to coincide with the period for which the initial physical plant and equipment levy in the district was approved.

3. The board of directors of a school district may certify for levy by April 15 of a school year a tax on all taxable property in the school district for the regular physical plant and equipment levy.

4. *a.* The board may on its own motion, and upon the written request of not less than one hundred eligible electors or thirty percent of the number of eligible electors voting at the last regular school election, whichever is greater, shall, direct the county commissioner of elections to provide for submitting the proposition of levying the voter-approved physical plant and equipment levy for a period of time authorized by the voters at the election, not to exceed ten years. The election shall be held on a date specified in section 39.2, subsection 4, paragraph “c”. The proposition is adopted if a majority of those voting on the proposition at the election approves it. The voter-approved physical plant and equipment levy shall be funded either by a physical plant and equipment property tax or by a combination of a physical plant and equipment property tax and a physical plant and equipment income surtax, as determined by the board. However, if the board intends to enter into a rental or lease arrangement under section 279.26, or intends to enter into a loan agreement under section 297.36, only a property tax shall be levied for those purposes. Subject to the limitations of section 298.14, if the board uses a combination of a physical plant and equipment property tax and a physical plant and equipment surtax, for each fiscal year the board shall determine the percent of income surtax to be imposed expressed as full percentage points, not to exceed twenty percent.

b. If a combination of a property tax and income surtax is used, by April 15 of the previous school year, the board shall certify the percent of the income surtax to be imposed and the amount to be raised to the department of management and the department of management shall establish the rate of the property tax and income surtax for the school year. The physical plant and equipment property tax and income surtax shall be levied or imposed, collected, and paid to the school district in the manner provided for the instructional support program in sections 257.21 through 257.26.

5. *a.* The proposition to levy the voter-approved physical plant and equipment levy is not affected by a change in the boundaries of the school district, except as otherwise provided in this section. If each school district involved in a school reorganization under chapter 275 has adopted the voter-approved physical plant and equipment levy, and if the voters have not voted upon the proposition to levy the voter-approved physical plant and equipment levy in the reorganized district, the existing voter-approved physical plant and equipment levy is in effect for the reorganized district for the least amount and the shortest time for which it is in effect in any of the districts.

b. An authorized levy for the period of time approved is not affected as a result of a failure of a proposition proposed to expand the purposes for which the funds may be expended.

89 Acts, ch 135, §107; 92 Acts, ch 1187, §7; 93 Acts, ch 1, §9, 10; 97 Acts, ch 182, §1, 2; 2009 Acts, ch 57, §80; 2010 Acts, ch 1033, §42; 2013 Acts, ch 88, §28, 29; 2015 Acts, ch 122, §1, 2

Referred to in §257.19, 257.31, 274.37, 275.12, 279.26, 283A.9, 292.1, 297.36, 298.14, 298A.4, 403.19, 423FE3

298.3 Revenues from the levies.

1. The revenue from the regular and voter-approved physical plant and equipment levies shall be placed in the physical plant and equipment levy fund and expended only for the following purposes:

a. The purchase and improvement of grounds. For the purpose of this paragraph:

(1) “*Purchase of grounds*” includes the legal costs relating to the property acquisition, costs of surveys of the property, costs of relocation assistance under state and federal law, and other costs incidental to the property acquisition.

(2) “*Improvement of grounds*” includes grading, landscaping, paving, seeding, and planting of shrubs and trees; constructing sidewalks, roadways, retaining walls, sewers and storm drains, and installing hydrants; surfacing and soil treatment of athletic fields and

tennis courts; exterior lighting, including athletic fields and tennis courts; furnishing and installing flagpoles, gateways, fences, and underground storage tanks which are not parts of building service systems; demolition work; and special assessments against the school district for public improvements, as defined in section 384.37.

b. The construction of schoolhouses or buildings and opening roads to schoolhouses or buildings.

c. The purchase, lease, or lease-purchase of equipment or technology exceeding five hundred dollars in value per purchase, lease, or lease-purchase transaction. Each transaction may include multiple equipment or technology units.

d. The payment of debts contracted for the erection or construction of schoolhouses or buildings, not including interest on bonds.

e. Procuring or acquisition of library facilities.

f. Repairing, remodeling, reconstructing, improving, or expanding the schoolhouses or buildings and additions to existing schoolhouses. For the purpose of this paragraph:

(1) “*Repairing*” means restoring an existing structure or thing to its original condition, as near as may be, after decay, waste, injury, or partial destruction, but does not include maintenance.

(2) “*Reconstructing*” means rebuilding or restoring as an entity a thing which was lost or destroyed.

g. Expenditures for energy conservation, including payments made pursuant to a guarantee furnished by a school district entering into a financing agreement for energy management improvements, limited to agreements pursuant to section 473.19, 473.20, or 473.20A.

h. The rental of facilities under chapter 28E.

i. The purchase of transportation equipment for transporting students and the repair of such transportation equipment if the cost of the repair exceeds two thousand five hundred dollars. For the purposes of this paragraph, “*repair*” means restoring an existing item of equipment to its original condition, as near as may be, after gradual obsolescence or physical and functional depreciation due to wear and tear, corrosion and decay, or partial destruction, and includes maintenance of an item of equipment.

j. The purchase of buildings or lease-purchase option agreements for school buildings. However, a contract for construction by a private party of property to be lease-purchased by a public school corporation is a contract for a public improvement as defined in section 26.2. If the estimated cost of the property to be lease-purchased that is renovated, repaired, or involves new construction exceeds the competitive bid threshold in section 26.3, the board of directors shall comply with the competitive bidding requirements of section 26.3.

k. Equipment purchases for recreational purposes.

l. Payments to a municipality or other entity as required under section 403.19, subsection 2.

m. Demolition, cleanup, and other costs if such costs are necessitated by, and incurred within two years of, a disaster as defined in section 29C.2, subsection 4.

2. Interest earned on money in the physical plant and equipment levy fund may be expended for a purpose listed in this section.

3. Unencumbered funds collected prior to July 1, 1991, from the levy previously authorized under section 297.5, Code 1991, may be expended for the purposes listed in this section.

4. Revenue from the regular and voter-approved physical plant and equipment levies shall not be expended for school district employee salaries or travel expenses, supplies, printing costs or media services, or for any other purpose not expressly authorized in this section.

89 Acts, ch 135, §108; 92 Acts, ch 1187, §8, 9; 94 Acts, ch 1029, §24, 25; 94 Acts, ch 1141, §1, 2; 94 Acts, ch 1175, §14; 97 Acts, ch 182, §3; 2000 Acts, ch 1054, §1, 3; 2002 Acts, ch 1118, §1; 2003 Acts, ch 13, §1, 2; 2008 Acts, ch 1041, §2; 2009 Acts, ch 65, §9; 2009 Acts, ch 133, §109; 2011 Acts, ch 132, §20, 30, 106; 2015 Acts, ch 105, §1, 2; 2018 Acts, ch 1041, §127; 2018 Acts, ch 1075, §9, 12, 13; 2018 Acts, ch 1172, §27, 71, 72

Referred to in §279.41, 423E.4, 423F.3

2018 amendments to subsection 1, paragraph j, apply to lease-purchase contracts entered into on or after April 4, 2018; 2018 Acts, ch 1075, §12, 13; 2018 Acts, ch 1172, §71, 72

298.4 District management levy.

1. The board of directors of a school district may certify for levy by April 15 of a school year, a tax on all taxable property in the school district for a district management levy. The revenue from the tax levied in this section shall be placed in the district management levy fund of the school district. The district management levy shall be expended only for the following purposes:

- a. To pay the cost of unemployment benefits as provided in section 96.31.
- b. To pay the costs of liability insurance and the costs of a judgment or settlement relating to liability together with interest accruing on the judgment or settlement to the expected date of payment.
- c. To pay the costs of insurance agreements under section 296.7.
- d. To pay the costs of a judgment under section 298.16.
- e. To pay the cost of early retirement benefits to employees under section 279.46.
- f. To pay the costs of mediation and arbitration, including but not limited to legal fees associated with such mediation or arbitration.

2. Unencumbered funds collected from the levies authorized in sections 96.31, 279.46, and 296.7 prior to July 1, 1991, may be expended for the purposes listed in subsection 1, paragraphs “a”, “c”, and “e”.

89 Acts, ch 135, §109; 90 Acts, ch 1168, §41; 92 Acts, ch 1187, §10; 93 Acts, ch 1, §11; 94 Acts, ch 1029, §26, 27; 2010 Acts, ch 1061, §103; 2010 Acts, ch 1193, §48; 2015 Acts, ch 50, §1, 2

Referred to in §96.31, 257.19, 296.7, 298A.3, 670.10

298.5 Taxes estimated.

School corporations containing territory in adjoining counties may vote and estimate all taxes for school purposes in dollars and cents per thousand dollars of assessed value.

[C97, §2806; S13, §2806; C24, 27, 31, 35, 39, §4389; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §298.5]

298.6 Public disclosure of outstanding levies.

The board of directors of a school district shall, prior to certifying any levy by board approval, or submitting a levy for voter approval, facilitate public access to a complete listing of all outstanding levies within the school district by rate, amount, duration, and the applicable maximum levy limitations. The information relating to outstanding levies shall be posted on an internet site maintained by the school district by January 1 of each school year, and updated prior to board approval or submission for voter approval of any levy during the school year. If the school district does not maintain or develop an internet site, the school district shall either distribute or post written copies of the listing at specified locations throughout the school district.

2006 Acts, ch 1152, §15; 2009 Acts, ch 54, §11; 2013 Acts, ch 90, §257

298.7 Contract for use of library — tax levy.

1. The board of directors of a school corporation in which there is no free public library may contract with a free public library for the free use of the library by the residents of the school district, and pay the library the amount agreed upon for the use of the library as provided by law. During the existence of the contract, the board shall certify annually a tax sufficient to pay the library the consideration agreed upon, not exceeding twenty cents per thousand dollars of assessed value of the taxable property of the district. During the existence of the contract, the school corporation is relieved from the requirement that the school treasurer withhold funds for library purposes. This section does not apply in townships where a contract for other library facilities is in existence.

2. However, if a school district which is qualified to contract for library services under subsection 1 levies a tax not to exceed twenty cents per thousand dollars of assessed valuation of the taxable property for school library purposes in the fiscal year before a reorganization involving the district, the tax levy shall remain valid for succeeding fiscal years, and shall be levied and collected against the taxable property of the former district which is part of

the reorganized district for school library purposes. The contract and the tax levy may be discontinued by a petition signed by eligible electors residing in the former district. The petition requesting the discontinuance must be signed by no fewer than one hundred eligible electors or thirty percent of the number voting at the last preceding school election in the former district, whichever is greater. The petition must be filed with the secretary of the board of directors of the school district at least seventy-five days before the next regular school election. The proposal to discontinue the levy shall be deemed adopted if the vote in favor of the discontinuance is equal to at least a majority of the total vote cast on the proposal by the electors of the former school district.

[S13, §2806; C24, 27, 31, 35, 39, §4391; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §298.7]
84 Acts, ch 1288, §1; 93 Acts, ch 74, §1
Referred to in §298A.7

298.8 Levy by board of supervisors.

The board of supervisors shall at the time of levying taxes for county purposes levy the taxes necessary to raise the various funds authorized by law and certified to it by law, but if the amount certified for any such fund is in excess of the amount authorized by law, it shall levy only so much thereof as is authorized by law.

[R60, §2059; C73, §1779, 1780; C97, §2807; SS15, §1303; C24, 27, 31, 35, 39, §4393; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §298.8]
Referred to in §294.12, 294.13, 294.14

298.9 Special levies.

If the voter-approved physical plant and equipment levy, consisting solely of a physical plant and equipment property tax levy, is approved by the voters at an election held on a date specified in section 39.2, subsection 4, paragraph “c”, and certified to the board of supervisors after the regular levy is made, the board shall at its next regular meeting levy the tax and cause it to be entered upon the tax list to be collected as other school taxes. If the certification is filed prior to May 1, the annual levy shall begin with the tax levy of the year of filing. If the certification is filed after May 1 in a year, the levy shall begin with the levy of the fiscal year succeeding the year of the filing of the certification.

[C97, §2807; SS15, §1303; C24, 27, 31, 35, 39, §4394; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §298.9]
89 Acts, ch 135, §110; 95 Acts, ch 67, §23; 96 Acts, ch 1215, §54; 2008 Acts, ch 1115, §49, 71; 2009 Acts, ch 57, §81, 97

298.10 Levy for cash reserve.

1. The board of directors of a school district may certify for levy by April 15 of a school year, a tax on all taxable property in the school district in order to raise an amount for a necessary cash reserve for a school district’s general fund. The amount raised for a necessary cash reserve does not increase a school district’s authorized expenditures as defined in section 257.7.

2. For fiscal years beginning on or after July 1, 2009, if the school budget review committee determines that a school district’s unexpended fund balance is in excess of the amount necessary for operations, the school budget review committee shall direct the school district to use the unexpended fund balance in lieu of levying property taxes and shall direct the department of management to do one of the following:

a. For the fiscal period beginning July 1, 2009, and ending June 30, 2012, limit the school district’s cash reserve levy to a level that is not excessive as determined by the school budget review committee.

b. For fiscal years beginning on or after July 1, 2012, limit the school district’s cash reserve levy to a level that is not excessive as determined by the school budget review committee and does not exceed the cash reserve limitation in subsection 3.

3. For fiscal years beginning on or after July 1, 2012, the cash reserve levy for a budget year shall not exceed twenty percent of the general fund expenditures for the year previous

to the base year minus the unexpended fund balance, as defined in section 257.2, for the year previous to the base year.

[81 Acts, ch 94, §1, 18; 82 Acts, ch 1128, §1, 5]

89 Acts, ch 135, §111; 93 Acts, ch 1, §12; 2009 Acts, ch 183, §70, 74; 2010 Acts, ch 1004, §7, 8, 10

Referred to in §257.31

298.11 Apportionment of school funds.

1. The county auditor shall, on the first Monday in April and the first Monday in October of each year, apportion the school tax, together with rents on unsold school lands to which the county is entitled as shown in notice from the director of the department of administrative services, and all other moneys in the hands of the county treasurer belonging in common to the schools of the county and not included in a previous apportionment, among the corporations in the county in the manner provided by law.

2. The county auditor shall immediately notify the county treasurer of such apportionment and of the amount due thereby to each corporation.

3. The county treasurer shall thereupon give notice to the president of each corporation, and shall pay out such apportionment moneys in the same manner that the county treasurer is authorized to pay other school moneys to the treasurers of the several school districts.

[R60, §1966, 2060, 2061; C73, §1781, 1782, 1841; C97, §2808; S13, §2808; C24, 27, 31, 35, 39, §4396; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §298.11]

86 Acts, ch 1016, §6; 2003 Acts, ch 145, §286; 2017 Acts, ch 54, §76

Referred to in §331.502, 331.552

298.12 Reserved.

298.13 Direct deposit of tax revenue.

Before the fifteenth day of each month, the county treasurer shall send the amount collected for each fund through the last day of the preceding month for direct deposit into the depository and account designated by the school board. The county treasurer shall send a notice to the secretary of the school board stating the amount deposited, the date, the amount to be credited to each fund according to the budget, and the source of revenue.

[C73, §1784, 1785; C97, §2810; C24, 27, 31, 35, 39, §4398; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, S81, §298.13; 81 Acts, ch 117, §1210; 82 Acts, ch 1195, §1]

Referred to in §331.552, 331.558

298.14 School district income surtaxes.

1. For each fiscal year, the cumulative total of the percents of surtax approved by the board of directors of a school district and collected by the department of revenue under sections 257.21, 257.29, and 298.2, and the enrichment surtax under section 442.15, Code 1989, and an income surtax collected by a political subdivision under chapter 422D, shall not exceed twenty percent.

2. A school district income surtax fund is created in the office of treasurer of state. Income surtaxes collected by the department of revenue under sections 257.21, 257.29, and 298.2 and section 442.15, Code 1989, shall be deposited in the school district income surtax fund to the credit of each school district. A separate accounting of each surtax, by school district, shall be maintained.

3. The director of the department of administrative services shall draw warrants in payment of the surtaxes collected in each school district. Warrants shall be payable in two installments to be paid on approximately the first day of December and the first day of February following collection of the taxes and shall be delivered to the respective school districts.

89 Acts, ch 135, §112; 92 Acts, ch 1226, §1; 2000 Acts, ch 1072, §2; 2003 Acts, ch 145, §234; 2017 Acts, ch 54, §76

Referred to in §257.19, 257.24, 257.26, 257.29, 298.2

See also §422D.2 for limit on total surtax

298.15 Payment of judgment.

When a judgment shall be obtained against a school corporation, its board shall order the payment thereof out of the proper fund by an order on the treasurer, not in excess, however, of the funds available for that purpose.

[R60, §2095; C73, §1787; C97, §2811; C24, 27, 31, 35, 39, §4400; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §298.15]

298.16 Judgment tax.

If the proper fund is not sufficient, then, unless its board has provided by the issuance of bonds for raising the amount necessary to pay a judgment, the cost of the judgment shall be included in the district management levy.

[R60, §2095; C73, §1787; C97, §2811; C24, 27, 31, 35, 39, §4401; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §298.16]

89 Acts, ch 135, §113

Referred to in §298.4

298.17 Reserved.

298.18 Bond tax — election — leasing buildings.

1. a. The board of each school corporation shall, when estimating and certifying the amount of money required for general purposes, estimate and certify to the board of supervisors of the proper county for the debt service fund the amount required to pay interest due or that may become due for the fiscal year beginning July 1, thereafter upon lawful bonded indebtedness, and in addition thereto such amount as the board may deem necessary to apply on the principal.

b. The amount estimated and certified to apply on principal and interest for any one year shall not exceed two dollars and seventy cents per thousand dollars of the assessed valuation of the taxable property of the school corporation except as otherwise provided in this section.

c. For the sole purpose of computing the amount of bonds which may be issued as a result of the application of any limitation referred to in this section, all interest on the bonds in excess of that accruing in the first twelve months may be excluded from the first annual levy of taxes, so that the need for including more than one year’s interest in the first annual levy of taxes to pay the bonds and interest shall not operate to further restrict the amount of bonds which may be issued, and in certifying the annual levies to the county auditor or auditors such first annual levy of taxes shall be sufficient to pay all principal of and interest on said bonds becoming due prior to the next succeeding annual levy and the full amount of such first annual levy shall be entered for collection by said auditor or auditors, as provided in chapter 76.

d. The amount estimated and certified to apply on principal and interest for any one year may exceed two dollars and seventy cents per thousand dollars of assessed value by the amount approved by the voters of the school corporation, but not exceeding four dollars and five cents per thousand dollars of the assessed value of the taxable property within any school corporation, provided that the registered voters of such school corporation have first approved such increased amount at an election held on a date specified in section 39.2, subsection 4, paragraph “c”.

2. The proposition submitted to the voters at such election shall be in substantially the following form:

Shall the board of directors of the (insert name of school corporation) in the County of, State of Iowa, be authorized to levy annually a tax exceeding two dollars and seventy cents per thousand dollars, but not exceeding dollars and cents per thousand dollars of the assessed value of the taxable property within said school corporation to pay the principal of and interest on bonded indebtedness of said school corporation, it being understood that the approval of this proposition shall not

limit the source of payment of the bonds and interest but shall only operate to restrict the amount of bonds which may be issued?

3. Notice of the election shall be given by the county commissioner of elections according to section 49.53. The county commissioner of elections shall conduct the election pursuant to the provisions of chapters 39 through 53 and certify the results to the board of directors. The proposition shall not be deemed carried or adopted unless the vote in favor of such proposition is equal to at least sixty percent of the total vote cast for and against the proposition at the election. Whenever such a proposition has been approved by the voters of a school corporation as hereinbefore provided, no further approval of the voters of such school corporation shall be required as a result of any subsequent change in the boundaries of such school corporation.

4. The voted tax levy referred to in this section shall not limit the source of payment of bonds and interest but shall only restrict the amount of bonds which may be issued.

5. a. The ability of a school corporation to exceed two dollars and seventy cents per thousand dollars of assessed value to service principal and interest payments on bonded indebtedness is limited and conferred only to those school corporations engaged in the administration of elementary and secondary education.

b. If a school corporation leases a building or property, which has been used as a junior college by such corporation, to a community college, the annual amounts certified as herein provided by such leasing school corporation for payment of interest and principal due on lawful bonded indebtedness incurred by such leasing school corporation for purchasing, building, furnishing, reconstructing, repairing, improving, or remodeling the building leased or acquiring or adding to the site of such property leased, to the extent of the respective annual rent the school corporation will receive under such lease, shall not be considered as a part of the total amount estimated and certified for the purposes of determining if such amount exceeds any limitation contained in this section.

[C73, §1823; C97, §2813; S13, §2813; C24, 27, 31, 35, 39, §4403; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §298.18]

90 Acts, ch 1253, §109; 94 Acts, ch 1029, §28; 2001 Acts, ch 56, §14; 2008 Acts, ch 1115, §50, 71; 2009 Acts, ch 133, §110; 2010 Acts, ch 1061, §49

Referred to in §292.1, 292.2, 298.18A, 298.19, 423F.3

298.18A Levy adjustment.

If, in the opinion of the board of a school corporation, after having originally estimated and certified the amount required to pay interest and principal due upon bonded indebtedness incurred before July 1, 1995, an adjustment in the amount certified in excess of that previously levied by the resolution authorizing issuance of the bonds becomes necessary in anticipation of future projected revenue shortfalls resulting from a machinery and equipment-related taxable valuation decrease from the valuation as of January 1, 1994, an adjustment shall be permitted subject to the following limitations:

1. An adjustment shall be permitted only in a district in which machinery and equipment valuation exceeds twenty percent of total taxable valuation as of January 1, 1994.

2. The adjustment shall not result in a total amount levied in excess of the two dollar and seventy cent per thousand dollars of assessed valuation limit provided in section 298.18. An adjustment in excess of the two dollar and seventy cent per thousand dollars of assessed valuation limit shall be subject to the election provisions for increases of up to four dollars and five cents per thousand dollars of assessed valuation provisions of section 298.18.

3. The amount of the adjustment, when added to the amount originally estimated and certified, for any one year, shall not exceed the least of:

a. The amount required to pay interest and principal due upon bonded indebtedness for the three-year period beginning on the date of the adjustment.

b. One hundred twenty-five percent of the amount originally estimated and certified.

c. One hundred ten percent of the total district levies for the fiscal year preceding the fiscal year in which the adjustment is to be added.

4. The amount of the adjustment plus the amount of state replacement moneys received under section 427B.19A which is attributable to the amount of the adjustment, when added to

the amount originally estimated and certified, shall not result in the levying of an amount over the life of the issue in excess of the amount necessary for principal and interest repayment.

5. Amounts collected pursuant to this section shall be deposited in a separate debt service account distinct from the account established to hold principal and interest revenues resulting from the original levy.

6. An adjustment shall not be permitted which results in extending a levy beyond the earlier of the following:

a. Ten years from the original date of certification of the amount required to pay interest and principal.

b. June 30, 2007.

96 Acts, ch 1179, §1; 2008 Acts, ch 1115, §51, 71

Referred to in §423F.3

298.19 Levy.

The board of supervisors of the county to which the certificate is addressed within the contemplation of section 298.18 shall levy the necessary tax to raise the amount estimated, or so much thereof as may be lawful and within the limitation of said section which levy shall be made as other taxes for school purposes.

[S13, §2813-a; C24, 27, 31, 35, 39, §4404; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §298.19]

298.20 Funding or refunding bonds.

For the purpose of providing for the payment of any indebtedness of any school corporation represented by judgments or bonds, the board of directors of such school corporation, at any time or times, may provide by resolution for the issuance of bonds of such school corporation, to be known as funding or refunding bonds. The proceeds derived from the public or private sale of such funding or refunding bonds shall be applied in payment of such indebtedness; or the funding bonds or refunding bonds may be issued in exchange for the evidences of such indebtedness, par for par.

[S13, §2812-c; C24, 27, 31, 35, 39, §4405; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §298.20]

90 Acts, ch 1272, §74

298.21 School bonds.

The board of directors of any school corporation when authorized by the voters at an election held on a date specified in section 39.2, subsection 4, paragraph “c”, may issue the negotiable, interest-bearing school bonds of the corporation for borrowing money for any or all of the following purposes:

1. To acquire sites for school purposes.
2. To erect, complete, or improve buildings authorized for school purposes.
3. To acquire equipment for schools, sites, and buildings.

[S13, §2812-d; C24, 27, 31, 35, 39, §4406; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §298.21]

2008 Acts, ch 1115, §52, 71

Vote required to authorize bonds, §75.1

298.22 Form — rate of interest — where registered.

1. All of said bonds shall be substantially in the form provided for county bonds, but subject to changes that will conform them to the action of the board providing therefor; shall run not more than twenty years, and may be sooner paid if so nominated in the bond; bear a rate of interest not exceeding that permitted by chapter 74A, payable semiannually; be signed by the president and countersigned by the secretary of the board of directors; and shall not be disposed of for less than par value, nor issued for other purposes than this chapter provides.

2. All of said bonds, when issued, shall be delivered to the secretary of the board of directors, who shall register them in a book to be kept for that purpose, and shall deliver them when they have been properly countersigned.

