



Iowa Judicial Branch

2018 Legislative Session Summary

18-Jun-18

The following report is a summary of bills the 87th Iowa General Assembly approved that directly affect the work of the courts or may otherwise be of interest to judges and court personnel. This summary does not provide references to every section of every bill nor is it a complete statement of each and every bill. To view an electronic copy of a particular signed-enrolled bill, click on the bill title; to find the complete text and history of a particular bill, visit <https://www.legis.iowa.gov/> and use the “BILLS: Quick Search” search box located on the far left column of your screen. Letters denote: HF—House File; SF—Senate File. Sydney Gangestad, Judicial Branch Legislative Liaison, prepared this summary. Many summaries referenced were drafted in part by the staff of the Legislative Services Agency.

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Appropriations

HF2495—JUDICIAL BRANCH (JB) APPROPRIATION

\$180.7 million from GF to JB for FY2019

\$177,574,797 million for operations (+\$3,500,000 compared to net FY 18)

\$3,100,000 million for jury and witness fund

Policy

- The JB must focus efforts on collecting delinquent fines and fees.
- The JB must operate clerk of court offices in all 99 counties and be accessible to the public as much as reasonably possible.

Effective July 1, 2018.

HF2492—JUSTICE SYSTEMS APPROPRIATION

Policy

- Requires JB and the department of corrections (DOC) to study effectiveness and recidivism rates of persons assigned to specialty courts of JB, in cooperation with Criminal & Juvenile Justice Planning (CJJP), department of human services (DHS), and Community Based Corrections (CBCs). The National Center for State Courts (NCSC) may be utilized. JB shall file a report detailing cost-effectiveness by 1/15/2019.
- Increases small claims cap under [chapter 631](#) to \$6,500 for cases commenced on or after July 1, 2018; amount reverts to \$5,000 if court finds \$6,500 amount unconstitutional.
- Requires the CBCs terminate the use of pretrial risk assessment pilot programs effective upon enactment. Note: This provision was line item vetoed by Governor Reynolds.¹

Effective July 1, 2018

HF2502—STANDINGS APPROPRIATION

\$113,100,100 to the State Cash Reserve Fund for FY 2019

Substantive provisions

- Division VI Expert witness—Podiatry

Amends [section 147.139](#) to permit a person certified in a specialty by the Council on Podiatric Medical Education to serve as an expert witness if the defendant is certified in the same specialty; permits a general physician, osteopathic physician, or a podiatric physician licensed in Iowa or another state to service as an expert witness if the defendant is a licensed podiatric physician in Iowa.

¹ Governor Reynold's veto message re: HF2492—*"I disapprove of these sections because I believe that we should consider and study ways to create a fairer pretrial system that protects the public. But I also understand that the legislature and other stakeholders have questions about the PSA and whether it considers all of the appropriate factors. For that reason, I am instructing the agencies of the executive branch to continue their participation in this pilot program until December 31, 2018. At that time, the pilot will be concluded and further use of this assessment suspended until the data from the pilot can be analyzed. If, after studying the data and research conclusions, it is found that this program will be in the best interests of the public, then new legislation should be considered that authorizes the PSA or similar risk-assessment tools. I want to also emphasize that, even during the short pendency of the pilot project, the PSA does not and should not replace the judge's discretion. The PSA is but one piece of information and the ultimate decision rests with each person sitting on the bench."*

- Division VIII—Dramshop

Amends [SF2169 \(Dramshop Liability Act\)](#) to specify that \$250K as the amount payable for damages sustained by any third party who is not the intoxicated person who caused injury, or the person who sustained bodily harm or damages to property by an intoxicated person.

- Division X—Sexually Violent Predators

Permits a person committed under [section 229A.8](#) to waive the requirement that a final hearing be held within 60 days of the court's determination that a final hearing should be held. The committed person may reassert a demand that a final hearing be held within 60 days from the date of filing the demand with the clerk of district court. In addition, the final hearing may be continued at 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.

Sealed documents described in [section 229A.15\(1\)](#) are required to be available to the prosecuting attorney/attorney general, the committed person, and the attorney for the committed person, without a court order.

- Division XI—Earned Time

Inmates committed to the DOC who are required to participate in a sex offender/domestic abuse treatment program are not eligible for any reduction of sentence under [chapter 903A](#) until the inmate completes the required program; the inmate may be ordered to forfeit any and all earned time if they fail to complete the required program. (Response to [State v. Iowa District Court for Jones County \(2017\)](#)).

- Division XXV—Revocation of Driver's License for Drug-Related Convictions

Strikes [section 901.5\(10\)](#), which revokes a defendant's driver's license for 180 days if the defendant is sentenced for a controlled substance offense [under sections 124.401, 124.401A, 124.402, or 124.03](#). Makes conforming changes and provides that if a defendant's driver's license was suspended or revoked pursuant to [section 901.5\(10\)](#) prior to the effective date of the section that it be reinstate if the defendant is otherwise eligible for a DL.

Contingent effective date: The section becomes effective when the Governor submits to the U.S. Secretary of Transportation a written certification that the Governor is opposed to the enforcement in Iowa of a law described in [23 U.S.C. section 159\(a\)\(3\)\(A\)](#), and a written certification that the General Assembly has adopted a joint resolution expressing its opposition to the same, in accordance with [23 U.S.C. section 159\(a\)\(3\)\(B\)](#).

Effective July 1, 2018

SF2414—TRANSPORTATION, INFRASTRUCTURE, & CAPITALS APPROPRIATION

Capitals

\$1,464,705 Polk County Justice Center—unexpected funds appropriated remain available for expenditure until the end of FY2022

Technology Reinvestment Fund

\$3,000,000 Judicial Branch technology projects—includes cyber security projects, EDMS improvements, and other software improvements

Effective July 1, 2018

SF2418—HEALTH AND HUMAN SERVICES APPROPRIATION

\$34,536,648 Group foster care maintenance and services (-\$1,200,001 compared to net FY 18)

\$1,717,753 DECAT (no change)

\$3,290,000 Court ordered services (no change)

\$17,000 Interstate commission (no change)

\$12,253,227 Juvenile delinquent graduated sanctions (no change)

Policy

- Section 69: [Chapter 230—Support of Persons with Mental Illness](#)

“State case” struck as an option for determining residency under [chapter 230](#), court must determine residence is in the county, another state, or a foreign country.

“Department” struck from certifying residency determinations; 120 days from receiving bill to dispute residency/notify responsible residency.

- Division XVI: [Section 229A.2—Commitment for Sexually Violent Predators](#)

Eliminates provisions permitting a person committed as a sexually violent predator under [chapter 229A](#) to be released from a secure facility or a transitional release program without supervision.

Eliminates requirement that a hearing be held within five days of the committed person’s return to a secure facility after the person absconds from a transitional release program; the hearing will now be held after an evaluation is performed. Alleviates the Judicial District Department of Correctional Services of liability for acts committed by a committed person who has been ordered released with supervision.

- Section 104: [Section 232.68—Juvenile Justice](#)

Modifies the criteria for allowing access to a registered sex offender to establish that the offense applies to a person responsible for the care of a child who knowingly allows access to the child to a person who is required to register on the sex offender registry, and provides some exceptions.

- Division XX: [Section 233A.1—Training School](#)

States that the Eldora State Training School is for court-committed male juvenile delinquents; eliminates references to the Toledo State Training School.

- Section 128: Medicaid Program Administration

If a Medicaid member is receiving court-ordered services or treatment for a substance-related disorder pursuant to Iowa Code 125 or for a mental illness pursuant to Iowa Code 229, the services or treatment are required to be provided and reimbursed for an initial period of three days be an MCO may apply medical necessity criteria to determine the most appropriate services, treatment, or placement for the Medicaid member.

- Division XXVI: [Section 229.5A—Hospitalization of Persons with Mental Illness](#)

Strikes the requirement that the SCA prescribe practices and procedures for implementing a preapplication screening assessment (PSA) program under [section 229.64](#). Note: The Division does not strike the requirement that the SCA prescribe practices and procedures for implementing a PSA program under [section 125.74](#). DHS has been designated to adopt rules relating to civil commitment prescreening assessments in [HF2456](#). [HF2456](#) is effective on 7/1/18.

Effective July 1, 2018

Joint Resolutions

HJR2009—AMENDMENT TO THE STATE CONSTITUTION RELATING TO THE RIGHT TO KEEP AND BEAR ARMS

This joint resolution proposes an amendment to the Constitution of the State of Iowa providing that the right of the people to keep and bear arms shall not be infringed. The sovereign state of Iowa affirms and recognizes this right to be a fundamental individual right. Any and all restrictions of this right shall be subject to strict scrutiny.

