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IPA INSTITUTE OF PUBLIC AFFAIRS
The University of Iowa, Iowa City

A Guide to Iowa Laws Concerning Children and Youth

FOREWORD

In 1953 a guide to the Iowa laws concerning children and youth was prepared by the Institute of Public Affairs. In 1970 and 1974 it was revised and updated. This publication is a revised and updated version of the 1974 revised guide.

Matters pertaining to children and youth appear in many parts of the *Code of Iowa*, often dealing with various types of subject matter which make the provisions difficult to locate. An attempt has been made here to bring together all of the statutory laws dealing with children into one composite manual. It is our hope that many groups of people dealing regularly with the problems of children will find this guide a helpful reference that will enable them to perform their services better. Where legal action is involved it is important that the persons concerned secure the consultation and legal assistance of a member of the Iowa bar. An examination of this guide in its entirety itself demonstrates the need of professional legal services upon many, many matters where children are involved. It also shows the need for wider public information on matters concerning children and the many agencies within the state rendering service in handling the problems pertaining to youth.

Lawyers will find that the guide provides a convenient reference to the many scattered laws involving children and will find the listing of child-placing agencies helpful. Social workers, law enforcing agencies, doctors, ministers, and other persons having special interest in child welfare will find this outline of the law dealing with children helpful in performing their respective services. Without such a guide, it would be difficult for them to be aware of the many places in which our legal order has attempted to deal with this vital problem of the state. It is the hope of the Institute of Public Affairs that this effort will bring to public attention the many existing legal aids pertaining to children and will assist all people dealing with children to be well informed upon the laws created for their benefit.

Mr. Roger Scholten, a legal research assistant with the Institute of Public Affairs, did the legal research to rewrite and update the guide. His work was reviewed by Harry Smith, chief of research for the institute.

CLAYTON RINGGENBERG, DIRECTOR
INSTITUTE OF PUBLIC AFFAIRS

July 1979

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IOWA DIRECTORY OF SOCIAL SERVICES FOR CHILDREN

Child Caring and Child Placing Agencies

CC—Child Care, CP—Child Placing

- | | |
|---|---|
| ADASI
1915 Hickman Road
Des Moines, Iowa 50314
CC | Black Hawk County Youth Shelter
1407 Independence Avenue
Waterloo, Iowa 50703
CC |
| American Home Finding Association
217 East Fifth Street
Ottumwa, Iowa 52501
CC | Boys Acres, Inc.
R.R. 3
Cedar Rapids, Iowa 52401
CC |
| Area Residential Care, Inc.
2909 Kaufmann
Dubuque, Iowa 52001
CC & CP | Bremwood (Lutheran Children's
Home)
Box 848
Waverly, Iowa 50677
CC |
| 68 Hill Street
Dubuque, Iowa 52001
CC | Catholic Charities of Dubuque
1229 Mount Loretta
Dubuque, Iowa 52001
CP |
| Beloit of Iowa
1323 Northwestern
Ames, Iowa 50010
CC | Mason City Area Office
401 North Federal
Mason City, Iowa 50401
CP |
| Odund Cottage
1323 Northwestern
Ames, Iowa 50010
CC | Dubuque Area Office
811 Dubuque Building
Eighth and Locust
Dubuque, Iowa 52001
CP |
| Pine Cottage
1323 Northwestern
Ames, Iowa 50010
CC | Waukon Area Office
207 First Street, N.E.
Waukon, Iowa 52172
CP |
| Bethany Christian Services of Iowa
818 Fourth Avenue
Sheldon, Iowa 51201
CP | |

Cedar Rapids Area Office
1707 First Avenue, S.E.
Cedar Rapids, Iowa 52401
CP

Waterloo Area Office
P.O. Box 2394
1019 Commercial
Waterloo, Iowa 50703
CP

Catholic Charities of Sioux City
1825 Jackson Street
P.O. Box 2025
Sioux City, Iowa 51104
CP

Villa Maria
1671 Military Road
Sioux City, Iowa 51103
CC

Saint Anthony's Boys Annex
2515 W. Twenty-Second Street
Sioux City, Iowa 51103
CC

Fort Dodge Area Office
720 S. Seventeenth Street
Fort Dodge, Iowa 50501
CP

Carroll Branch Office
214 W. Fifth Street
Box 13
Carroll, Iowa 51401
CP

Catholic Council for Social Concern,
Inc.
700 Third Street
Des Moines, Iowa 50309
CP

Room 223, Council Bluffs Bank
Building
Council Bluffs, Iowa 51501
CP

Central Iowa Residential Services
111 E. Church Street
Marshalltown, Iowa 50158
CP

205 W. Church Street
Marshalltown, Iowa 50158
CC

108 N. Thirteenth Street
Marshalltown, Iowa 50158
CC

1510 S. Center
Marshalltown, Iowa 50158
CC

107 N. Fourth Street
Marshalltown, Iowa 50158
CC

Children's Home of Cedar Rapids
Heartwood Center (Main Office)
519 Fifteenth Street, N.E.
Cedar Rapids, Iowa 52402
CC & CP

Maplewood Group Home
1950 Fourth Avenue, S.E.
Cedar Rapids, Iowa 52403
CC

Cedarwood Group Home
1732 Blake Boulevard, S.E.
Cedar Rapids, Iowa 52403
CC

Christian Home Association (Office)
500 N. Seventh Street,
P.O. Box 98
Council Bluffs, Iowa 51501
CP

Harlan Group Home
1511 Seventh Street
Harlan, Iowa 51537
CC

Pearl Miller Group Home
302 N. Seventh Street
Council Bluffs, Iowa 51501
CC

Crosby Group Home
Box 191
222 S. Fifteenth Street
Clarinda, Iowa 51632
CC

Park View Shelter Care
2200 Second Avenue
Council Bluffs, Iowa 51501
CC

F. Stephen Group Living for Girls
500 N. Seventh Street
Council Bluffs, Iowa 51501
CC

Kenney Controlled Care Cottage
500 N. Seventh Street
Council Bluffs, Iowa 51501
CC

Christian Opportunity Center
P.O. Box 284
1553 Broadway
Pella, Iowa 50219
CP

Comprehensive Systems, Inc. (Main
Office)
1700 Clark Street
Charles City, Iowa 50616
CC

Developmental Care Cottage
1504 Clark Street
Charles City, Iowa 50616
CC

Crestview
1700 Clark Street
Charles City, Iowa 50616
CC

Elma Home
Elma, Iowa 50628
CC

Convalescent Home for Children
211 Twenty-Eighth Street
Des Moines, Iowa 50317
CC

Exceptional Opportunities, Inc.
Shepard's Cottage
P.O. Box 197
Burt, Iowa 50522
CC

Faith, Hope and Charity

319 W. Seventh Street
Storm Lake, Iowa 50588
CC

712 Cayuga
Storm Lake, Iowa 50588
CC

Family and Children's Services, Inc.
(Office)
115 W. Sixth Street
Davenport, Iowa 52803
CP

Tower Hill
701 Iowa Street
Davenport, Iowa 52803
CC

Quad City Children's Center
2800 Eastern
Davenport, Iowa 52803
CC

Red Stone House
1328 Camanche
Clinton, Iowa 52732
CC

Anchorage House
1204 Iowa Street
Davenport, Iowa 52803
CC

Family Service Center—Boys and
Girls Home and Family Service
2601 Douglas Street
Sioux City, Iowa 51104
CC & CP

Five B Judicial Juvenile Group
Home for Boys
Afton, Iowa 50830
CC

Florence Crittenton Home
1105 Twenty-Eighth Street
Sioux City, Iowa 51104
CC & CP

Foundation II—Runaway Youth
Shelter
122 Eighteenth Street, N.E.
Cedar Rapids, Iowa 50304
CC

Gerard Schools of Iowa
P.O. Box 1353
R. R. 2
Mason City, Iowa 50401
CC

Gordon Chemical Dependency
Center
1816 West Street
Sioux City, Iowa 51103
CC

Handicapped Development Center
—Adolescent Group Home
P.O. Box 2450
306 E. Rusholme
Davenport, Iowa 52803
CC

Harmony Youth Home
R.F.D. 2
Orange City, Iowa 51041
CC

Hickory Knoll, Inc.
Box 127
Bloomfield, Iowa 52537
CC

Hillcrest Services to Children and
Youth Hillcrest House (Main
Office)
2005 Asbury Road
P.O. Box 1160
Dubuque, Iowa 54001
CC & CP