3. The expenses of engraving and printing of bonds may be paid out of the general fund. [S13, SS15, §2812-e; C24, 27, 31, 35, 39, §4407; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §298.22]

2017 Acts, ch 54, §76

Form of county bonds, §331.446

298.23 Redemption.

Whenever the amount in the hands of the treasurer, belonging to the funds set aside to pay bonds, is sufficient to redeem one or more of the bonds which by their terms are subject to redemption, the treasurer shall give the owner of said bonds thirty days' written notice of the readiness of the district to pay and the amount it desires to pay. If not presented for payment or redemption within thirty days after the date of such notice, the interest on such bonds shall cease and the amount due thereon shall be set aside for its payment whenever it is presented.

[S13, §2812-f; C24, 27, 31, 35, 39, §4408; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §298.23]

298.24 Record of bond buyers.

All redemptions shall be made in the order of their numbers. The treasurer shall keep a record of the parties to whom the bonds are sold, together with their post office addresses, and notice mailed to the address as shown by such record shall be sufficient.

[S13, §2812-f; C24, 27, 31, 35, 39, §4409; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §298.24]

CHAPTER 298A

SCHOOL DISTRICT FUND STRUCTURE

Referred to in §256C.4, 274.3

298A.1	Effective date.	298A.7	Library levy fund.
298A.2	General fund — flexibility account.	298A.8	Student activity fund.
298A.3	District management levy fund.	298A.9	Capital project funds.
298A.4	Physical plant and equipment levy fund.	298A.10	Debt service fund.
298A.5	Schoolhouse tax levy fund. Repealed by 2013 Acts, ch 88, §37.	298A.11	School nutrition fund.
298A.6	Public education and recreation levy fund.	298A.12	Child care fund.
		298A.13	Trust, permanent, or custodial funds.
		298A.14	Other funds.
		298A.15	Entrepreneurial education funds.

298A.1 Effective date.

This chapter establishes the fund structure which shall be used by school districts commencing with the school budget year which begins on July 1, 1995.

94 Acts, ch 1029, §1

298A.2 General fund — flexibility account.

1. All moneys received by a school corporation from taxes and other sources must be accounted for in the general fund, except moneys required by law to be accounted for in another fund.

2. a. A flexibility account shall be established in the general fund of each school corporation if the school corporation has authorized the transfer of all or a portion of the unexpended and unobligated funds from any of the following sources following a determination that the statutory requirements for such funds are met:

(1) An approved local program under the statewide preschool program for four-year-old children under chapter 256C.

(2) Professional development funds received under section 257.10, subsection 10.

(3) The home school assistance program under section 299A.12.

b. In addition to the transfers to the flexibility account authorized by law, a school district may transfer to the flexibility account all or a portion of any unexpended and unobligated moneys in any other school district fund or school district general fund account if the program, purpose, or requirements for the expenditure of such moneys have been repealed or are no longer in effect.

c. Moneys deposited in the flexibility account may be used by the school district during a budget year beginning in or after the calendar year in which the moneys were transferred to the flexibility account for any of the following:

(1) Start-up costs for an approved local program under the statewide preschool program for four-year-old children under chapter 256C.

(2) Professional development requirements under chapter 284.

(3) The home school assistance program under section 299A.12.

(4) At-risk pupils programs, alternative programs and alternative school programs, and returning dropout and dropout prevention programs under section 257.40.

(5) Gifted and talented children programs under section 257.46.

(6) For deposit in the unpaid student meals account to be used for purposes of paying student meal debt accrued by individual students in accordance with section 283A.11, subsection 6.

(7) Any school district general fund purpose.

d. Expenditures from the flexibility account shall be approved by resolution of the board of directors of the school corporation and shall be included in the budget certified in accordance with chapter 24. Before the board of directors may adopt the resolution approving expenditures from the flexibility account, the board shall hold a public hearing on the proposed resolution. The proposed resolution must state the original source and purpose of the funds, the proposed use of such funds, the amount of the proposed expenditure, and the fiscal year from which the transfer of such funds to the flexibility account occurred. The proposed resolution must also include a certification that the statutory requirements for each original source of the money proposed to be used have been met, have been repealed, or are no longer in effect. The board shall publish notice of the time and the place of the public hearing in the same manner as required in section 24.9. The department of education shall prescribe the form for public hearing notices. A copy of the resolution shall be provided by the board to the department of education and shall be made available by the board for any audit performed under chapter 11.

e. (1) When exercising authority to carry out an agency action, as defined in section 17A.2, or to perform an activity or make a decision specified in section 17A.2, subsection 11, paragraphs "a" through "l", if applicable, related to the provisions of this subsection, the department of education, the director of the department of education, and the state board of education shall carry out, perform, or make such agency action, activity, or decision in a manner that gives deference to decisions of school districts' boards of directors, promotes flexibility for school districts, and minimizes intrusions into school district operations and decision making by boards of directors.

(2) (a) In addition to subparagraph (1), the department of education, the director of the department of education, and the state board of education shall not issue guidance related to the provisions of this subsection, that is inconsistent with any statute, rule, or other legal authority or that imposes any legally binding obligations or duties upon any person unless such legally binding obligations or duties are required or reasonably implied by any statute, rule, or other legal authority. Guidance issued in violation of this subparagraph (2) shall not be deemed to be legally binding.

(b) For the purposes of this subparagraph (2), "guidance" means a document or statement issued by the department of education, the director of the department of education, or the state board of education that purports to interpret a law, a rule, or other legal authority and is designed to provide advice or direction to a person regarding the implementation of or compliance with the law, the rule, or the other legal authority being interpreted. "Guidance" does not include any action, activity, or decision governed by subparagraph (1), a document or statement required by federal law or a court, or a document or statement issued in the

course of a contested case proceeding, an administrative proceeding, or a judicial proceeding to which the department, the state board, or the director is a party.

94 Acts, ch 1029, §2; 2017 Acts, ch 154, §6; 2018 Acts, ch 1127, §3

Referred to in §256C.4, 257.10, 257.41, 257.46, 283A.11, 284.6, 299A.12

298A.3 District management levy fund.

The district management levy fund is a special revenue fund. A district management levy fund must be established in any school corporation which levies the tax authorized under section 298.4.

94 Acts, ch 1029, §3

298A.4 Physical plant and equipment levy fund.

The physical plant and equipment levy fund is a capital project fund. A physical plant and equipment levy fund must be established in any school corporation which levies the tax authorized, whether regular or voter-approved, under section 298.2.

94 Acts, ch 1029, §4; 2013 Acts, ch 88, §30

298A.5 Schoolhouse tax levy fund. Repealed by 2013 Acts, ch 88, §37.

298A.6 Public education and recreation levy fund.

The public education and recreation levy fund is a special revenue fund. A public education and recreation levy fund must be established in any school corporation which levies the tax authorized under section 300.2 or which receives revenue from a chapter 28E agreement authorized under section 300.1.

94 Acts, ch 1029, §6

298A.7 Library levy fund.

The library levy fund is a special revenue fund. A library levy fund must be established in any school corporation which levies the tax authorized under section 298.7.

94 Acts, ch 1029, §7

298A.8 Student activity fund.

1. The student activity fund is a special revenue fund. A student activity fund must be established in any school corporation receiving money from student-related activities such as admissions, activity fees, student dues, student fund-raising events, or other student-related cocurricular or extracurricular activities. Moneys in this fund shall be used to support only the cocurricular program defined in department of education administrative rules.

2. For school budget years beginning on or after July 1, 2016, the board of directors of a school corporation may, by board resolution, transfer from the school corporation's general fund to the student activity fund an amount necessary to purchase or recondition protective and safety equipment required for any extracurricular interscholastic athletic contest or competition that is sponsored or administered by an organization as defined in section 280.13.

94 Acts, ch 1029, §8; 2017 Acts, ch 153, §16 – 18; 2018 Acts, ch 1112, §13, 16, 17

Referred to in §298A.15

2017 amendment takes effect May 11, 2017, and applies retroactively to July 1, 2016, for school budget years beginning on or after that date; 2017 Acts, ch 153, §17, 18

2018 amendment to subsection 2 applies to school budget years beginning on or after July 1, 2018; 2018 Acts, ch 1112, §17

298A.9 Capital project funds.

A capital project fund must be established in any school corporation which issues bonds or other authorized indebtedness for capital projects or which initiates a capital project, or which receives grants or other funds for capital projects. Boards are authorized to establish more than one capital project fund as necessary. Any balance remaining in a capital project fund after the capital project is completed may be retained for future capital projects in accordance with the original purpose of the bond issue or voter-approved levy; or may be transferred, by board resolution, to the debt service fund, to the physical plant and equipment levy fund or

another capital project fund, or to the fund from which the surplus originated; or transferred to the general fund in accordance with section 278.1, subsection 1, paragraph “e”.

94 Acts, ch 1029, §9; 2013 Acts, ch 88, §31

298A.10 Debt service fund.

A debt service fund must be established in any school corporation which issues bonds or other authorized indebtedness. The debt service fund shall be used to pay interest as it becomes due and the amount necessary to pay the principal when due on bonds or other authorized indebtedness issued by the district, and to make payments required under a loan, lease-purchase agreement, or other evidence of indebtedness authorized by this Code. Moneys available to service this debt and received from other sources shall be transferred to the debt service fund and the payment of the debt shall be made from this fund. Funds remaining in the debt service fund after payment of all outstanding debt in accordance with the original purpose of the indebtedness may be transferred by board resolution to the physical plant and equipment levy fund or transferred to the general fund in accordance with section 278.1, subsection 1, paragraph “e”.

94 Acts, ch 1029, §10

298A.11 School nutrition fund.

A school nutrition fund is an enterprise fund. A school nutrition fund must be established in any school corporation receiving moneys from the school meal program authorized under chapter 283A.

94 Acts, ch 1029, §11; 95 Acts, ch 67, §24

Referred to in §283A.11

298A.12 Child care fund.

1. A child care fund is an enterprise fund. A child care fund must be established in any school corporation receiving moneys from the child care program authorized under section 279.49.

2. If the sum of the fees collected under section 279.49 for participation in a before and after school program and other moneys deposited in the fund as the result of the before and after school program exceeds the amount necessary to operate the before and after school program, the excess amount may, following a public hearing, be transferred by resolution of the board of directors of the school corporation for deposit in the general fund of the school corporation to be used for school district general fund purposes. The board shall publish notice of the time and the place of the public hearing in the same manner as required in section 24.9. The resolution transferring the excess amount shall state the original source and purpose of the funds, the method used to establish fee amounts for the before and after school program under section 279.49, subsection 4, the proposed use of such funds, and the amount of the transfer. The department of education shall prescribe the form for public hearing notices. The board shall provide a copy of the resolution to the department of education and shall make the resolution available for any audit performed under chapter 11. A transfer under this subsection does not increase a school district’s authorized expenditures as defined in section 257.7.

94 Acts, ch 1029, §12; 99 Acts, ch 192, §33; 2018 Acts, ch 1112, §14, 16, 17

2018 amendment applies to school budget years beginning on or after July 1, 2018; 2018 Acts, ch 1112, §17

298A.13 Trust, permanent, or custodial funds.

Trust, permanent, or custodial funds shall be established by any school corporation to account for gifts it receives to be used for a particular purpose or to account for money and property received and administered by the district as trustee or custodian or in the capacity of an agent. Boards may establish trust, permanent, or custodial funds as necessary.

94 Acts, ch 1029, §13; 2013 Acts, ch 88, §32; 2020 Acts, ch 1022, §6

Section amended

298A.14 Other funds.

A school corporation may establish other funds in accordance with generally accepted accounting principles and may certify other taxes to be levied for the funds as provided by state law. The status of each fund must be included in the annual report. The treasurer shall keep a separate account for each fund, and shall not pay an order that fails to state the fund upon which it is drawn and the specific use to which it is to be applied.

94 Acts, ch 1029, §14

298A.15 Entrepreneurial education funds.

1. *Funds established — purposes.* For the purposes of enhancing student learning by encouraging students to develop and practice entrepreneurial skills at an early age and of fostering a business-ready workforce in this state, a school corporation may establish an entrepreneurial education fund at the request of a student organization or club and upon approval by the school board. An entrepreneurial education fund is a special revenue fund and shall consist only of moneys earned through entrepreneurial activities or returns on investments made for entrepreneurial purposes by the student organization or club, private donations and private contributions, and any interest earned on such moneys, that are deposited in the fund. Moneys in the fund shall be used only for investments made, or activities undertaken, for entrepreneurial purposes in accordance with this section. The student organization or club may designate an entrepreneurial purpose for the use of moneys in the fund in accordance with this section. A school corporation may expend moneys in the fund for use by the student organization or club in accordance with this section upon approval of the designated entrepreneurial purpose by the school board. A school organization or club shall deposit any return on an investment made with moneys from the fund in the school corporation's entrepreneurial education fund. The school corporation shall not transfer or contribute to the fund any other moneys that are not moneys earned through entrepreneurial activities or returns on investments made for entrepreneurial purposes by the student organization or club.

2. *Funds transferred.* At the request of a student organization or club and upon approval by the school board, a school corporation shall transfer moneys in a student activity fund established under section 298A.8, for deposit by the student organization or club in an entrepreneurial education fund. However, a school corporation shall not transfer such moneys unless the moneys are attributable through appropriate documentation to the specific student organization or club and unless the student organization or club shows through appropriate documentation that the student organization or club earned the moneys through entrepreneurial activities as defined in subsection 5, paragraph "a".

3. *Conflicts of interest prohibited.* A student organization or club shall not invest moneys from an entrepreneurial education fund for an entrepreneurial purpose in which a member of the student organization or club, an advisor or supervisor of the student organization or club, or an immediate family member of such persons, has a financial interest. Sections 279.7A and 301.28 apply to this section.

4. *Fund closure.* A school corporation shall close an entrepreneurial education fund at the request of the student organization or club for which the school corporation established the fund. All moneys in the fund on the date of closure and any subsequent return on an investment made with moneys from the fund shall be deposited in the school corporation's student activity fund established under section 298A.8.

5. *Definitions.* For purposes of this section:

a. "*Entrepreneurial activities*" means starting, maintaining, or expanding a business venture, including a seasonal business venture, or rendering other labor or services in return for compensation. "*Entrepreneurial activities*" does not include charitable contributions or other donations or gifts received by the student organization or club for which no labor or services are rendered.

b. "*Entrepreneurial purpose*" means establishing or investing in a start-up company, early-stage company, or existing company developing a new product or new technology if the investment is in keeping with the education program of the school corporation; if the student organization or club or its members will, as a stated condition of the investment,

take an active role in the company which active role directly relates to and furthers the educational purposes for which the student organization or club is established; and if a reasonable return upon the investment is expected.

c. “Immediate family member” means a spouse; natural or adoptive parent, child, or sibling; or stepparent, stepchild, or stepsibling.

2013 Acts, ch 71, §3 – 5

Referred to in §11.6, 12B.10

CHAPTER 299

COMPULSORY EDUCATION

Referred to in §135.105D, 232C.4, 234.4, 256B.6, 274.3, 299A.1, 714.19

299.1	Attendance requirements.	299.13	Civil enforcement.
299.1A	Compulsory attendance age.	299.14	Reserved.
299.1B	Failure to attend — driver’s license.	299.15	Reports by school officers and employees.
299.2	Exceptions.	299.16	Failure to attend — report. Repealed by 2009 Acts, ch 54, §14.
299.3	Reports from accredited nonpublic schools.	299.17	Reserved.
299.4	Reports as to private instruction.	299.18	Education of certain children who are deaf or hard of hearing, blind, or have severe disabilities.
299.5	Proof of mental or physical condition.	299.19	Proceeding against parent.
299.5A	Mediation.	299.20	Order.
299.6	Violations — community service or fine or imprisonment.	299.21	Contempt.
299.6A	Civil penalty — distribution of funds.	299.22	When deaf or hard of hearing and blind children excused.
299.7	Custody of records.	299.23	Agent of state board of regents.
299.8	“Truant” defined.	299.24	Religious groups exempted from school standards.
299.9	Truants — rules for punishment.		
299.10	Truancy officers — appointment.		
299.11	Duties of truancy officer.		
299.12	Violation of attendance policy — attendance cooperation meeting — agreement.		

299.1 Attendance requirements.

1. Except as provided in section 299.2, the parent, guardian, or legal or actual custodian of a child who is of compulsory attendance age shall cause the child to attend some public school or an accredited nonpublic school, or place the child under competent private instruction or independent private instruction in accordance with the provisions of chapter 299A, during a school year, as defined under section 279.10.

2. The board of directors of a public school district or the governing body of an accredited nonpublic school shall set the number of days or hours of required attendance for the schools under its control. The board of directors of a public school district or the governing body of an accredited nonpublic school may, by resolution, require attendance for the entire time when the schools are in session in any school year and adopt a policy or rules relating to the reasons considered to be valid or acceptable excuses for absence from school.

[S13, §2823-a; C24, 27, 31, 35, 39, §4410; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §299.1]

83 Acts, ch 17, §2, 4; 85 Acts, ch 6, §3; 88 Acts, ch 1087, §2; 88 Acts, ch 1259, §2, 3; 89 Acts, ch 265, §41; 91 Acts, ch 200, §3; 2010 Acts, ch 1061, §50; 2013 Acts, ch 121, §83, 85, 91

Referred to in §234.4, 279.10, 299.2, 299.6, 299.11, 299.12, 299A.1

299.1A Compulsory attendance age.

1. Except as provided in subsections 2 and 3, a child who has reached the age of six and is under sixteen years of age by September 15 is of compulsory attendance age. However, if

a child enrolled in a school district or accredited nonpublic school reaches the age of sixteen on or after September 15, the child remains of compulsory age until the end of the regular school calendar.

2. A child who has reached the age of five by September 15 and who is enrolled in a school district shall be considered to be of compulsory attendance age unless the parent or guardian of the child notifies the school district in writing of the parent's or guardian's intent to remove the child from enrollment in the school district.

3. A child who has reached the age of four by September 15 and who is enrolled in the statewide preschool program under chapter 256C shall be considered to be of compulsory attendance age unless the parent or guardian of the child submits written notice to the school district implementing the program of the parent's or guardian's intent to remove the child from enrollment in the preschool program.

91 Acts, ch 200, §4; 2001 Acts, ch 110, §1; 2012 Acts, ch 1119, §40; 2013 Acts, ch 78, §2, 3
Referred to in §256C.3, 299.6, 299.11, 299A.1

299.1B Failure to attend — driver's license.

A person who is of compulsory attendance age who does not meet the requirements for an exception under section 299.2, who does not attend a public school or an accredited nonpublic school, who is not receiving competent private instruction or independent private instruction in accordance with the provisions of chapter 299A, and who does not attend an alternative school or adult education classes, shall not receive an intermediate or full driver's license until age eighteen.

94 Acts, ch 1172, §32; 2005 Acts, ch 8, §1; 2013 Acts, ch 121, §92
Referred to in §299.6, 299.11, 299A.1, 321.213B
See §321.178

299.2 Exceptions.

Section 299.1 shall not apply to any child:

1. Who has completed the requirements for graduation in an accredited school or has obtained a high school equivalency diploma under chapter 259A.
2. Who is excused for sufficient reason by any court of record or judge.
3. While attending religious services or receiving religious instructions.
4. Who is attending a private college preparatory school accredited or probationally accredited under section 256.11, subsection 13.
5. Who has been excused under section 299.22.
6. Who is exempted under section 299.24.

[S13, §2823-a; C24, 27, 31, 35, 39, §4411; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §299.2]

86 Acts, ch 1245, §1490; 91 Acts, ch 200, §5
Referred to in §299.1, 299.1B, 299.6, 299.11, 299A.1, 321.178

299.3 Reports from accredited nonpublic schools.

Within ten days from receipt of notice from the secretary of the school district within which an accredited nonpublic school is conducted, the principal of the accredited nonpublic school shall, once during each school year, and at any time when requested in individual cases, furnish to the secretary of the public school district, within which the accredited nonpublic school is located, a certificate and report in duplicate on forms provided by the public school district of the names and ages of each pupil of the accredited nonpublic school who is of compulsory attendance age and the grade level of each pupil, during the preceding year and from the time of the last preceding report to the time at which a report is required. In addition, the report shall identify all students of compulsory attendance age who were truant as defined by law or school policy and the number of days of truancy for the period covered by the report, and children who dropped out, withdrew from enrollment, or transferred to another Iowa school and the date their attendance ceased at the accredited nonpublic school.

The secretary shall retain one of the reports and file the other with the secretary of the area education agency.

[S13, §2823-b; C24, 27, 31, 35, 39, §4412; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §299.3]

91 Acts, ch 200, §6; 93 Acts, ch 101, §207

Referred to in §299.6, 299.11, 299A.1

299.4 Reports as to private instruction.

1. The parent, guardian, or legal custodian of a child who is of compulsory attendance age, who places the child under competent private instruction under section 299A.2, not in an accredited school or a home school assistance program operated by a school district or accredited nonpublic school, shall furnish a report in duplicate on forms provided by the public school district, to the district by September 1 of the school year in which the child will be under competent private instruction. The secretary shall retain and file one copy and forward the other copy to the district's area education agency. The report shall state the name and age of the child, the period of time during which the child has been or will be under competent private instruction for the year, an outline of the course of study, texts used, and the name and address of the instructor. The parent, guardian, or legal custodian of a child, who is placing the child under competent private instruction for the first time, shall also provide the district with evidence that the child has had the immunizations required under section 139A.8, and, if the child is elementary school age, a blood lead test in accordance with section 135.105D. The term "*outline of course of study*" shall include subjects covered, lesson plans, and time spent on the areas of study.

2. A home school assistance program operated by a school district or accredited nonpublic school shall furnish a report on forms provided by the department. The report shall, at a minimum, state the name and age of the child and the period of time during the school year in which the child has been or will be under competent private instruction by the home school assistance program.

[S13, §2823-b; C24, 27, 31, 35, 39, §4413; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §299.4]

88 Acts, ch 1259, §4; 91 Acts, ch 200, §7; 92 Acts, ch 1135, §9; 2000 Acts, ch 1066, §45; 2007 Acts, ch 79, §4; 2008 Acts, ch 1191, §110; 2013 Acts, ch 121, §84 – 86

Referred to in §299.6, 299.11, 299A.1, 299A.3

299.5 Proof of mental or physical condition.

The parent, guardian, or legal or actual custodian of a child who is of compulsory attendance age, who is physically or mentally unable to attend school, or whose presence in school would be injurious to the health of other pupils, shall furnish proofs by certificate under sections 256B.6 and 256B.7 as to the physical or mental condition of the child.

[S13, §2823-b; C24, 27, 31, 35, 39, §4414; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §299.5]

88 Acts, ch 1259, §5; 91 Acts, ch 200, §8

Referred to in §282.3, 299.6, 299.11, 299.22

299.5A Mediation.

1. If a child is truant as defined in section 299.8, school officers shall attempt to find the cause for the child's absence and use every means available to the school to assure that the child does attend. For a child who has completed educational requirements through the sixth grade, the means may include but are not limited to the use of an attendance cooperation process which substantially conforms with the provisions of section 299.12. If the parent, guardian, or legal or actual custodian, or child refuses to accept the school's attempt to assure the child's attendance or the school's attempt to assure the child's attendance is otherwise unsuccessful, the truancy officer shall refer the matter to the county attorney for mediation or prosecution.

2. If the matter is referred for mediation, the county attorney shall cause a notice of the referral to be sent to the parent, guardian, or legal or actual custodian and designate a person to serve as mediator in the matter. If mediation services are available in the community,

those services may be used as the designated mediation service. If mediation services are not available in the community, mediation shall be provided by the county attorney or the county attorney's designee. The mediator shall contact the school, the parent, guardian, or legal or actual custodian, and any other person the mediator deems appropriate in the matter and arrange meeting dates and times for discussion of the child's nonattendance. The mediator shall attempt to ascertain the cause of the child's nonattendance, attempt to cause the parties to arrive at an agreement relative to the child's attendance, and initiate referrals to any agencies or counseling that the mediator believes to be appropriate under the circumstances.

3. If the parties reach an agreement, the agreement shall be reduced to writing and signed by a school officer, parent, guardian, or legal or actual custodian, and the child. The mediator, the school, and the parent, guardian, or legal or actual custodian shall each receive a copy of the agreement, which shall set forth the settlement of the issues and future responsibilities of each party.

4. The school district shall be responsible for monitoring any agreements arrived at through mediation. If a parent, guardian, or legal or actual custodian refuses to engage in mediation or violates a term of the agreement, the matter shall be rereferred to the county attorney for prosecution under section 299.6. The county attorney's office or the mediation service shall require the parent, guardian, or legal or actual custodian and the school to pay a fee to help defray the administrative cost of mediation services. The county attorney's office or the mediation service shall establish a sliding scale of fees to be charged parents, guardians, and legal or actual custodians based upon ability to pay. A parent, guardian, or legal or actual custodian shall not be denied the services of a mediator solely because of inability to pay the fee.