The resolution, if adopted, would be published and then referred to the next general assembly (88th) for adoption, before being submitted to the electorate for ratification.

SJR2006—GUBERNATORIAL LINE OF SUCCESSION

This joint resolution proposes an amendment to the Constitution of the State of Iowa relating to the consequences of a governor becoming temporarily or permanently unable to perform the duties of the governor.

The resolution, if adopted, would be published and then referred to the next general assembly (88th) for adoption, before being submitted to the electorate for ratification.

SJR2007—REVOCATION, SUSPENSION, ISSUANCE, OR REINSTATEMENT OF DRIVER'S LICENSES TO CONVICTED DRUG OFFENDERS

This joint resolution states the general assembly's opposition to a law in this state that meets the requirements of a law described in 23 U.S.C. §159(a)(3)(A), relating to the revocation, suspension, issuance, or reinstatement of driver's licenses to convicted drug offenders. Once the resolution is adopted, the governor submits a written certification to the secretary of the United States department of transportation (secretary) that the general assembly has adopted the resolution, and the governor also submits a written certification to the secretary that the governor is opposed to the enactment or enforcement of such a law, the state will be permitted to repeal and stop enforcement of such a law without the loss of federal highway funds.

See also Division XXV of HF2502.

The resolution takes effect upon enactment.

Civil

HF2371—EXEMPTING STATE AND MUNICIPALITIES FROM LIABILITY FOR CLAIMS INVOLVING HONEYBEES

Amends the [Iowa Tort Claims Act \(chapter 669\)](#) and the [Iowa Municipal Tort Claims Act \(chapter 670\)](#) to create an exemption from liability for claims related to constructed honeybee hives on public property against state agencies and municipalities, provided that the state agency, municipality, or beehive owner acted reasonably and in good faith.

Effective July 1, 2018

HF2407—APPLICATION OF PESTICIDES INTO LAKES

Prohibits a person from discharging a pesticide into a natural lake, or an artificial lake connected to a natural lake, that is used as a source water for water supplies unless the person is certified to apply the pesticide pursuant to [chapter 206](#). Violations are subject to a civil penalty in the amount of \$1,000.

Effective July 1, 2018

HF2414—PROVISION OF MEDICAL SUPPORT IN CHILD SUPPORT ACTIONS

Amends provisions relating to medical support for a child, based on the final rule adopted by the centers for Medicare and Medicaid services and the administration for children and families of the United States department of health and human services on December 20, 2016, pursuant to [Executive Order 13563 of January 18, 2011](#). Under [45 C.F.R. subtitle B, chapter III, section 303.31](#), specifically, states are provided with flexibility to permit parents to meet their medical support obligations by providing health care coverage or payment for medical expenses that are reasonable in cost and best meet the health care needs of the child, and clarifies that health care coverage includes public and private coverage.

When ordering medical support the court can order support either by providing and paying for the medical needs of a dependent through a health benefit plan, including public coverage, or the payment of cash medical support. Conditions for determining whether medical support is to be provided through a health benefit plan other than public coverage or through public coverage and whether the custodial or noncustodial parent is required to provide health care coverage. Under certain circumstances, the court can also ordered cash medical support if a health plan other than public coverage is not available to either parent at the time of the entry of the order.

The “premium cost for a child to the parent” ordered to provide coverage means the amount of the premium cost for single coverage, regardless of the number of individuals covered under the plan. Strikes the provision related reducing the amount of the health insurance premium deduction a parent may be entitled to when calculating the amount of child support obligation under [Iowa Court Rule 9.5](#) of the child support guidelines.

Provides a process and order of priority to be followed when the child support recovery unit (CSRU) enters or seeks an order for medical support. Directs the department of human services to adopt rules pursuant to Code [chapter 17A](#) as necessary to administer the bill, but provides that until such time as rules are adopted the CSRU may initiate proceedings to establish and modify support orders in accordance with [chapter 252E](#), and may, to the extent appropriate, apply and utilize procedures, rules, and forms substantially similar to those applicable and utilized pursuant to [section 252E.1B](#) for proceedings initiated in accordance with [section 252E.1A](#).

Effective October 1, 2018

An order, decree, or judgment entered before October 1, 2018 that provides for the support of a child may be modified in accordance.

SF385—REVISED UNIFORM ATHLETES AGENT ACT

Revises the Uniform Athlete Agents Act under [chapter 9A](#).

Provides that an educational institution or a student athlete may bring an action for damages against an athlete agent if the institution or athlete is adversely affected by an act or omission of the agent in violation of Code [chapter 9A \(Uniform Athletes Agents Act\)](#). An educational institution or student athlete is adversely affected by an act or omission of the agent only if, because of the act or omission, the institution or an individual who was a student athlete at the time of the act or omission and enrolled in the institution, either is suspended or disqualified from participation in an interscholastic or intercollegiate sports event by or under the rules of a state or national federation or association that promotes or regulates interscholastic or intercollegiate sports, or suffers financial damage.

A plaintiff who prevails in an action under the Act may recover actual damages, and costs and reasonable attorney fees. An athlete agent found liable under the Act section forfeits any right of payment by the student athlete and must refund any consideration paid to the agent by or on behalf of the student athlete. A violation of [chapter 9A](#) is an unlawful practice under section [714.16 \(consumer fraud\)](#) and the provisions of that section relating to investigation, injunctive relief, and penalties also apply to [chapter 9A](#); a corresponding change is made to [section 714.16](#) specifying that it is an unlawful practice for an athlete agent to violate any of the provisions of [chapter 9A](#).

Effective July 1, 2018

SF2169—LIMITING LIABILITY OF AN ALCOHOLIC BEVERAGE LICENSEE

Limits the liability of an alcoholic beverage licensee or permittee for certain alcohol-related injuries, commonly referred to as the [Dramshop Act \(section 123.92\)](#).

Provides that damages are available to a third party who is not the intoxicated person who caused the injury at issue, and that a licensee or permittee is liable only if the licensee or permittee sold and served any beer, wine, or intoxicating liquor directly to the intoxicated person, provided that the person was visibly intoxicated at the time of the sale or service.

Provides that the total amount recoverable by each plaintiff in any civil action for noneconomic damages for personal injury, whether in tort, contract, or otherwise, against a licensee or permittee, is limited to \$250,000 for any injury or death of a person, unless the jury determines that there is substantial or permanent loss or impairment of bodily function, substantial disfigurement, or death, which warrants a finding that imposition of a limitation would deprive the plaintiff of just compensation for the injuries sustained.

Effective July 1, 2018

SF2200—REGULATING VETERANS BENEFIT SERVICES AND REQUIRING CERTAIN DISCLOSURE

Provides that a violation of this new chapter (chapter 546B) is a violation of [section 714.16](#) (an unfair practice related to consumer frauds). Code [section 714.16](#) provides for the ability of the attorney general to obtain injunctive relief related to the unfair practice and the ability to recover a civil penalty of up to \$40,000 per violation. Under the new Code chapter, any amount recovered for a violation of the new Code chapter shall be deposited in the veterans' trust fund.

Effective July 1, 2018

Criminal

HF2196—TEXTING WHILE DRIVING A COMMERCIAL MOTOR VEHICLE

Creates a new section of [chapter 321](#) (section 321.449B) that prohibits a person subject to the department of transportation's motor carrier safety rules from operating a commercial motor vehicle while engaged in texting or while using a hand-held mobile telephone as prohibited by federal regulations, except in an emergency or as otherwise permitted under such federal regulations.

A violation of the new provision is a simple misdemeanor punishable by a scheduled fine of \$50 and is considered a moving violation. However, a conviction for a violation of the provision shall be in lieu of a conviction for a violation of [section 321.276](#) (use of electronic communication device while driving) if the violations are based on the same facts and circumstances. A violation of new provision is included on the list of traffic offenses for which additional penalties may be imposed if the violation causes serious injury or death. If the violation causes a serious injury, a court could impose an additional fine of \$500 or suspend the person's driver's license for not more than 90 days, or both. If the violation causes a death, a court could impose an additional fine of \$1,000 or suspend the person's driver's license for not more than 180 days, or both.

Effective July 1, 2018

HF2199—ILLEGAL USE OF SCANNING DEVICE

ILLEGAL USE OF SCANNING DEVICE OR ENCODING MACHINE

Under section 10 the forgery chapter ([chapter 715A](#)), replaces the term “reencoder” with the term “encoding machine.” Defines “encoding machine” to mean an electronic device that is used to encode information to a payment card. Expands the definition of “merchant” to include an establishing financial institution referred to in [section 524.5](#). Modifies the definition of “payment card” to include an access device as defined in [section 527.2](#). Modifies the term “scanning device” to include a wireless access device, a radio frequency identification scanner, an electronic device that utilizes near field communications technology, and any other electronic device used to access, read, scan, obtain, memorize, or store information encoded on a payment card.