Des Moines Branch
3615½ Beaver
Des Moines, Iowa 50310
CP

Cedar Rapids Branch
119 Third Street, N.E.
Cedar Rapids, Iowa 52402
CP

2439 Wilbrict Lane—Wesley Home Dubuque, Iowa 52001 CC	Country Cottage R. R. 1 Doon, Iowa 51235 CC
Fenelon Home for Girls 515 Fenelon Place Dubuque, Iowa 52001 CC	Dahl House 1727 Seventeenth Street Rock Valley, Iowa 51247 CC
Newton Home 103 S. Third Avenue, East Newton, Iowa 50208 CC	Haas Home 1822 Seventeenth Street Rock Valley, Iowa 51247 CC
Hillcrest Services—Family Services Shelter Care 651 Jefferson Dubuque, Iowa 52001 CC	Walsh Home R. R. Sioux Center, Iowa 51250 CC
Hills and Dales Child Development Center 1011 Davis Dubuque, Iowa 52001 CC	Kids Kastle 1701 Fifteenth Street Rock Valley, Iowa 51247 CC
Hope Haven Residential Center 1819 Douglas Avenue Burlington, Iowa 52601 CC	Cids Home (Upper 7 Lower Level) 1729 Nineteenth Street Rock Valley, Iowa 51247 CC
Hope Haven School for Handicapped Children, Inc. (Main Office) 1800 Nineteenth Street Rock Valley, Iowa 51247 CP	Iowa Children's and Family Service (Main Office) 1101 Walnut Des Moines, Iowa 50309 CP
Boys Home Rock Valley, Iowa 51247 CC	Fort Dodge Branch 1216 Central Fort Dodge, Iowa 50501 CP
Agape Home 1616 Main Rock Valley, Iowa 51247 CC	Nine-Sixteen 916 Twenty-Ninth Street Des Moines, Iowa 50312 CC

Phase II 1134 Twenty-First Street Des Moines, Iowa 50311 CC	Nancy Hunt Memorial Boys Ranch 423 Avenue D Fort Madison, Iowa 52627 CC
The Outpost 1411 Fifth Avenue S. Fort Dodge, Iowa 50501 CC	Linn County Department of Youth Facilities Shelter Care (Main Office) 1516 Fifth Avenue, S.E. Cedar Rapids, Iowa 52403 CC
Ten-Eleven (Phase I) 1011 Park Avenue Des Moines, Iowa 50315 CC	Detention Center R. R. 3 Marion, Iowa 52302 CC
Farrand Hall 2331 E. Eighth Street Des Moines, Iowa 50316 CC	Linwood Youth Community Annie Wittenmeyer Campus, Cottage #10 2812 Eastern Ave. Davenport, Iowa 52803 CC
Iowa Home for Boys 31 Sixth Avenue Le Mars, Iowa 51031 CC	Lutheran Family Services (Main Office) 230 Ninth Avenue, N. Fort Dodge, Iowa 50501 CC & CP
J. Thompson Group Home Christian Concerns, Inc. 1132 Forty-Fourth Street Des Moines, Iowa 50311 CC	Red Oak Branch Office Sixth and Hammond, Box 364 Red Oak, Iowa 51566 CP
Jerry Rabiner Memorial Boys Ranch R. R. 3 Fort Dodge, Iowa 50501 CC	Cedar Rapids Branch Office 518 Paramount Building 305 Second Avenue, S.E. Cedar Rapids, Iowa 52403 CP
Lead-Way Centers Shelby, Iowa 51570 CC	Group Home 1226 Fifth Avenue, N. Fort Dodge, Iowa 50501 CC
Lee County Youth Services, Inc. Helen Ellis Home for Girls (Main Office) 321 Fulton Keokuk, Iowa 52632 CC	

1407 Second Avenue, N.
Fort Dodge, Iowa 50501
CC

Lutheran Social Service of Iowa
(Main Office)
3116 University Avenue
Des Moines, Iowa 50311
CP

Southeast Branch Office
1500 Sycamore
Iowa City, Iowa 52240
CP

601 Brady, Suite 203
Davenport, Iowa 52801
CP

550 S. Bluff
Clinton, Iowa 53732
CP

North Central Branch Office
1327 Sixth Street, S.W.
Box 1402
Mason City, Iowa 50401
CP

New Hope Group Home
1114 E. Washington Street
Washington, Iowa 52353
CC

Coffelt Place
416 S. Dodge
Iowa City, Iowa 52240
CC

220 Independence Avenue
Waterloo, Iowa 50703
CC

Group Home—Bracewell Place
1130 Thirty-First Street
Des Moines, Iowa 50311
CC

Northeast Branch Office
1510 Logan
Waterloo, Iowa 50703
CP

Southwest Branch Office
3116 University Avenue
Des Moines, Iowa 50311
CP

Northwest Branch Office
1312 Morningside
Sioux City, Iowa 51106
CP

Mainstream Living, Inc. (Main
Office)
P.O. Box 1021
417 Douglas
Ames, Iowa 50010
CP

Campus Street House
112 Campus Street
Ames, Iowa 50010
CC

Hunt Street House
2636 Hunt Street
Ames, Iowa 50010
CC

Phoenix House
4205 Phoenix
Ames, Iowa 50010
CC

Midwest Christian Children's Home
R. R. 1
Peterson, Iowa 51047
CC

New Dimensions, Inc. (Main Office)
1953 First Avenue, S.E.
Cedar Rapids, Iowa 52402

Wendell House 1228 Third Avenue, S.E. Cedar Rapids, Iowa 52401 CC	Quakerdale Home (Main Office) New Providence, Iowa 50206 CC & CP
B Avenue Place 1818 B Avenue, N.E. Cedar Rapids, Iowa 52401 CC	1907 Summit Marshalltown, Iowa 50158 CC
Orchard Place (Main Office) 925 Southwest Porter Des Moines, Iowa 50315 CC & CP	519 E. Third Street Waterloo, Iowa 50703 CC
Treatment Center, Cottage A 925 Southwest Porter Des Moines, Iowa 50315 CC	111 Independence Waterloo, Iowa 50703 CC
Residential Treatment Center, Cottage B 925 Southwest Porter Des Moines, Iowa 50315 CC	525 E. Third Waterloo, Iowa 50703 CC
Kenyon Street Group Home 1301 Kenyon Des Moines, Iowa 50315 CC	Boys Group Home 1501 S. Broadway Emmetsburg, Iowa 50536 CC
Polk County Juvenile Home	Girls Group Home 1307 Palmer Street Emmetsburg, Iowa 50536 CC
Juvenile Hall—Shelter Care 1548 Hull Avenue Des Moines, Iowa 50316 CC	308 S. Drury Lane Le Grand, Iowa 50142 CC
Meyer Hall—Detention Center 1548 Hull Avenue Des Moines, Iowa 50316 CC	Boys Group Home 302 E. Water Street Decorah, Iowa 52101 CC
Powell School Red Oak, Iowa 51566 CC	Siddartha House Box 764 128 N. Elm Ottumwa, Iowa 52501 CC

Emergency Shelter Care
334 E. Fourth Street
Ottumwa, Iowa 52501
CC

South Central Juvenile Care Center
203 E. Fourth Avenue
Indianola, Iowa 50125
CC

Systems Unlimited, Inc. (Main
Office)
1020 William
Iowa City, Iowa 52240

R. R. 2, Box 55
Iowa City, Iowa 52240
CC

1710 Eleventh Street
Coralville, Iowa 52241
CC

1900 Rochester Court
Iowa City, Iowa 52240
CC

1415 E. Bloomington
Iowa City, Iowa 52240
CC

925 E. Bloomington
Iowa City, Iowa 52240
CC

1802 Seventh Avenue Court
Iowa City, Iowa 52240
CC

1010 Highland
Iowa City, Iowa 52240
CC

R. R. 2, Timber Trails
Iowa City, Iowa 52240
CC

821 N. Johnson
Iowa City, Iowa 52240
CC

506 Brookland Park Drive
Iowa City, Iowa 52240
CC

Three Crosses Ranch Inc. of
Strawberry Point
Stone Center
P.O. Box 310
Strawberry Point, Iowa 52076
CC & CP

Tommy Dale Memorial

1715 Grandview (Main Office)
Sioux City, Iowa 51105
CC

Summit Foster Home
1714 Summit
Sioux City, Iowa 51105
CC

Total Awareness
21 Benton
Council Bluffs, Iowa 51501
CC

Valley Shelter Homes, Inc.
(Main Office)
1908 Washington Street
Davenport, Iowa 52804
CC

Boys Residence
1642 W. Twelfth
Davenport, Iowa 52804
CC

Girls Residence
2119 Scott
Davenport, Iowa 52803
CC

North Central Human Services, Inc.