5. The mediator may refer a truant to the juvenile court if mediation breaks down without an agreement being reached.

91 Acts, ch 200, §9; 94 Acts, ch 1172, §33; 97 Acts, ch 174, §2; 2015 Acts, ch 29, §114

Referred to in §299.6, 299.11, 299.13

299.6 Violations — community service or fine or imprisonment.

1. Any person who violates a mediation agreement under section 299.5A, who is referred for prosecution under section 299.5A and is convicted of a violation of any of the provisions of sections 299.1 through 299.5, who violates any of the provisions of sections 299.1 through 299.5, or who refuses to participate in mediation under section 299.5A, commits a public offense.

a. A first offense is a simple misdemeanor and a conviction is punishable by imprisonment not exceeding ten days or a fine not exceeding one hundred dollars. The court may order the person to perform not more than forty hours of unpaid community service instead of any fine or imprisonment.

b. A second offense is a serious misdemeanor and a conviction is punishable by imprisonment not exceeding twenty days or a fine not exceeding five hundred dollars, or both a fine and imprisonment. The court may order the person to perform unpaid community service instead of any fine or imprisonment.

c. A third or subsequent offense is a serious misdemeanor and a conviction is punishable by imprisonment not exceeding thirty days or a fine not exceeding one thousand dollars, or both a fine and imprisonment. The court may order the person to perform unpaid community service instead of any fine or imprisonment.

2. If community service is imposed as part of a sentencing order, the court may require that part or all of the service be performed for a public school district or nonpublic school if the court finds that service in the school is appropriate under the circumstances.

3. If a parent, guardian, or legal or actual custodian of a child who is truant, has made reasonable efforts to comply with the provisions of sections 299.1 through 299.5, but is unable to cause the child to attend school, the parent, guardian, or legal or actual custodian may file an affidavit listing the reasonable efforts made by the parent, guardian, or legal or

actual custodian to cause the child's attendance and the parent, guardian, or legal or actual custodian shall not be criminally liable for the child's nonattendance.

[S13, §2823-a; C24, 27, 31, 35, 39, §4415; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §299.6]

88 Acts, ch 1259, §6; 91 Acts, ch 200, §10; 97 Acts, ch 174, §3; 2004 Acts, ch 1043, §5; 2013 Acts, ch 90, §73

Referred to in §299.5A, 299.6A, 299A.1

299.6A Civil penalty — distribution of funds.

1. In lieu of a criminal proceeding under section 299.6, a county attorney may bring a civil action against a parent, guardian, or legal or actual custodian of a child who is of compulsory attendance age, has not completed educational requirements, and is truant, if the parent, guardian, or legal or actual custodian has failed to cause the child to attend a public school or an accredited nonpublic school, or to place the child under competent private instruction or independent private instruction in the manner provided in this chapter. If the court finds that the parent, guardian, or legal or actual custodian has failed to cause the child to attend as required in this section, the court shall assess a civil penalty of not less than one hundred but not more than one thousand dollars for each violation established.

2. Funds received from civil penalties assessed pursuant to this section shall be paid to the school district of residence or school district of enrollment, if open enrolled, of the person against whom the court assessed the penalty. The school district shall use moneys received under this subsection to support programs for students who meet the definition of at-risk children adopted by the department of education.

97 Acts, ch 174, §4; 2004 Acts, ch 1043, §6; 2013 Acts, ch 121, §93; 2014 Acts, ch 1092, §63

299.7 Custody of records.

All such certificates, reports, and proofs shall be filed and preserved in the office of the secretary of the school corporation as a part of the records of the office, and the secretary shall furnish certified copies thereof to any person requesting the same.

[S13, §2823-b, -c; C24, 27, 31, 35, 39, §4416; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §299.7]

299.8 "Truant" defined.

Any child of compulsory attendance age who fails to attend school as provided in this chapter, or as required by the school board's or school governing body's attendance policy, or who fails to attend competent private instruction or independent private instruction under chapter 299A, without reasonable excuse for the absence, shall be deemed to be a truant. A finding that a child is truant, however, shall not by itself mean that the child is a child in need of assistance within the meaning of chapter 232 and shall not be the sole basis for a child in need of assistance petition.

[S13, §2823-e; C24, 27, 31, 35, 39, §4417; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §299.8]

91 Acts, ch 200, §11; 2013 Acts, ch 121, §94

Referred to in §299.5A

299.9 Truants — rules for punishment.

The board of directors of a public school district or the authorities in charge of an accredited nonpublic school shall prescribe reasonable rules for the punishment of truants.

[S13, §2823-d, -h; C24, 27, 31, 35, 39, §4418; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §299.9]

91 Acts, ch 200, §12

299.10 Truancy officers — appointment.

The board of each school district may appoint a truancy officer. The board of each school district, which does not appoint a truancy officer for the district, shall designate a suitable person to collect information on the numbers of children in the district who are truant.

The board may appoint a member of the police force, marshal, teacher, school official, or other suitable person to serve as the district truancy officer.

[S13, §2823-e; C24, 27, 31, 35, 39, §4419; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §299.10]

91 Acts, ch 200, §13

Referred to in §299.12

299.11 Duties of truancy officer.

1. The truancy officer may take into custody without warrant any apparently truant child and place the child in the charge of the school principal, or the principal's designee, designated by the board of directors of the school district in which the child resides, or in the charge of any nonpublic school or any authority providing competent private instruction or independent private instruction as defined in section 299A.1, designated by the parent, guardian, or legal or actual custodian; but if it is other than a public school, the instruction and maintenance of the child shall be without expense to the school district. If a child is taken into custody under this section, the truancy officer shall make every reasonable attempt to immediately notify the parent, guardian, or legal or actual custodian of the child's location.

2. The truancy officer shall promptly institute proceedings against any person violating any of the provisions of sections 299.1 through 299.5A.

[S13, §2823-e, -f; C24, 27, 31, 35, 39, §4420; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §299.11]

91 Acts, ch 200, §14; 2013 Acts, ch 121, §95

299.12 Violation of attendance policy — attendance cooperation meeting — agreement.

1. For the purposes of this section, "school truancy officer" means a truancy officer appointed under section 299.10 or any other person designated by a public school board or a governing body of an accredited nonpublic school to administer provisions of this section.

2. This section is not applicable to a child who is receiving competent private instruction or independent private instruction in accordance with the requirements of chapter 299A. If a child is not in compliance with the attendance requirements established under section 299.1, and has not completed educational requirements through the sixth grade, and the school has used every means available to assure the child does attend, the school truancy officer shall contact the child's parent, guardian, or legal or actual custodian to participate in an attendance cooperation meeting. The parties to the attendance cooperation meeting may include the child and shall include the child's parent, guardian, or legal or actual custodian and the school truancy officer. The school truancy officer contacting the participants in the attendance cooperation meeting may invite other school officials, a designee of the juvenile court, the county attorney or the county attorney's designee, or other persons deemed appropriate to participate in the attendance cooperation meeting.

3. The purpose of the attendance cooperation meeting is for the parties participating in the meeting to attempt to ascertain the cause of the child's nonattendance, to cause the parties to arrive at an agreement relative to addressing the child's attendance, and to initiate referrals to any services or counseling that the parties believe to be appropriate under the circumstances. The terms agreed to shall be reduced to writing in an attendance cooperation agreement and signed by the parties to the agreement. Each party signing the agreement shall receive a copy of the agreement, which shall set forth the cause identified for the child's nonattendance and future responsibilities of each party.

4. If the parties to an attendance cooperation meeting determine that a monitor would improve compliance with the attendance cooperation agreement, the parties may designate a person to monitor the agreement. The monitor shall be a designee of the public school board or governing body of the accredited nonpublic school. The monitor may be a volunteer if the volunteer is approved by all parties to the agreement and receives a written authorization for access to confidential information and for performing monitor activities from the child's parent, guardian, or custodian. A monitor shall contact parties to the attendance cooperation agreement on a periodic basis as appropriate to monitor performance of the agreement.

5. If the parties fail to enter into an attendance cooperation agreement, or the child's parent, guardian, or custodian acting as a party violates a term of the attendance cooperation agreement or fails to participate in an attendance cooperation meeting, the child shall be deemed to be truant.

6. A public school board or governing body of an accredited nonpublic school shall exercise the authority granted under this section as a means of increasing and ensuring school attendance of young children, as education is a critical element in the success of individuals and good attendance habits should be developed and reinforced at an early age.

97 Acts, ch 41, §32; 97 Acts, ch 174, §5, 7; 2004 Acts, ch 1043, §7, 8, 10; 2013 Acts, ch 121, §96

Referred to in §299.5A, 299.13

299.13 Civil enforcement.

A person shall not disseminate or redisseminate information shared with the person pursuant to section 299.5A or 299.12, unless specifically authorized to do so by section 217.30, 299.5A, or 299.12. Unless a prohibited dissemination or redissemination of information is subject to injunction or sanction under other state or federal law, an action for judicial enforcement may be brought in accordance with this section. An aggrieved person, the attorney general, or a county attorney may seek judicial enforcement of the requirements of this section in an action brought against the public school or accredited nonpublic school or any other person who has been granted access to information pursuant to section 299.5A or 299.12. Suits to enforce this section shall be brought in the district court for the county in which the information was disseminated or redisseminated. Upon a finding by a preponderance of the evidence that a person has violated this section, the court shall issue an injunction punishable by civil contempt ordering the person in violation of this section to comply with the requirements of, and to refrain from any violations of section 299.5A or 299.12 with respect to the dissemination or redissemination of information shared with the person pursuant to section 299.5A or 299.12.

97 Acts, ch 174, §6; 2004 Acts, ch 1043, §9

299.14 Reserved.

299.15 Reports by school officers and employees.

All school officers and employees shall promptly report to the secretary of the school corporation any violations of the truancy law of which they have knowledge, and the secretary shall inform the president of the board of directors who shall, if necessary, call a meeting of the board to take such action thereon as the facts justify.

[S13, §2823-g; C24, 27, 31, 35, 39, §4424; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §299.15]

299.16 Failure to attend — report. Repealed by 2009 Acts, ch 54, §14.

299.17 Reserved.

299.18 Education of certain children who are deaf or hard of hearing, blind, or have severe disabilities.

Children who are of compulsory attendance age and who are so deaf or hard of hearing, or blind, or have such severe disabilities so as to be unable to obtain an education in the public or accredited nonpublic schools shall be sent to the appropriate state-operated school, or shall receive appropriate special education under chapter 256B, unless exempted, and any person having such a child under the person's control or custody shall see that the child attends the state-operated school or special education program during the scholastic year.

[S13, §2718-c; C24, 27, 31, 35, 39, §4427; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §299.18]

91 Acts, ch 200, §16; 96 Acts, ch 1129, §76; 2020 Acts, ch 1102, §21

Referred to in §299.19, 299.20
Section amended

299.19 Proceeding against parent.

Upon the failure of a person having the custody and control of a child who is blind, deaf or hard of hearing, or has severe disabilities to require the child's attendance as provided in section 299.18, the state board of regents may make application to the district court or the juvenile court of the county in which the person resides for an order requiring the person to compel the attendance of the child at the proper state-operated school.

[S13, §2718-d, -e; C24, 27, 31, 35, 39, §4428; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §299.19]

91 Acts, ch 200, §17; 96 Acts, ch 1129, §77; 2020 Acts, ch 1102, §22

Referred to in §299.20

Section amended

299.20 Order.

Upon the filing of the application mentioned in section 299.19, the time of hearing shall be determined by the juvenile court or the district court. If, upon hearing, the court determines that the person required to appear has the custody and control of a child who should be required to attend a state-operated school under section 299.18, the court shall make an order requiring the person to keep the child in attendance at the state-operated school.

[C24, 27, 31, 35, 39, §4429; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §299.20]

91 Acts, ch 200, §18

299.21 Contempt.

A failure to comply with the order of the court shall subject the person against whom the order is made to punishment the same as in ordinary contempt cases.

[C24, 27, 31, 35, 39, §4430; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §299.21]

Contempts, chapter 665

299.22 When deaf or hard of hearing and blind children excused.

Attendance at the state-operated school may be excused when the superintendent of the state-operated school certifies that an interdisciplinary staffing team has determined, pursuant to the requirements of chapter 256B, that the child is efficiently taught for the scholastic year in an accredited nonpublic or other school devoted to the instruction, by a private tutor, in the public schools, or is shown to be physically or mentally unable to attend school under section 299.5.

[S13, §2718-f; C24, 27, 31, 35, 39, §4431; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §299.22]

91 Acts, ch 200, §19; 2020 Acts, ch 1102, §23

Referred to in §299.2

Section amended

299.23 Agent of state board of regents.

The state board of regents may employ an agent to aid in the enforcement of law relative to the education of deaf or hard-of-hearing children and blind children. The agent shall seek out children who should be in attendance at the state schools but who are not, and require such attendance. The agent shall institute proceedings against persons who violate the provisions of said law. The agent shall be allowed compensation at a rate fixed by the board of regents, and necessary traveling and hotel expenses while away from home in the performance of duty.

[C24, 27, 31, 35, 39, §4432; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §299.23]

2020 Acts, ch 1102, §24

Section amended

299.24 Religious groups exempted from school standards.

When members or representatives of a local congregation of a recognized church or religious denomination established for ten years or more within the state of Iowa prior to July 1, 1967, which professes principles or tenets that differ substantially from the objectives, goals, and philosophy of education embodied in standards set forth in section 256.11, and rules adopted in implementation thereof, file with the director of the department of education

proof of the existence of such conflicting tenets or principles, together with a list of the names, ages, and post office addresses of all persons of compulsory school age desiring to be exempted from the compulsory education law and the educational standards law, whose parents or guardians are members of the congregation or religious denomination, the director, subject to the approval of the state board of education, may exempt the members of the congregation or religious denomination from compliance with any or all requirements of the compulsory education law and the educational standards law for two school years. When the exemption has once been granted, renewal of such exemptions for each succeeding school year may be conditioned by the director, with the approval of the board, upon proof of achievement in the basic skills of arithmetic, the communicative arts of reading, writing, grammar, and spelling, and an understanding of United States history, history of Iowa, and the principles of American government, by persons of compulsory school age exempted in the preceding year, which shall be determined on the basis of tests or other means of evaluation selected by the director with the approval of the state board. The testing or evaluation, if required, shall be accomplished prior to submission of the request for renewal of the exemption. Renewal requests shall be filed with the director on or before April 15 of the school year preceding the school year for which the applicants desire exemption.

[C71, 73, 75, 77, 79, 81, §299.24]

85 Acts, ch 212, §21, 22; 89 Acts, ch 296, §26

Referred to in §280.3, 299.2

CHAPTER 299A PRIVATE INSTRUCTION

Referred to in §257.6, 257.31, 261.120, 261.131, 261E.3, 261E.8, 273.16, 274.3, 299.1, 299.1B, 299.8, 299.12

299A.1	Competent private instruction and independent private instruction.	299A.5 299A.6	Reporting of evaluation results. Failure to make adequate progress.
299A.2	Competent private instruction by licensed practitioner.	299A.7 299A.8	Notice to parents — remediation. Dual enrollment.
299A.3	Private instruction by nonlicensed person.	299A.9	Children requiring special education.
299A.4	Annual achievement evaluations — requirements and procedure.	299A.10 299A.11 299A.12	Rulemaking. Student records confidential. Home school assistance program.

299A.1 Competent private instruction and independent private instruction.

1. The parent, guardian, or legal custodian of a child of compulsory attendance age who places the child under private instruction shall provide, unless otherwise exempted, competent private instruction or independent private instruction in accordance with this chapter. A parent, guardian, or legal custodian of a child of compulsory attendance age who places the child under private instruction which is not competent private instruction or independent private instruction, or otherwise fails to comply with the requirements of this chapter, is subject to the provisions of sections 299.1 through 299.4 and the penalties provided in section 299.6.

2. For purposes of this chapter and chapter 299:

a. “*Competent private instruction*” means private instruction provided on a daily basis for at least one hundred forty-eight days during a school year, to be met by attendance for at least thirty-seven days each school quarter, by or under the supervision of a licensed practitioner in the manner provided under section 299A.2, which results in the student making adequate progress.

b. “*Independent private instruction*” means instruction that meets the following criteria:

- (1) Is not accredited.
- (2) Enrolls not more than four unrelated students.

- (3) Does not charge tuition, fees, or other remuneration for instruction.
- (4) Provides private or religious-based instruction as its primary purpose.
- (5) Provides enrolled students with instruction in mathematics, reading and language arts, science, and social studies.
- (6) Provides, upon written request from the superintendent of the school district in which the independent private instruction is provided, or from the director of the department of education, a report identifying the primary instructor, location, name of the authority responsible for the independent private instruction, and the names of the students enrolled.
- (7) Is not a nonpublic school and does not provide competent private instruction as defined in this subsection.
- (8) Is exempt from all state statutes and administrative rules applicable to a school, a school board, or a school district, except as otherwise provided in chapter 299 and this chapter.

c. “*Private instruction*” means instruction using a plan and a course of study in a setting other than a public or organized accredited nonpublic school.

91 Acts, ch 200, §20; 2013 Acts, ch 121, §87, 97

Referred to in §256.11, 273.16, 299.11, 321.178

299A.2 Competent private instruction by licensed practitioner.

If a licensed practitioner provides competent instruction to a school-age child, the practitioner shall possess a valid license or certificate which has been issued by the state board of educational examiners under chapter 272 and which is appropriate to the ages and grade levels of the children to be taught. Competent private instruction may include but is not limited to a home school assistance program which provides instruction or instructional supervision offered through an accredited nonpublic school or public school district by a teacher, who is employed by the accredited nonpublic school or public school district, who assists and supervises a parent, guardian, or legal custodian in providing instruction to a child. If competent private instruction is provided through a public school district, the child shall be enrolled and included in the basic enrollment of the school district as provided in section 257.6. Sections 299A.3 through 299A.7 do not apply to competent private instruction provided by a licensed practitioner under this section. However, the reporting requirement contained in section 299A.3, subsection 1, shall apply to competent private instruction provided by licensed practitioners that is not part of a home school assistance program offered through an accredited nonpublic school or public school district.

91 Acts, ch 200, §21; 92 Acts, ch 1135, §10; 92 Acts, ch 1247, §48; 2011 Acts, ch 132, §21, 31, 106

Referred to in §256.11, 261E.3, 273.16, 299.4, 299A.1, 321.178A

299A.3 Private instruction by nonlicensed person.

A parent, guardian, or legal custodian of a child of compulsory attendance age providing private instruction to the child may meet all of the following requirements:

- 1. Complete and send, in a timely manner, the report required under section 299.4 to the school district of residence of the child.
- 2. Ensure that the child under the parent’s, guardian’s, or legal custodian’s instruction is evaluated annually to determine whether the child is making adequate progress, as defined in section 299A.6.
- 3. Ensure that the results of the child’s annual evaluation are reported to the school district of residence of the child and to the department of education by a date not later than June 30 of each year in which the child is under private instruction.

91 Acts, ch 200, §22; 2013 Acts, ch 121, §88

Referred to in §256.11, 273.16, 299A.2, 321.178A

299A.4 Annual achievement evaluations — requirements and procedure.

1. Each child of compulsory attendance age who is receiving competent private instruction shall either be evaluated annually by May 1, using a nationally recognized standardized achievement evaluation or other assessment tool developed or recognized by the department of education and chosen by the child’s parent, guardian, or legal custodian

from a list of approved evaluations or assessment tools provided by the department of education or be evaluated annually in the manner provided in subsection 7. The department shall provide information on the cost of and the administration time required for each of the approved evaluations. The department shall provide, as part of approval procedures for evaluations to be used under this section, a mechanism which permits the introduction and approval of new or alternate methods of educational assessment which meet the requirements of this chapter.

2. A child, who is seven years of age and is receiving competent private instruction or who is placed under competent private instruction for the first time, shall be administered an evaluation for purposes of obtaining educational baseline data.

3. The director of the department of education, or the director's designee, which may include a school district or an area education agency, shall conduct the evaluations required under subsections 1 and 2 for children under competent private instruction. Evaluation shall occur at a time and a place to be determined by the person responsible for conducting the evaluation. Persons conducting the evaluations shall make every reasonable effort to conduct the evaluations at times and places which are convenient for the parent, guardian, or legal custodian.

4. The parent, guardian, or legal custodian of a child receiving competent private instruction may be present when the child is evaluated, but only if both the parent, guardian, or legal custodian and the child are under the supervision of the evaluation administrator.

5. The conducting of evaluations shall include, but is not limited to, purchasing of evaluation materials, giving the evaluations, scoring and interpreting the evaluations, and reporting the evaluation results.

6. A school district or area education agency shall, if requested, administer the annual achievement evaluation at no cost to the parent, guardian, or legal custodian of the child being evaluated, and, in addition, the parent, guardian, or legal custodian is not required to reimburse the evaluating entity for costs incurred as a result of evaluation under section 299A.9. The administration of the annual achievement evaluation shall not constitute a dual enrollment purpose under section 299A.8.

7. *a.* In lieu of annual achievement evaluations, a parent, guardian, or legal custodian of a child may submit, as evidence of adequate academic progress, all of the following:

(1) A book of lesson plans, a diary, or other written record indicating the subjects taught and activities in which the child has been engaged.

(2) A portfolio of the child's work, including but not limited to, an outline of the curriculum used by the child, copies of homework completed in conjunction with the curriculum and instruction, and copies of evaluations completed by the child which have been produced by the parent, guardian, or legal custodian.

(3) Completed assessment evaluations, other than the annual achievement evaluation, if assessment evaluations are administered to a pupil as part of the competent private instruction by the parent, guardian, or legal custodian.

b. If a parent, guardian, or legal custodian submits evidence under this section, the information shall be reviewed by a qualified, licensed, Iowa practitioner selected as the evaluator by the parent, guardian, or legal custodian and approved by the superintendent of the local school district or the superintendent's designee. The evaluator shall prepare a report based on a review of the child's work submitted, which shall include an assessment of the child's achievement or academic progress levels, and submit a copy of the report to the child's parent, guardian, or legal custodian, the school district of residence of the child, and the department of education. If the evidence demonstrates, in the evaluator's opinion, that the child is achieving adequate progress, the report shall create a presumption that the child is making adequate progress.

91 Acts, ch 200, §23; 92 Acts, §68; 2010 Acts, ch 1061, §180; 2013 Acts, ch 88, §33
Referred to in §261E.3, 299A.2, 299A.6

299A.5 Reporting of evaluation results.

The results of evaluations administered to children of compulsory attendance age who are under competent private instruction shall be reported by the evaluation administrator to the

child's parent, guardian, or legal custodian, the school district of residence of the child, and the department of education. Personally identifiable information relating to or contained in the evaluation scores is confidential and shall not be released without the prior consent of the child's parent, guardian, or custodian except as otherwise permitted by law.

91 Acts, ch 200, §24; 92 Acts, ch 1163, §69

Referred to in §299A.2

299A.6 Failure to make adequate progress.

1. If the results of evaluations, administered to a child of compulsory attendance age who is under competent private instruction, indicate that the student has failed to make adequate progress, the parent, guardian, or legal custodian shall cause the child to attend an accredited public or nonpublic school at the beginning of the next school year unless, before the beginning of the next school year, the child retakes a different form of the same evaluation, or another evaluation from the approved list of tests or assessment tools recognized by the department of education, and the results indicate that adequate progress has been made, the child has demonstrated adequate performance in the opinion of an evaluator and documented in a report under section 299A.4, subsection 7, or the director of the department of education, or the director's designee, grants approval for competent private instruction to continue under a plan for remediation.

2. A child who is required to attend an accredited public or nonpublic school under this section shall continue attendance at an accredited public or nonpublic school until the child achieves adequate progress.

3. For purposes of this chapter, "*adequate progress*" means, for children in all grade levels of competent private instruction, evaluation scores which are above the thirtieth percentile, nationally normed, in each of the areas of reading, mathematics, and language arts, and which indicate either that the child has made six months' progress from the previous evaluation results or that the child is at or above grade level for the child's age. For children in grade levels six and above, "*adequate progress*" also means that the child has achieved evaluation scores in both science and social studies which are above the thirtieth percentile, nationally normed, and which either indicate that the child has made six months' progress from the previous evaluation results or that the child is at or above grade level for the child's age.

91 Acts, ch 200, §25; 91 Acts, ch 258, §41; 92 Acts, ch 1135, §11; 2017 Acts, ch 54, §76

Referred to in §299A.2, 299A.3

299A.7 Notice to parents — remediation.

If a child is placed under competent private instruction and the child fails to make adequate progress under competent private instruction, the director of the department of education, or the director's designee, shall notify the parent, guardian, or custodian of the child that the child is required to attend an accredited public or nonpublic school, unless approval for competent private instruction under a remediation plan is granted. The director, or the director's designee, may provisionally approve continued competent private instruction under an approved remediation plan designed to improve instruction for up to one year.

91 Acts, ch 200, §26

Referred to in §299A.2

299A.8 Dual enrollment.

1. If a parent, guardian, or legal custodian of a school-age child who is receiving competent private instruction under this chapter submits a request, the child shall also be registered in a public school for dual enrollment purposes. If the child is enrolled in a public school district for dual enrollment purposes, the child shall be permitted to participate in any academic activities in the district and shall also be permitted to participate on the same basis as public school children in any extracurricular activities available to children in the child's grade or group. Dual enrollment of a child solely for purposes of accessing the annual achievement evaluation shall not constitute a dual enrollment purpose.

2. If the child is enrolled for dual enrollment purposes, the child shall be included in the public school's basic enrollment under section 257.6. A pupil who is participating only in extracurricular activities shall be counted under section 257.6, subsection 1, paragraph "a",

subparagraph (6). A pupil enrolled in grades nine through twelve under this section shall be counted in the same manner as a shared-time pupil under section 257.6, subsection 1, paragraph “a”, subparagraph (3).