A person commits a class “D” felony under the bill if the person directly or indirectly uses a scanning device to access, read, obtain, memorize, or store, temporarily or permanently, information encoded on a payment card without the permission of the authorized user, the issuer of the authorized user’s payment card, or a merchant. A person commits a class “D” felony under the bill if the person directly or indirectly uses an encoding machine to place information encoded on a payment card onto a different payment card without the permission of the authorized user, the issuer of the authorized user’s payment card, or a merchant.

A person shall not possess a scanning device with the intent to use such device to obtain information encoded on a payment card without permission of the authorized user, the issuer of the authorized user’s payment card, or a merchant, or possess a scanning device with knowledge that a person other than the authorized user, the issuer of the authorized user’s payment card, or a merchant intends to use the scanning device to obtain information encoded on a payment card without permission from the authorized user, the issuer of the authorized user’s payment card, or a merchant. A person who violates this provision commits an aggravated misdemeanor.

CRIMINAL MISCHIEF IN THE THIRD DEGREE

If a person intentionally damages, defaces, alters, or destroys property that has the ability to process a payment card as defined in [section 715A.10](#), with no right to do such an act, that person commits criminal mischief in the third degree.

Effective July 1, 2018

HF2238—PECUNIARY DAMAGES BY INSURERS AS VICTIMS OF INSURANCE FRAUD

Relates to insurers as victims for purposes of receipt of criminal restitution damages. Amends the definitions of pecuniary damages and victim in the criminal restitution [chapter 910](#) to allow insurers to receive criminal restitution payments if the insurers are victims of insurance fraud due to fraudulent submissions or fraudulent sales practices. Insurers are currently excluded as victims for purposes of criminal restitution.

Effective July 1, 2018

HF2255—POSSESSION OF CONTRABAND IN/ON CBC GROUNDS

Relates to the possession of contraband in or on the grounds of a community-based correctional facility, and provides penalties. Under [section 719.7](#), expands the facilities and institutions where a person may commit the criminal offense of possessing contraband to include a community-based correctional facility. “Contraband” is defined to include controlled substances, intoxicating beverages, weapons, explosives, knives or other cutting devices, items that may be fashioned to cause death or injury, and items that may be used to facilitate an escape. A person commits a class “C” felony if the contraband is a weapon, a class “D” felony if the contraband is a controlled substance or intoxicating beverage, and an aggravated misdemeanor if the contraband is an item that may be used to facilitate an escape. A person also commits an aggravated misdemeanor for failing to report a known violation or attempted violation involving contraband to an official or officer at a community-based correctional facility.

The bill, in part, is a response to the Iowa supreme court’s decision in [State v. Halverson, 857 N.W.2d 632 \(Iowa 2015\)](#), which held that a person illegally possessing a controlled substance at a community-based correctional facility does not commit the criminal offense of possessing contraband because a community-based correctional facility is not an institution under the control of the department of corrections.

Effective July 1, 2018

HF2304—MOTOR VEHICLES APPROACHING CERTAIN STATIONARY MOTOR VEHICLES

Expands the list of protected stationary vehicles under [section 321.323A](#) (of a certain type and which is displaying certain flashing lights) to include stationary construction vehicles, and permits construction vehicles to display amber flashing lights. Amends the scheduled fine provision to separate violations relating to stationary authorized emergency vehicles from violations relating to stationary nonemergency vehicles:

For emergency vehicle violations relating to authorized emergency vehicles, fire apparatus and equipment, and police bicycles under the following sections, the scheduled fine is as follows:

- | | |
|--|-------|
| (1) Authorized emergency vehicles and police bicycles (Section 321.231) | \$100 |
| (2) Approaching certain stationary vehicles (Section 321.323A, subsection 1) | \$100 |
| (3) Operation on approach of emergency vehicles (Section 321.324) | \$100 |
| (4) Following fire apparatus (Section 321.367) | \$100 |
| (5) Crossing a fire hose (Section 321.368) | \$100 |

For violations relating to the approach of certain stationary nonemergency vehicles (including stationary construction vehicles) under [section 321.323A](#), subsections 2 and 2A, the scheduled fine is one hundred dollars.

Effective July 1, 2018

HF2338—TRL FOR OWI OFFENDERS

Strikes the ineligibility periods for the issuance of a temporary restricted license (TRL) under [chapter 321J](#) (operating a motor vehicle while intoxicated). Requires the installation of an approved ignition interlock device on all motor vehicles owned or operated by a holder of a TRL issued under [chapter 321J](#). Strikes provisions limiting the use of a TRL issued under [chapter 321J](#) to operating a motor vehicle for purposes of a person's employment, health care, education, substance abuse treatment, court-ordered community service responsibilities, appointments with the person's parole or probation officer, or participation in a sobriety and drug monitoring program. In addition, the bill strikes a provision prohibiting the use of a TRL issued under Code [chapter 321J](#) to operate a motor vehicle for pleasure. Provides that the holder of a TRL issued under Code [chapter 321J](#) may operate motor vehicles in any manner allowed for a person issued a valid class C driver's license, unless otherwise prohibited by [chapter 321J](#). Does not amend provisions prohibiting the holder of a TRL issued under [chapter 321J](#) from operating a commercial motor vehicle or school bus.

The new TRL eligibility does not apply to the following license revocations: persons under the age of twenty-one operating a motor vehicle while having an alcohol concentration of .02 or more ([section 321J.2A](#)), persons whose license has been revoked for vehicular homicide under [section 321J.4, subsection 6](#), for the period during which the person is ineligible for temporary restricted license.

Effective July 1, 2018

Applies to all persons who apply for or are issued a TRL under Code [chapter 321J](#) on or after July 1, 2018

Requires the department of transportation to allow a person issued a TRL prior to July 1, 2018, that is subject to the driving restrictions provided in Code section 321J.20, to apply for and be issued a TRL

subject to the restrictions provided in the bill.

HF2377—REGULATION OF CERTAIN SUBSTANCES INCLUDING THE REGULATION AND PRACTICE OF PHARMACY

Relates to the regulation of the practice of pharmacy.

DIVISION V—REGISTRATION

This division relates to registration with the board of pharmacy by persons working with controlled substances. Under chapter 124, provides that a person who manufactures, distributes, or dispenses any controlled substance in this state or who proposes to engage in such activities in this state (registrant), obtain and maintain a registration issued by the board of pharmacy. Requires a separate registration for each principal place of business of a registrant, when the registrant is conducting research with controlled substances.

Permits the board of pharmacy to take disciplinary action against a registrant who manufactures, distributes, or dispenses any controlled substance within this state, without restricting, suspending, or revoking the registration. Provides that the board of pharmacy may discipline a registrant when the registrant has furnished false or fraudulent material information in any application under any Code chapter which applies to the registrant. Provides that the board of pharmacy may limit the restriction of a registrant's registration or discipline of a registrant to a particular controlled substance when grounds exist for such restriction or discipline. If the board of pharmacy restricts a registrant's registration or disciplines a registrant, all controlled substances owned or possessed by the registrant at the time of the restriction or at the time of the effective date of the order may be placed under seal.

Requires the board of pharmacy to notify the federal bureau of narcotics and dangerous drugs, United States department of justice, or its successor agency, of all orders restricting a registrant's registration or disciplining a registrant. Under current law, the board shall notify the federal agency when suspending or revoking the registration of a registrant including all forfeitures of controlled substances. If the board of pharmacy decides to suspend, restrict, or revoke a registrant's registration or discipline a registrant, the bill requires the board to serve upon the registrant a notice in accordance with Code section 17A.12.

The bill permits the board of pharmacy to suspend a registrant's registration while simultaneously pursuing an emergency adjudicative proceeding in accordance with Code section 17A.18A, if the board finds there is an immediate danger to the public health, safety, or welfare.

DIVISION VII—GOOD SAMARITAN IMMUNITY

This division relates to certain protections against arrest and prosecution for people seeking medical assistance for a drug-related overdose. Provides that a person seeking treatment for a drug-related overdose or a person seeking medical treatment for a person experiencing a drug-related overdose cannot be arrested or prosecuted for possession of a controlled substance, delivery of a controlled substance without profit, violations of Code section 124.407, or violations of Code section 124.414 on the basis of information collected or derived from a person's actions in seeking medical assistance if the person has not previously received such immunity. Such information shall also be inadmissible at trial for any of the enumerated offenses and shall not be used to revoke a person's pretrial release, probation, supervised release, or parole. These protections are only extended to a person who acted in good faith seeking medical attention for an overdose patient in need of medical assistance for an immediate health or safety concern, who was the first person to seek medical assistance, who provides the person's name and contact information to medical or law enforcement personnel, who waits on the scene until assistance arrives or is provided, and who cooperates with law enforcement and medical personnel. A person's attempts to provide medical assistance to a person experiencing a drug-related overdose may be considered by the court as a mitigating factor in a criminal prosecution.