825 S. Seventh Street
Box 368
Forest City, Iowa 50436
CC

725 N. Ninth Street
Forest City, Iowa 50436
CC

YMCA Boys Home of Iowa
Box 39
Johnston, Iowa 50131
CC & CP

Y-House Shelter Care Facility
722 Nebraska Street
Sioux City, Iowa 51101
CC

Young House, Inc. (Main Office)
105 Valley Street
Burlington, Iowa 52601
CC & CP

Washington House
1101 North Iowa Avenue
Washington, Iowa 52353
CC

Christamore House
701 Broadway
Mount Pleasant, Iowa 52641
CC

1027 N. Fourth Street
Burlington, Iowa 52601
CC

Dawn House
803 N. Eighth Street
Burlington, Iowa 52601
CC

Covenant House
701 Division
Burlington, Iowa 52601
CC

Youth Homes, Inc. (Main Office)
2405 Towncrest Lane
Iowa City, Iowa 52240

Johnson County Boys Group Home
443 S. Johnson Street
Iowa City, Iowa 52240
CC

Iowa City Girls Group Home
524 Ronalds
Iowa City, Iowa 52240
CC

Youth Emergency Shelter
517 E. Washington
Iowa City, Iowa 52240
CC

Youth and Shelter Services, Inc.

Youth House (Main Office)
804 Kellogg Street
Ames, Iowa 50010
CC & CP

Shelter House
712 Burnett
Ames, Iowa 50010
CC

MARRIAGE

Relevant 1979 Code Provisions

144.23-.24, .40,	596
.44	599.1
595	666.3-4

I. Marriage Is a Civil Contract

(Sec. 595.1)

- A. The consent of the parties is required. (Sec. 595.1)
- B. The parties must be capable of entering into contracts in general. (Sec. 595.1) Both females and males of age 18 or over may enter into a valid marriage. (Sec. 595.2) (See II-B below) Notwithstanding the foregoing, the district court may, upon application by parties, one or both of whom are under the age set above and the female of whom is pregnant, or having given birth to, is still in custody of a child, grant an order authorizing issuance of a license and the marriage under such license is valid. (Sec. 595.2)

II. Marriage License

A license must be obtained before any marriage is performed. The license is obtained from the clerk of the district court. (Sec. 595.3) A license will not be granted:

- A. Where either party is under age, unless a certificate of consent by the parents, surviving parent, or guardian is filed. If such minor has no guardian the judge of the district court having jurisdiction in the county may, after hearing, and upon proper cause shown, execute such certificate. (Secs. 595.2(2)(b), .3(2)) If parents are divorced, the parent having legal custody may give consent. (Sec. 595.2(2a))
- B. Either party is disqualified from making a civil contract. (Sec. 595.3(3))
- C. The parties are related within the degrees in which marriages are prohibited. (Sec. 595.3(4)) These relationships are listed in Code Section 595.19.
- D. Where either party is mentally ill or retarded, a mental retardate, or under guardianship as an incompetent. (Sec. 595.3(5))
- E. Either party has not filed a physician's certificate of freedom from syphilis, as indicated by a blood sample taken within 20 days before the license is issued. (Sec. 596.1) The license then becomes void unless the marriage is performed within 20 days after the license is issued. (Sec. 596.7) If the female is pregnant, the couple may marry regardless of the outcome of the blood test. (Sec. 596.4)

III. Performance of Marriage

- A. A marriage must be performed by one of the following (Sec. 595.10):
1. A judge of the supreme or district court, including a district associate judge or a judicial magistrate.
 2. A minister of the gospel ordained and licensed according to the usage of his denomination.
- B. The person performing a marriage must give each of the married persons a certificate and must make a return to the clerk of the district court. (Sec. 595.13)
- C. *Exceptions.* Certain marriages are valid despite noncompliance with the statutes.
1. The statutes on licenses and performing of marriages do not apply to members of religious denominations which have different modes of entering the marriage relation. However, the couple is responsible for filing the return with the clerk of court (Sec. 595.16) and filing certificates of freedom from syphilis as required by Chapter 596. (Sec. 595.17)
 2. Marriages performed, with the consent of the parties in any other manner than as prescribed are valid; but all those participating must forfeit \$50 to the school fund. (Sec. 595.11) This, however, does not apply to the person conducting the marriage ceremony, if within 15 days he/she makes the required return to the clerk of the district court. (Sec. 595.11) An action for money forfeited to the school fund may be prosecuted by the public officer who is to receive the funds. (Secs. 666.3-4)
 3. Cohabitation, without the intention of assuming the marital relationship, generally does not constitute a marriage. Although Iowa recognizes common-law marriages, the following elements and conditions must be established:
 - a. Intent and agreement in praesenti (at the present time) as to marriage on the part of both parties together with continuous cohabitation and public declaration that they are husband and wife;
 - b. The burden of proof is on the one asserting the claim;
 - c. All elements of relationship as to marriage must be shown to exist;
 - d. A claim of such marriage is regarded with suspicion and will be clearly scrutinized;
 - e. When one party is dead, the essential elements must be shown by clear, consistent, and convincing evidence. (In Re Estate of Dallman, 228 N.W. 2d 187 (1975))
 4. If either party to a marriage falsely represents himself/herself to be 18 years of age or older, the marriage is valid unless the person who falsely represented his/her age initiates an annulment proceeding at any time before reaching his/her eighteenth birthday. (Sec. 595.2(1))

IV. Legal Effect of Marriage

- A. A minor's period of minority ends when he/she marries. (Sec. 599.1)
- B. Illegitimate children become legitimate by the subsequent marriage of their natural parents. (Marriage does not legitimize any child which either party to the marriage may have had by another person.) (Sec. 595.18)
 - 1. On grounds of public policy, the law presumes the legitimacy of a child born in wedlock. Presumption of legitimacy need be established only by a preponderance of evidence. (Kuhns v. Olson, 258 Iowa 1274, 141 N.W. 2d 925 (1966))
 - 2. Upon request, supported by evidence proving legitimacy, the state registrar of vital statistics issues a new birth certification indicating the child is legitimate. (Sec. 144.23(2)) The new certificate is then substituted for the original; however, both are retained and are not subject to inspection, unless under court order as provided by statutory regulation for statistical, administrative, or research purposes. (Secs. 144.24, .44)
 - 3. Upon request and receipt of a sworn acknowledgment of paternity of a child born out of wedlock signed by both parents, the state registrar amends the original certificate of birth to show paternity if it is not indicated on it. (Sec. 144.40) This information, or any other contained in the vital statistic records indicating the birth came out of wedlock cannot be disclosed except under court order or as provided by statutory regulation for statistical, administrative, or research purposes. (Secs. 144.24, .44)

DUTIES OF PARENTS

Relevant 1979 Code Provisions

232.141	597.10, .14
252.1-.2, .6-.8	624.23
252A	627.12
	726.3, .6

I. Support and Education

- A. Parents are responsible for the reasonable and necessary expenses of the family and the education of the children. These expenses are chargeable upon the property of both husband and wife, or either of them, and in relation to this they may be sued jointly or separately. (Sec. 597.14) Both parents have the same legal duty to support their children. *Beasley v. Beasley*, 159 N.W. 2d 449 (1968).
- B. The father, mother, or child of a poor person who is unable to support himself/herself is required to support such person. (Secs. 252.1-.2) This duty may be enforced by a summary proceeding in district court, brought by the township trustees, county social welfare board, or Division of Child and Family Services of the Department of Social Services. (Secs. 252.6-.8)
- C. In any proceeding under Chapter 232 involving a dependent or neglected child, the court may, except where the parent-child relationship has been terminated, compel the parent or parents to support the child according to their own ability. (Sec. 232.144) If the parents fail to pay such sums they may be proceeded against for contempt. These sums, ordered by the court, will be judgments against each of the parents and constitute a lien. (Secs. 232.144, 252A, 624.23)
- D. The personal earnings of a parent are not exempt from any order, judgment, or decree for the support of his/her minor child. (Sec. 627.12)