91 Acts, ch 200, §27; 92 Acts, ch 1163, §70; 92 Acts, ch 1247, §49; 2001 Acts, ch 159, §16; 2001 Acts, ch 176, §38; 2007 Acts, ch 22, §67; 2011 Acts, ch 132, §22, 31, 106; 2013 Acts, ch 88, §34

Referred to in §257.6, 299A.4

299A.9 Children requiring special education.

1. A child of compulsory attendance age who is identified as requiring special education under chapter 256B is eligible for placement under competent private instruction with prior approval of the placement by the director of special education of the area education agency of the child’s district of residence.

2. A child who has been placed under competent private instruction, whose performance indicates that the child may require special education, shall be referred for evaluation under chapter 256B and the rules of the state board of education. Evaluation shall occur at a time and a place to be determined by the person responsible for conducting the evaluation. Persons conducting the evaluations shall make every reasonable effort to conduct the evaluations at times and places which are convenient for the parent, guardian, or legal custodian.

91 Acts, ch 200, §28

Referred to in §299A.4

299A.10 Rulemaking.

The department of education shall develop and recommend and the state board shall adopt rules to implement this chapter.

91 Acts, ch 200, §29

299A.11 Student records confidential.

Notwithstanding any provision of law or rule to the contrary, personal information in records regarding a child receiving competent private instruction or independent private instruction pursuant to this chapter, which are maintained, created, collected, or assembled by or for a state agency, shall be kept confidential in the same manner as personal information in student records maintained, created, collected, or assembled by or for a school corporation or educational institution in accordance with section 22.7, subsection 1.

2006 Acts, ch 1152, §48; 2013 Acts, ch 121, §98

299A.12 Home school assistance program.

1. The board of directors of a school district shall expend moneys received pursuant to section 257.6, subsection 1, paragraph “a”, subparagraph (5), and amounts designated from the school district’s flexibility account under section 298A.2, subsection 2, for purposes of providing a home school assistance program.

2. Purposes for which a school district may expend funds received pursuant to section 257.6, subsection 1, paragraph “a”, subparagraph (5), or amounts designated from the school district’s flexibility account under section 298A.2, subsection 2, shall include but not be limited to the following:

a. Instruction for students and assisting parents with instruction.

b. Support services for students and teaching parents and staff support services.

c. Salary and benefits for the supervising teacher of the home school assistance program students. If the teacher is a part-time home school assistance program teacher and a part-time regular classroom teacher, funds received pursuant to section 257.6, subsection 1, paragraph “a”, subparagraph (5), or amounts designated from the school district’s flexibility account under section 298A.2, subsection 2, may be used only for the portion of time in which the teacher is a home school assistance program teacher.

d. Salary and benefits for clerical and office staff of the home school assistance program. If the staff members are shared with other programs or functions within the district, funds received pursuant to section 257.6, subsection 1, paragraph “a”, subparagraph (5), or amounts designated from the school district’s flexibility account under section 298A.2,

subsection 2, shall only be expended for the portion of time spent providing the home school assistance program services.

- e. Staff development for the home school assistance program teacher.
- f. Travel for the home school assistance program teacher.
- g. Resources, materials, computer software and hardware, supplies, and purchased services that meet the following criteria:
 - (1) Are necessary to provide the services of home school assistance.
 - (2) Are retained as the possessions of the school district for its prekindergarten through grade twelve home school assistance program.
- 3. Purposes for which a school district shall not expend funds received pursuant to section 257.6, subsection 1, paragraph "a", subparagraph (5), or amounts designated from the school district's flexibility account under section 298A.2, subsection 2, include but are not limited to the following:
 - a. Indirect costs or use charges.
 - b. Operational or maintenance costs other than those necessary to operate and maintain the program.
 - c. Capital expenditures other than equipment or facility acquisition, including the lease or rental of space to supplement existing schoolhouse facilities.
 - d. Student transportation except in cases of home school assistance program-approved field trips or other educational activities.
 - e. Administrative costs other than the costs necessary to administer the program.
 - f. Concurrent and dual enrollment costs and postsecondary enrollment options program costs.
 - g. Any other expenditures not directly related to providing the home school assistance program. A home school assistance program shall not provide moneys to parents or students utilizing the program.

4. The purposes for and limitations on the expenditure of funds under subsections 2 and 3 shall not be construed to prohibit a school corporation from authorizing the use of items and materials purchased for the home school assistance program for school district purposes other than the home school assistance program so long as the authorized use does not prevent or interfere with the item or material's use by parents or students utilizing the program.

5. Unless otherwise prohibited by law, and if the statutory requirements for use of home school assistance program funding have been met, including funding all purposes listed in subsection 2 and funding all requests for services and materials from parents or guardians of students eligible to access the program, all or a portion of the moneys received by a school district pursuant to section 257.6, subsection 1, paragraph "a", subparagraph (5), that remain unexpended and unobligated at the end of a budget year beginning on or after July 1, 2017, may be transferred for deposit in the school district's flexibility account established under section 298A.2, subsection 2.

2010 Acts, ch 1183, §40; 2011 Acts, ch 132, §23 – 26, 106; 2017 Acts, ch 154, §7 – 11; 2018 Acts, ch 1112, §15 – 17

Referred to in §257.6, 298A.2

2018 amendment enacting subsection 4 applies to school budget years beginning on or after July 1, 2018; 2018 Acts, ch 1112, §17

CHAPTER 300

EDUCATIONAL AND RECREATIONAL TAX

Referred to in §274.3, 276.10, 276.11

300.1	Public recreation.	300.3	Discontinuance of levy.
300.2	Tax levy.	300.4	Community education.

300.1 Public recreation.

Boards of directors of school districts may establish and maintain for children and adults public recreation places and playgrounds, and necessary accommodations for the recreation

places and playgrounds, in the public school buildings and grounds of the district. The board may cooperate under chapter 28E with a public agency having the custody and management of public parks or public buildings and grounds, and with a private agency having custody and management of buildings or grounds open to the public, located within the school district, and may provide for the supervision and instruction necessary to carry on public educational and recreational activities in the parks, buildings, and grounds located within the district.

[S13, §2823-u; C24, 27, 31, 35, 39, §4433; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §300.1; 81 Acts, ch 95, §2]

Referred to in §298A.6

300.2 Tax levy.

1. The board of directors of a school district may, and upon receipt of a petition signed by eligible electors equal in number to at least twenty-five percent of the number of voters at the last preceding school election, shall, direct the county commissioner of elections to submit to the registered voters of the school district the question of whether to levy a tax of not to exceed thirteen and one-half cents per thousand dollars of assessed valuation for public educational and recreational activities authorized under this chapter. The question shall be submitted at an election held on a date specified in section 39.2, subsection 4, paragraph "c".

2. If a majority of the votes cast upon the proposition is in favor of the proposition, the board shall certify the amount required for a fiscal year to the county board of supervisors by April 15 of the preceding fiscal year. The board of supervisors shall levy the amount certified. The amount shall be placed in the public education and recreation levy fund of the district and shall be used only for the purposes specified in this chapter.

3. The proposition to levy the public recreation and playground tax is not affected by a change in the boundaries of a school district, except as otherwise provided in this section. If each district involved in school reorganization under chapter 275 has adopted the public recreation and playground tax, and if the voters have not voted upon the proposition to levy the public recreation and playground tax in the reorganized district, the existing public recreation and playground tax shall be in effect for the reorganized district for the least amount that has been approved in any of the districts and until discontinued pursuant to section 300.3.

[S13, §2823-u1, -u2; C24, 27, 31, 35, 39, §4434, 4435; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §300.2, 300.3; 81 Acts, ch 95, §3]

93 Acts, ch 1, §13; 93 Acts, ch 160, §17; 94 Acts, ch 1029, §29; 95 Acts, ch 67, §53; 2008 Acts, ch 1115, §53, 71

Referred to in §276.12, 298A.6, 300.3, 300.4, 423F.3

300.3 Discontinuance of levy.

Once approved at an election, the authority of the board to levy and collect the tax under section 300.2 shall continue until the board votes to rescind the levy and collection of the tax or the voters of the school district by majority vote order the discontinuance of the levy and collection of the tax. The tax shall be discontinued in the manner provided in this section or in the manner provided for imposition of the tax in section 300.2.

[S13, §2823-u4, -u5; C24, 27, 31, 35, 39, §4437, 4438; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §300.5, 300.6; 81 Acts, ch 95, §4]

Referred to in §300.2, 300.4

300.4 Community education.

The tax levied under sections 300.2 and 300.3 may also be used for community education purposes under chapter 276.

[81 Acts, ch 95, §5]

CHAPTER 301

TEXTBOOKS

Referred to in §274.3

	DISTRICT UNIFORMITY		RESERVED
301.1	Adoption — purchase and sale — accredited nonpublic school pupil textbook services.	301.12	through 301.23 Reserved.
301.2	Custodian — bond.		FREE TEXTBOOKS
301.3	Annual settlement by board of directors.	301.24	Petition — election.
301.4	Payment from general fund.	301.25	Loaning books.
301.5	Purchase — exchange.	301.26	General regulations.
301.6	Suit on bond.	301.27	Discontinuance of loaning.
301.7	through 301.9 Reserved.	301.28	Officers and teachers as agents for books and supplies — penalty.
301.10	Textbook suppliers.	301.29	and 301.30 Repealed by 2002 Acts, ch 1140, §44.
301.11	Bond.		

DISTRICT UNIFORMITY

301.1 Adoption — purchase and sale — accredited nonpublic school pupil textbook services.

1. The board of directors of each and every school district is hereby authorized and empowered to adopt textbooks for the teaching of all branches that are now or may hereafter be authorized to be taught in the public schools of the state, and to contract for and buy said books and any and all other necessary school supplies at said contract prices, and to sell the same to the pupils of their respective districts at cost, loan such textbooks to such pupils free, or rent them to such pupils at such reasonable fee as the board shall fix, and said money so received shall be returned to the general fund.

2. Textbooks adopted and purchased by a school district shall, to the extent funds are appropriated by the general assembly, be made available to pupils attending accredited nonpublic schools upon request of the pupil or the pupil's parent under comparable terms as made available to pupils attending public schools. If the general assembly appropriates moneys for purposes of making textbooks available to accredited nonpublic school pupils, the department of education shall ascertain the amount available to a school district for the purchase of nonsectarian, nonreligious textbooks for pupils attending accredited nonpublic schools. The amount shall be in the proportion that the basic enrollment of a participating accredited nonpublic school bears to the sum of the basic enrollments of all participating accredited nonpublic schools in the state for the budget year. For purposes of this section, a "*participating accredited nonpublic school*" means an accredited nonpublic school that submits a written request on behalf of the school's pupils in accordance with this subsection, and that certifies its actual enrollment to the department of education by October 1, annually. By November 1, annually, the department of education shall certify to the director of the department of administrative services the annual amount to be paid to each school district, and the director of the department of administrative services shall draw warrants payable to school districts in accordance with this subsection. For purposes of this subsection, an accredited nonpublic school's enrollment count shall include only students who are residents of Iowa. The costs of providing textbooks to accredited nonpublic school pupils as provided in this subsection shall not be included in the computation of district cost under chapter 257, but shall be shown in the budget as an expense from miscellaneous income. Textbook expenditures made in accordance with this subsection shall be kept on file in the school district. In the event that a participating accredited nonpublic school physically relocates to another school district, textbooks purchased for the nonpublic school with funds appropriated for purposes of this chapter shall be transferred to the school district in which

the nonpublic school has relocated and may be made available to the nonpublic school. Funds distributed to a school district for purposes of purchasing textbooks in accordance with this subsection which remain unexpended and available for the purchase of textbooks for the nonpublic school that relocated in the fiscal year in which the funds were distributed shall also be transferred to the school district in which the nonpublic school has relocated.

3. As used in subsection 2, “textbooks” means any of the following:

a. Books and loose-leaf or bound manuals, systems of reusable instructional materials or combinations of books and supplementary instructional materials which convey information to the student or otherwise contribute to the learning process.

b. Electronic textbooks, including but not limited to computer software, applications using computer-assisted instruction, interactive videodisc, and other computer courseware and magnetic media.

c. Laptop computers or other portable personal computing devices which are used for nonreligious instructional purposes only.

[C97, §2824; C24, 27, 31, 35, 39, §4446; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §301.1] 93 Acts, ch 63, §1; 96 Acts, ch 1113, §1; 2002 Acts, ch 1140, §31; 2003 Acts, ch 145, §286; 2004 Acts, ch 1101, §33; 2005 Acts, ch 169, §34; 2006 Acts, ch 1152, §49; 2010 Acts, ch 1077, §1; 2011 Acts, ch 34, §75

301.2 Custodian — bond.

The books and supplies so purchased shall be under the charge of the board, who may select one or more persons within the county to keep said books and supplies as the depository agent of the board under such rules and regulations as the board shall adopt. The board shall require of each person so appointed a bond in such sum as may seem to the board to be desirable, the reasonable cost of which, if a bond of an association or corporation as surety is furnished, shall be paid by the district. The board shall adopt rules and regulations to provide that no textbook in any branch determined by the board to be taught in the schools under its charge, shall be sold or rented by such depository agent to the pupils in such schools as a textbook other than those textbooks authorized by said board for use by the pupils in such schools; to provide that no such textbook shall be sold or rented by such depository agent at a price or fee higher than that fixed by the said board; and to provide such other measures not in conflict with law as are necessary properly to govern said depository agents and safeguard the said books and moneys.

[C97, §2824; C24, 27, 31, 35, 39, §4447; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §301.2]

301.3 Annual settlement by board of directors.

At the close of each school year the board of directors in each school district shall cause a complete settlement to be made with each depository agent. A complete inventory of the textbooks on hand, with a statement itemized to show the expenses authorized and paid by the board, and the amount of money collected from each such depository agent during the year from the sale or rental of textbooks, shall be made in duplicate, signed by the secretary of the board and the depository agent and one copy filed with the secretary and one with the depository agent.

[C39, §4447.1; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §301.3]

301.4 Payment from general fund.

All the books and other supplies purchased under the provisions of this chapter shall be paid for out of the general fund.

[C97, §2825; C24, 27, 31, 35, 39, §4448; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §301.4]

301.5 Purchase — exchange.

In the purchasing of textbooks it shall be the duty of the board of directors to take into consideration the books then in use in the respective districts, and they may buy such additional number of said books as may from time to time become necessary to supply their

schools, and they may arrange on equitable terms for exchange of books in use for new books adopted.

[C97, §2826; C24, 27, 31, 35, 39, §4449; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §301.5]

301.6 Suit on bond.

If at any time the publishers of such books as shall have been adopted by any board of directors shall neglect or refuse to furnish such books when ordered by said board in accordance with the provisions of this chapter, at the very lowest price, either contract or wholesale, that such books are furnished any other district or state board, then said board of directors may and it is hereby made their duty to bring suit upon the bond given them by the contracting publisher.

[C97, §2827; C24, 27, 31, 35, 39, §4450; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §301.6]

301.7 through 301.9 Reserved.

301.10 Textbook suppliers.

A person or firm desiring to furnish books or supplies under this chapter shall do all of the following:

1. Make available samples of all textbooks accompanied by lists giving the lowest wholesale and contract prices for the textbooks.

2. If requested by the department of education, make available a machine-readable version of a textbook purchased by a school district to the department in the best available format for electronic braille translation.

[C97, §2830; C24, 27, 31, 35, 39, §4454; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §301.10]
93 Acts, ch 59, §2; 94 Acts, ch 1175, §15

301.11 Bond.

The board of directors shall require any person or persons with whom they contract for furnishing any books or supplies to enter into a good and sufficient bond, in such sum and with such conditions and sureties as may be required by such board of directors for the faithful performance of any such contract. Bonds of surety companies duly authorized under the laws of Iowa shall be accepted.

[C97, §2830; C24, 27, 31, 35, 39, §4455; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §301.11]

RESERVED

301.12 through 301.23 Reserved.

FREE TEXTBOOKS

301.24 Petition — election.

Whenever a petition signed by one hundred eligible electors residing in the school district or a number of eligible electors residing in the school district equal to at least ten percent of the number of voters in the last preceding regular school election, whichever is greater, is filed with the secretary sixty days or more before the regular school election, asking that the question of providing free textbooks for the use of pupils in the school district's attendance centers be submitted to the voters at the next regular school election, the secretary shall cause notice of the proposition to be given in the notice of the election.

[C97, §2836; C24, 27, 31, 35, 39, §4464; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §301.24]
2001 Acts, ch 56, §15; 2006 Acts, ch 1044, §1; 2009 Acts, ch 57, §82
Referred to in §301.27

301.25 Loaning books.

If, at such election, a majority of the legal voters present and voting by ballot thereon shall authorize the board of directors of said school district to loan textbooks to the pupils free of

charge, then the board shall procure such books as shall be needed, in the manner provided by law for the purchase of textbooks, and loan them to the pupils.

[C97, §2837; C24, 27, 31, 35, 39, §4465; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §301.25]

301.26 General regulations.

The board shall hold pupils responsible for any damage to, loss of, or failure to return any such books, and shall adopt such rules and regulations as may be reasonable and necessary for the keeping and preservation thereof. Any pupil shall be allowed to purchase any textbook used in the school at cost. No pupil already supplied with textbooks shall be supplied with others without charge until needed.

[C97, §2837; C24, 27, 31, 35, 39, §4466; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §301.26]

301.27 Discontinuance of loaning.

The electors may, at any election called as provided in section 301.24, direct the board to discontinue the loaning of textbooks to pupils.

[C97, §2837; C24, 27, 31, 35, 39, §4467; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §301.27]

301.28 Officers and teachers as agents for books and supplies — penalty.

1. A school district director, officer, or teacher shall not act as agent for school textbooks or school supplies, including sports apparel or equipment, in any transaction with a director, officer, or other staff member of the school district during such term of office or employment.

2. An area education agency director, officer, or teacher shall not act as an agent for school textbooks or school supplies, including sports apparel or equipment, in any transaction with a director, officer, or other staff member of the area education agency or any school district located within the area education agency during such time of office or employment.

3. A school district or area education agency director, officer, or teacher who acts as agent or dealer in school textbooks or school supplies during the person's term of office or employment in violation of this section shall be deemed guilty of a serious misdemeanor.

[C97, §2834; C24, 27, 31, 35, 39, §4468; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §301.28]

2009 Acts, ch 54, §12; 2010 Acts, ch 1069, §41

Referred to in §298A.15

301.29 and 301.30 Repealed by 2002 Acts, ch 1140, §44.

CHAPTERS 301A and 302

RESERVED

SUBTITLE 7

CULTURAL AFFAIRS

CHAPTER 303

DEPARTMENT OF CULTURAL AFFAIRS

SUBCHAPTER I ADMINISTRATION OF DEPARTMENT	SUBCHAPTER III HISTORICAL PRESERVATION DISTRICTS
303.1 Department of cultural affairs. 303.1A Director's duties. 303.2 Division responsibilities. 303.2A Intradepartmental advisory council. Repealed by 93 Acts, ch 48, §55. 303.3 Cultural grant programs. 303.3A Arts and cultural conferences and caucuses. 303.3B Cultural and entertainment districts. 303.3C Iowa great places program. 303.3D Iowa great places program fund. 303.3E Culture, history, and arts teams program.	303.20 Definitions. 303.21 Petition. 303.22 Action by department. 303.23 Referendum. 303.24 Notice. 303.25 Voting. 303.26 Commission. 303.27 Controls. 303.28 Interior. 303.29 Use of structures. 303.30 Procedures. 303.31 Action by commission. 303.32 Ordinary maintenance and repair. 303.33 Termination of district. 303.34 Areas of historical significance. 303.35 through 303.40 Reserved.
SUBCHAPTER II HISTORICAL DIVISION	SUBCHAPTER IV LAND USE DISTRICTS
303.4 State historical society of Iowa — board of trustees. 303.5 Powers and duties of state historical society administrator. 303.6 Officers — meetings. 303.7 Membership in state historical society. 303.8 Powers and duties of board and department. 303.9 Funds received by department. 303.9A Iowa heritage fund. 303.10 Acceptance and use of money grants. 303.11 Gifts. 303.12 through 303.15 Repealed by 2003 Acts, ch 92, §21. 303.16 Historical resource development program — country school grants. 303.17 Iowa studies — findings — curriculum — committee. Repealed by its own terms; 2010 Acts, ch 1188, §31, 33. 303.18 Rural electric cooperatives and municipal utilities — historic properties — archeological site surveys. 303.19 American civil war sesquicentennial advisory committee. Repealed by its own terms; 2008 Acts, ch 1057, §3.	303.41 Eligibility and purpose. 303.42 Petition. 303.43 Jurisdiction — decisions — records. 303.44 Date and notice of hearing. 303.45 Hearing of petition and order. 303.46 Notice of election. 303.47 Election. 303.48 Expenses and costs of election. 303.49 Election of trustees — terms — vacancies. 303.50 Trustee's bond. 303.51 Land use district to be a body corporate. 303.52 Board of trustees — powers and duties. 303.52A Inclusion or exclusion of land. 303.53 Changes and amendments. 303.54 Board of adjustment. 303.55 Membership — term — compensation. 303.56 Rules. 303.57 Appeals to board of adjustment. 303.58 Powers of board. 303.59 Powers on appeal. 303.60 Vote required. 303.61 Petition to court. 303.62 Review by court. 303.63 Trial to court. 303.64 Precedence. 303.65 Restraining order. 303.66 Taxes — power to levy — tax sales.

303.67	Records and disbursements.	303.89	State poet laureate designated —
303.68	Conflict with other regulations.		nominating committee.
303.69	through 303.74 Reserved.	303.90	Reserved.
SUBCHAPTER V			
PUBLIC BROADCASTING DIVISION		SUBCHAPTER VII	
		LIBRARY DIVISION	
303.75	through 303.85 Repealed by 93	303.91	through 303.94 Repealed by 93
	Acts, ch 48, §55.		Acts, ch 48, §55.
SUBCHAPTER VI			
ARTS DIVISION		SUBCHAPTER VIII	
		FILM OFFICE	
303.86	Arts council.	303.95	Film office establishment and
303.87	Duties of council.		purpose.
303.88	Administrator's powers and		
	authority.		

SUBCHAPTER I

ADMINISTRATION OF DEPARTMENT

303.1 Department of cultural affairs.

1. The department of cultural affairs is created. The department has primary responsibility for development of the state's interest in the areas of the arts, history, and other cultural matters. In fulfilling this responsibility, the department will be advised and assisted by the state historical society and its board of trustees, and the Iowa arts council.

2. The department shall:

a. Develop a comprehensive, coordinated, and efficient policy to preserve, research, interpret, and promote to the public an awareness and understanding of local, state, and regional history.

b. Stimulate and encourage throughout the state the study and presentation of the performing and fine arts and public interest and participation in them.

c. Implement tourism-related art and history projects as directed by the general assembly.

d. Design a comprehensive, statewide, long-range plan with the assistance of the Iowa arts council to develop the arts in Iowa. The department is designated as the state agency for carrying out the plan.

e. Encourage the use of volunteers throughout its divisions, especially for purposes of restoring books and manuscripts.

3. The department may:

a. By rule, establish advisory groups necessary for the receipt of federal funds or grants or the administration of any of the department's programs.

b. Develop and implement fee-based educational programming opportunities, including preschool programs, related to arts, history, and other cultural matters for Iowans of all ages.

4. The department shall consist of the following:

a. Historical division.

b. Arts division.

c. Other divisions created by rule.

d. Administrative section.

e. Film office.

5. The department is under the control of a director who shall be appointed by the governor, subject to confirmation by the senate, and shall serve at the pleasure of the governor. The salary of the director shall be set by the governor within a range set by the general assembly. The director may create, combine, eliminate, alter, or reorganize the organization of the department by rule.

6. The divisions shall be administered by administrators who shall be appointed by the director and serve at the director's pleasure. The administrators shall:

a. Organize the activities of the division.

b. Submit a biennial report to the governor on the activities and an evaluation of the division and its programs and policies.

c. Control all property of the division.

d. Perform other duties imposed by law.

86 Acts, ch 1245, §1301

C87, §303.1

87 Acts, ch 211, §3; 90 Acts, ch 1065, §1; 91 Acts, ch 120, §1; 91 Acts, ch 157, §9; 93 Acts, ch 48, §48; 98 Acts, ch 1215, §53; 2007 Acts, ch 215, §104; 2010 Acts, ch 1069, §83; 2012 Acts, ch 1136, §31, 41

Referred to in §7E.5, 303A.3

Confirmation, see §2.32

303.1A Director's duties.

1. The duties of the director shall include but are not limited to the following:

a. Adopt rules that are necessary for the effective administration of the department.

b. Direct and administer the programs and services of the department.

c. Prepare the departmental budget request by September 1 of each year on the forms furnished, and including the information required by the department of management.

d. Accept, receive, and administer grants or other funds or gifts from public or private agencies including the federal government for the various divisions and the department.

e. Appoint and approve the technical, professional, secretarial, and clerical staff necessary to accomplish the purposes of the department subject to chapter 8A, subchapter IV.

f. Administer the Iowa cultural trust as provided in chapter 303A and do all of the following:

(1) Develop and adopt by rule criteria for the issuance of trust fund credits by measuring the efforts of qualified organizations, as defined in section 303A.3, to increase their endowment or other resources for the promotion of the arts, history, or the sciences and humanities in Iowa. If the director determines that the organizations have increased the amount of their endowment and other resources, the director shall certify the amount of increase in the form of trust fund credits to the treasurer, who shall deposit in the Iowa cultural trust fund, from moneys received for purposes of the trust fund as provided in section 303A.4, subsection 2, an amount equal to the trust fund credits. If the amount of the trust fund credits issued by the director exceeds the amount of moneys available to be deposited in the trust fund as provided in section 303A.4, subsection 2, the outstanding trust fund credits shall not expire but shall be available to draw down additional moneys which become available to be deposited in the trust fund as provided in section 303A.4, subsection 2.