Effective July 1, 2018²

HF2392—ELECTRONIC AND MECHANICAL EAVESDROPPING AND THE INTERCEPTION OF COMMUNICATIONS

Relates to illegal electronic and mechanical eavesdropping, and the interception of communications [under chapter 727](#). Currently, it is a serious misdemeanor for a person to tap into or connect a listening or recording device to any telephone or other communication wire, or through electronic or mechanical means to listen to, record, or otherwise intercept a conversation or communication of any kind. Under current law, there are two exceptions to the criminal offense of illegal electronic and mechanical eavesdropping; creates a third exception to illegal electronic and mechanical eavesdropping by permitting the use of a monitoring device.

Defines "monitoring device" to mean a digital video or audio streaming or recording device that records, listens to, or otherwise intercepts video or audio communications placed outside of a person's dwelling or other structure that is not in a shared hallway and is on real property owned or leased by the person.

² Division VI related to precursor substances was effective upon enactment, May 14, 2018.

Amends [section 808B.2](#) relating to unlawful acts when intercepting a wire, oral, or electronic communication. A person who commits such an unlawful act commits a class “D” felony.

It is not an unlawful act under the bill if a person who is an owner or lessee of real property intercepts an oral communication and all of the following apply: the interception of the oral communication is made by a surveillance system placed in or on the real property owned or leased by the person; the surveillance system is installed with the knowledge and consent of all lawful owners or lessees of the real property; and the surveillance system is used for the purpose of detecting or preventing criminal activity in or on the real property owned or leased by the person or in an area accessible to the general public in the immediate vicinity of the real property owned or leased by the person.

Effective July 1, 2018

SF359—CERTAIN ACTIONS RELATING TO A FETUS

Creates new section 146D.1, related to fetal body parts. Prohibits knowingly acquiring, providing, receiving, otherwise transferring, or using a fetal body part in this state unless the purpose is for diagnostic or remedial tests, procedures, or observations which have the sole purpose of determining the life or health of the fetus in order to provide that information to the pregnant woman, final disposition of a fetal body part, a pathological study of body tissue, including genetic testing, for diagnostic or forensic purposes, or if the fetal body part results from a spontaneous termination of pregnancy or stillbirth and is willingly donated for the purpose of medical research. Violations are a class “C” felony.

Effective July 1, 2018

SF2135—FAILURE TO WEAR A MV SAFETY BELT

Under current law, evidence of failure to wear a motor vehicle safety belt or safety harness as required by [section 321.445\(2\)](#) may be used to mitigate damages in a civil case upon a showing of substantial evidence that the failure to wear a safety belt or safety harness contributed to the injuries claimed. Increases the maximum amount which damages may be reduced for failure to wear a motor vehicle safety belt or safety harness to 25 percent of the damages awarded.

Effective July 1, 2018

SF2165—PAYMENTS UNDER CRIME VICTIM COMPENSATION PROGRAM

Concerns compensation payable under the victim compensation program. [Code section 915.80](#) is amended to add a definition for a survivor of a deceased victim and provides that a survivor includes a spouse, former spouse, child, foster child, parent, legal guardian, foster parent, stepparent, sibling, foster sibling of, or person cohabiting with, or related by blood or affinity to, a deceased victim. The definition generally applies throughout the Code chapter to homicide victims.

Amends [section 915.86](#), concerning computation of compensation under the victim compensation program. Amends provisions concerning reimbursement of loss of income from work to allow reimbursement for attending or planning the funeral, memorial, or burial services of the deceased victim, and provides that the compensation limit of \$1,000 applies per person. Amends provisions concerning reimbursement for cleaning the scene of the crime to strike the limitation that the cleaning be limited to a crime scene that is a residence, and provides that the compensation limit of \$1,000 applies per crime scene. Provisions concerning dependent care expenses are amended to allow compensation for attending funeral, burial, or memorial services.

Adds a new provision to provide additional compensation of up to a total of \$5,000 for qualifying compensable expenses under the Code section if the expenses were not eligible for compensation at the time the initial application for benefits was made; the victim, secondary victim, or survivor of a deceased victim demonstrates that a denial of additional compensation would constitute an undue hardship; or additional compensable qualifying expenses are incurred following a new event. “New event” is defined to include additional criminal justice proceedings, a new appellate court decision relating to the event, a change of venue of a trial, a change in offender custody status, the death of the offender, or the exoneration of the offender. The new provision further provides that expenses related to loss of support or charges incurred by a victim service program for emergency relocation expenses or housing assistance are not eligible for additional compensation.

Effective July 1, 2018

SF2230—KIDNAPPING IN THE SECOND DEGREE

Relates to kidnapping in the second degree. The criminal offense of kidnapping is defined in [section 710.1](#).

A person commits kidnapping in the second degree when the victim is under 18 years of age, except that it is not kidnapping in the second degree when the kidnapping is by a parent or legal guardian whose sole purpose of the kidnapping is to assume custody of the victim under 18 years of age. A person who commits kidnapping in the second degree commits a class “B” forcible felony. A person who commits a forcible felony is ineligible to receive a deferred judgment or sentence or suspended sentence under [section 907.3](#). A person who commits kidnapping in the second degree must also register as a tier III sex offender under [chapter 692A](#) if a determination is made that the offense was sexually motivated.

Effective July 1, 2018

SF2231—SNOWMOBILES AND FIREARMS

Make changes to [chapter 321G](#) to allow a person to operate or ride on a snowmobile or all-terrain vehicle with a loaded firearm, whether concealed or not, without a permit to carry weapons, if the person operates or rides on the snowmobile or all-terrain vehicle on land rented by the person, and the person’s conduct is otherwise lawful. Specifies that “rented by the person” includes a person who does not necessarily rent the land but who principally provides labor for the production of crops located on agricultural land or for the production of livestock principally located on agricultural land. The person must personally provide such labor on a regular, continuous, and substantial basis. A person who violates [section 321G.13](#) (snowmobiles) or [321.14](#) (all-terrain vehicles) commits a simple misdemeanor punishable as a scheduled fine of \$100 under [section 805.8B](#).

Amends [section 724.4](#) relating to carrying weapons. A person no longer commits the criminal offense of carrying weapons in violation of [section 724.4](#) if the person goes armed with a dangerous weapon on land rented by the person, and the person does not qualify for another exemption under [section 724.4](#).

Effective July 1, 2018

SF2241—COMMISSION OF A PAROLE VIOLATION OR A CRIMINAL OFFENSE WHILE ON PAROLE

Relates to the commission of a parole violation or criminal offense while on parole.

Under [chapter 908](#) a parole officer having probable cause to believe that a person released on parole has violated the parole plan or the conditions of parole may arrest such person, or the parole officer may make a complaint before a magistrate in the judicial district in which the person is being supervised, and if probable cause exists, the magistrate may issue a warrant for the person’s arrest.

Strikes references to “under the laws of any other state” and references to “foreign government” in both [sections 908.10 and 908.10A](#), thus providing that if a person is convicted and sentenced to incarceration in any other state of the United States or a foreign country for an offense committed while on parole, and which if committed in this state would be an aggravated misdemeanor or felony, the person’s parole shall be revoked.

Repeals [section 908.7](#), which allows an alleged parole violator to waive the parole revocation hearing.

Effective July 1, 2018

SF2235—CRIMINAL ACTS COMMITTED AGAINST CRITICAL INFRASTRUCTURE

Creates the crime of critical infrastructure sabotage under [chapter 716](#) (damage and trespass to property).

Defines critical infrastructure to include electrical critical infrastructure, gas, oil, petroleum, refined petroleum products, or chemical critical infrastructure, telecommunications or broadband critical infrastructure, wastewater critical infrastructure, and water supply critical infrastructure. Defines critical infrastructure sabotage an unauthorized and overt act intended to cause and having the means to cause, and in substantial furtherance of causing, a substantial and widespread interruption or impairment of a fundamental service rendered by the critical infrastructure; critical infrastructure sabotage does not include any accidental interruption or impairment of service rendered in the performance of the person’s work duties.

A person who commits critical infrastructure sabotage commits a class “B” felony, punishable by confinement for no more than 25 years, in addition to a fine of not less than \$85,000 nor more than \$100,000.

Effective July 1, 2018

SF2271—MOTOR CARRIERS

Creates and modifies provisions relating to motor carriers under [chapter 325A](#).