II. Due Care—Wanton Neglect and Abandonment

- A. A parent or person having custody of any minor commits wanton neglect when the person knowingly acts in a manner likely to be injurious to a minor or abandons a minor to fend for himself/herself, knowing that the minor is unable to do so. Wanton neglect of a minor is a serious misdemeanor. (Sec. 726.6) Such a minor would come within the definition of a child in need of assistance of Chapter 232, and therefore would be subject to the jurisdiction of the juvenile court.
- B. A parent or other person having custody of a child or other person who is not able to care for himself/herself, who knowingly or recklessly abandons or exposes such person to a hazard or danger against

which such person cannot reasonably be expected to protect himself/herself, commits a class "C" felony. (Sec. 726.3)

- C. In case the husband or wife abandons the other for one year or leaves the state and is absent therefrom for one year, without providing for the maintenance and support of his/her family, or is confined in jail for such period, the district may authorize the applicant to manage, control, sell, and encumber the property of the guilty party for the support and maintenance of the family and for paying debts. (Sec. 597.10)

III. Uniform Support of Dependents Law

- A. The purpose of this law is to compel support of dependents by family members who are responsible for their support, even if they do not live in the same state as the needy dependents. (Secs. 252A.1, .5)
- B. *Civil Liability for Support (Ch. 252A):*
 - 1. A spouse is liable to support his wife or her husband and children under 18 residing in the same state or any state which has reciprocal laws, if he/she has sufficient means or is able to earn such means.
 - 2. A parent is liable to support his/her children under age 18 residing in any state which has reciprocal laws, if he/she has sufficient means or is able to earn such means.
 - 3. The natural parents are severally liable for the support of an illegitimate child but the liability of the father is not enforceable unless a court has determined or he has acknowledged his paternity of the child in court.
 - 4. Parents are liable to support their children of age 18 or older, residing in the same state or in any state which has reciprocal laws, if such children are likely to become public charges.
 - 5. The duty to support extends to:
 - a. Children born to parents who have at any time entered into a civil or religious marriage ceremony, even if the marriage was not valid.
 - b. Children born to parents who have held themselves out as husband and wife under a common-law marriage, if common-law marriages are recognized by both the petitioner's and respondent's state of residence. There is also a duty to support the common-law wife.
 - 6. A decree of divorce or separation does not affect a parent's duty to support the children.
 - 7. Duties of support are those imposed under the laws of any state where the husband or wife was present during the period for which support is sought. (There is a presumption of the respondent's presence until otherwise shown.)
- C. *Jurisdiction.* The court has jurisdiction so long as the petitioner (child)

is within the court's jurisdiction and the respondent (parent) is found in or is believed to reside in a state with reciprocal laws. It is immaterial whether the respondent is or ever has been a resident of the state where the action is brought. (Secs. 252A.4-.5)

D. *Procedure.*

1. If both parties are residents of Iowa and the court can obtain personal jurisdiction of the respondent, the regular summary support proceeding under Chapter 252 is used. (Secs. 252.6-.8, 252A.6(2))
2. If the respondent (parent) is in another state, the proceeding is begun in Iowa. The records are then forwarded to an appropriate court in the state of the respondent's residence, and the proceeding is completed in that state. The petitioner need not appear personally at the hearing in the respondent's state; the county attorney in that state represents the petitioner. (Secs. 252A.2(7), .6)

E. *Enforcement of duty to support:*

1. The court has power to order the respondent to pay a wide variety of expenses. (Sec. 252A.4(2))
2. Payments are made to the court in the state in which the respondent resides; these payments are then forwarded to the court in the petitioner's state. (Sec. 252A.6(12-16))
3. The court's order may be enforced by contempt proceedings. (Sec. 252A.6(13))

DISSOLUTION OF MARRIAGE AND ANNULMENT—EFFECT ON CHILDREN

Relevant 1979 Code Provisions

252.2

252A.3-6

561.16

598

627.11-.12

RCP 56, 60, 64, 226,

234

I. Jurisdiction and Power of the District Court

- A. The district court in the county where either husband or wife resides has jurisdiction over dissolution of marriages. (Sec. 598.2)
- B. If the defendant is not a resident of Iowa or has not been personally served, the petition for dissolution must state that the plaintiff has been a resident of Iowa for the last year, and that this residence was in good faith and not for the purpose of obtaining a marriage dissolution only. (Sec. 598.6)
- C. If the defendant is a nonresident of Iowa or if residence is unknown, he/she may be served by publication or by actual service outside Iowa. (RCP 56, 60, 64) However, such service does not give personal jurisdiction of the defendant, unless the defendant has appeared in the court where service was obtained. (RCP 234)
- D. Unless the court has personal jurisdiction of the defendant, it can award custody of the children only if they are residing in Iowa, and can compel payment of alimony and support money only to the extent of the defendant's attached property in Iowa. (RCP 234) However, the defendant may still be reached by the plaintiff or plaintiffs for support under the Uniform Support of Dependents Law. (Secs. 252A.3-6)
- E. In dissolution of marriage, annulment, and separate maintenance cases, agreement between the parties as to what the judgment should be does not bind the court. (This provision illustrates the public interest in the family relationship.) (RCP 226)
- F. In their petition, a party need not allege fault, but that "there has been a breakdown of the marriage relationship to the extent that the legitimate objects of the matrimony have been destroyed and there remains no likelihood for the preservation of such marriage." (Sec. 598.5(7))

II. Custody and Support of Children

- A. When a dissolution of marriage is decreed, the court has broad powers to make and change orders as to the children, their support, the parties' property, alimony, and so forth. (Secs. 598.21-.23) (See I.-D. above.)

- B. When a dissolution of marriage is decreed the parties shall forfeit all rights acquired by marriage which are not specifically preserved in the decree. (Sec. 598.20) [Note: This statute does not prevent the court from giving a divorced parent the right to visit the children or from requiring him/her to support the children, even though custody is given to the other parent.]
- C. The defendant's Iowa property may be attached to satisfy the court's decree or order. (Sec. 598.15)
- D. The court's orders may be enforced by contempt proceedings initiated by the court or an interested party. (Secs. 598.23-24)
- E. Personal earnings are not exempt from any order for the support of minor children and are not exempt from an alimony order unless the supporting former spouse has remarried. (Secs. 627.11-.12)
- F. The homestead exemption continues in favor of the spouse to whom the property is adjudged by dissolution of marriage decree, so long as he/she continues to occupy it. (Sec. 561.16)
- G. Dissolution of marriage does not remove the parents' liability for support of children. (Secs. 252.2, 252A.3(7)) (See chapter on duties of parents.)
- H. The question with respect to the award of custody in a dissolution proceeding is the child's long-range best interest. *In re Marriage of Snyder*, 241 N.W. 2d 733 (1976).
- I. There is no hard and fast rule as to which parent or the other person should be awarded custody of children upon a dissolution, and each case must be judged on its own facts. *Maron v. Maron* 28 N.W. 2d 17 (1947).
- J. In a dissolution proceeding, the court no longer infers that the best interests of children of tender years are better served by awarding custody to the mother. *In re Stom's Marriage*, 226 N.W. 2d 799 (1975).

III. Support During Litigation

In an action for dissolution of marriage, the court may order either party to pay money for the support and maintenance of the adverse party and the children and to enable such party to prosecute or defend the action. (Sec. 598.11)

IV. Parents under a Dissolution of Marriage Decree—Consent to Adoption

(See Adoption Chapter.)