(2) Develop and implement, in accordance with chapter 303A, a grant application process for grants issued to qualified organizations as defined in section 303A.3.

(3) Develop and adopt by rule criteria for the approval of Iowa cultural trust grants. The criteria shall include but shall not be limited to the future stability and sustainability of a qualified organization.

(4) Compile, in consultation with the Iowa arts council and the state historical society of Iowa, a list of grant applications recommended for funding in accordance with the amount available for distribution as provided in section 303A.6, subsection 3. The list of recommended grant applications shall be submitted to the Iowa cultural trust board of trustees for approval.

(5) Monitor the allocation and use of grant moneys by qualified organizations to determine whether moneys are used in accordance with the provisions of this paragraph "f" and chapter 303A. The director shall annually submit the director's findings and recommendations in a report to the Iowa cultural trust board of trustees prior to final board action in approving grants for the next succeeding fiscal year.

2. The director may appoint a member of the staff to be acting director who shall have

the powers delegated by the director in the director's absence. The director may delegate the powers and duties of that office to the administrators.

86 Acts, ch 1245, §1302; 87 Acts, ch 211, §4; 93 Acts, ch 48, §49; 2002 Acts, ch 1115, §1; 2003 Acts, ch 145, §235; 2010 Acts, ch 1061, §104

Referred to in §303A.4, 303A.6

303.2 Division responsibilities.

1. The administrative services section shall provide administrative, accounting, public relations and clerical services for the department, report to the director and perform other duties assigned to it by the director.

2. The historical division shall:

a. Administer and care for historical sites under the authority of the division, and maintain collections within these buildings.

(1) Except for the state board of regents, a state agency which owns, manages, or administers a historical site must enter into an agreement with the department of cultural affairs under chapter 28E to insure the proper management, maintenance, and development of the site.

(2) For the purposes of this section, "historical site" is defined as any district, site, building, or structure listed on the national register of historic sites or identified as eligible for such status by the state historic preservation officer or that is identified according to established criteria by the state historic preservation officer as significant in national, state, and local history, architecture, engineering, archaeology, or culture.

b. Encourage and assist local county and state organizations and museums devoted to historical purposes.

c. Develop standards and criteria for the acquisition of historic properties and for the preservation, restoration, maintenance, operation, and interpretation of properties under the jurisdiction of the division. The administrator of the division shall serve as the state historic preservation officer, certified by the governor, pursuant to federal requirements. The recommendations and decisions of the state historic preservation officer shall be subject to the review and approval of the director.

d. Administer the state archives and records program in accordance with chapter 305.

e. Identify and document historic properties.

f. Prepare and maintain a state register of historic places, including those listed on the national register of historic places.

g. Conduct historic preservation activities pursuant to federal and state requirements.

h. Publish matters of historical value to the public, and pursue historical, architectural, and archaeological research and development which may include but are not limited to continuing surveys, excavation, scientific recording, interpretation, and publication of the historical, architectural, archaeological, and cultural sites, buildings, and structures in the state.

i. Buy or receive by other means historical materials including, but not limited to, artifacts, art, books, manuscripts, and images. Such materials are not personal property under sections 8A.321 and 8A.324 and shall be received and cared for under the rules of the department. The historical division may sell or otherwise dispose of those materials according to the rules of the department and be credited for any revenues credited by the disposal less the costs incurred.

j. Administer the historical resource development program established in section 303.16.

k. Administer, preserve, and interpret the battle flag collection assembled by the state in consultation and coordination with the department of veterans affairs and the department of administrative services. A portion of the battle flag collection shall be on display at the state capitol and the state historical building at all times, unless on loan approved by the department of cultural affairs.

l. Establish, maintain, and administer a digital collection of historical manuscripts, documents, records, reports, images, and artifacts and make the collection available to the public through an online research center.

3. The arts division shall:

a. Make surveys as deemed advisable of existing artistic and cultural programs and activities within the state, including but not limited to music, theater, dance, painting, sculpture, architecture, and allied arts and crafts.

b. Submit a report to the governor and to the general assembly not later than ten calendar days following the commencement of each first session of the general assembly concerning the studies undertaken during the biennium and recommending legislation and other action as necessary for the implementation and enforcement of this subsection and subchapter VI of this chapter.

86 Acts, ch 1238, §52; 86 Acts, ch 1245, §1303

C87, §303.2

87 Acts, ch 211, §5; 90 Acts, ch 1065, §2; 90 Acts, ch 1097, §1; 91 Acts, ch 157, §10; 92 Acts, ch 1246, §51; 93 Acts, ch 48, §50, 51; 98 Acts, ch 1017, §2; 2001 Acts, ch 86, §1; 2002 Acts, ch 1119, §39; 2003 Acts, ch 92, §3; 2003 Acts, ch 145, §236, 286; 2005 Acts, ch 115, §30, 40; 2008 Acts, ch 1005, §1; 2008 Acts, ch 1057, §1; 2011 Acts, ch 4, §1, 3

Referred to in §427.16

Battle flag restoration fund established; 2012 Acts, ch 1136, §27

303.2A Intradepartmental advisory council. Repealed by 93 Acts, ch 48, §55.

303.3 Cultural grant programs.

1. The department shall establish a grant program for cities and nonprofit, tax-exempt community organizations for the development of community programs that provide local jobs for Iowa residents and also promote Iowa's historic, ethnic, and cultural heritages through the development of festivals, music, drama, cultural programs, or tourist attractions. A city or nonprofit, tax-exempt community organization may submit an application to the department for review. The department shall establish criteria for the review and approval of grant applications. The amount of a grant shall not exceed fifty percent of the cost of the community program. Each application shall include information demonstrating that the city or nonprofit, tax-exempt community organization will provide matching funds of fifty percent of the cost of the program. The matching funds requirement may be met by substituting in-kind services, based on the value of the services, for actual dollars.

2. The department shall establish a grant program which provides general operating budget support to major, multidisciplined cultural organizations which demonstrate cultural and managerial excellence on a continuing basis to the citizens of Iowa. Applicant organizations must be incorporated under chapter 504, be exempt from federal taxation, and not be attached or affiliated with an educational institution. Eligible organizations shall be operated on a year-round basis and employ at least one full-time, paid professional staff member. The department shall establish criteria for review and approval of grant applications. Criteria established shall include, but are not limited to, a matching funds requirement. The matching funds requirement shall permit an applicant to meet the matching requirement by demonstrating that the applicant's budget contains funds, other than state and federal funds, in excess of the grant award.

3. Notwithstanding section 8.33, moneys committed to grantees under this section that remain unencumbered or unobligated on June 30 of the fiscal year for which the funds were appropriated shall not revert but shall be available for expenditure for the following fiscal year for the purposes of subsection 2.

90 Acts, ch 1272, §77; 91 Acts, ch 120, §2; 97 Acts, ch 212, §32; 2004 Acts, ch 1049, §191; 2004 Acts, ch 1175, §393

Referred to in §99F.11, 303.3B

303.3A Arts and cultural conferences and caucuses.

1. For the purposes of this section, the following definitions apply:

a. "Arts" means music, dance, theater, opera and music theater, visual arts, literature, design arts, media arts, and folk and traditional arts.

b. "Culture" or "cultural" means programs and activities which explore past and present human experience.

c. "Department" means the department of cultural affairs.

d. “*Enhancement*” means programs that allow arts and cultural organizations to improve or enhance the quality of programs currently offered, and increase and support professional and student artists and arts educators.

e. “*Outreach*” means programs that increase rural access to cultural resources, social awareness, cultural diversity, and which serve special populations.

2. The department shall administer regional conferences and a statewide caucus on arts and cultural enhancement. The purpose of the conferences and caucus is to encourage the development of the arts and culture in the state by identifying opportunities for programs involving education, outreach, and enhancement; by reviewing possible changes in enhancement program policies, programs, and funding; and by making recommendations to the department regarding funding allocations and priorities for arts and cultural enhancement.

3. Every four years beginning in June 2001, the department shall convene a statewide caucus on arts and cultural enhancement.

a. Prior to the statewide caucus, the department shall make arrangements to hold a conference in each of several regions of the state as determined by the Iowa arts council. The department shall promote attendance of interested persons at each conference. A designee of the department shall serve as temporary chairperson until persons attending the conference elect a chairperson. The department shall provide persons attending the conference with current information regarding cultural programs and expenditures. Persons attending the conference shall identify opportunities for programs in the areas of education, outreach, and enhancement, and make recommendations in the form of a resolution. The persons attending the conference shall elect six persons from among the attendees to serve as regional, voting delegates to the statewide caucus. The conference attendees shall elect a chairperson from among the six representatives. Other interested persons are encouraged to attend the statewide caucus as nonvoting attendees.

b. The department shall charge a reasonable fee for attendance at the statewide caucus on arts and cultural enhancement.

c. A designee of the department shall call the statewide caucus to order and serve as temporary chairperson until persons attending the caucus elect a chairperson. Persons attending the caucus shall discuss the recommendations of the regional conferences and decide upon recommendations to be made to the department and the general assembly. Elected chairpersons of the regional conferences shall meet with representatives of the department and present the recommendations of the caucus.

98 Acts, ch 1215, §54

303.3B Cultural and entertainment districts.

1. The department of cultural affairs shall establish and administer a cultural and entertainment district certification program. The program shall encourage the growth of communities through the development of areas within a city or county for public and private uses related to cultural and entertainment purposes.

2. A city or county may create and designate a cultural and entertainment district subject to certification by the department of cultural affairs, in consultation with the economic development authority. A cultural and entertainment district is encouraged to include a unique form of transportation within the district and for transportation between the district and recreational trails. A cultural and entertainment district certification shall remain in effect for ten years following the date of certification. Two or more cities or counties may apply jointly for certification of a district that extends across a common boundary. Through the adoption of administrative rules, the department of cultural affairs shall develop a certification application for use in the certification process. The provisions of this subsection relating to the adoption of administrative rules shall be construed narrowly.

3. The department of cultural affairs shall encourage development projects and activities located in certified cultural and entertainment districts through incentives under cultural grant programs pursuant to section 303.3, chapter 303A, and any other grant programs.

2005 Acts, ch 150, §19; 2011 Acts, ch 118, §85, 89

Referred to in §15.274

303.3C Iowa great places program.

1. *a.* The department of cultural affairs shall establish and administer an Iowa great places program for purposes of combining resources of state government in an effort to showcase the unique and authentic qualities of communities, regions, neighborhoods, and districts that make such places exceptional places to work and live. The department of cultural affairs shall provide administrative assistance to the Iowa great places board. The department of cultural affairs shall coordinate the efforts of the Iowa great places board with the efforts of state agencies participating in the program which shall include, but not be limited to, the economic development authority, the Iowa finance authority, the department of human rights, the department of natural resources, the state department of transportation, and the department of workforce development.

b. The program shall combine resources from state government to capitalize on all of the following aspects of the chosen Iowa great places:

- (1) Arts and culture.
- (2) Historic fabric.
- (3) Architecture.
- (4) Natural environment.
- (5) Housing options.
- (6) Amenities.
- (7) Entrepreneurial incentive for business development.
- (8) Diversity.

c. Initially, three Iowa great places projects shall be identified by the Iowa great places board. The board may identify additional Iowa great places for participation under the program when places develop dimensions and meet readiness criteria for participation under the program.

d. The department of cultural affairs shall work in cooperation with the vision Iowa and community attraction and tourism programs for purposes of maximizing and leveraging moneys appropriated to identified Iowa great places.

e. As a condition of receiving state funds, an identified Iowa great place shall present information to the board concerning the proposed activities and total financial needs of the project.

f. The department of cultural affairs shall account for any funds appropriated from the endowment for Iowa's health restricted capitals fund for an identified Iowa great place.

2. *a.* The Iowa great places board is established consisting of twelve members. The board shall be located for administrative purposes within the department of cultural affairs and the director shall provide office space, staff assistance, and necessary supplies and equipment for the board. The director shall budget moneys to pay the compensation and expenses of the board. In performing its functions, the board is performing a public function on behalf of the state and is a public instrumentality of the state.

b. The members of the board shall be appointed by the governor, subject to confirmation by the senate. At least one member shall be less than thirty years old on the date the member is appointed by the governor. The board shall include representatives of cities and counties, local government officials, cultural leaders, housing developers, business owners, and parks officials.

c. The chairperson and vice chairperson shall be elected by the board members from the membership of the board. In the case of the absence or disability of the chairperson and vice chairperson, the members of the board shall elect a temporary chairperson by a majority vote of those members who are present and voting, provided a quorum is present.

d. Members of the board shall be appointed to three-year staggered terms and the terms shall commence and end as provided in section 69.19. If a vacancy occurs, a successor shall be appointed in the same manner and subject to the same qualifications as the original appointment to serve the unexpired term.

e. A majority of the members of the board constitutes a quorum.

f. A member of the board shall abstain from voting on the provision of financial assistance to a project which is located in the county in which the member of the board resides.

g. The members of the board are entitled to receive reimbursement for actual expenses

incurred while engaged in the performance of official duties. A board member may also be eligible to receive compensation as provided in section 7E.6.

3. The board shall do all of the following:

a. Organize.

b. Identify Iowa great places for purposes of receiving a package of resources under the program.

c. Identify a combination of state resources which can be provided to Iowa great places.

4. Notwithstanding any restriction, requirement, or duty to the contrary, in considering an application for a grant, loan, or other financial or technical assistance for a project identified in an Iowa great places agreement developed pursuant to this section, a state agency shall give additional consideration or additional points in the application of rating or evaluation criteria to such applications. This subsection applies to applications filed within three years of the Iowa great places board's identification of the project for participation in the program.

2005 Acts, ch 150, §87; 2006 Acts, ch 1179, §51 – 53; 2007 Acts, ch 43, §1, 2; 2011 Acts, ch 118, §85, 89

Referred to in §15H.6, 303.3D

Confirmation, see §2.32

Community attraction and tourism program, §15F.202

Vision Iowa program, §15F.302

303.3D Iowa great places program fund.

1. An Iowa great places program fund is created under the authority of the department of cultural affairs. The fund shall consist of appropriations made to the fund and transfers of interest, earnings, and moneys from other funds as provided by law. Notwithstanding section 12C.7, subsection 2, interest or earnings on investments or time deposits of the moneys in the Iowa great places program fund shall be credited to the Iowa great places program fund.

2. Moneys appropriated for a fiscal year to the fund shall be used by the general assembly to fund capital infrastructure projects for identified Iowa great places through the Iowa great places program established in section 303.3C. Moneys appropriated for a fiscal year shall be available for a project identified in an Iowa great places agreement for a period of three years from the time the project is identified.

3. In awarding moneys the department of cultural affairs shall give consideration to the particular needs of each identified Iowa great place.

4. Notwithstanding section 8.33, moneys credited to the great places program fund shall not revert to the fund from which appropriated but shall remain available for expenditure for the purposes designated for subsequent fiscal years.

2006 Acts, ch 1179, §54; 2008 Acts, ch 1179, §55

303.3E Culture, history, and arts teams program.

1. The department of cultural affairs shall establish and administer a statewide program facilitating the promotion of culture, history, and arts in Iowa. The program's purpose shall be to encourage cooperation and collaboration among the various state and local organizations working in these areas to improve Iowa's quality of life.

2. The department shall implement the program by working with the local organizations to establish local committees. Each committee shall:

a. Include representatives from local organizations dedicated to promoting culture, history, and arts.

b. Gather and disseminate information on the cultural, historical, and arts opportunities in the regions.

c. Enhance communication among the local organizations.

d. Assist the staff members of local organizations in obtaining technical and professional training.

3. The department shall assist local organizations in the delivery of technical services, professional training, and programming opportunities by working with these committees.

2008 Acts, ch 1057, §2

SUBCHAPTER II
HISTORICAL DIVISION

303.4 State historical society of Iowa — board of trustees.

1. A state historical society board of trustees is established consisting of twelve members selected as follows:

a. Three members shall be elected by the members of the state historical society according to rules established by the board of trustees.

b. The governor shall appoint one member from each of the state's congressional districts established under section 40.1.

c. The governor shall appoint five members from the state at large, at least two of whom shall be on the faculty of a college or university in the state engaged in a discipline related to the activities of the historical society.

2. The term of office of members of the board of trustees is three years beginning on July 1 and ending June 30. The terms of office of the governor's appointees are staggered terms of three years each, so that three members are appointed each year.

[C73, §1885, 1901; C97, §2858, 2883; S13, §2881-a; C24, 27, 31, 35, §4512 – 4514, 4543; C39, §4541.01, 4541.02, 4543; C46, 50, 54, 58, 62, 66, 71, 73, §303.1, 303.2, 304.2; C75, 77, 79, 81, §303.1; 82 Acts, ch 1238, §2]

86 Acts, ch 1245, §1305

C87, §303.4

89 Acts, ch 78, §1; 93 Acts, ch 18, §1; 2005 Acts, ch 80, §1; 2015 Acts, ch 30, §96; 2016 Acts, ch 1135, §12

Referred to in §103A.41

303.5 Powers and duties of state historical society administrator.

The state historical society administrator may:

1. Make and sign any agreements and perform any acts which are necessary, desirable, or proper to carry out the purpose of the division.

2. Request and obtain assistance and data from any department, division, board, bureau, commission, or agency of the state.

3. Accept any federal funds granted, by Act of Congress or by executive order, for all or any purposes of this subchapter.

89 Acts, ch 78, §2

303.6 Officers — meetings.

1. The state historical society board of trustees shall annually elect a chairperson and vice chairperson from its membership. The board shall meet as often as deemed necessary, upon the call of the chairperson, or at the request of a majority of the members of the board.

2. Members of the board are entitled to be reimbursed for actual expenses while engaged in their official duties. Members may also be eligible for compensation as provided in section 7E.6.

[C75, 77, 79, 81, §303.2; 82 Acts, ch 1238, §3]

86 Acts, ch 1245, §1306

C87, §303.6

2019 Acts, ch 24, §104

Referred to in §303A.5

303.7 Membership in state historical society.

1. The state historical society board of trustees shall recommend to the director rules for membership of the general public in the state historical society, including rules relating to membership fees. Members shall be persons who indicate an interest in the history, progress, and development of the state and who pay the prescribed fee. The members of the state historical society may meet at least one time per year to further the understanding of the history of this state. The members of the society shall not determine policy for the department of cultural affairs but may advise the director and perform functions to stimulate interest in

the history of this state among the general public. The society may perform other activities related to history which are not contrary to this chapter.

2. As used in this chapter, “*state historical society*” means the state historical society of Iowa, an agency of the state which is part of the department of cultural affairs. It does not mean or include any private entity.

3. Unless designated otherwise, a gift, bequest, devise, endowment, or grant to or application for membership in the state historical society shall be presumed to be to or in the state historical society of Iowa.

4. Notwithstanding section 633.63, the board may enter into agreements authorizing nonprofit foundations acting solely for the support of the state historical society to administer its membership program and funds.

[C73, §1902; C97, §2884; C24, 27, 31, 35, 39, §4544; C46, 50, 54, 58, 62, 66, 71, 73, §304.3; C75, 77, 79, 81, §303.3, 303.4; 82 Acts, ch 1238, §5]

C83, §303.4

86 Acts, ch 1245, §1307

C87, §303.7

89 Acts, ch 78, §3

303.8 Powers and duties of board and department.

1. The state historical society board of trustees shall:

a. Recommend to the state historical society a comprehensive, coordinated, and efficient policy to preserve, research, interpret, and promote to the public an awareness and understanding of local, state, and regional history.

b. Make recommendations to the division administrator on historically related matters.

c. Review and recommend to the director or the director’s designee policy decisions regarding the division.

d. Recommend to the state historic preservation officer for approval the state preservation plan.

e. Perform other functions prescribed by law to further historically related matters in the state.

2. The department shall:

a. Have authority to acquire by fee simple title historic properties by gift, purchase, devise, or bequest; preserve, restore, transfer, and administer historic properties; and charge reasonable admission to historic properties.

b. Maintain research centers in Des Moines and Iowa City.

[C73, §1902; C97, §2858, 2884; S13, §2881-a; C24, 27, 31, 35, §4515 – 4517, 4544; C39, §4541.03, 4544; C46, 50, 54, 58, 62, 66, 71, 73, §303.3, 304.3; C75, 77, 79, 81, §303.4, 303.5; 82 Acts, ch 1238, §7]

C83, §303.6

86 Acts, ch 1245, §1309

C87, §303.8

89 Acts, ch 78, §4; 2018 Acts, ch 1026, §106

303.9 Funds received by department.

1. All funds received by the department, including but not limited to gifts, endowments, funds from the sale of memberships in the state historical society, funds from the sale of mementos and other items relating to Iowa history as authorized under subsection 2, interest generated by the life membership trust fund, and fees, shall be credited to the account of the department and are appropriated to the department to be invested or used for programs and purposes under the authority of the department. Interest earned on funds credited to the department, except funds appropriated to the department from the general fund of the state, shall be credited to the department. Section 8.33 does not apply to funds credited to the department under this section.

2. The department may sell mementos and other items relating to Iowa history and historic sites on the premises of property under control of the department and at the state capitol. Notwithstanding sections 8A.321 and 8A.327, the department may directly and

independently enter into rental and lease agreements with private vendors for the purpose of selling mementos. All fees and income produced by the sales and rental or lease agreements shall be credited to the account of the department. The mementos and other items sold by the department or vendors under this subsection are exempt from section 8A.311.

3. Notwithstanding section 633.63, the board may authorize nonprofit foundations acting solely for the support of the state historical society of Iowa to accept and administer trusts deemed by the board to be beneficial to the division's operations. The board and the foundation may act as trustees in such instances.

[C75, 77, 79, 81, §303.9; 81 Acts, ch 10, §11; 82 Acts, ch 1238, §8]

86 Acts, ch 1244, §36; 88 Acts, ch 1284, §8; 89 Acts, ch 78, §5; 2003 Acts, ch 145, §237; 2003 Acts, 1st Ex, ch 2, §160, 205

Referred to in §404A.3

303.9A Iowa heritage fund.

1. An Iowa heritage fund is created in the state treasury to be administered by the state historical society. The fund shall consist of all moneys allocated to the fund by the treasurer of state.

2. Moneys in the fund shall be used in accordance with the following:

a. Ninety percent shall be retained by the state historical society and used to maintain and expand Iowa's history curriculum, to provide teacher training in Iowa history, and to support museum exhibits, historic sites, and adult education programs.

b. Five percent shall be retained by the state historical society to be used for start-up costs for the one hundred seventy-fifth and two hundredth anniversaries of Iowa statehood.

c. Five percent shall be retained by the state historical society to be used for the promotion of the sale of the Iowa heritage registration plate issued under section 321.34.

96 Acts, ch 1088, §2; 2001 Acts, ch 144, §1; 2008 Acts, ch 1005, §2

Referred to in §321.34

303.10 Acceptance and use of money grants.

All federal grants to and the federal receipts of the agencies receiving funds under this chapter are appropriated for the purpose set forth in the federal grants or receipts.

[C75, 77, 79, 81, §303.10]

303.11 Gifts.

1. The division may accept gifts and bequests which shall be used in accordance with the desires of the donor if expressed. Funds contained in an endowment fund for either the department of history and archives or the state historical society existing on July 1, 1974, remain an endowment of the division. Gifts shall be accepted only on behalf of the division, and gifts to a part, branch, or section of the division are presumed to be gifts to the division.

2. If publication of a book is financed by the endowment fund, this chapter does not prevent the return of moneys from sales of the book to the endowment fund.

[C24, 27, 31, 35, §4526, 4527; C39, §4541.07, 4541.08; C46, 50, 54, 58, 62, §303.7, 303.8; C66, 71, 73, §303.7, 303.8, 304.13; C75, 77, 79, 81, §303.11; 82 Acts, ch 1238, §9]

86 Acts, ch 1244, §37; 89 Acts, ch 78, §6; 2019 Acts, ch 24, §104

303.12 through 303.15 Repealed by 2003 Acts, ch 92, §21. See chapter 305.

303.16 Historical resource development program — country school grants.

1. The historical division shall administer a program of grants and loans for historical resource development throughout the state, subject to funds for such grants and loans being made available through the appropriations process or otherwise provided by law.

2. The purpose of the historical resource development program is to preserve, conserve, interpret, and enhance historical resources that will encourage and support the economic and cultural health and development of the state and the communities in which the resources are located. For this purpose, the division may make grants and loans as otherwise provided by law with funds as may be made available by applicable law.