Specifies that “motor carrier” includes motor carriers of passengers for the purposes of [chapter 325A](#). A motor carrier of passengers is any person transporting passengers on any highway of this state for hire, other than a transportation network company or a transportation network company driver.

Provides that, in addition to the application requirements of [section 325A.3\(2\)](#), all applications for a taxicab service passenger certificate must include the applicant’s interstate motor carrier number or intrastate motor carrier number. If the applicant has both an interstate and intrastate motor carrier number, only the interstate motor carrier number must be included.

Under current law, a request for a hearing to contest a decision by the department of transportation (DOT) to deny a person’s application for a motor carrier permit or certificate, or suspend a person’s motor carrier permit or certificate, must be submitted in writing to the DOT’s director of the division of motor carrier services at its office in the capital city’s metropolitan area. Specifies that the request must be submitted in writing to the DOT’s office of vehicle and motor carrier services.

Under current law, for purposes of [chapter 325A](#), subchapter II, “charter carrier” does not include taxicabs with a seating capacity of not more than eight passengers. Amends current law to provide that “charter carrier” does not include taxicabs with a seating capacity of less than seven passengers. Prohibits a taxicab service from transporting passengers by motor vehicle for hire from any place in this state to another place in this state, irrespective of the route or highway traversed, without first having obtained a taxicab service passenger certificate from the DOT. However, provides that a taxicab service passenger certificate issued by the DOT does not authorize a taxicab service to transport passengers within the boundaries of a local authority that licenses or regulates such vehicles pursuant to [section 321.236\(7\)](#) unless the taxicab service is in compliance with all applicable regulations of the local authority. A “taxicab service” is a person engaged in the for-hire transportation of passengers in a taxicab having a seating capacity of less than seven passengers and not operating on a regular route or between specified points.

Under current law, a regular-route motor carrier of passengers is prohibited from operating as a charter carrier in this state unless it possesses a charter passenger certificate, and a charter carrier is prohibited from operating as a regular-route passenger carrier in this state unless it possesses a regular-route passenger certificate. Strikes these provisions and provides that a person shall not operate as a charter carrier, regular-route motor carrier of passengers, or taxicab service in this state unless the person possesses a certificate issued by the DOT applicable to the type of operation in which the person is engaged.

By operation of law, a violation of the provisions of the bill is punishable by a scheduled fine of \$250 and may result in the revocation or suspension of the person’s motor carrier permit or certificate ([sections 325A.23 and 325A.24](#)).

Effective July 1, 2018

SF2321—GOING ARMED WITH PORTABLE DEVICES THAT DIRECT E-CURRENT

Under [section 724.4](#), excludes persons going armed with certain portable devices or weapons that direct an electric current from the criminal offense of carrying weapons under certain circumstances. A person who is 18 years of age or older does not commit the criminal offense of carrying weapons if the person goes armed with a dangerous weapon that directs an electric current, impulse, wave, or beam that produces a high-voltage pulse designed to immobilize a person, 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 dangerous weapon is not used in the commission of a public offense. A minor who goes armed with a dangerous weapon that directs an electric current, impulse, wave, or beam that produces a high-voltage pulse designed to immobilize a person, 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 commits a simple misdemeanor.

Effective July 1, 2018

SF2323—DISCLOSURE REQUIREMENTS CONCERNING OUTSIDE PAYMENTS OR ACTIVITIES REQUIRING REGISTRATION AS A FOREIGN AGENT

Makes changes under [chapters 7E](#) and [8A](#) that provides that an applicant for state employment or a state employee who willfully fails to disclose that the person has filed a registration statement pursuant to the federal Foreign Agents Act is guilty of a serious misdemeanor.

Effective July 1, 2018

SF2347—IMPORTATION OF ALCOHOL

Modifies the bootlegging provision ([section 123.59](#))—a person is a bootlegger if they have any alcoholic beverage with the intent to sell or dispense the alcoholic beverage by gift or otherwise in violation of law—by striking the reference to gift or otherwise. First offense of the provision is a simple misdemeanor; second or subsequent offenses are a serious misdemeanor.

Effective April 10, 2018

Juvenile

HF2381—DISPOSITION OF A CHILD FOUND TO HAVE COMMITTED A DELINQUENT ACT

Under [section 232.52](#), the court may enter a dispositional order transferring custody (in lieu of guardianship) to the director of DHS for the purposes of placing a the child in the state training school or other facility.

Effective July 1, 2018

HF 2443—JUVENILE RECORDS

NON-DELINQUENCIES

Non-delinquency juvenile case subtypes (e.g. CINA, TPR) were inadvertently combined with all delinquency cases ([2016 Acts, ch 1002](#)), which authorized a variety of entities to access non-delinquency juvenile records. Restores the previous [section 232.147\(3\)](#), separating the non-delinquency case subtypes from the delinquency case subtypes, restoring restricted access to non-delinquency juvenile records.

EXCEPTIONS TO CONFIDENTIALITY OF JUVENILE RECORDS

Updates the list of entities who can review delinquency records without a court order to make the non-forcible felony exceptions consistent with the forcible felony delinquencies.

CLERK AS STEWARD OF SEALED DOCUMENTS

[Section 232.150](#) requires that on entry of a sealing order, agencies must send related juvenile records to the court issuing the order. Since the implementation of EDMS, clerks no longer maintain hardcopy files; this subsection has caused issues when a clerk receives a significant file from previous records custodians upon sealing. Provides the State Court Administrator to the authority to prescribe a directive about the maintenance or destruction of these hardcopy files

JUVENILE TRESPASSING

[2017 Acts ch. 140](#) made violations of trespassing ([section 716.7](#)) a scheduled violation under [section 805.8C](#). Scheduled violations are excluded from juvenile court jurisdiction under [section 232.8\(1\)](#); however, trespassing ([section 716.7](#)) is not specifically listed in [section 232.8\(1\)](#). Clarifies that the juvenile court has jurisdiction over trespassing violations committed by juveniles.

CHARGES FILED IN DISTRICT COURT

Requires the court to file an order dismissing charges in the district court in those situations when a case is filed in district court, but the juvenile court holds exclusive jurisdiction. When the clerk receives the transfer order, the clerk must seal all records initiated in the district court.

JUVENILE DIVERSION PROGRAMS

[2016 Acts, ch 1002](#) has limited the ability of some local law enforcement agencies to share information with juvenile diversion programs. Juvenile diversion programs are organized efforts to provide necessary services to rehabilitate a child, diverting them from the informal adjustment process/the juvenile court system. Restores ability to share information for the purposes of juvenile diversion programs.

DPS CRIMINAL HISTORY AND INTELLIGENCE DATA

Clarification to [chapter 692](#) to provide parameters for the release of juvenile criminal history data by the Department of Public Safety.

Effective July 1, 2018

Mental Health

HF2456—COMPLEX MENTAL HEALTH NEEDS

Makes changes to address gaps in services to lowans with complex mental health, disability, and substance use needs. This legislation enacts the recommendations of the Complex Needs Work Group.

MENTAL HEALTH ([CHAPTER 229](#)) & SUBSTANCE USE ([CHAPTER 125](#)) COMMITMENTS

Immediately terminates a commitment upon finding the person no longer meets criteria (no longer permissive, changes may to shall). Allows video conference commitment hearings. Allows immediate release from a hospital after notifying the court that a person no longer meets criteria (allowing notification of court, not requiring permission). Changes the definition of Serious Mental Illness (SMI) to include those with a history of non-compliance in taking medications or treatment plans, resulting in hospitalizations. Adds oral medication to the list of options for treatment during hospitalizations (currently only allows injectables).

Under [section 229.22](#), if the magistrate orders a person be detained and files a written order with the clerk, in addition to the clerk providing a written copy of the order or any separate order to the chief medical officer of the facility which the person was originally taken, law enforcement, and ambulatory services, the clerk must notify the transportation provider under contract with the MHDS region. Requires all contracted transportation providers use secure vehicles and have staff with mental health training.

SUBACUTE

Eliminates the 75-bed subacute bed cap.

MH DISCLOSURE TO LAW ENFORCEMENT

Allows disclosure of mental health information to an expanded list of law enforcement officers (DNR officers, county attorneys, probation/parole officers, jailers), but still only if consistent with professional ethics, and the person is an imminent threat to self or others, and has ability to carry out that threat. Includes liability protections for those that disclose (or do not disclose consistent with law).

MH/DS REGIONAL CORE SERVICES

Moves all current “additional crisis services” to a core, and calls them “intensive mental health services” (mobile response, 23-hour crisis observation and holding, crisis residential services, subacute and the newly termed “crisis stabilization community-based services” are now considered “core”). Requires DHS to ensure all regional core services are covered by Medicaid for those eligible (subject to federal match) and requires MH/DS regions to pay for those not eligible for Medicaid (if funds available).