V. Annulment

- A. In general, the dissolution of marriage statutes also apply to separate maintenance and annulment actions. (Sec. 598.28)
- B. Children born to the parties, or to the wife, in a marriage relationship which may be terminated or annulled shall be legitimate. (Sec. 598.31)

PARENT-CHILD RIGHTS AND RELATIONS

Relevant 1979 Code Provisions

252.2, .5, .16	565A
422.12	597.15
450.9	599.1-.4
512.9	627.6
561.1, .7, .15, .19	633.211, .219, .238, .374, .436, .557, .559, .572, .574
	RCP 8, 12, 56.1

I. Duration and Effect of Minority

- A. The period of minority extends to the age of 18, but all minors attain their majority by marriage. (Sec. 599.1)
- B. A minor is bound by his/her contracts unless he/she disaffirms them and gives back the benefits he/she has received under the contract, within a reasonable time after he/she attains majority. (Sec. 599.2)
- C. A minor cannot disaffirm his/her contracts if he/she has misrepresented his/her age or if he/she engaged in business representing himself/herself as an adult, and if the other party thus had good reason to believe the minor was capable of contracting. (Sec. 599.3)
- D. Where a minor performs a contract for his/her personal services, payment to the minor satisfies the other party's obligation; the parents or guardian then cannot recover for the minor's services. (Sec. 599.4)
- E. Personal service upon a minor under 18 years of age is generally made by serving the guardian of his/her person or property. (RCP 56.1(b)) A minor may bring an action only through a guardian or next friend. (RCP 12)

II. Rights of the Parents

- A. The parents of a minor, if qualified and suitable, shall be preferred over all, for appointment as guardian if the child is under 14 years old. Preference will then be given to any qualified person nominated as guardian in the will of the parent having custody of the minor or a person requested by a minor 14 years of age or older. Subject to these preferences, the court shall appoint a person qualified, suitable, and willing as guardian. (Secs. 633.557, .559)
 1. The parents thus have preference in having all the powers of a guardian of the person under Chapter 633. [Note Iowa case law: "The surviving parent has only a presumptive right as natural guardian of his/her minor child." In re Plucar's Guardianship, 247 Iowa 394, 72 N.W. 2d 455 (1956). "The parental right of child custody is not an absolute vested right . . . but it can be aban-

- done, waived, lost through misfortune, forfeited if the parent is not qualified, or relinquished by agreement.” Joiner v. Knieriem, 243 Iowa 470, 52 N.W. 2d 21 (1952).] (See also Sec. 633.557)
2. If a husband deserts his wife, she is entitled to custody of the children unless the court directs otherwise. (Sec. 597.15) (See guardianship chapter.)
- B. A permanent or temporary conservator may be appointed by the court upon the voluntary petition of the proposed ward, if the minor is not mentally ill or a minor under age 14 and the court determines such an appointment in the best interest of the applicant. (Sec. 633.572)
 - C. A parent may act as conservator of his/her minor child’s property to the extent of \$1,000, if no conservator of his/her child’s property has been appointed. (Sec. 633.574) (See conservatorship chapter.)
 - D. Children may be jointly or severally liable for the support of their parents and potentially their grandparents. (Secs. 252.2, .5)
 - E. A parent may sue for the expense and actual loss of services, companionship, and society resulting from injury to or death of a minor child. (RCP 8) If a child has been emancipated, his/her parents cannot recover for the loss of services.
 - F. *Personal net income tax.* For each dependent child, parents may deduct from their state income tax \$10. (Sec. 422.12(3))

III. Rights of Children

- A. *Support and due care of parents.* (See chapter on duties of parents)
- B. If a parent dies intestate, his/her children or their representatives inherit the net estate after payment of the surviving spouse’s statutory share. (Secs. 633.211, .219, .238)
- C. Legitimate children born after the execution of a parent’s will, if not provided for or mentioned in the will, inherit an intestate share. (Secs. 633.267, .436)
- D. During probate, dependents of the decedent who reside with the surviving spouse are entitled to an allowance from the deceased parent’s estate (12-month limit). (Sec. 633.374)
- E. A child’s inheritance to the extent of \$30,000 is exempt from the Iowa inheritance tax. (Sec. 450.9)
- F. Worker’s compensation. (See chapter on child labor.)
- G. *Other relevant children’s rights.*
 1. Fraternal beneficiary societies, orders, or associations. A society may admit to benefit membership any person not less than 15 years of age, who has furnished evidence of insurability acceptable to the society. Any person admitted prior to attaining age 18 is bound by the terms of the application, certificate, and all the laws and rules of the society. He/she is then entitled to all rights and privileges of membership therein. (Sec. 512.9)
 2. *Gifts to minors.* Persons over 18 years of age may, during their

lives, make a gift of securities or money to a person under 18 years of age (on the date of the gift). The gift may be made to only one minor and only one person may be the custodian. The donor must do everything in his/her power to put the gift in the possession and control of the custodian. A gift made according to the procedures prescribed in Chapter 565A is irrevocable and conveys to the minor indefeasible vested legal title to the security or money given. (Secs. 565A.1-.11)

3. *Personal net income tax.* A minor individual, single or married and filing a separate return, may deduct \$15 from his/her state income tax. (Sec. 422.12(1-2))

IV. Legal Effect of Family Relationship

- A. *Residence and legal settlement.* Minor children who reside with both parents take the settlement of the parents. If the minor child resides on a permanent basis with only one parent or a guardian, the minor takes the settlement of the parent or guardian with whom the child resides. (Sec. 252.16)
- B. Family status is necessary in order to claim the homestead exemption. (Secs. 561.1, .17) Relevant sections include:
 1. Changes in the limits of the homestead made without the concurrence of the husband and wife do not affect their rights nor those of their children. (Sec. 561.7)
 2. Neither husband nor wife may remove the other nor the children from the homestead without the other's consent. (Sec. 561.15)
 3. When the homestead descends to the children of either the husband or wife, it is to be held by such children exempt from any antecedent debts of their parents or their own, except those of the owner thereof contracted prior to its acquisition. (Sec. 561.19)
- C. Most of the personal property exemptions under Chapter 627 are granted only to persons who are heads of families. (Sec. 627.6)

V. Emancipation of Minor Children

[Iowa case law.]

- A. Emancipation or abandonment of one's rights to control his/her minor child may be shown from circumstances as well as from express proof. "In the absence of statute, the rule that now obtains is, that such emancipation need not be evidenced by any formal, or record act of manumission, but is a question of fact, which may be proved by direct proof, or from circumstances." *Everett v. Sherfey*, 1 Iowa 356 (1855).
- B. A parent having emancipated his/her minor child, may withdraw his/her previous implied consent to his/her child's acting free of his/her control. *Everett v. Sherfey*, 1 Iowa 356 (1855).
- C. Emancipation of a minor child may be by parol (oral or nonwritten evidence) or in writing, and may be proven by circumstantial evidence or implied from the conduct of the parties (parent-child rela-

- tionship). *Bristor v. Chicago & N.W.R. Co.*, 128 Iowa 479, 104 N.W. 487 (1905).
- D. The fact that a minor child is living with his/her parent does not preclude the possibility of his/her having been emancipated. *Bristor v. Chicago & N.W.R. Co.*, 128 Iowa 479, 104 N.W. 487 (1905).
 - E. "Emancipation of a minor occurs by the voluntary act of the parent, and may be shown by the parent's conduct in relation to the child in a manner inconsistent with the performance of his/her rights and obligations." *Lipovac v. Iowa Ry. & Light Co.*, 202 Iowa 517, 210 N.W. 573 (1926).
 - F. Where a child is emancipated, the parent has no claim to the earnings of the child. *Lipovac v. Iowa Ry. & Light Co.*, 202 Iowa 517, 210 N.W. 573 (1926).
 - G. A parent who has emancipated his/her child has no claim for loss of the child's services due to wrongful killing of the child. *Lipovac v. Iowa Ry. & Light Co.*, 202 Iowa 517, 210 N.W. 573 (1926).
 - H. "There can be no emancipation except where it is done by the voluntary act of a parent; where there is an express, voluntary relinquishment there can be no further right to the services of a child or to his/her earnings." *Brandhorst v. Galloway Co.*, 231 Iowa 436, 1 N.W. 2d 651 (1942).
 - I. A parent was liable for medical expenses incurred, without his/her knowledge, by his/her 17-year-old daughter. She had been living away from home for three years and had completely supported herself in that period of time. The Supreme Court of Iowa held that there was only a partial emancipation. *Porter v. Powell*, 79 Iowa 151, 44 N.W. 295 (1890).
 - J. The question as to the parent's liability for necessities furnished to his/her minor son turns on whether or not there actually was emancipation. *Kubic v. Zemk*, 105 Iowa 269, 74 N.W. 748 (1898).
 - K. A minor child who has been emancipated by his/her parent, and who is in fact living in a county other than the one in which the parent from whom he/she derives legal settlement resides, is considered to have the same legal settlement as does his/her parent, for purposes of poor relief. *Clay County v. Palo Alto County*, 82 Iowa 626, 48 N.W. 1053 (1891).