3. The following persons are eligible to receive historical resource grants and loans:

- a. County and city governments.
 - b. Nonprofit corporations.
 - c. Private corporations and businesses.
 - d. Individuals.
 - e. State agencies.
 - f. Governments and traditional tribal societies of recognized resident American Indian tribes in Iowa.
 - g. Other units of government.
4. Grants and loans may be made for the following purposes:
- a. Acquisition and development of historical resources.
 - b. Preservation and conservation of historical resources.
 - c. Interpretation of historical resources.
 - d. Professional training and educational programs on the acquisition, development, preservation, conservation, and interpretation of historical resources.
5. a. Grants and loans shall be awarded in each of the following categories:
- (1) Museums.
 - (2) Documentary collections.
 - (3) Historic preservation.
- b. Not less than twenty percent and not more than sixty percent of the program's funds appropriated in one fiscal year shall be allocated to any single category.
6. Grants and loans are subject to the following restrictions:
- a. Not more than twenty percent of the total grant moneys combined shall be given to or received by state agencies and institutions, or their representatives or agents.
 - b. A portion of the applicant's operating expenses may be used as a cash match or in-kind match as specified by the division's rules.
 - c. Grant or loan funds shall not be used to support public relations or marketing expenses.
 - d. Not more than one hundred thousand dollars or twenty percent of the annual appropriation, whichever is more, shall be granted and loaned to recipients within a single county in any given grant cycle.
 - e. Not more than one hundred thousand dollars or ten percent of the annual appropriation, whichever is more, shall be granted and loaned to any single recipient or its agent within a single fiscal year.
 - f. Grants under this program may be given only after review and recommendation by the state historical society board of trustees. The division may contract with lending institutions chartered in this state to act as agents for the administration of loans under the program, in which case, the lending institution may have the right of final approval of loans, subject to the division's administrative rules. If the division does not contract with a lending institution, loans may be made only after review and recommendation by the state historical society board of trustees.
 - g. The division shall not award grants or loans to be used for goods or services obtained outside the state, unless the proposed recipient demonstrates that it is neither feasible nor prudent to obtain the goods or services within the state.
 - h. Grant or loan funds shall not be awarded to a city or county government for a project in the historic preservation category unless the city or county government has been approved as a certified local government by the state historic preservation officer.
7. For each dollar of grant funds the following recipients must provide the following matching cash and in-kind resources:
- a. All units of government and nonprofit corporations, fifty cents, of which at least twenty-five cents must be in cash.
 - b. For other private corporations and businesses, one dollar of which at least seventy-five cents must be in cash.
 - c. For individuals, seventy-five cents of which at least fifty cents must be in cash.
8. The division may use ten percent of the annual appropriation to the division, but in no event more than seventy-five thousand dollars for administration of the grant and loan program.
9. a. (1) The division may establish a historical resource grant and loan fund composed of

any money appropriated by the general assembly for that purpose, funds allocated pursuant to section 455A.19, and of any other moneys available to and obtained or accepted by the division from the federal government or private sources for placement in that fund. Each loan made under this section shall be for a period not to exceed ten years, shall bear interest at a rate determined by the state historical board, and shall be repayable to the revolving loan fund in equal yearly installments due March 1 of each year the loan is in effect. The interest rate upon loans for which payment is delinquent shall accelerate immediately to the current legal usury limit. Applicants are eligible for not more than one hundred thousand dollars in loans outstanding at any time under this program. A single lending institution contracting with the division pursuant to this section shall not hold more than five hundred thousand dollars worth of outstanding loans under the program.

(2) Any applicant, who is otherwise eligible, who receives a direct or indirect appropriation from the general assembly for a project or portion of a project is ineligible for a historical resources development grant for that same project during the fiscal year for which the appropriation is made. For purposes of this paragraph, “*project*” includes any related activities, including but not limited to construction, restoration, supplies, equipment, consulting, or other services.

b. The division may:

(1) Contract and adopt administrative rules necessary to carry out the provisions of this section, but the division shall not in any manner directly or indirectly pledge the credit of the state of Iowa.

(2) Authorize payment from the historical resource grant and loan fund, from fees and from any income received by investments of money in the fund for costs, commissions, attorney fees and other reasonable expenses related to and necessary for making and protecting direct loans under this section, and for the recovery of moneys loaned or the management of property acquired in connection with such loans.

10. a. The general assembly finds that the country school that served Iowa’s educational needs for much of its history offered a unique opportunity to students and communities, providing for multigenerational attendance, high educational performance, a safe environment, a focus for community support, and a caring, attentive environment.

b. A country schools historical resource preservation grant program is therefore established to be administered by the historical division for the preservation of one-room and two-room buildings once used as country schools. In developing grant approval criteria, the division shall place a priority on the educational uses planned for the country school building, which may include, but are not limited to, historical interpretation and use as a teaching museum or as an operational classroom accessible to a school district or accredited nonpublic school for provisional instructional purposes.

c. Notwithstanding any other provision of this section, the amount of a grant shall not exceed twenty-five thousand dollars and applicants shall match grant funding on a dollar-for-dollar basis, of which at least one-half of the local match must be in cash.

86 Acts, ch 1238, §54; 86 Acts, ch 1245, §1314; 87 Acts, ch 17, §8; 89 Acts, ch 78, §11, 12; 89 Acts, ch 236, §12 – 14; 89 Acts, ch 319, §79; 90 Acts, ch 1097, §2 – 8; 91 Acts, ch 73, §1 – 7; 99 Acts, ch 205, §44; 2010 Acts, ch 1061, §180

Referred to in §303.2, 455A.19

Section not amended; headnote revised

303.17 Iowa studies — findings — curriculum — committee. Repealed by its own terms; 2010 Acts, ch 1188, §31, 33.

303.18 Rural electric cooperatives and municipal utilities — historic properties — archeological site surveys.

1. The state historic preservation officer shall only recommend that a rural electric cooperative or a municipal utility constructing electric distribution and transmission facilities for which it is receiving federal funding conduct an archeological site survey of its proposed route when, based upon a review of existing information on historic properties within the area of potential effects of the construction, the state historic preservation officer has

determined that a historic property, as defined by the federal National Historic Preservation Act of 1966, Pub. L. No. 89-665, as amended and codified at 16 U.S.C. §470 et seq., is likely to exist within the proposed route.

2. The state historic preservation officer shall not require a level of archeological identification effort which is greater than the reasonable and good faith effort required by the federal agency. Such effort shall reflect the public interest and shall take into account the likelihood and magnitude of potential impacts to historic properties and project costs.

2011 Acts, ch 4, §2, 3; 2011 Acts, ch 131, §92, 102; 2018 Acts, ch 1026, §107

303.19 American civil war sesquicentennial advisory committee. Repealed by its own terms; 2008 Acts, ch 1057, §3.

SUBCHAPTER III

HISTORICAL PRESERVATION DISTRICTS

303.20 Definitions.

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

1. "*Area of historical significance*" means contiguous pieces of property of no greater area than one hundred sixty acres under diverse ownership which:

- a. Are significant in American history, architecture, archaeology and culture, and
- b. Possess integrity of location, design, setting, materials, skill, feeling and association, and
- c. Are associated with events that have been a significant contribution to the broad patterns of our history, or
- d. Are associated with the lives of persons significant in our past, or
- e. Embody the distinctive characteristics of a type; period; method of construction; represent the work of a master; possess high artistic values; represent a significant and distinguishable entity whose components may lack individual distinction.
- f. Have yielded, or may be likely to yield, information important in prehistory or history.

2. "*Commission*" is the five-person body, elected by the registered voters in the historical preservation district from persons living in the district for the purpose of administering this subchapter of this chapter.

3. "*District*" means a historical preservation district established under this subchapter of this chapter.

4. "*Department*" means the department of cultural affairs.

5. "*Exterior features*" means the architectural style, general design and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material and the type and style of all windows, doors, light fixtures, signs and other appurtenant fixtures. In the case of an outdoor advertising sign, "*exterior features*" means the style, material, size and location of the sign.

6. "*Property owner*" means an individual or corporation who is the owner of real estate for taxation purposes.

[C77, 79, 81, §303.20; 82 Acts, ch 1238, §14]

86 Acts, ch 1245, §1315; 95 Acts, ch 67, §53

Referred to in §8C.8, 303.33, 303.34, 427.16

303.21 Petition.

1. The eligible voters in an area of asserted historical significance may petition the department for a referendum for the establishment of a district.

2. The petition must be signed by not less than ten percent of the eligible voters of the area

and shall contain both a description of the property suggested for inclusion in the district and the reasons justifying the creation of the district.

[C77, 79, 81, §303.21; 82 Acts, ch 1238, §15]

2001 Acts, ch 24, §45; 2019 Acts, ch 24, §104; 2020 Acts, ch 1063, §129

Referred to in §303.33, 303.34

Section amended

303.22 Action by department.

1. The department shall hold a hearing not less than thirty days or more than sixty days after the petition is received. The department shall publish notice of the hearing, at a reasonable time before the hearing is to take place, and shall post notice of the hearing in a reasonable number of places within the suggested district. The cost of notification shall be paid by the persons who petition for the establishment of a district.

2. At the hearing the department shall hear interested persons, accept written presentations, and shall determine whether the suggested district is an area of historical significance which may properly be established as a historical preservation district pursuant to the provisions of this subchapter of this chapter. The department may determine the boundaries which shall be established for the district. The department shall not include property which is not included in the suggested district unless the owner of the property is given an opportunity to be heard.

3. The department, if it determines that the suggested district meets the criteria for establishment as a historical preservation district, shall indicate the owners of the property and residents included and shall forward a list of owners and residents to the county commissioner of elections.

4. If the department determines that the suggested district does not meet the criteria for establishment as a historical preservation district, it shall so notify the petitioners.

[C77, 79, 81, §303.22; 82 Acts, ch 1238, §16]

2016 Acts, ch 1011, §121

Referred to in §303.33, 303.34

303.23 Referendum.

Within thirty days after the receipt of the list of owners of property and residents within the suggested historical preservation district, the department shall fix a date not more than forty-five days from the receipt of the petition seeking a referendum on the question of establishment of a historical preservation district. The department, after consultation with the county commissioner of elections, shall specify the polling place within the suggested district that will best serve the convenience of the voters and shall appoint from residents of the proposed district three judges and two clerks of election.

[C77, 79, 81, §303.23; 82 Acts, ch 1238, §17]

Referred to in §303.33, 303.34

303.24 Notice.

The department, after consultation with the county commissioner of elections, shall post notice of the referendum in a reasonable number of places within the suggested district a reasonable time before it is to take place. The notice shall state the purpose of the referendum, a description of the district, the date of the referendum, the location of the polling place, and the hours when the polls will open and close.

[C77, 79, 81, §303.24; 82 Acts, ch 1238, §18]

Referred to in §303.33, 303.34

303.25 Voting.

1. A person shall be qualified to vote at the referendum if such person is a registered voter of the area embraced by the proposed historic district.

2. A historic preservation district is established if a majority of the persons voting at the referendum votes in favor of its establishment.

[C77, 79, 81, §303.25]

94 Acts, ch 1169, §64

Referred to in §303.33, 303.34

303.26 Commission.

1. At the same time the referendum is held, an election shall be held for the commission. Each voter at the referendum may write upon the ballot the names of not more than five persons who are eligible voters within the district to be members of the commission.

2. The five persons receiving the highest number of votes shall constitute the commission. In the event one of the five receiving the highest number of votes elects not to serve on the commission, the person receiving the next highest number of votes shall serve.

3. Of the initial commission the person receiving the highest number of votes shall receive a five-year term of office, the next highest a four-year term, the next highest a three-year term, the next highest a two-year term, and the fifth highest a one-year term. Thereafter, an election shall be held annually in the district to elect a member to a five-year term as each term expires.

4. Vacancies in the commission occurring between elections shall be filled by the remaining members of the commission by majority vote. Should a majority of those voting vote not to establish the district, the election shall be void.

[C77, 79, 81, §303.26]

2016 Acts, ch 1011, §121

Referred to in §303.33, 303.34

303.27 Controls.

After the establishment of a district, an exterior portion of any building, exterior fixture, or other exterior structure, or any aboveground utility structure or any type of outdoor advertising sign shall not be erected, altered, restored, moved or demolished within such district until after an application for a certificate of appropriateness as to exterior features has been submitted to and approved by the commission.

[C77, 79, 81, §303.27]

Referred to in §303.33, 303.34

303.28 Interior.

The commission shall not consider or attempt to control the interior arrangement of any building in the district.

[C77, 79, 81, §303.28]

Referred to in §303.33, 303.34

303.29 Use of structures.

No change in the use of any structure or property within a designated historical district shall be permitted until after an application for a certificate of appropriateness has been submitted to and approved by the commission. For purposes of this section “use” means the legal enjoyment of property that consists in its employment, exercise, or practice.

[C77, 79, 81, §303.29]

Referred to in §303.33, 303.34

303.30 Procedures.

1. Prior to issuance or denial of a certificate of appropriateness the commission shall take such action as may reasonably be required to inform persons likely to be materially affected by the application, and shall give the applicant and such persons an opportunity to be heard. In cases where the commission deems it necessary, it may hold a public hearing concerning the application. The commission shall vote upon any application for a certificate of appropriateness within sixty days after its submission to the commission.

2. If the commission determines that the proposed construction, reconstruction, alteration, restoration, moving, demolition, or the change in use is appropriate, it shall forthwith approve such application and shall issue to the applicant a certificate of appropriateness.

3. If the commission determines that the proposed construction, reconstruction, alteration, restoration, moving or demolition of buildings, structures, appurtenant fixtures, outdoor advertising signs or natural features, or the proposed change in use would be incongruous with the historical, architectural, archaeological or cultural aspects of the

district, a certificate of appropriateness shall not be issued, and the commission shall place upon its records the reasons for such determination and shall notify the applicant of such determination, furnishing the applicant an attested copy of its reasons and its recommendations, if any, as appearing in the records of the commission.

4. The commission may approve the application in any case where a person would suffer extreme hardship, not including loss of profit, unless the certificate of appropriateness was issued. Any applicant aggrieved by a determination of the commission may appeal to the district court for the county in which the land concerned is located within sixty days of the commission's action.

[C77, 79, 81, §303.30]

2016 Acts, ch 1011, §121

Referred to in §303.33, 303.34

303.31 Action by commission.

The commission shall take action to enjoin any attempts to construct, reconstruct, alter, restore, move, or demolish any exterior feature, or to change the use of the property within the district without a certificate of appropriateness.

[C77, 79, 81, §303.31]

Referred to in §303.33, 303.34

303.32 Ordinary maintenance and repair.

Nothing in this subchapter of this chapter shall be construed to prevent the ordinary maintenance or repair of any exterior feature in a district which does not involve a change in design, material or outer appearance, nor to prevent the construction, reconstruction, alteration, restoration or demolition of any such feature which is required by public safety because of an unsafe or dangerous condition.

[C77, 79, 81, §303.32]

Referred to in §303.33, 303.34

303.33 Termination of district.

1. Two years after the establishment of a district, a referendum for the termination of the district shall be held if ten percent of the eligible voters in the district so request. If the registered voters, by a majority of those voting, favor termination, sections 303.20 through 303.32 will no longer have any effect on the property formerly included in the district.

2. If an election is held to terminate a district under this section and such attempt fails, another referendum for termination of the district in question shall not take place for a period of two years.

[C77, 79, 81, §303.33]

95 Acts, ch 67, §53; 96 Acts, ch 1034, §18; 2019 Acts, ch 24, §104

Referred to in §303.34

303.34 Areas of historical significance.

The provisions of sections 303.20 through 303.33 do not apply within the limits of a city. However, in order for a city to designate an area which is deemed to merit preservation as an area of historical significance, the following shall apply:

1. An area of historical significance shall be proposed by the governing body of the city on its own motion or upon the receipt by the governing body of a petition signed by residents of the city. The city shall submit a description of the proposed area of historical significance or the petition describing the proposed area, if the proposed area is a result of the receipt of a petition, to the historical division which shall determine if the proposed area meets the criteria in subsection 2 and may make recommendations concerning the proposed area. Any recommendations made by the division shall be made available by the city to the public for viewing during normal working hours at a city government place of public access.

2. A city shall not designate an area as an area of historical significance unless it contains contiguous pieces of property under diverse ownership which meets the criteria specified in section 303.20, subsection 1, paragraphs "a" through "f".

3. A city may provide by ordinance for the establishment of a commission to deal with

matters involving areas of historical significance but shall provide by ordinance for such commission upon the enactment of the ordinance designating an area as an area of historical significance as required in subsection 4. Upon the establishment of the commission the city shall provide by ordinance for the method of appointment, the number, and terms, of members of the commission and for the duties and powers of the commission. The commission shall contain not less than three members. The members of the commission shall be appointed with due regard to proper representation of residents and property owners of the city and their relevant fields of knowledge including but not limited to history, urban planning, architecture, archaeology, law, and sociology. At least one resident of each designated area of historical significance shall be appointed to the commission. Cities with a population of more than fifty thousand shall not appoint more than one-third of the members to the commission of an area of historical significance that are members of a city zoning commission appointed pursuant to chapter 414. The commission shall have the power to approve or deny applications for proposed alterations to exterior features within an area designated as an area of historical significance. An aggrieved party may appeal the commission's action to the governing body of the city. If not satisfied by the decision of the governing body, the party may appeal within sixty days of the governing body's decision to the district court for the county in which the designated area is located. On appeal the governing body or the district court as the case may be shall consider whether the commission has exercised its powers and followed the guidelines established by the law and ordinance, and whether the commission's action was patently arbitrary or capricious.

4. An area shall be designated an area of historical significance upon enactment of an ordinance of the city. Before the ordinance or an amendment to the ordinance is enacted, the governing body of the city shall submit the ordinance or amendment to the historical division for its review and recommendations.

[C81, §303.34; 82 Acts, ch 1238, §19]

89 Acts, ch 145, §1; 92 Acts, ch 1204, §7; 2019 Acts, ch 59, §84; 2020 Acts, ch 1063, §130

Referred to in §8C.3, 8C.7A, 414.2, 427.16

Subsections 2 and 4 amended

303.35 through 303.40 Reserved.

SUBCHAPTER IV

LAND USE DISTRICTS

Referred to in §423A.4

303.41 Eligibility and purpose.

A land use district shall not be created under this subchapter unless it is an area of contiguous territory encompassing twenty thousand acres or more of predominately rural and agricultural land owned by a single entity which has within its general boundaries at least seven platted villages which are not incorporated as municipalities at the time the district is organized. The eligible electors may create a land use district to conserve the distinctive historical and cultural character and peculiar suitability of the area for particular uses with a view to conserving the value of all existing and proposed structures and land and to preserve the quality of life of those citizens residing within the boundaries of the contiguous area by preserving its historical and cultural quality.

83 Acts, ch 108, §1

Referred to in §303.48, 303.64

303.42 Petition.

Eligible electors residing within the limits of a proposed land use district equal in number to at least ten percent or more of the registered voters residing within the limits of a proposed land use district may file a petition in the office of the county auditor of the county in which the proposed land use district, or its major portion, is located, requesting that there be submitted to the registered voters of the proposed district the question of whether the territory within

the boundaries of the proposed district shall be organized as a land use district under this subchapter. The petition shall be addressed to the board of supervisors of the county where it is filed and shall set forth the following:

1. An intelligible description of the boundaries of the territory to be embraced in the district.
2. The name of the proposed district.
3. That the territory to be embraced in the district has a distinctive historical and cultural character which might be preserved by the establishment of the district.
4. That the public welfare will be promoted by the establishment of the district.
5. The signatures of the petitioners.

83 Acts, ch 108, §2; 2001 Acts, ch 56, §16

Referred to in §303.48, 303.64

303.43 Jurisdiction — decisions — records.

The board of supervisors of the county in which the proposed land use district, or its major portion, is located has jurisdiction of the proceedings on the petition as provided in this subchapter and the decision of a majority of the members of that board is necessary for adoption. All orders of the board made under this subchapter shall be spread at length upon the records of the proceedings of the board of supervisors, but need not be published.

83 Acts, ch 108, §3

Referred to in §303.48, 303.64

303.44 Date and notice of hearing.

The board of supervisors to whom the petition is addressed, at its next regular, special, or adjourned meeting, shall set the time and place when it will meet for a hearing upon the petition, and direct the county auditor in whose office the petition is filed to cause notice to be given to all persons whom it may concern, without naming them, of the pendency and prayer of the petition, by publication of a notice once each week for two consecutive weeks in some newspaper of general circulation published in the proposed district. The last publication shall not be less than twenty days prior to the date set for the hearing of the petition. If no such newspaper is published in the proposed district, then notice shall be by posting at least five copies of the notice in the proposed district at least twenty days before the hearing. Proof of giving notice shall be made by affidavit of the publisher or affidavit of the person who posted the notices, and the proof shall be on file with the county auditor at the time the hearing begins. The notice of hearing shall be directed to all persons it may concern, and shall state the following:

1. That a petition has been filed with the county auditor of that county for establishment of a proposed land use district and the name of the proposed district.
2. An intelligible description of the boundaries of the territory to be embraced in the district.
3. The date, hour, and place where the petition will come on for hearing before the board of supervisors of the named county.
4. That the board of supervisors will fix and determine the boundaries of the proposed district as described in the petition, and at the hearing all interested persons shall have an opportunity to be heard regarding the location and boundaries of the proposed district and to make suggestions regarding it.

83 Acts, ch 108, §4

Referred to in §303.45, 303.46, 303.48, 303.64

303.45 Hearing of petition and order.

The board of supervisors to whom the petition is addressed shall preside at the hearing provided for in section 303.44 and shall continue the hearing in session, with adjournments from day to day, if necessary, until completed, without being required to give any further notice of it. Proof of the residence and qualification of the petitioners as eligible electors shall be made by affidavit or otherwise as the board may direct. The board shall consider the boundaries of the proposed land use district, whether they shall be as described in the petition or otherwise, and for that purpose may alter and amend the petition and limit or change the

boundaries of the proposed district as stated in the petition. The boundaries of a proposed district shall not be changed to include property not included in the original petition and published notice until the owner of that property is given notice as on the original hearing. All persons in the proposed district shall have an opportunity to be heard regarding the location and boundaries of the proposed district and to make suggestions regarding them. The board of supervisors, after hearing the statements, evidence, and suggestions made and offered at the hearing, shall enter an order fixing the boundaries of the proposed district and directing that an election be held for the purpose of submitting to the registered voters residing within the boundaries of the proposed district the question of organization and establishment of the proposed land use district as determined by the board of supervisors. The order shall fix a date for the election not more than sixty days after the date of the order, establish voting precincts within the proposed district and define their boundaries, and specify the polling places which in the board’s judgment will best serve the convenience of the voters, and shall appoint from residents of the proposed district three judges and two clerks of election for each voting precinct established.

83 Acts, ch 108, §5; 2001 Acts, ch 56, §17
Referred to in §303.48, 303.64

303.46 Notice of election.

In its order for the election the board of supervisors shall direct the county auditor to cause notice of the election to be given by posting at least five copies of the notice in public places in the proposed district at least twenty days before the date of election and by publication of the notice once each week for three consecutive weeks in some newspaper of general circulation published in the proposed district, or, if no such newspaper is published within the proposed district, then in such a newspaper published in the county in which the major part of the proposed district is located. The last publication is to be at least twenty days prior to the date of election. The notice shall state the time and place of holding the election and the hours when the polls will be open and closed, the purpose of the election, with the name of the proposed district and a description of its boundaries, and shall set forth briefly the limits of each voting precinct and the location of the polling places. Proof of posting and publication shall be made in the manner provided in section 303.44 and filed with the county auditor.

83 Acts, ch 108, §6
Referred to in §303.48, 303.64

303.47 Election.

1. Each registered voter residing within the proposed district may cast a ballot at the election and a person shall not vote in any precinct but that of the person’s residence. Ballots at the election shall be in substantially the following form:

For Land Use District
Against Land Use District

2. The election shall be conducted in the manner provided by law for general elections and the ballots so cast shall be issued, received, returned, and canvassed in the same manner and by the same officers, in the county whose board of supervisors is vested with jurisdiction of the proceedings, as provided by law in the case of ballots cast for county officers, except as modified by this subchapter. The board of supervisors shall cause a statement of the result of the election to be spread upon the records of the county auditor. If a majority of the votes cast upon the question of incorporation of the proposed district is in favor of the proposed district, the proposed district becomes an organized district under this subchapter.

83 Acts, ch 108, §7; 2001 Acts, ch 56, §18
Referred to in §303.48, 303.64

303.48 Expenses and costs of election.

All expenses incurred in carrying out sections 303.41 through 303.47, including the costs of the election, as determined by the board of supervisors, shall be paid by the county whose board is vested with jurisdiction of the proceedings.

83 Acts, ch 108, §8

Referred to in §303.64

303.49 Election of trustees — terms — vacancies.

1. If the proposition to establish a land use district carries, a special election shall be called by the board of supervisors of the county which conducted the election to form the district. This special election shall be held within the newly created district at a single polling place designated by the county auditor not more than ninety days after the organization of the land use district. The election shall be held for the purpose of electing the initial seven members of the board of trustees of the land use district. The county auditor shall cause notice of the election to be posted and published, and shall perform all other acts with reference to the election, and conduct it in like manner, as nearly as may be, as provided in this subchapter for the election on the question of establishing the district. Each trustee must be a United States citizen not less than eighteen years of age and a resident of the district. Each registered voter at the election may write in upon the ballot the names of not more than seven persons whom the voter desires for trustees and may cast not more than one vote for each of the seven persons. The seven persons receiving the highest number of votes cast shall constitute the first board of trustees of the district.

2. Following the initial special election, an annual election shall be held at a single polling place within the district designated by the county auditor for the purpose of electing a trustee to replace a trustee whose term will expire. The board of trustees, in consultation with the county auditor, shall select the election date. The county auditor shall perform all other acts with reference to the election and conduct it in like manner, as nearly as may be, as provided in chapters 45 and 49. Each registered voter at the election may vote for one person whom the voter desires as a trustee for each expiring term. The term of office for each trustee elected shall be three years.