NEW CORE SERVICES ADDED

Adds three new categories of services to the “intensive mental health services” list that regions must provide, and must be reimbursable by Medicaid and MH/DS regions. Regions are allowed to bill other regions and Medicaid for services provided in these three new service areas (ACT, Access Centers, IRSH). Requires MHDS Commission to make rules for core service definitions, service provider standards, service access standards, and service implementation dates (rules to be noticed by 8/15/18). Requires DHS to accept multi-regional arrangements for these new services. Requires the development of at least 22 ACT (Assertive Community Treatment) teams statewide. ACT teams are to comply with federal uniform guidelines, and prohibits MCOs from establishing stricter criteria. Requires at least six Access Centers be developed to serve individuals SMI, SUD who are otherwise medically stable, do not need inpatient psychiatric care, but do not have other safe alternatives. Providers would have to accept on a no eject/reject policy (as long as they qualify for that level of care); accept court-orders; be dually licensed as subacute & crisis stabilization residential; be a licensed SUD provider or have cooperative agreement with SUD provider; provide/arrange for physical health services; and provide navigation and warm handoffs and links to housing, employment, and shelter services. Requires development of up to 120 Intensive Rehabilitative Service Homes (IRSH) that are licensed as HCBS habilitation/ID provider, adequate staffing and appropriate training (specifically mention ABA), have a no eject/reject policy and accept court-orders, be a licensed SUD provider or have cooperative agreement with SUD provider, coordinate clinical MH & physical health, be located in neighborhood settings, and be no larger than 16 beds. Requires DHS provide guidance on objective utilization review criteria.

STUDIES

Directs DHS (with IDPH, MHIs, hospitals, NAMI, Iowa Behavioral Health Association, and “other affected stakeholders”—e.g. the judicial branch—to review mental health and substance use disorder (SUD) commitment procedures and make recommendations to increase efficiencies and appropriately utilize services (report due 12/31/18). Requires DHS & IDPH and other interested stakeholders to review the role of tertiary psychiatric hospitals in the array of services (report due 11/30/18). Report is to include review of viability of using MHIs as tertiary care psychiatric hospitals, potential sustainable funding, and admissions criteria. Requests Legislative

Council to convene a study committee to analyze the viability of MH/DS regional funding, including levies, budgets, per capita expenditure targets, and fund balances (report with recommendations by 1/15/19).

OTHER

Directs DHS to implement rules that require both adult and child co-occurring subacute beds to be included in the bed tracking system, and directs DHS to review reimbursement rates for ACT (recommendations due by 12/15/18). Requires DHS and MHDS Commission to set rules for civil commitment prescreening assessments to be done in MH/DS region. Rules will address prescreening by MH professional within 4 hours of emergency detention; coordination of services (inpatient, outpatient, subacute, detox, and community-based); ongoing consultations by MH professional while person is in ER; and filing of appropriation documentation/reports. Removes the MH/DS levy reduction (this was restored in the Standings Bill HF 2502). Allows recalculation of per capita expenditure target if a county joins a region (equal to product of new regional per capita expenditure target county population).

Effective July 1, 2018

Probate

HF2125—VERY SMALL ESTATES

Amends probate [section 633.356](#) to allow for the distribution of decedent’s property by affidavit in estates as large as \$50,000. Changes the affidavit requirement to require the affiant to attest the property is valued at \$50,000 or less.

Adds components to the affidavit that the successor must furnish to the holder of the decedent’s property in order to collect money, receive tangible personal property, or have evidences of intangible personal property transferred under [section 633.356](#). The affidavit must indicate that there is no debt owed to the department of human services for reimbursement of Medicaid benefits; or if there is, it will be paid to the extent of funds received pursuant to the affidavit. The affidavit must also indicate that there are no inheritance or other taxes owed to the department of revenue, or if there are, they will be paid to the extent of funds received pursuant to the affidavit. Finally, the affidavit must indicate that creditors, if any, will be paid to the extent of funds received pursuant to the affidavit.

Effective July 1, 2018

Applies to estates of decedents dying on or after July 1, 2018

HF 2318—REDEMPTIONS BY PERSONS OF UNSOUND MINDS OR THEIR LEGAL REPRESENTATIVES

Relates to the mechanism by which minors or persons of unsound mind, or their legal representatives, who own real estate which was sold at a tax sale may redeem such parcels under [chapter 445](#) and [chapter 447](#). Defines “legal representative” as a parent, guardian, or conservator of a person with a legal disability, a person appointed by a court to act on behalf of a person with a legal disability, or a person acting on behalf of a person with a legal disability pursuant to a power of attorney; defines “person with a legal disability” as a minor or a person of unsound mind.

Specifies the procedure by which a person with a legal disability can redeem a parcel sold at a tax sale after the delivery of the treasurer's deed. Before delivery of the treasurer's deed, the bill provides that the person with a legal disability or the person's legal representative may redeem under [sections 447.1 and 447.3](#), which is the same as current law. After delivery of the treasurer's deed, the person with a legal disability or the person's legal representative must bring an equitable action for redemption in the district court of the county where the parcel is located and prove to the court that prior to the delivery of the treasurer's deed, the person with a legal disability or the person's legal representative was entitled to redeem by virtue of such disability. All persons claiming an interest in the parcel from the tax sale must be named as defendants.

If the court determines that the person with a legal disability or the person's legal representative is entitled to redeem, the court will determine the rights, claims, and interests of all of the parties, and will establish the amount necessary to effect redemption. The redemption amount shall include the amount for redemption computed in accordance with [section 447.1 or 447.3](#), whichever is applicable, including interest computed up to and including the date of payment of the total redemption amount is owed to the clerk of court and the amount of all costs added to the redemption amount in accordance with [section 447.13](#). The person with a legal disability or the person's legal representative has 30 days after the date of the order to pay the redemption amount to the clerk. Upon timely receipt of payment, the court shall declare the treasurer's deed to be invalid. In its judgment, the court shall direct the clerk of court to deliver the entire amount of the redemption payment to the person claiming title under the treasurer's deed. If the person maintaining the action fails to timely deliver payment of the total redemption amount to the clerk, the court shall enter judgment holding that all rights of redemption of the person with a legal disability who brought the action, or on whose behalf the action was brought, are terminated and that the validity of the tax title or purported tax title is conclusively established as a matter of law against the claims of such person with a legal disability.

The action may be brought until one year after the disability is removed unless otherwise barred. The law bars bringing the action if the person with a legal disability remained in possession of the parcel, the person claiming under the tax title properly commenced an action to remove the person with a legal disability, and the person with a legal disability or the person's legal representative fails to timely file a counterclaim or separate action asserting the right of redemption. The law also bars the action if the person with a legal disability is not in possession of the parcel and the action is barred by [section 448.16](#), which bars actions where the person claiming under tax title records an affidavit with the county recorder of the county where the parcel is located and a person with redemption rights fails to file a claim within 120 days after the filing of the affidavit. Finally, the law bars the action if it is not filed within three years of the recording of the treasurer's deed.

Effective July 1, 2018

HF2402—AGENT’S TERMINATION OR SUSPENSION OF AUTHORITY FOR A POWER OF ATTORNEY

Relates to the termination or suspension of an agent’s authority to act for a principal under a power of attorney. Code [section 633B.110](#) currently provides that an agent’s authority for a power of attorney terminates upon the occurrence of several circumstances including but not limited to when the principal revokes the authority; the agent dies, becomes incapacitated, or resigns; or an action is filed for the dissolution or annulment of the agent’s marriage to the principal or for their legal separation, unless the power of attorney otherwise provides. Amends the Code section to include an additional circumstance under which an agent’s authority terminates, namely, if the agent is named as the abuser in a founded dependent adult abuse report or is convicted of dependent adult abuse.

Amends [section 633B.116](#), relating to judicial relief of persons who may petition a court to construe a power of attorney or to review an agent’s conduct, to include a person who becomes aware of pending criminal charges of dependent adult abuse against a principal. After receiving a petition to review an agent’s conduct as a result of pending criminal charges of dependent adult abuse, the court may suspend the agent’s power of attorney and may appoint a guardian ad litem to represent the principal; requires the guardian ad litem to be a practicing attorney.

Effective July 1, 2018

HF2404—RESTITUTION PAID TO ESTATE OR HEIRS AT LAW OF A CRIME VICTIM

Relates to restitution paid to the estate or heirs at law of a crime victim. Provides that restitution awarded under [section 910.3B](#) to the victim’s estate or heirs at law shall not be reduced by any third-party payment, including any insurance payment, unless the offender is a named or covered insured.