ILLEGITIMACY

Relevant 1979 Code Provisions

252.3, .16, .43	598.18, .29, .31
252A.3	633.221-.233
595.19	675

I. Illegitimacy

Legal illegitimacy is created by birth out of wedlock if there is no subsequent marriage of the child's parents to each other. (Sec. 595.18)

II. Legitimacy

Complete legal legitimacy is created by:

- A. Birth to parents who are validly married.
- B. A valid marriage of the child's parents to each other subsequent to the child's birth. (Sec. 595.18) (See chapter on marriage.)
- C. Children born to the parties, or to the wife, in a marriage relationship which may be terminated or annulled pursuant to the provisions of the dissolution of marriage act shall be legitimate as to both parties. (Sec. 598.31)
 1. Where the marriage between the parties is prohibited by law (i.e., consanguinity, Section 595.19). (Sec. 598.29)
 2. Where the marriage is annulled because either party was impotent at the time of marriage. (Sec. 598.29)
 3. Where the marriage is annulled where either party had a husband or wife living at the time of marriage, provided they have not, with a knowledge of such fact, lived and cohabited together after the death or marriage dissolution of the former spouse of such party. (Sec. 598.29)
 4. Where the marriage is annulled because one party was mentally ill or a mental retardate at the time of the marriage. (Sec. 598.29)

III. Partial Legal Legitimacy

For certain purposes, a child is deemed legitimate even though the requirements of II above are not met:

- A. *For purposes of inheritance of intestate property:*
 1. Unless they have been adopted, illegitimate children shall inherit from their natural mother, and she from them. (Sec. 633.221)
 2. Unless they have been adopted, illegitimate children inherit from their natural father if the paternity is proven during the father's lifetime, or if the child has been recognized by the father as his child. (Sec. 633.222)
 3. A father may inherit from his illegitimate children if the recognition has been mutual, and the child was not adopted. (Sec. 633.222)

4. An adopted person inherits from and through the adoptive parents the same as a natural born child. The adoptive parents inherit from and through the adopted person as though he/she were a natural born child. (Sec. 633.223)
- B. Under the Uniform Support of Dependents Law, Chapter 252A, regarding the duty to support children, a child is deemed legitimate if:
 1. The parents have at any time entered into a marriage ceremony, even if the marriage was not valid. (Sec. 252A.3(4))
 2. The parents have held themselves out as husband and wife under a common-law marriage, if common-law marriages are recognized by both states concerned. (Sec. 252A.3(5)) (See chapter on duties of parents.)

IV. Establishing Paternity

- A. Paternity proceedings under Chapter 675 to establish paternity and fix the obligations of support.
 1. Proceedings must be begun within two years after the child's birth, unless paternity has been acknowledged by the father in writing or admitted by support. (Sec. 675.33)
 2. This is a civil proceeding in the district court with either party having the right to demand a jury trial. (Secs. 675.10, .18)
 3. After complaint by the mother or the child's guardian or next friend, the county attorney prosecutes the action on behalf of the complainant. (Secs. 675.8-.19)
- B. The question of paternity also may be tried in a proceeding to compel support of a poor child under Chapter 252. (Sec. 252.3)

V. Parents' Obligations to Illegitimate Child

(arising after paternity is established)

- A. *Duties of parents include:*
 1. Care and support.
 - a. The natural parents are severally liable for the support of a child and must provide reasonable care, support, and education until the child reaches 16, but the liability of the father is not enforceable until he is judicially determined as the father or he has acknowledged paternity in an open court or by written statement. (Secs. 252A.3, 675.1, .25)
 - b. Adoption of the child into another family ends the natural father's obligation. (Sec. 675.5)
 - c. The parents are also required to support the child under Chapters 232, 252, and 252A. (See chapter on duties of parents.)
 2. The father is liable for the expenses of pregnancy and birth and the costs of establishing paternity. (Secs. 675.1, .24-.26)
- B. *Enforcement of parents' obligations:*
 1. In paternity proceedings under Chapter 675:
 - a. The court may render an appropriate judgment. If the trial es-

- establishes paternity, the court must also render judgment for support of the child. (Secs. 675.24-.25)
- b. The filing of the complaint creates a lien upon the putative father's realty. The court may also order attachment of the putative father's property. (Secs. 675.16-.17)
 - c. The court may order payments to be made to the mother or to any person whom the court appoints as trustee for the child. (Secs. 675.27-.28)
 - d. The court has continuing jurisdiction until its judgment is satisfied and also has continuing jurisdiction to determine the custody of the child in accordance with the child's best interests. (Sec. 675.31)
 - e. Judgments rendered in other states for support of illegitimate children may be sued upon and enforced in Iowa. (Sec. 675.34)
2. Support under Chapters 232, 252, and 252A may be compelled as provided in those statutes.

VI. Public Obligation to Illegitimate Children

A. Support.

1. The county will provide relief for illegitimate children and may levy a poor tax when necessary. (Sec. 252.43)
2. For this purpose, if a minor child resides with only one parent or guardian, the child takes the legal settlement of the parent or guardian with whom the child resides. (Sec. 252.16)

B. Protection of reputation.

1. Ordinarily, only persons directly interested are permitted to be present during paternity proceedings. (Sec. 675.20)
2. In all official records except birth certificates and records of proceedings in which legitimacy is at issue, there may be no reference to the child as "illegitimate" or "natural." (Sec. 675.35)

GUARDIANSHIP

Relevant 1979 Code Provisions

222.31, .33, .52-.54	472.15-.16 597.15
232.102	633.174, .552-.554,
282.2, .6, .22-.23	.556-.560, .591-.597, .627-.628, .634, .669,
447.7	.675
	RCP 12, 56(b), 298

I. General Guardianship of the Person

A. *Guardian of the person.*

1. Any person may file with the clerk a verified petition for the appointment of a guardian. If the allegations of the petition as to the status of the proposed ward and the necessity for the appointment of a guardian are proven, the court may appoint a guardian. (Secs. 633.552, .556)
2. The parents of a minor, or either of them, if qualified, will be preferred over all others as guardian. Preference shall then be given to any person, if suitable, nominated by a will executed by the parent having custody of the child and any qualified person chosen or petitioned for by a minor over 14 years, and of sound mind. (Secs. 633.557, .559)
3. Subject to the preferences listed in 2 above, the court may appoint as guardian any qualified person who is willing to serve in that capacity and who will fulfill the best interests of the child. (Secs. 633.557, .559)
4. Temporary guardians (and guardians on a stand-by basis) may be appointed, but only after a hearing and subject to the notice and conditions that the court prescribes. (Secs. 633.558, .560, .591-.597)
5. The same person may serve as both the minor's guardian and conservator. (Secs. 633.627-.628)
6. A guardianship shall cease when any of the following occurs:
 - a. When the minor reaches full age.
 - b. Upon the death of the minor.
 - c. Upon a court decision that the minor is competent and that continuation of the guardianship would not be in his/her best interest.
 - d. Upon a court determination for any other reason, that the guardianship is no longer necessary. (Sec. 633.675)

B. *Required and discretionary guardianships.*

1. Appointment of a guardian may be required as a condition precedent to eligibility for aid to dependent children.
2. A child may attend school in the district in which his/her parent or guardian is located. Appointment of a guardian thus is important in relation to the child's right to attend school in a particular district and his/her tuition payments, and so forth. (Secs. 282.2, .6, .22-.23)
3. A mentally retarded child may be committed to an approved institution or placed under a guardianship at the discretion of the court. (Secs. 222.31, .52-.54) The guardian appointed under this chapter has the same power over the person as a parent but is subordinate to any appointed guardian of the property of such minor. (Sec. 222.33)

C. *Notice, bond, and guardian's report.*

1. In all cases notice of the filing of a petition for guardianship shall be served upon the proposed ward except when filed by the person having custody of the minor. (Secs. 633.553-.554)
2. A guardian shall not be required to give bond unless the court, for good cause, finds that the best interests of the minor require a bond. (Secs. 633.174, .634)
3. Immediately after the appointment of the guardian, and at such times thereafter as the court may order, a guardian shall present to the court a written report of the condition and whereabouts of the ward and of the guardian's exercise of authority and performance of his/her duties. (Sec. 633.669)

II. Special Methods by Which a Guardianship Is Created

A. *General custody.*

1. 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:
 - a. A relative or other suitable person.
 - b. A child-placing agency or other private agency, facility, or institution licensed or authorized by law to receive and provide care for the child.
 - c. The Department of Social Services. (Sec. 232.102(1))
2. After a dispositional hearing the court may enter an order transferring the guardianship of the child for a period of six months to the commissioner of the Department of Social Services for purposes of placement in the Iowa Juvenile Home at Toledo. At the end of six months the court must hold a hearing to determine whether the child should be returned home, an extension of the placement should be made, or a termination of the parent-child relationship proceeding should be instituted. (Sec. 232.102 (2), (6))