3. Vacancies in the office of trustee of a land use district may be filled by the remaining members of the board of trustees for the period extending to the next annual election at which time the registered voters of the district shall elect a new trustee to fill the vacancy for the unexpired term. Expenses incurred in carrying out the annual elections of trustees shall be paid for by the land use district.

4. When the initial board of trustees is elected under this section the trustees shall be ranked in the order of votes received from highest to lowest. Any ties shall be resolved by a random method. The last ranked trustee shall receive an initial term expiring at the next annual election for trustees, the sixth and fifth ranked trustees receive an initial term expiring one year later, the fourth ranked trustee receives an initial term expiring two years after that election, the third and second ranked trustees receive initial terms expiring three years after that election, and the first ranked trustee shall receive an initial term expiring four years after that election.

83 Acts, ch 108, §9; 85 Acts, ch 161, §1; 94 Acts, ch 1169, §64; 97 Acts, ch 83, §1

Referred to in §303.64

303.50 Trustee's bond.

Each trustee shall, before entering upon the duties of office, execute a bond payable to the district, with security to be approved by the board of supervisors which had jurisdiction of the petition for establishment of the district, in a form and amount as that board of supervisors may determine, and file the bond with the county auditor of that county.

83 Acts, ch 108, §10

Referred to in §303.64

303.51 Land use district to be a body corporate.

1. A land use district organized under this subchapter is a body corporate and politic, with the name and style under which it was organized, and by that name and style may sue

and be sued, contract and be contracted with, acquire and hold real and personal property necessary for corporate purposes, adopt a corporate seal and alter it, and exercise all the powers conferred in this chapter.

2. The courts of this state shall take judicial notice of the existence of a land use district organized under this subchapter.

83 Acts, ch 108, §11; 2020 Acts, ch 1062, §94

Referred to in §303.64

Code editor directive applied

303.52 Board of trustees — powers and duties.

1. The trustees elected under this subchapter constitute the board of trustees for the district, which is the corporate authority of the district, and shall exercise all the powers and manage and control all the affairs of the district. A majority of the board of trustees is a quorum, but a smaller number may adjourn from day to day. The board of trustees may elect a president, vice president, clerk, and a treasurer from their own number and, from without their own number, employees of the district. The compensation of members of the board of trustees is fixed not to exceed ten dollars per day, or any part of a day, for each day the board is actually in session and ten dollars per day when not in session but employed on board service, and twenty cents for every mile traveled in going to and from sessions of the board and in going to and from the place of performing board service. Members of the board shall not receive compensation for more than sixty days of session and board service each year.

2. The board of trustees shall formulate and administer a land use plan which includes all ordinances, resolutions, rules, and regulations necessary for the proper administration of the land use district. The land use plan shall be created for the primary purpose of regulating and restricting, where deemed necessary, the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land in a manner which would maintain or enhance the distinctive historical and cultural character of the district. The ordinances, resolutions, rules, and regulations shall not apply to any tillable farmland, pastureland, timber pasture or forestland located within the district except to structures of an advertising or commercial nature located on the land.

3. The board of trustees shall provide for the manner in which the land use plan shall be established and enforced and amended, supplemented, or changed. However, a plan shall not become effective until after a public hearing on it, at which parties in interest and citizens of the district shall have an opportunity to be heard. At least fifteen days' notice of the time and place of the hearing shall be published in a newspaper of general circulation within the district giving the time, date, and location of the public hearing.

4. a. The board of trustees may by ordinance impose a hotel and motel tax in accordance with chapter 423A.

b. All revenues derived from imposition of the hotel and motel tax shall be spent exclusively on the acquisition of sites for, or constructing, improving, enlarging, equipping, repairing, operating, or maintaining of recreation, convention, cultural, or entertainment facilities including but not limited to memorial buildings, halls and monuments, civic center convention buildings, auditoriums, coliseums, and parking areas or facilities located at those recreation, convention, cultural, or entertainment facilities, or for the promotion and encouragement of tourist and convention business in the land use district and surrounding areas.

5. The board of trustees shall appoint an administrative officer authorized to enforce the resolutions or ordinances adopted by the board of trustees. The board of trustees may pay the administrative officer the compensation it deems fit from the funds of the district.

83 Acts, ch 108, §12; 85 Acts, ch 161, §2; 2017 Acts, ch 158, §1

Referred to in §303.64, 423A.7

303.52A Inclusion or exclusion of land.

If at least sixty percent of the registered voters of a land area petition the board of supervisors for inclusion in or exclusion from a land use district, the board shall review the petition and determine if the petition contains a sufficient number of registered voters residing in the affected land area and, if the petition is sufficient, submit it to the board of

trustees of the land use district. The land area to be included in or excluded from the land use district must be contiguous to the land use district. If two thirds of the membership of the board of trustees vote in favor of the petition, the petition shall be granted and the land area included in or excluded from the district.

85 Acts, ch 161, §3; 2001 Acts, ch 56, §19

Referred to in §303.64

303.53 Changes and amendments.

The land use plan, once established, may be amended, supplemented, changed, modified, or repealed. In case, however, of a protest against a change signed by the owners of twenty percent or more either of the area included in the proposed change, or of the immediately adjacent area and within five hundred feet of the boundaries, the amendment shall not become effective except by the favorable vote of at least eighty percent of all of the members of the board of trustees.

83 Acts, ch 108, §13

Referred to in §303.64

303.54 Board of adjustment.

The board of trustees of the district shall provide for the appointment of a board of adjustment, shall provide that the board of adjustment may, in appropriate cases, and subject to appropriate conditions and safeguards, make special exceptions to the terms of the land use plan which are in harmony with its general purpose and intent and in accordance with the general or specific rules of the plan, and provide that a property owner aggrieved by the action of the board of trustees in the adoption of the land use plan may petition the board of adjustment directly to modify regulations and restrictions as applied to those property owners.

83 Acts, ch 108, §14

Referred to in §303.64

303.55 Membership — term — compensation.

The board of adjustment shall consist of five members, all of whom shall reside within the district, each to be appointed for a term of five years. For the initial board one member shall be appointed for a term of five years, one for a term of four years, one for a term of three years, one for a term of two years, and one for a term of one year. Members are removable for cause by the appointing authority upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of a member whose term becomes vacant. The compensation for the members of the board of adjustment is the same as for the members of the board of trustees.

83 Acts, ch 108, §15; 85 Acts, ch 161, §4

Referred to in §303.64

303.56 Rules.

The board of adjustment shall adopt rules in accordance with any regulation or ordinance adopted by the board of trustees pursuant to this subchapter. Meetings of the board of adjustment shall be held at the call of the chairperson and at other times as the board determines. The chairperson, or the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating that fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

83 Acts, ch 108, §16

Referred to in §303.64

303.57 Appeals to board of adjustment.

Appeals to the board of adjustment may be taken by any person aggrieved or affected by the land use plan or by a decision of the administrative officer. The appeal shall be taken within a reasonable time, as provided by the rules of the board of adjustment, by filing with the

administrative officer and the board of adjustment a notice of appeal specifying the grounds of the appeal.

83 Acts, ch 108, §17; 85 Acts, ch 161, §5

Referred to in §303.64

303.58 Powers of board.

The board of adjustment may:

1. Hear and decide appeals where it is alleged there is error in an order, requirement, decision, or determination made by an administrative official in the enforcement of this subchapter or of any ordinance adopted pursuant to it.

2. Hear and decide special exceptions to the terms of the ordinance upon which the board is required to pass under the ordinance.

3. Authorize upon appeal, in specific cases, a variance from the terms of the land use plan which are not contrary to the public interest, where owing to special conditions a literal enforcement of the plan would result in unnecessary hardship, and so that the spirit of the plan shall be observed and substantial justice done.

83 Acts, ch 108, §18

Referred to in §303.64

303.59 Powers on appeal.

In exercising its powers the board may, in conformity with this subchapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make the order, requirement, decision, or determination as should be made, and to that end have all the powers of the administrative officer of the board.

83 Acts, ch 108, §19; 85 Acts, ch 161, §6

Referred to in §303.64

303.60 Vote required.

The concurring vote of three members of the board is necessary to reverse an order, requirement, decision, or determination, or to decide in favor of the applicant on a matter upon which it is required to pass under an ordinance or to effect a variation in the land use plan.

83 Acts, ch 108, §20

Referred to in §303.64

303.61 Petition to court.

Any persons, jointly or severally, aggrieved by a decision of the board of adjustment under this subchapter, or any taxpayer, may present to a court of record a petition, duly verified, setting forth that the decision is illegal, in whole or in part, specifying the grounds of the illegality. The petition shall be presented to the court within thirty days after the filing of the decision in the office of the board.

83 Acts, ch 108, §21

Referred to in §303.64

303.62 Review by court.

Upon the presentation of a petition, the court may allow a writ of certiorari directed to the board of adjustment to review the decision of the board of adjustment prescribing the time within which a return must be made and served upon the relator's attorney, which shall not be less than ten days and may be extended by the court. The allowance of the writ does not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and on due cause shown, grant a restraining order.

83 Acts, ch 108, §22

Referred to in §303.64

303.63 Trial to court.

1. If upon the hearing, which shall be tried de novo, it appears to the court that testimony is necessary for the proper disposition of the matter, the court may take evidence or appoint a referee to take evidence as it directs and report the evidence to the court with findings of

fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

2. Costs shall not be allowed against the board unless it appears to the court that the board acted with gross negligence or in bad faith or with malice in making the decision appealed from.

83 Acts, ch 108, §23; 2019 Acts, ch 24, §39

Referred to in §303.64

303.64 Precedence.

All issues in any proceedings under sections 303.41 through 303.63 have preference over all other civil actions and proceedings.

83 Acts, ch 108, §24

303.65 Restraining order.

If a building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or a building, structure, or land is used in violation of this subchapter or of an ordinance or other regulation made under this subchapter, the board of trustees, in addition to other remedies, may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use, to restrain, correct, or abate the violation, to prevent the occupancy of the building, structure, or land, or to prevent any illegal act, conduct, business, or use in, or about the premises.

83 Acts, ch 108, §25

303.66 Taxes — power to levy — tax sales.

1. The board of trustees of a land use district organized under this subchapter may by ordinance levy annually for the purpose of paying the administrative costs of the district, a tax upon real property within the territorial limits of the land use district not exceeding twenty-seven cents per thousand dollars of the adjusted taxable valuation of the property for the preceding fiscal year. The tax shall not be levied on any tillable farmland, pastureland, timber pasture, or forestland located within the district.

2. Taxes levied by the board shall be certified on or before the first day of March to the county auditor of each county where any of the property included within the territorial limits of the land use district is located, and shall be placed upon the tax list for the current year. The county treasurer shall collect the taxes in the same manner as other taxes. When delinquent, the taxes shall draw the same interest and penalties as other taxes. All taxes so levied and collected shall be paid over to the treasurer of the district.

3. Sales for delinquent taxes owing to a land use district shall be made at the same time and in the same manner as sales are made for other taxes, and all provisions of the law of this state relating to the sale of property for delinquent taxes are applicable, so far as may be, to such sales.

83 Acts, ch 108, §26; 2016 Acts, ch 1011, §121; 2017 Acts, ch 29, §85

303.67 Records and disbursements.

The clerk of each land use district shall keep a record of all the proceedings and actions of the trustees. The treasurer shall receive, collect, and disburse all moneys belonging to the district, and no claim shall be paid or disbursement made until it has been duly audited by the board of trustees.

83 Acts, ch 108, §27

303.68 Conflict with other regulations.

If the regulations made under this subchapter impose higher standards than are required in any other statute or local ordinance or regulation, the regulations made under this subchapter govern. If any other statute or local ordinance or regulation imposes higher standards than are required by the regulations made under authority of this subchapter,

that statute or ordinance or regulation governs. If a regulation proposed or made under this subchapter relates to a structure, building, dam, obstruction, deposit, or excavation in or on the floodplains of a river or stream, prior approval of the department of natural resources is required to establish, amend, supplement, change, or modify the regulation or to grant a variation or exception from it.

83 Acts, ch 108, §28

303.69 through 303.74 Reserved.

SUBCHAPTER V

PUBLIC BROADCASTING DIVISION

303.75 through 303.85 Repealed by 93 Acts, ch 48, §55. See §256.80 et seq.

SUBCHAPTER VI

ARTS DIVISION

Referred to in §303.2

303.86 Arts council.

1. The Iowa arts council is created as an advisory council, consisting of fifteen members, appointed by the governor from among citizens of Iowa who are recognized for their interest or experience in connection with the performing and fine arts. In making appointments, due consideration shall be given to the recommendations made by representative civic, educational, and professional associations and groups concerned with or engaged in the production or presentation of the performing and fine arts.

2. The term of office of each member of the Iowa arts council is three years. The governor shall designate a chairperson and a vice chairperson from the members of the council to serve at the pleasure of the governor. All vacancies shall be filled for the balance of any unexpired term in the same manner as original appointments. The members of the council shall not receive compensation for their services, but shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties as members of the council. Members may also be eligible for compensation as provided in section 7E.6.

86 Acts, ch 1245, §1325; 2002 Acts, ch 1119, §151; 2019 Acts, ch 24, §104

Referred to in §303A.5

303.87 Duties of council.

The arts council shall:

1. Advise the director with respect to policies, programs, and procedures for carrying out the administrator's functions, duties, or responsibilities.

2. Review programs to be supported and make recommendations on the programs to the director.

86 Acts, ch 1245, §1326; 90 Acts, ch 1065, §3; 91 Acts, ch 157, §11

303.88 Administrator's powers and authority.

The arts division administrator may:

1. Make and sign any agreements and perform any acts which are necessary, desirable, or proper to carry out the purpose of the division.

2. Request and obtain assistance and data from any department, division, board, bureau, commission, or agency of the state.

3. Accept any federal funds granted, by Act of Congress or by executive order, for all or any purposes of this subchapter, and receive and disburse as the official agent of the state any funds made available by the national endowment for the arts.

4. Accept gifts, contributions, endowments, bequests, or other moneys available for all or

any of the purposes of the division. Interest earned on the gifts, contributions, endowments, bequests, or other moneys accepted under this subsection shall be credited to the fund or funds to which the gifts, contributions, endowments, bequests, or other moneys have been deposited, and is available for all or any of the purposes of the division.

86 Acts, ch 1245, §1327; 88 Acts, ch 1158, §60

303.89 State poet laureate designated — nominating committee.

1. A state poet laureate nominating committee is created. At the request of the governor, the executive director of humanities Iowa and the executive director of the Iowa arts council shall each appoint three persons who reside in this state to a poet laureate nominating committee. At its initial meeting held at the call of the executive directors of humanities Iowa and the Iowa arts council, the state poet laureate nominating committee shall elect a chairperson and vice chairperson from among its members and adopt rules of procedure. The members of the state poet laureate nominating committee shall be invited to serve without compensation for their services. The nominating committee is charged with considering the diversity of the people and poetry of Iowa.

2. If more than one meeting is required, the state poet laureate nominating committee shall meet at the call of the chairperson or as determined by the nominating committee and select a list of three nominees, along with biographical and professional information and supporting representative material, who are residents of Iowa and who, based on their poetic accomplishments, deserve recognition as the state poet laureate. The list of nominees shall be transmitted to the governor. The governor may select the state poet laureate from the list of nominees for a two-year term of office. The state poet laureate is an honorary state office and the incumbent is entitled to no compensation as a result of the appointment.

99 Acts, ch 161, §1

303.90 Reserved.

SUBCHAPTER VII

LIBRARY DIVISION

303.91 through 303.94 Repealed by 93 Acts, ch 48, §55. See §256.50 et seq.

SUBCHAPTER VIII

FILM OFFICE

303.95 Film office establishment and purpose.

The department shall establish and administer a film office. The purpose of the film office is to assist legitimate film, television, and video producers in the production of film, television, and video projects in the state and to increase the fiscal impact on the state's economy of film, television, and video projects produced in the state.

2012 Acts, ch 1136, §32, 41

CHAPTER 303A

IOWA CULTURAL TRUST

Referred to in §303.1A, 303.3B

303A.1	Short title.	303A.5	Board of trustees.
303A.2	Legislative findings.	303A.6	Board of trustees — powers and duties.
303A.3	Definitions.	303A.7	Iowa cultural trust grant account.
303A.4	Iowa cultural trust and trust fund.		

303A.1 Short title.

This chapter shall be known and may be cited as the “*Iowa Cultural Trust Act*”.
2002 Acts, ch 1115, §2

303A.2 Legislative findings.

The general assembly finds and declares that cultural organizations generate millions of dollars in economic activity in Iowa; attract people to live and work in Iowa’s communities; contribute to a revitalization of those communities; are a magnet for tourists; train minds for the creative economy jobs of the future; and build social capital. However, these organizations are often undercapitalized. Therefore, to bring financial stability to these organizations through fluctuating economic conditions, it is the intent of the general assembly that a public trust be established the income from which may be made available to supplement the operating budgets of nonprofit cultural organizations that meet certain criteria, including a commitment to strategies to attain long-term financial stability and sustainability. It is further the intent of the general assembly that income from the public trust may be used initially for a statewide educational program to assist cultural organizations in endowment development.

2002 Acts, ch 1115, §3

303A.3 Definitions.

For purposes of this chapter, unless the context otherwise requires:

1. “*Board*” means the board of trustees of the Iowa cultural trust created in section 303A.5.
2. “*Department*” means the department of cultural affairs created in section 303.1.
3. “*Director*” means the director of the department of cultural affairs.
4. “*Grant account*” means the Iowa cultural trust grant account created in section 303A.7.
5. “*Qualified organization*” means a tax-exempt, nonprofit organization whose primary mission is to promote the arts, history, or the sciences and humanities in Iowa.
6. “*Trust fund*” means the Iowa cultural trust fund created in section 303A.4.

2002 Acts, ch 1115, §4

Referred to in §303.1A

303A.4 Iowa cultural trust and trust fund.

1. The Iowa cultural trust is created as a public body corporate organized for the purposes, with the powers, and subject to the restrictions, set forth in this chapter.

2. An Iowa cultural trust fund is created in the office of the treasurer of state for the purpose of receiving moneys appropriated by the general assembly and any other moneys available to the trust fund due to the issuance of trust fund credits by the director as provided in section 303.1A, subsection 1, paragraph “f”.

3. The trust fund may also receive any devise, gift, bequest, donation, or federal or other grant from any person, firm, partnership, or corporation. Any assets received by the trust fund from federal or private sources shall at all times be preserved, invested, and expended solely for the purposes of the trust fund and shall be held in trust as provided for in this section. No property rights in the assets received by the trust fund from federal or private sources shall exist in favor of the state.

4. a. The treasurer of state shall act as custodian of the fund, shall invest moneys in the trust fund, and shall transfer the interest attributable to the investment of trust fund moneys

to the grant account created in section 303A.7. The trust fund's principal shall not be used or accessed by the department or the board for any purpose.

b. Notwithstanding paragraph "a", for each of the following fiscal years, the treasurer of state shall transfer the following amounts from the principal of the trust fund to the grant account created in section 303A.7:

(1) For the fiscal year beginning July 1, 2013, and ending June 30, 2014, fifty thousand dollars.

(2) For the fiscal year beginning July 1, 2014, and ending June 30, 2015, fifty thousand dollars.

5. Notwithstanding section 8.33, moneys remaining in the trust fund at the end of the fiscal year shall be retained in the trust fund. Notwithstanding section 12C.7, subsection 2, interest or earnings on investments or time deposits of the moneys in the trust fund shall be credited to the trust fund.

2002 Acts, ch 1115, §5; 2010 Acts, ch 1061, §166; 2013 Acts, ch 137, §35

Referred to in §303.1A, 303A.3, 303A.7

303A.5 Board of trustees.

1. A board of trustees of the Iowa cultural trust is created. The general responsibility for the proper operation of the trust is vested in the board of trustees, which shall consist of thirteen members as follows:

a. Nine public members, five of whom shall be appointed by the governor, subject to confirmation by the senate. The majority leader of the senate, the minority leader of the senate, the speaker of the house, and the minority leader of the house of representatives shall each appoint one public member. A public member of the board appointed in accordance with this section shall not also serve concurrently as a member of the state historical society board of trustees or the Iowa state arts council.

b. Four ex officio, nonvoting members, consisting of the treasurer of state or the treasurer's designee, the director of the department of cultural affairs or the director's designee, the chairperson of the state historical society board of trustees elected pursuant to section 303.6, and the chairperson of the Iowa arts council designated pursuant to section 303.86.

2. Members appointed by the general assembly shall be appointed to terms as provided in section 69.16B. The public members appointed by the governor shall serve five-year staggered terms beginning and ending as provided in section 69.19. Vacancies on the board shall be filled for the unexpired portion of the term in the same manner as the original appointments.

3. Members appointed by the governor are subject to the requirements of sections 69.16, 69.16A, and 69.19.

4. Public members shall serve without compensation, but shall be reimbursed for all actual and necessary expenses they incur through service on the board.

5. The board shall elect a chairperson and vice chairperson from among its membership. The board shall meet at the call of its chairperson or upon written request of a majority of its voting members. Five voting members constitute a quorum. The concurrence of a majority of the voting members of a board is required to take any action relating to its duties.

6. The board shall be located for administrative purposes within the department. The department, subject to approval by the board, shall adopt administrative rules pursuant to chapter 17A necessary to administer the income derived from the Iowa cultural trust fund and to perform specific powers and duties as provided in section 303A.6. The director shall budget funds to pay the expenses of the board and administer this chapter.

2002 Acts, ch 1115, §6; 2009 Acts, ch 106, §10, 14

Referred to in §303A.3

Confirmation, see §2.32

303A.6 Board of trustees — powers and duties.

The board shall do any or all of the following:

1. Enter into agreements with any qualified organization, the state, or any federal or other state agency, or other entity as required to administer this chapter.

2. Approve or disapprove the grants recommended for approval by the director, in

consultation with the Iowa arts council and the state historical society of Iowa, in accordance with section 303.1A, subsection 1, paragraph “f”, subparagraph (3). The board may delete any recommendation, but shall not add to or otherwise amend the list of recommended grants.

3. Upon approving a grant, the board shall certify to the treasurer of state the amount of financial assistance payable from the grant account to the qualified organization whose grant application is approved.

4. Determine, in consultation with the treasurer of state, the amount of investment income attributable to the trust fund that will be available for distribution as grants to qualified organizations.

5. Accept any devise, gift, bequest, donation, or federal or other grant from any person, firm, partnership, or corporation, which the treasurer of state shall deposit into the trust fund.

2002 Acts, ch 1115, §7; 2003 Acts, ch 108, §51; 2010 Acts, ch 1061, §167

Referred to in §303.1A, 303A.5

303A.7 Iowa cultural trust grant account.

1. An Iowa cultural trust grant account is created in the office of the treasurer of state under the control of the board to receive interest attributable to the investment of trust fund moneys as required by section 303A.4, subsection 4. The moneys in the grant account are appropriated to the board for purposes of the Iowa cultural trust created in section 303A.4. Moneys in the grant account shall not be subject to appropriation for any other purpose by the general assembly, but shall be used only for the purposes of the Iowa cultural trust. The treasurer of state shall act as custodian of the grant account and disburse moneys contained in the grant account as directed by the board. The board shall make expenditures from the grant account consistent with the purposes of the Iowa cultural trust.

2. Moneys in the grant account are not subject to section 8.33. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the grant account shall be credited to the grant account.

3. At any time when the principal balance in the trust fund equals or exceeds three million dollars, the board may use moneys in the grant account for a statewide educational program to promote participation in, expanded support of, and local endowment building for, Iowa nonprofit arts, history, and sciences and humanities organizations.

2002 Acts, ch 1115, §8; 2002 Acts, ch 1175, §82; 2007 Acts, ch 73, §1

Referred to in §303A.3, 303A.4

CHAPTERS 303B and 303C

RESERVED

CHAPTER 304

STATE FORMS AND RECORDS

Repealed by 2003 Acts, ch 92, §20; see chapter 305

CHAPTER 304A

FINE ARTS PROJECTS

Repealed by 2017 Acts, ch 170, §29

CHAPTER 305

STATE RECORDS AND ARCHIVES

Referred to in §163.37, 303.2

305.1	Citation.	305.11	Termination of state agency — records transfer.
305.2	Definitions.	305.12	Duplicates.
305.3	Commission created.	305.13	Records state property.
305.4	Commission purpose.	305.14	Liability precluded.
305.5	Expenses.	305.15	Exemptions — duties of state department of transportation and state board of regents.
305.6	Meetings.	305.16	Iowa historical records advisory board established.
305.7	Administration.		
305.8	Commission responsibilities.		
305.9	Department of cultural affairs responsibilities.		
305.10	Agency head responsibilities.		