Effective July 1, 2018

HF2449—SUBSTITUTE DECISION MAKER

Relates to the Substitute Decision Maker Act ([chapter 231E](#)) by changing references relative to the state and local offices of substitute decision maker and substitute decision-making services, and to instead refer to these offices and services in terms of the state and local offices of public guardian and public guardianship services.

Eliminates as services provided by the state and local offices of public guardian, services provided by an attorney in fact under a durable power of attorney for health care pursuant to [chapter 144B](#), an agent under a power of attorney executed pursuant to [chapter 633B](#), and a personal representative (an executor or administrator) under [chapter 633](#) relating to the opening and administering of an estate. The remaining services provided by a public guardian are conservator, guardian, and representative payee services.

Requires that local offices of public guardian be established by the state office of public guardian, contingent upon an appropriation to the department on aging of necessary funds as determined by the director of the department on aging.

Effective July 1, 2018

SF2098—PROBATE EDMS

Amends [chapter 633](#) to conform probate procedures to the standards of the electronic data management system. The bill also amends the probate powers of the clerk. The following duties of the clerk under [section 633.22](#) have been eliminated:

- The duty to appoint personal representatives, guardians and conservators for minors, fix and determine the amount of the bond, or waive the same when permitted by law or by will, and the approval of any and all bonds given by fiduciaries in the discharge of their duties.
- The duty to admit wills of decedents to probate, when not contested, and to make necessary orders in relation thereto, including orders to issue commissions to take depositions.
- The duty to make all necessary orders in relation to the personal effects of a deceased person, where no objection is filed, & perform all other acts within the clerk’s jurisdiction, as provided in the probate code.
- The duty to approve, when notice has been waived by all persons interested, of petitions and reports, or joint petitions and reports, in respect to the sale, mortgage, pledge, lease, or exchange of property pursuant to [section 633.386](#) and section [633.400](#).

Under [section 633.22](#), the clerk retains the power to examine and approve all intermediate and interlocutory accounts and reports of fiduciaries; such power is exercisable under [chapter 633](#) and that the clerk may convert and close small estates under [chapter 635](#). The clerk continues to have the ability to enter routine scheduling orders in probate matters as established by the chief judge of the judicial district.

Amends [section 633.27](#) to provide that the clerk no longer keeps the probate docket as a book, but rather as an electronic record. The probate docket must, among other things, name all heirs in intestate estates and the surviving spouse of each deceased intestate, and show whether each person is an adult or a minor, and each person’s residence. The probate docket will no longer be required to indicate the volume and page of a real estate record in light of the nature of electronic records.

Clarifies under [section 633.306](#) that the probate docket is no longer a book, but rather an electronic record.

Effective July 1, 2018

Applies to actions of the clerk of the probate court completed on or after July 1, 2018

Under [section 633.42](#), a request for notice must contain the requester’s address, and if available, the requester’s email and telephone number. If the requester is represented, they must also provide the requester’s attorney’s address, email and telephone number. Requires under [section 633.82](#) that the designation of an attorney includes the attorney’s electronic mail address. Amends the form and verification requirements of claims in [section 633.418](#). It eliminates the requirement to file forms in duplicate and the instruction to clerks on what to do with the duplicate claim form. It adds the requirement that in addition to the claimant’s name and address, the claimant provide a telephone number and electronic mail address, if available.

Repeals [section 633.72](#), which dictates the manner of service for original notices to nonresident fiduciaries.

Effective July 1, 2018

Applies to probate filings made on or after July 1, 2018³

³ Applicability provision amended by section 10 of the Standings Appropriation (SF2417).

SF2099—SMALL ESTATES

Raises the maximum value of a small estate under [section 635.1](#) to \$200,000.

Effective July 1, 2020

Applies to estates of decedents dying on or after July 1, 2020

Provides a new definition of “Probate Assets”— “[A] decedent’s property subject to administration by a personal representative.”

Effective July 1, 2018

Applies to estates of decedents dying on or after July 1, 2018, and other estates opened previously and for which administration has not been completed as of July 1, 2018

CONVERSION

Requires that the personal representative separately specify in the report and inventory which assets are probate assets subject to the jurisdiction of the state, their gross value, and sum of all the assets. If the amount does not exceed the amount permitted under [section 635.1](#) (\$100,000 until 6/30/2020; \$200,000 effective 7/1/2020) then the estates is administered as a small estate. If the personal representative files a report to convert the estate administration to or from a small estate based on the gross value of probate assets subject to the jurisdiction of the state, the clerk must make the conversion without a court order. Other interested parties may apply to convert proceedings to or from a small estate, which the court may grant upon good cause shown.

Effective July 1, 2018

Applies to estates of decedents dying on or after July 1, 2018

CLOSING

At the closing of an estate, the personal representative must file with the court a closing statement and proof of service to all interested parties within a reasonable time after the expiration of all times following required notices in [chapter 633](#). The closing statement must include all of the following: certify that the gross value of the estate does not exceed the amount permitted under [section 635.1](#); that the estate has been fully administered and will be distributed to persons entitled to if no objection is filed; an accounting a proposed distribution explaining how and to whom the assets will be distributed; notice to all interested parties that they have 30 days from the date of service to file an objection with the court; a statement that all statutory requirements pertaining to taxes have been complied with; a statement that all statutory requirements pertaining to claims have been complied with (and whether a lien continues to exist on any property as security); the amount of fees to be paid to the personal representative and personal representative’s attorney. If no actions or proceeding are pending in the court 30 days after service of the closing statement, the clerk must close the estate without order of the court and the personal representative shall be discharged upon the filing of an affidavit of mailing or other proof of service of the statement and filing proof of the asset distribution (including receipts).

Effective July 1, 2018

Applies to estates of decedents dying on or after July 1, 2018, and other estates opened previously and for which administration has not been completed as of July 1, 2018

Real Estate/Property

HF2233—AMENDING A MECHANICS LIEN

Relates to mechanics' liens and public construction liens, and the early release of retained funds.

MECHANIC'S LIENS

Under [section 572.26](#), a lien statement may only be amended by leave of court in furtherance of justice or to decrease the amount demanded. An amendment to decrease the amount demanded must be accomplished through the mechanics' notice and lien registry; amending a lien statement to decrease the amount demanded does not affect the priority of the lien statement. A lien statement shall not be amended to increase the amount demanded.

PUBLIC CONSTRUCTION LIENS

Current [section 573.15](#) provides an exception to the requirement that a public corporation retain a portion of funds due a contractor on a public improvement project in a fund for the payment of claims for materials furnished and labor performed. The exception provides that a public corporation need only retain funds due a supplier of material to a general contractor if the supplier provides the general contractor with one of two permitted types of notice after the materials are supplied. Provides that in addition to claims for materials, the exception shall apply to claims for labor, service, or transportation. Amends the notice requirement to provide that a supplier of labor, materials, service, or transportation to a general contractor must give only one type of notice, along with a certified statement that such notice was given.

NOTICE OF CONTRACTS REQUEST FOR EARLY RELEASE OF RETAINED FUNDS

Repeals [section 26.13](#) (public construction bidding—early release of retained funds) and creates new section 573.28 with the same language except for corrected internal references.

Effective July 1, 2018

HF2234—FORECLOSURE

Shortens the periods of time associated with redemption of real property from foreclosure in [chapter 628](#).

A mortgagor and mortgagee can agree to reduce the period of redemption from foreclosure as described in the mortgage instrument to a period of three months (currently six months). The debtor's right of redemption would be exclusive the first two months (as opposed to three months). The time for redemption by creditors would be shortened to two months (from four months).

Also alters [chapter 654](#). Changes the notice requirement and rule for foreclosure without redemption by changing the length of time a sale can be delayed when a defendant-mortgagor makes a written demand to a plaintiff-mortgagee to delay sale. Delays the sale by six months from entry of judgment (as opposed to the current 12 months). If a plaintiff-mortgagee's petition includes a waiver of deficiency judgment, a defendant-mortgagor's written demand will only result in a three-month (rather than a six-month) delay of sale following entry of judgment.

Notwithstanding [section 628.3](#) when a foreclosure of a mortgage on real property results from enforcement of a due-on-sale clause, amends [section 535.8\(4\)\(e\)\(1\)](#) to shorten the period that a mortgagor may redeem the real property from any time within three years to anytime within 18 months from the day of sale under the levy. Also shortens the period during which the mortgagor's right of redemption is exclusive from the first 30 months to the first 15 months and the period during which creditors may redeem under [sections 628.5, 628.15, and 628.16](#) from 33 months to 16 months.

Effective July 1, 2018

SF2139—POWERS OF AN AGENT UNDER POA WITH RESPECT TO REAL PROPERTY

Provides that, unless a power of attorney otherwise provides and subject to certain restrictions contained in [section 633B.201](#), an agent that has been granted general authority with respect to real property is authorized to relinquish any and all of the principal's rights of dower, homestead, and elective share.