- B. *Virtual guardianship.* If the husband deserts, the wife has custody of the minor children unless the court orders otherwise. (Sec. 597.15)

III. Limited Guardianship

- A. *Guardianship for purposes of commencing legal proceedings.* An action by a minor may be brought by his/her guardian or next friend. The court may appoint a guardian for the purpose of the action. (RCP 12)
- B. *Defending or participating in legal proceedings.*
1. Service of notice upon a minor under 18 years of age may be made to his/her parent, guardian, or some person over 18 who has his/her care and custody, or with whom he/she resides, or who is his/her employer. (RCP 56(b))
 2. Where a minor is sued, the court appoints a guardian *ad litem*. (RCP 13, 14)
 3. Unborn children's interests in real property subject to litigation must be protected by appointment of a guardian *ad litem*. (RCP 298)
 4. The court appoints a guardian where an action of eminent domain is brought against a minor. (Secs. 472.15-.16)
- C. *Guardianship of property apart from litigation.* His/her guardian may redeem a minor's real property sold for taxes. (Sec. 447.7)

CONSERVATORSHIP

Relevant 1979 Code Provisions

518A.1

633.3(7), .3(17), .3(20), .64-.162,
.168-.170, .175, .352, .383-.404, .566-.574,
.603-.608, .634, .637-.642, .646-.647, .649-.650,
.652, .675-.681
RCP 297

I. General Conservatorship of the Property of a Minor

A. *Conservator defined.*

1. A conservator is a person appointed by the court to have custody and control of the property of a minor. The term "guardian of the property" may also be used in place of the term "conservator." (Sec. 633.3(7), (20)) [Note: Although the term "ward" can and may be used interchangeably for the word "minor," its definition and usage is not so narrowly construed.]
2. "Conservators" are also synonymous with "fiduciaries" and are entitled to all powers relating to fiduciaries as set down in *Code* Sections 633.64-.162. (Secs. 633.3(17), .649)

B. Conservator-procedural aspects in regard to appointment preferences, appointment, notice, temporary conservators, liability, and bond use the same requirements and statutory language found under the section dealing with guardianship in Chapter 633 of the *Code* dealt with in the chapter on guardianship in this booklet. (Secs. 633.566-.574, .634) Other distinctions, however, should be noted:

1. If a minor owns property, a conservator must be appointed unless the value of the property is less than \$1,000. Note that a parent is not the conservator of his/her minor child's property unless he/she is duly appointed as such. However, the parent of a minor may receive any money or property to which the minor is entitled up to a total limit of \$1,000 in value. (Sec. 633.574)
2. A minor over 14 years and of sound mind may choose his/her conservator subject to approval of the court. (Secs. 633.571-.572)
3. A conservator may be appointed within the state for the property of nonresident minors or persons of unsound mind. (Sec. 633.566)
4. A foreign conservator may file proof of his/her appointment and bond with the court, and thereafter may deal with the minor's property within the state in the same fashion as a domestic conservator, provided that a resident conservator is appointed to serve with him/her provided further that, for good cause shown, the court appoints the foreign conservator to act alone. (Secs. 633.603-.608)
5. Parent's conservator. If a conservator is appointed for a person of

- unsound mind, senile, a chronic alcoholic, or a spendthrift, he/she is authorized, subject to court approval, to apply the property of the ward for the support of the spouse and minor children. (Sec. 633.647)
- C. *Conservator's duties and powers.*
1. The conservator must take an oath and give bond with surety in an amount equal to the value of the personal property of the estate plus the estimated gross income of the estate during the period of administration. (Secs. 633.168-.170, .175)
 2. The conservator is obligated to deliver to the court an initial inventory, and a final accounting upon termination of the conservatorship. (Secs. 633.642, .677)
 3. Powers of the conservator without prior order of the court are to:
 - a. Collect income of the minor's estate and defend or prosecute any claim.
 - b. Sell and transfer perishable personal property for which there is an established market.
 - c. Vote at corporation meetings.
 - d. Receive additional property and continue to hold any investment or property originally received by him/her. (Sec. 633.646)
 4. Powers of the conservator subject to court approval after hearing and notice include:
 - a. Investing funds belonging to the minor.
 - b. Executing leases.
 - c. Making payments to the minor, guardian, or person having custody and care of the minor for the benefit of the child's health, welfare, and education.
 - d. Applying any income of the estate to persons for whose support the minor legally is liable.
 - e. Compromising or settling any claim by or against the ward or conservator.
 - f. Any other thing the court determines to be in the best interest of the minor and his/her estate. (Sec. 633.647)
 5. The conservator is empowered to take possession of all real and personal property of the minor, to pay taxes on the minor's estate, collect income from these, and defend and preserve the estate and invest it prudently. Finally, upon termination of the conservatorship, he/she is to deliver the assets of the minor to the person entitled to them. (Secs. 633.640-.641)
 6. Contracts entered into by the minor prior to the appointment of the conservator may be breached by the conservator, thereby making the minor's estate liable. (Sec. 633.650)
 7. A conservator may sue, be sued, and defend in such capacity. (Sec. 633.81)
- D. *Transferring, encumbering, and leasing property by the conservator.*

The conservator has the power to sell, mortgage, exchange, pledge, and lease real and personal property belonging to the minor, including the homestead and exempt personal property, in the same manner and procedure that is provided in the *Code* for personal representatives in administering decedent estates as in Sections 633.383-.404. (Sec. 633.652)

E. Termination and removal of the conservatorship.

1. Where the value of the minor's estate does not exceed the amount of charges and claims against it, the court may direct the conservator to terminate the conservatorship. (Secs. 633.676-.678)
2. When the value of the property under the conservatorship declines below \$1,000, the conservatorship may be terminated by the court, upon application or upon its own motion, and it may direct the conservator to deliver such property to the person having care or custody of the minor. (Secs. 633.678, .681)
3. The court may remove any conservator for mismanaging the minor's estate, failing to perform any duty imposed by law, or ceasing to be a resident of the state. (Sec. 633.65)

II. Rights and Title of the Minor under Conservatorship

- A. A minor may not convey, encumber, or dispose of property in any manner other than by will, and then only if he/she has the requisite testamentary capacity. (Sec. 633.637)
- B. If a conservator has been appointed, all contracts, transfers, and gifts made by the minor after the filing of the petition shall be considered a fraud and against the rights and interests of the minor. (Sec. 633.638)
- C. The title to all property of the minor is in the minor, subject, however, to the possession of the conservator and the control of the court for administration and sale. (Secs. 633.639-.640)
- D. Upon termination of the conservatorship the ward is entitled to a full accounting or report and a delivery of all his/her unencumbered assets by the conservator. (Secs. 633.677-.678)
- E. At any time six months after the appointment of a conservator, the minor may apply to the court by petition for the termination of the conservatorship. If denied, similar positions may be filed but only after six months have elapsed. [Note: This also applies to guardianships.] (Secs. 633.675, .679-.680)

III. Care of Property in Situations Where No Conservatorship Exists

- A. Where there is no conservator, the administrator of an estate pays the taxes due on the minor's interest. (Sec. 633.352)
- B. Legacies of less than \$1,000 may be paid to the person having care of the minor legatee, and no conservatorship is necessary. (Sec. 633.108)

- C. Where a minor's share of partition sale proceeds is less than \$1,000, the proceeds may be paid to the person having care of the minor; no guardianship is necessary. (RCP 297)
- D. Assessment insurance associations. Insurance on the property of one or more minors may be granted on the application of an adult parent, friend, or guardian who consents to become a member as representing such minor. (Sec. 518A.1)

STATE AGENCIES DEALING WITH CHILDREN*

Relevant 1979 Code Provisions

217.2, .4-.9	257.1, .9-.11, .17
218.2	262.7
234.11	263.5, .6
235.2-.3	281.5

I. Department of Social Services

- A. *Council on social services.* This council consists of five members appointed by the governor, with the senate's consent, for overlapping six-year terms. All members are electors of the state of Iowa, and no more than three members may be of the same political party and no two members shall reside in the same congressional district. (Sec. 217.2)
- B. *Powers and duties of the council:*
1. The council acts in a policy-making and advisory capacity on matters within the Department of Social Services. (Sec. 217.2)
 2. The duties of the council on social services include the following:
 - a. Adopt and establish policy for the operation and conduct of the Department of Social Services and implement and coordinate all services and programs administered thereunder.
 - b. Report to the governor any failure to carry out policy by the commissioner or department directors.
 - c. Approve the budget.
 - d. Adopt all necessary rules and regulations recommended by the commissioner or directors of the divisions.
 - e. Approve the establishment of any new division or the reorganization of an existing division.
 - f. Shall meet at least monthly. (Sec. 217.4)
- C. *Commissioner of social services.* The governor is to appoint, with the senate's consent, a commissioner of social services who shall be the chief administrative officer for the Department of Social Services. (Sec. 217.5)
1. The commissioner may recommend rules and regulations to the council and is authorized to review rules and decisions made by the directors of any division. (Sec. 217.6)
 2. The commissioner is authorized to organize the Department of

* This section does not attempt to outline in detail the statutes governing all state agencies which deal with children. Rather, it lists the basic duties of state agencies which are primarily or in large part concerned with the welfare of children and youth.