305.1 Citation.

This chapter shall be known and may be cited as the “*State Archives and Records Act*”.
2003 Acts, ch 92, §4

305.2 Definitions.

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

1. “Agency” means any executive or legislative branch department, office, commission, board, or other unit of state government except as otherwise provided by law.
2. “Archives” means records that have been appraised by the state records commission as having sufficient historical, research, evidential, or informational value to warrant permanent preservation and that have been transferred to the custody of the state archives.
3. “Commission” means the state records commission created in section 305.3.
4. “Custody” means guardianship or control of records, including both physical possession, referred to as physical custody, and legal responsibility, referred to as legal custody, unless one or the other is specified.
5. “Designee” means an appointee of a commission member listed in section 305.3, who is a year-round, full-time state employee, appointed to regularly represent the commission member in the activities of the commission for a period of at least two years.
6. “Government records program” means a systematic state government program for the creation, organization, administrative use, maintenance, security, public availability, and final disposition of records.
7. “Guideline” means a suggested method of operation for specific activities.
8. “Policy” means a basic statement describing the boundaries within which activities are to take place.
9. “Record” means a document, book, paper, electronic record, photograph, sound recording, or other material, regardless of physical form or characteristics, made, produced, executed, or received pursuant to law in connection with the transaction of official business of state government. “Record” does not include library and museum material made or acquired and preserved solely for reference or exhibition purposes or stocks of publications and unprocessed forms.
10. “Records inventory” means a detailed listing of the volume, scope, and complexity of an agency’s records that is compiled for the purpose of creating records series retention and disposition schedules.
11. “Records officer” means a year-round, full-time agency official who possesses a broad understanding of programs and records of an agency and who is designated by the agency head to coordinate the records program or programs within the agency.
12. “Records series retention and disposition schedule” means a timetable established by the state records commission that describes the length of time a records series of an agency or multiple agencies must be retained in active and inactive status and provides authorization for a final disposition of the records series by destruction or permanent retention.
13. “Standard” means a specific rule or principle established to measure quality or value.

14. “*Vital operating record*” means a record containing information essential to continue or to reestablish an agency in the event of a natural or other disaster, allowing the re-creation of the state’s legal and financial status, and the determination of the rights and obligations of the state and its citizens.

2003 Acts, ch 92, §5; 2004 Acts, ch 1120, §1

Referred to in §22.16

305.3 Commission created.

A state records commission is created. The commission shall consist of the following officials or their designees:

1. The secretary of state.
2. The director of the department of cultural affairs.
3. The treasurer of state.
4. The director of revenue.
5. The director of the department of management.
6. The state librarian.
7. The auditor of state.
8. The director of the department of administrative services.

2003 Acts, ch 92, §6; 2003 Acts, ch 179, §70, 84

Referred to in §305.2

305.4 Commission purpose.

The commission shall adopt government information policies, standards, and guidelines to do all of the following:

1. Provide for economy and efficiency in the creation, organization, maintenance, administrative use, security, public availability, and final disposition of government records.
2. Ensure creation of proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of state government agencies to protect the legal and financial rights of the state and of persons directly affected by the government’s activities.
3. Identify and preserve state government records that document the history and development of the state.

2003 Acts, ch 92, §7

305.5 Expenses.

Members of the commission shall serve without compensation but may receive their actual expenses incurred in the performance of their duties.

2003 Acts, ch 92, §8

305.6 Meetings.

The commission shall have its offices at the seat of government but may hold meetings in other locations. The commission shall meet quarterly and at the call of the chairperson.

2003 Acts, ch 92, §9

305.7 Administration.

The department of cultural affairs, through the state archives and records program, is the primary agency responsible for providing administrative personnel and services for the commission.

2003 Acts, ch 92, §10

305.8 Commission responsibilities.

1. The commission shall do all of the following:
 - a. Develop and adopt government information policies, standards, and guidelines for the creation, storage, retention, and disposition of records.
 - b. In consultation with the department of homeland security and emergency management, establish policies, standards, and guidelines for the identification, protection, and

preservation of records essential for the continuity or reestablishment of governmental functions in the event of an emergency arising from a natural or other disaster.

- c. Provide planning, policy development, and review for the government records program.
 - d. Adopt rules pursuant to chapter 17A that provide government information policies and standards.
 - e. Adopt and maintain an interagency records manual containing the rules governing records management, as well as records series retention and disposition schedules, guidelines, and other information relating to implementation of this chapter.
 - f. Make recommendations, in consultation with the department of administrative services, to the governor and the general assembly for the continued reduction of printed reports throughout state government in a manner that protects the public's right to access such reports.
 - g. Provide advice, counsel, and services to the legislative, judicial, and executive branch agencies subject to this chapter on the care and management of state government records.
 - h. Report to the governor and the general assembly on the status of the government records program.
 - i. Perform any act necessary and proper to carry out its duties.
 2. The commission may do all of the following:
 - a. Examine records in the possession, constructive possession, or control of state agencies to carry out the purposes of this chapter.
 - b. Enter into agreements and contracts.
 - c. Secure appropriations, grants, or other outside funding.
 - d. Appoint advisory committees of citizens, public officials, or professional consultants to secure advice on records issues.
 - e. Make, or cause to be made, preservation duplicates of records, which may include existing copies of original state records. Any preservation duplicate record shall be durable, accurate, complete, and clear, and shall be made by means designated by the commission.
 - f. Develop appropriate charges for services provided for the convenience of state agencies, the judicial and legislative branches, political subdivisions, or the public.
 - g. Provide advice and counsel to political subdivisions on the care and management of local government records.
 - h. Establish a centralized records storage facility.
- 2003 Acts, ch 92, §11; 2003 Acts, ch 145, §286; 2003 Acts, ch 179, §157; 2005 Acts, ch 3, §60; 2005 Acts, ch 35, §30; 2005 Acts, ch 80, §2; 2013 Acts, ch 29, §49

305.9 Department of cultural affairs responsibilities.

1. The department of cultural affairs shall do all of the following:
 - a. Provide administrative support to the state records commission through the state archives and records program.
 - b. Appoint a state archivist to head the state archives and records program.
 - c. Maintain all official records of the state records commission.
 - d. Provide training, advice, and counsel to agencies on government information policies, standards, and guidelines.
 - e. Recommend records series retention and disposition schedules to the commission for consideration.
 - f. Recommend plans, policies, standards, and guidelines on records issues to the commission for consideration.
 - g. Compile, update, and distribute the state records manual as adopted by the commission.
 - h. Manage any centralized records storage facility established by the commission for the temporary storage of agency records prior to their final disposition by destruction or permanent preservation in accordance with the records series retention and disposition schedules.
 - i. Develop and distribute operating procedures for agencies to use to implement the plans, policies, standards, and guidelines adopted by the commission.
 - j. Provide advice, counsel, and services to the legislative, judicial, and executive branch agencies subject to this chapter on the care and management of state government records.

k. Manage the state archives and develop operating procedures for the transfer, accession, arrangement, description, preservation, protection, and public access of those records the commission identifies as having permanent value.

l. Maintain physical custody and legal custody of archives that have been transferred and delivered to the state archives.

(1) Upon receipt by the state archivist, the archives shall not be removed without the state archivist's consent except in response to a subpoena of a court of record or in accordance with approved records series retention and disposition schedules or after review and approval of the commission.

(2) Upon request, the state archivist shall make a certified copy of any record in the legal custody or in the physical custody of the state archivist, or a certified transcript of any record if reproduction is inappropriate because of legal or physical considerations. If a copy or transcript is properly authenticated, it has the same legal effect as though certified by the officer from whose office it was transferred or by the secretary of state. The department of cultural affairs shall establish reasonable fees for certified copies or certified transcripts of records in the legal custody or physical custody of the state archivist.

m. Establish, maintain, and administer an archive of records created and maintained in electronic format in order to preserve and provide public access to state government records identified as having permanent historical value by the commission.

2. The department of cultural affairs may:

a. Upon written consent of the state archivist, accept records of political subdivisions that are voluntarily transferred to the state archives.

b. Provide advice and counsel to political subdivisions on the care and management of local government records.

2003 Acts, ch 92, §12; 2004 Acts, ch 1086, §60; 2008 Acts, ch 1057, §4

305.10 Agency head responsibilities.

1. Each agency head shall do all of the following:

a. Make and maintain records containing adequate and proper documentation of the agency organization, functions, policies, decisions, procedures, and essential transactions designed to furnish information to protect the legal and financial rights of the state and of persons directly affected by the agency's activities.

b. Designate one or more agency officials with broad understanding of agency programs and records to be an agency records officer to coordinate records programs within the agency and to be the point of contact with the state archives and records program.

c. Cooperate with the state records commission and the state archives and records program in the development and implementation of government information policies, standards, and guidelines, and in the development and implementation of records series retention and disposition schedules.

d. Comply with requests from the state records commission or the state archives and records program to examine records in the possession, constructive possession, or control of the agency in order to carry out the purposes of this chapter.

e. Inventory agency records in accordance with state records commission policies to draft records series retention and disposition schedules.

f. Identify vital operating records in accordance with the policies, standards, and guidelines of the state records commission.

g. Provide for the identification, protection, and preservation of vital operating records in the custody of the agency.

h. Prepare all mandated reports, newsletters, and publications for electronic distribution in accordance with government information policies, standards, and guidelines. A reference copy of all mandated reports, newsletters, and publications shall be located at an electronic repository for public access.

i. Provide for maximum economy and efficiency in the day-to-day recordkeeping activities of the agency.

j. Provide for compliance with this chapter and the rules adopted by the state records commission.

2. Agency heads may petition the state records commission to create or modify government information policies, standards, and guidelines, and to create or modify records series retention and disposition schedules.

2003 Acts, ch 92, §13; 2003 Acts, ch 145, §286; 2008 Acts, ch 1184, §35

305.11 Termination of state agency — records transfer.

Upon the termination of a state agency whose functions have not been transferred to another agency, custody of the records of the agency shall transfer to the commission.

2003 Acts, ch 92, §14

305.12 Duplicates.

A preservation duplicate record shall have the same force and effect for all purposes as the original record whether or not the original record is in existence. A certified transcript, exemplification, or copy of a preservation duplicate record shall be deemed for all purposes to be a certified transcript, exemplification, or copy of the original record.

2003 Acts, ch 92, §15

305.13 Records state property.

All records made or received by or under the authority of or coming into the custody, control, or possession of public officials of this state in the course of their public duties are the property of the state and shall not be mutilated, destroyed, transferred, removed, or otherwise damaged or disposed of, in whole or in part, except as provided by law or by rule.

2003 Acts, ch 92, §16

305.14 Liability precluded.

No member of the commission or head of an agency shall be held liable for damages or loss, or civil or criminal liability, because of the destruction of public records pursuant to the provisions of this chapter or any other law authorizing their destruction.

2003 Acts, ch 92, §17

305.15 Exemptions — duties of state department of transportation and state board of regents.

The state department of transportation and the agencies and institutions under the control of the state board of regents are exempt from the state records manual and the provisions of this chapter. However, the state department of transportation and the state board of regents shall adopt rules pursuant to chapter 17A for their employees, agencies, and institutions that are consistent with the objectives of this chapter. The rules shall be approved by the state records commission.

2003 Acts, ch 92, §18

305.16 Iowa historical records advisory board established.

An Iowa historical records advisory board is established in accordance with 36 C.F.R. §1206.36 – 1206.38.

1. *Membership.* The board shall consist of nine members appointed by the governor for three-year staggered terms. Members shall be eligible for reappointment. The members shall have experience in a field of research or an activity that administers or makes extensive use of historical records. The majority of the members shall have professional qualifications and experience in the administration of government records, historical records, or archives. The administrator of the historical division of the department of cultural affairs shall serve as an ex officio member of the board.

2. *Coordinator.* The state archivist shall serve as chair of the board and as state historical records coordinator.

3. *Administration.* The department of cultural affairs, through the state archives and records program, is the primary agency responsible for providing administrative personnel and services for the board.

4. *Meetings.* The board shall meet at least three times annually and at the call of the

chair. At least one meeting annually shall be held outside the state capital or in conjunction with a meeting of a relevant statewide professional organization.

5. *Expenses.* Members of the board shall serve without compensation but may receive their actual expenses incurred in the performance of their duties.

6. *Responsibilities.*

a. The board shall do all of the following:

(1) Serve as the central advisory body for historical records planning in the state and as a coordinating body to facilitate cooperation among historical records repositories and other information agencies within the state.

(2) Serve as a state level review body for grant proposals submitted to the national historical publications and records commission.

b. The board may do all of the following:

(1) Serve in an advisory capacity to the state records commission, the state archives and records program, and other statewide archival or records agencies.

(2) Seek funds from the national historical publications and records commission or other grant-funding bodies for sponsoring and publishing surveys of the conditions and needs of historical records in the state; for developing, revising, and distributing funding priorities for historical records projects in Iowa; for implementing projects to be carried out in the state for the preservation of historical records and publications; or for reviewing through reports and otherwise, the operation and progress of records projects in the state.

2003 Acts, ch 92, §19

CHAPTER 305A

RESERVED

CHAPTER 305B

MUSEUM PROPERTY

305B.1	Short title.	305B.8	Notice of intent to preserve an interest in property — requirements — form — disclosure.
305B.2	Definitions.	305B.9	Limitations on actions against museums.
305B.3	Basic notice requirement.	305B.10	Museum obligations.
305B.4	Conservation or disposal of loaned property.	305B.11	Required museum recordkeeping.
305B.5	Notice of injury or loss.	305B.12	Lender obligations to museum.
305B.6	Notice of intent to terminate loan — acquiring title to loaned property.	305B.13	Retroactive applicability.
305B.7	Acquiring title to undocumented property.		

305B.1 Short title.

This chapter may be cited as the “*Museum Property Act*”.

88 Acts, ch 1117, §1

Referred to in §305B.13

305B.2 Definitions.

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

1. “*Claimant*” means a person who files a notice of intent to preserve an interest in property on loan to a museum as provided in section 305B.8.

2. “*Claimant’s address*” means the most recent address as shown on a notice of intent to preserve an interest in property on loan to a museum, or notice of change of address, which notice is on file with the museum.

3. “*Lender*” means a person whose name appears on the records of the museum as the person legally entitled to property held or owing by the museum.

4. “*Lender’s address*” means the most recent address as shown on the museum’s records pertaining to the property on loan from the lender.

5. “*Loan*” means a deposit of property not accompanied by a transfer of title to the property.

6. “*Museum*” means an institution located in Iowa operated by a nonprofit corporation or a public agency, primarily for educational, scientific, historic preservation, or aesthetic purposes, which owns, borrows, cares for, exhibits, studies, archives, or catalogs property. “*Museum*” includes, but is not limited to, historical societies, historic sites or landmarks, parks, monuments, and libraries.

7. “*Property*” means a tangible object, animate or inanimate, under a museum’s care which has intrinsic historic, artistic, scientific, or cultural value.

8. “*Undocumented property*” means property in the possession of a museum for which the museum cannot determine by reference to the museum’s records the property’s owner.

88 Acts, ch 1117, §2

Referred to in §305B.13

305B.3 Basic notice requirement.

1. *Contents.* In addition to any other information prescribed for a particular notice, all notices given pursuant to this chapter shall contain the following information:

- a. Lender’s name, or claimant’s name, as appropriate.
- b. Lender’s last known address, or claimant’s last known address, as appropriate.
- c. Brief description of the property on loan.
- d. Date of the loan, if known.
- e. Name of the museum.

f. Name, address, and telephone number of the appropriate person or office to be contacted regarding the property.

2. *Mailed notice.* All notices given by a museum pursuant to this chapter shall be mailed to the lender’s, and any claimant’s, last known address by restricted certified mail, as defined in section 618.15. Notice is deemed given if the museum receives proof of receipt within thirty days of mailing the notice.

3. *Published notice.* If the museum does not know the identity of the lender, or does not have an address for the lender, or if proof of receipt is not received by the museum within thirty days of mailing a notice under subsection 2, notice is deemed given if the museum publishes notice at least once a week for three consecutive weeks in a newspaper of general circulation in both of the following:

- a. The county in which the museum is located.
- b. The county of the lender’s or claimant’s address, if any.

88 Acts, ch 1117, §3

Referred to in §305B.13

305B.4 Conservation or disposal of loaned property.

1. Unless there is a written loan agreement to the contrary, a museum may apply conservation measures to or dispose of property on loan to the museum without the lender’s or claimant’s permission, or formal notice, if immediate action is required to protect the property on loan or other property in the custody of the museum or if the property on loan is a hazard to the health and safety of the public or the museum staff and if any of the following apply:

a. The museum is unable to reach the lender or claimant at the lender’s or claimant’s last known address or phone number if action is to be taken within more than three days but less than one week from the time the museum determined action was necessary.

b. The museum is unable to reach the lender or claimant at the lender’s or claimant’s last known phone number prior to taking action if the action is to be taken within three days or less from the time the museum determined action was necessary.

c. The lender or claimant does not respond or will not agree to the protective measures

the museum recommends, yet is unwilling or unable to terminate the loan and retrieve the property.

2. If a museum applies conservation measures to or disposes of property under this section, or with the agreement of the lender and claimants unless the agreement provides otherwise, the museum:

a. Has a lien on the property and on the proceeds of any disposition of the property for the costs incurred by the museum.

b. Is not liable for injury to or loss of the property if the museum:

(1) Had a reasonable belief at the time the action was taken that the action was necessary to protect the property on loan or other property in the custody of the museum or that the property on loan was a hazard to the health and safety of the public or the museum staff.

(2) Exercised reasonable care in the choice and application of conservation measures.

88 Acts, ch 1117, §4

Referred to in §305B.13

305B.5 Notice of injury or loss.

A museum shall give a lender or claimant prompt notice of any known injury to or loss of property on loan. The department of cultural affairs shall adopt by rule a form for notice of injury or loss, no later than January 1, 1989, and shall distribute the rule and form to all identified museums in Iowa within sixty days after adoption of the rule. The notice shall be mailed to the lender's or claimant's last known address in event of injury or loss of property on loan to the museum. Published notice of injury or loss of undocumented property shall not be required.

88 Acts, ch 1117, §5

Referred to in §305B.13

305B.6 Notice of intent to terminate loan — acquiring title to loaned property.

1. A museum may acquire title to loaned property pursuant to this section. A museum may give notice of termination of a loan of property at any time if either of the following apply:

a. The property was loaned to the museum for an indefinite term.

b. The property was loaned to the museum for a specified term, and that term has expired.

2. If the lender or claimant does not respond to the notice of termination provided under subsection 1 within one year by filing a notice of intent to preserve an interest in property on loan, the museum acquires title to the property.

3. A notice of intent to terminate a loan must include a statement containing substantially the following information:

The records of (name of museum) indicate that you have property on loan to it. The institution wishes to terminate the loan. You must contact the institution, establish your ownership of the property pursuant to section 305B.8, and make arrangements to collect the property. If you fail to do so promptly, you will be considered to have donated the property to the institution.

88 Acts, ch 1117, §6

Referred to in §305B.9, 305B.10, 305B.13

305B.7 Acquiring title to undocumented property.

1. A museum may acquire title to undocumented property held by a museum for seven years or longer with no valid claim or written contact by any person, all verifiable through the museum's written records, by giving notice of acquisition of title to undocumented property.

2. If a lender or claimant does not respond to the notice provided in subsection 1 within three years by filing a notice of intent to retain an interest in property on loan, the museum's title to the property becomes uncontestable under section 305B.9.

3. A notice of acquisition of title must include a statement containing substantially the following information:

The records of (name of museum) fail to indicate the owner of record of certain property in its possession. The museum intends to acquire title to the below described property: (general description of the property). If you claim ownership or other legal interest in this property you must contact the institution, establish your ownership of the property pursuant to section 305B.8, and make arrangements to collect the property. If you fail to do so promptly, you will be considered to have waived any claim you may have had to the property.

88 Acts, ch 1117, §7
Referred to in §305B.13

305B.8 Notice of intent to preserve an interest in property — requirements — form — disclosure.

1. A notice of intent to preserve an interest in property on loan to a museum filed pursuant to this chapter shall be in writing and contain all of the following information:

- a. A description of the property adequate to enable the museum to identify the property.
- b. Documentation sufficient to establish the claimant as owner of the property.
- c. A statement attesting to the truth, to the best of the signer's knowledge, of all information included in or with the notice.
- d. The signature, under penalty of perjury, of the claimant or a person authorized to act on behalf of the claimant.

2. The museum need not retain a notice which does not meet the requirements set forth in subsection 1. If, however, the museum does not intend to retain a notice for this reason, the museum shall promptly notify the claimant at the address given on the notice that the museum believes the notice is ineffective to preserve an interest, and the reasons for the insufficiency. The fact that a museum retains a notice under section 305B.12 does not mean that the museum accepts the sufficiency or accuracy of the notice or that the notice is effective to preserve an interest in property on loan to the museum.

3. The department of cultural affairs shall adopt by rule a form for notice of intent to preserve an interest in property on loan to a museum. The form shall satisfy the requirements of subsection 1 and shall notify the claimant of the rights and procedures to preserve an interest in museum property. The form shall also facilitate recordkeeping and record retrieval by a museum. At a minimum the form shall provide a place for recording evidence of receipt of a notice by a museum, including the date of receipt, signature of the person receiving the notice, and the date on which a copy of the receipt is returned to the claimant.

88 Acts, ch 1117, §8
Referred to in §305B.2, 305B.6, 305B.7, 305B.9, 305B.10, 305B.12, 305B.13

305B.9 Limitations on actions against museums.

1. An action shall not be brought against a museum for damages because of injury to or loss of property loaned to the museum more than three years from the date the museum gives the lender or claimant notice of the injury or loss or ten years from the date of the injury or loss, whichever occurs earlier.

2. An action shall not be brought against a museum to recover property on loan more than one year from the date the museum gives the lender or claimant notice of its intent to terminate the loan or notice of acquisition of title to undocumented property.

3. An action shall not be brought against a museum to recover property on loan more than seven years from the date of the last written contact between the lender or claimant and the museum as evidenced by the museum's records.

4. A lender or claimant is considered to have donated loaned property to the museum if the lender fails to file an action to recover the property on loan to the museum within the periods specified in subsections 1 through 3.

5. A person who purchases property from a museum acquires good title to the property if the museum represents that it has acquired title to the property pursuant to subsection 4.

6. Notwithstanding subsections 3 and 4, a lender or claimant who was not given notice as

provided in this chapter that the museum intended to terminate a loan, as provided in section 305B.6, and who proves that the museum received an adequate notice of intent to preserve an interest in loaned property, which satisfies all of the requirements of section 305B.8, within the seven years immediately preceding the filing of an action to recover the property, may recover the property or, if the property has been disposed of, the reasonable value of the property at the time it was disposed of plus interest at the legal rate.

7. A museum is not liable at any time, in the absence of a court order, for returning property to the original lender, even if a claimant other than the lender has filed a notice of intent to preserve an interest in property. If persons claim competing interests in property in the possession of a museum, the burden is upon the claimants to prove their interest in an action in equity initiated by a claimant. A museum is not liable at any time for returning property to an uncontested claimant who produced reasonable proof of ownership pursuant to section 305B.8.

88 Acts, ch 1117, §9
Referred to in §305B.7, 305B.13

305B.10 Museum obligations.

In order to take title pursuant to this chapter a museum has the following obligations to a lender or claimant:

1. The museum shall retain all written records regarding the property for at least three years from the date of taking title pursuant to this chapter.

2. The museum shall keep written records on all loaned property acquired pursuant to section 305B.6. Records shall contain the following information:

- a. Lender's name, address, and phone number.
- b. Claimant's name, address, and phone number.
- c. The nature and terms of the loan.
- d. The beginning date of the loan period, if known.

3. A museum accepting a loan of property on or after January 1, 1989, shall inform the lender in writing at the time of the loan of the provisions of this chapter. A copy of the form notice prescribed in section 305B.8, or a citation to this chapter, is adequate for this purpose.

4. The museum is responsible for notifying a lender or claimant of the museum's change of address or dissolution.

88 Acts, ch 1117, §10

305B.11 Required museum recordkeeping.

1. On or after January 1, 1989, a museum shall at minimum maintain and retain the following records, either originals or accurate copies, for a period of not less than twenty-five years:

- a. A notice of intent to preserve an interest in property.
- b. The loan agreement, if any, and a receipt or ledger for property on loan.
- c. A receipt or ledger for property delivered to an owner or claimant.
- d. Records containing the following information, as available, for property in the museum's possession:

- (1) Lender's name, address, and phone number.
- (2) Claimant's name, address, and phone number.
- (3) Donor's name, address, and phone number.
- (4) Seller's name, address, and phone number.
- (5) The nature and terms of the transaction (loan for specified term, loan for unspecified term, donation, purchase, etc.).

- (6) The beginning date of the loan period or transaction date.

2. The department of cultural affairs may by rule determine the minimum form and substance of recordkeeping by museums with regard to museum property to implement this chapter.

88 Acts, ch 1117, §11; 2010 Acts, ch 1061, §180

305B.12 Lender obligations to museum.

1. The lender or claimant of property on loan to a museum shall notify the museum of a change of address or change in ownership of the property. Failure to notify the museum of these changes may result in the lender's or claimant's loss of rights in the property.

2. The lender or claimant of property on loan to a museum may file with the museum a notice of intent to preserve an interest in the property as provided for in section 305B.8. The filing of a notice of intent to preserve an interest in property on loan to a museum does not validate or make enforceable any claim which would be extinguished under the terms of a written agreement, or which would otherwise be invalid or unenforceable.

88 Acts, ch 1117, §12

Referred to in §305B.8

305B.13 Retroactive applicability.

1. Sections 305B.1 through 305B.8 are retroactively applicable to all property in the possession of a museum within the state on or after January 1, 1988.

2. Section 305B.9 is effective July 1, 1989, and when effective is retroactively applicable to all property in the possession of the museum before July 1, 1989, and is prospectively applicable to all property in the possession of the museum on or after July 1, 1989, for which a claim is filed on or after July 1, 1989.

88 Acts, ch 1117, §13