Effective March 28, 2018

SF2175—PARTITION OF PROPERTY IN KIND

Relates to partition of property in kind and partition of property by sale and creates new Code chapter 651; includes partition provisions currently in the rules of civil procedure.

Defines terms not previously defined for partition including "ascendant", "collateral", "cotenant", "descendant", "heirs property", "owelty", and "relative." Contains general provisions applicable to all property partitions. The current procedures related to an action for partition, partition pending probate or administration of an estate, a petition for partition and the parties to such, the answer to a partition petition, and the prohibition of a counterclaim or joinder of claims to a partition petition are not changed by the law.

Requires that personal property subject to a lien be partitioned by sale. Partition of real and personal property owned by the same person may be partitioned in the same partition action. Property may be partitioned by both sale and in kind in the same partition action. Property that has been partitioned in kind, or the proceeds from a partition by sale, are subject to an order of the court until disposition of the rights in the property are fully vested. The court may order the filing of an abstract, adjudicate the validity and priority of liens on a property, order a referee to take possession of a property, or issue an order to preserve a property subject to partition.

Requires that the court file an initial decree establishing the interest and shares of all owners of a property subject to partition. The court shall appoint one referee unless the parties to the partition agree that more than one referee needs to be appointed. This changes the current requirement that the court appoint three referees for a partition in kind and one or more referees for a partition by sale. The court shall order an appraisal conducted by three disinterested persons with knowledge of property valuations, or by a different method of valuation as agreed to by the owners of the property. Currently, the court is not required to order an appraisal for a partition in kind, and for a partition by sale the appraisal is to be conducted by three disinterested freeholders. Requires the court to direct the referee to file a report setting forth the referee's recommendations for completing the partition. A referee's report is not currently required to be filed with the court.

For a partition in kind, allows the referee to include owelty as part of the referee's recommendation. Owelty is defined as an equitable remedy used in partition actions to equalize the lower value of property received by a

party through the payment of moneys from a recipient of a higher value property. Owelty is not currently allowed in partition actions. The court may approve or disapprove the referee's report, or order the property sold by partition by sale. If the court approves owelty payments, the partition in kind cannot be completed until all owelty payments have been made.

Upon approving a partition in kind, the court shall file a decree describing each parcel of real property or article of personal property allotted to each owner and enter judgment against each property owner for their apportioned costs of the action. A certified copy of the decree shall be filed with the county recorder and a copy provided to the county auditor in each county where the partitioned property is located.

Requires the referee to file a report with the court if the referee is unable to make a partition in kind as ordered by the court. If such partition involves personal property, the court shall order a sale of the property without further notice. If the partition involves real property, the court must set a hearing after which the court may order a partition by sale or order another disposition of the property.

The referee's report for a partition by sale must include a recommendation for the appropriate public or private sale process and a copy of the appraisal for the property. The referee must provide notice of the sale by publication in a newspaper of general circulation in the counties where the property to be partitioned is located. The referee must report all proposed sales to the court and the court may approve or disapprove such sales. No real property shall be conveyed prior to approval of the court. Requires property subject to partition to be sold free of liens, except those liens against the entire property. Upon court approval, the referee must file a referee's deed that has to be recorded in the counties where the partitioned property is located.

Requires the court to order a reasonable fee, taxed as costs, for the plaintiff's attorney in a partition of real property. In addition, if the plaintiff is the losing contestant in any contest arising from the partition action, the plaintiff's attorney fees related to such contest shall not be taxed as costs. This is a change from the current rule of civil procedure that requires such fees to be taxed against the losing contestant. Does not change the court's ability to order reasonable compensation for any appraisers, referees, and attorneys involved in a partition action. Requires that such compensation shall be part of costs. The court shall have a hearing on the referee's final report. Any payment of proceeds of less than \$10,000 from a partition by sale that are to go to a minor who does not have a conservator appointed are to be paid to the minor's parents, guardian, or an adult who resides with the minor.

Details procedures for partition in kind of heirs property as defined in the law. Provides that these provisions control in the event of a conflict with the general provisions of the new Code chapter. In a partition action involving heirs property in which a cotenant has requested partition in kind, requires the court to issue an initial decree appointing a referee and ordering an appraisal. After the referee files the appraisal, the court must conduct a hearing to determine the fair market value of the heirs property. After the hearing the court must send notice of the fair market value to all cotenants of the heirs property. If at that time a cotenant requests that the heirs property be partitioned by sale, allows all other cotenants to elect to purchase the interest of a cotenant that has requested partition by sale of the heirs property. Provides a specific time period in which a cotenant has to elect to purchase such interest, provides a determination of fractional ownership of each cotenant's interest in the heirs property before and after purchase of such interest, provides the time frame for a cotenant to pay for an interest such cotenant has elected to purchase from another cotenant, and provides for reallocation of all cotenants' interests in the heirs property based on the payments made, or not made, by the electing cotenants.

Allows a cotenant to petition the court to authorize the sale of the interest of a cotenant named as a defendant in the action who does not appear in the action. If the court authorizes such sale, the value of the interest of the nonappearing cotenant shall be determined by the court.

If all payments are made by the electing cotenants, the court shall order the heirs property to be partitioned in kind unless the court determines that a partition in kind will result in great prejudice to the cotenants as a group. The court is required to consider the totality of eight factors as detailed in the law in making such a determination. If the court orders the heirs property to be partitioned in kind, the partition shall be conducted per the partition in kind procedures detailed in the general provisions of the new Code chapter. If the court orders the heirs property to be partitioned by sale, the partition shall be conducted per the partition by sale procedures as detailed in the general provisions of the new Code chapter.

Repeals Code chapter 651, Code 2018.

Effective July 1, 2018

Other

[HF 637—ELIMINATION OF TECH ADVISORY COUNCIL \(JBIT\)](#)

[Code section 8B.8](#) related to the technology advisory council is repealed.

Effective April 17, 2018

[HF2277—INSPECTION & EXAMINATION OF CERTAIN PUBLIC RECORDS UNDER THE CUSTODY OF THE STATE ARCHIVIST OR A COUNTY REGISTRAR \(APPELLATE CLERK\)](#)

New section 22.16 allows for the examination and copying of a public record that is an archive as defined in [section 305.2](#) that was created at least 100 years prior to the request. A public record meeting the requirements for examination and copying shall not be made available if the public record is ordered to be sealed and is not subject to inspection by any federal or state court or is otherwise prohibited from being disclosed under any federal law, rule, or regulation.

Under code [section 144.43](#), concerning vital records, the following vital records in the custody of the county registrar may be inspected and copied as a right of [chapter 22](#):

- A record of birth
- A record of marriage
- A record of divorce, dissolution of marriage, or annulment of marriage
- A record of a death if the death was not a fetal death

Under code [section 144.43](#), concerning vital records, the following vital records in the custody of the state archivist may be registrar may be inspected and copied as a right of [chapter 22](#):

- A record of birth that is a least 75 years old
- A record of marriage that is a least 75 years old
- A record of divorce, dissolution of marriage, or annulment of marriage that is at least 75 years old
- A record of death or fetal death, either of which is at least 50 years old

SF481—SANCTUARY CITIES

COMPLETION OF SENTENCE IN FEDERAL CUSTODY

New section 825.3 requires the court in a criminal proceeding in this state in which the sentence requires a defendant subject to an immigration detainer request to be confined in a correctional facility, to issue an order at the time of sentencing, or at a later date, requiring the correctional facility in which the defendant is to be confined to require the defendant to be transferred to serve in federal custody the final portion of the defendant's sentence, not to exceed a period of seven days, if a facility or officer determines that the change in the place of confinement will facilitate the seamless transfer of the defendant into federal custody. A defendant shall be transferred pursuant to the bill only if appropriate officers of the federal government consent to the transfer of a defendant into federal custody under the circumstances described in the bill.

CIVIL ACTION

New section 825.8 creates a process for complaints and civil action. Requires the attorney general to file a civil action in district court to enjoin any ongoing violation of the requirements of the bill by a local entity no later than 30 days after the date on which the notification is received. Notwithstanding any other provision of law to the contrary, a local entity shall not be eligible to receive any state funds if the local entity intentionally violates the bill. The bill permits a local entity to petition the district court that heard the civil action brought pursuant to the bill to seek a declaratory judgment that the entity is in full compliance with the bill in order to restore the eligibility to receive state funds.

ATTORNEY GENERAL DATABASE

New section 825.10 requires the attorney general to develop, post, and maintain a searchable database listing each local entity for which a final judicial determination that the entity has intentionally violated the requirements of the bill has been made.