Social Services into divisions and may appoint the directors thereof. (Secs. 217.6-7)

3. The following institutions are among those within the jurisdiction of the commissioner or his/her delegate:
 - a. Glenwood State Hospital School
 - b. Woodward State Hospital School
 - c. Iowa Juvenile Home (Toledo)
 - d. Training School for Boys (Eldora)
 - e. Training School for Girls (Mitchellville)
 - f. Women's Reformatory (Rockwell City)
 - g. Men's Reformatory (Anamosa)
 - h. Iowa Medical Security Facility (Oakdale)
 - i. Riverview Release Center (Newton)
 - j. Soldiers' Home (Marshalltown)
 - k. Four mental health institutes (at Cherokee, Clarinda, Independence, and Mount Pleasant), and the State Penitentiary, Fort Madison. While these institutions serve adults chiefly, a number of minors are committed to each one each year.
- D. *Division (Bureau) of Child and Family Services.* Within the State Department of Social Services exists the Division of Child and Family Services administered by a director and such other officers and employees as are necessary. (Secs. 217.8, .9, 235.3)
 1. The director's duties and powers include:
 - a. Plan and supervise all public welfare services within the state.
 - b. Administer programs dealing with neglected, dependent, and delinquent children; child welfare; A.D.C.; aid to disabled persons; and administer the Iowa Juvenile Home, State Training Schools for Girls and Boys, and the Iowa Soldiers' Home.
 - c. Develop a program of basic education, vocational training, recreation, and guidance for social adjustment.
 - d. Administer programs and statutes dealing with child placement, employment, and supervision.
 - e. Prepare a budget and make rules and regulations for its distribution.
 - f. Supervise and inspect private institutions for the care of dependent, neglected, and delinquent children.
 - g. Designate and approve the private and county institutions within the state to which neglected, dependent, and delinquent children may be committed, and to have supervision of such children.
 - h. License and inspect private boarding homes for children and private child-placing agencies, make reports, and revoke licenses when necessary.
 - i. Cooperate with the Social Security board and make rules and regulations as may be needed to qualify for federal aid.

- j. Exercise general supervision over the county boards of social welfare.
 - k. Furnish information to acquaint the public with the operation of the department.
2. The powers and duties of the State Division of Child and Family Services include the following (Sec. 235.2):
- a. Administering and enforcing child-welfare laws.
 - b. Cooperating with federal agencies to extend child welfare services.
 - c. Making investigation and reports to determine child-welfare needs within the state and the respective counties.
 - d. Applying for and receiving federal funds for child-welfare services.
 - e. Making reports and budget estimates to the governor and general assembly.
 - f. Cooperating with county and other public and private agencies for child welfare.
 - g. Aiding in the enforcement of all laws of the state for the protection and care of children.
 - h. Cooperating with juvenile courts and the board of control in the management and control of state institutions and the inmates thereof.
- E. Welfare functions relating to direct services to individuals are carried out locally through the county board of social welfare. Some functions are not delegated, such as supervisory and licensing children's institutions, contracts, and agreements on interstate movement of children. The county board acts in an advisory capacity in programs with the jurisdiction of the State Social Services Department. (Sec. 234.11)
- F. *Code* Chapter 218 sets out detailed regulations for administration of state institutions and provides that the governor shall have power to check any abuses. (Sec. 218.2)

II. State Department of Public Instruction (Ch. 257)

- A. A nine-member state board of instruction is to be appointed by the governor, with senate approval. The function of this board is to adopt educational policies and establish minimum standards and rules for carrying out the school laws relative to all public and private schools. It will also serve as state board of vocational education under Chapters 258 and 259. (Secs. 257.1, .9-.10)
- B. The superintendent of public instruction shall be appointed by the state board of public instruction every four years with the approval of two-thirds of the members of the senate. (Sec. 257.11) The superintendent powers include (Sec. 257.17):
 - 1. General supervision over the state public school system, including the elementary and secondary schools and junior colleges.

2. Educational supervision over the elementary and secondary schools, which are administered by a director of the division of social services, and over nonpublic schools to the extent necessary to ascertain compliance with the Iowa school laws.
3. Advise and counsel with the state board on all matters pertaining to education.

III. Division of Special Education for Handicapped Children

A part of the State Department of Public Instruction. (Ch. 281) (See chapter on education of children requiring special education.)

IV. State Board of Regents

(Ch. 262) This nine-member board governs (Sec. 262.7):

- A. The University of Iowa.
- B. Iowa State University of Science and Technology.
- C. University of Northern Iowa.
- D. Iowa Braille and Sight-Saving School.
- E. State School for the Deaf.
- F. Oakdale Campus.
- G. State Hospital School.

V. Institute of Child Behavior and Development

- A. Management of the institute is vested in the director of the State Board of Regents and an advisory board of seven members appointed by the president of The University of Iowa from among the faculty of the Graduate College of the University. (Sec. 263.6)
- B. The State Board of Regents maintains the institute at Iowa City as an integral part of the University in order to (Sec. 263.5):
 1. Investigate the best scientific methods of conserving and developing the normal child.
 2. Disseminate information acquired by such investigation.
 3. Train students for work in such fields.

VI. State Services for Crippled Children

[Note: This agency was not established by a specific act of the General Assembly, but was placed within the framework of the State Board of Regents and The University of Iowa as a result of a 1936 opinion of the attorney general (Op. Atty. Gen. 1936, pp. 429-434). Chapter 255 of the *Code of Iowa* is the approved Iowa plan for federal funds, as required by Title V of the 1935 Social Security Act. Although there apparently is no special statutory authority for the State Services for Crippled Children, there is at least one reference to it in the *Code*. (Sec. 281.5)]

- A. The crippled children's program provides statewide services for Iowa children with special health problems and handicapping conditions. Under the Federal Social Security Act, the State Services for Crippled Children was established in Iowa in 1936 as a supplement to and an

integral part of the Iowa plan for medical care which had been created by the Perkins Haskell-Klaus Acts of 1915 and 1917. The service is administered by the Iowa State Board of Regents through The University of Iowa.

- B. Those eligible for service are children under 21 years of age with chronic or complex diseases and disorders, educationally handicapping conditions or congenital defects. Conditions acceptable for service by SSCC are specified by the agency.
- C. *Services.*
 - 1. Field clinics at about 30 statewide sites.
 - 2. Special consultations and treatment in The University of Iowa Hospitals and Clinics.
 - 3. Evaluation and planning services at several regional specialized health centers.
- D. *Fees.*
 - 1. There is no cost to families for services provided at field clinics.
 - 2. Determination of fees for care at University Hospitals and Clinics follows the procedures at that institution.

VII. State Department of Health
(Ch. 135) (See chapter on medical care.)

VIII. Hospital School for Severely Handicapped Children
(Ch. 263) (See chapter on education of children requiring special education.)

JUVENILE COURT

Relevant 1979 Code Provisions

231.2-.3, .8, .10, .11

232.8, .45, .61, .109, .122, .139

I. Jurisdiction of Juvenile Court

- A. *Juvenile delinquency proceedings.* The juvenile court has exclusive original jurisdiction over any proceeding concerning a child alleged to have committed a delinquent act and over any proceeding concerning an adult who is alleged to have committed a delinquent act prior to having become an adult, provided that the taking of the person into custody occurred:
1. Less than one year after the alleged commission of an act punishable as a simple misdemeanor; or
 2. Less than two years after the alleged commission of an act punishable as other than a simple misdemeanor. (Sec. 232.8)
- B. *Child in need of assistance proceedings.* The juvenile court has exclusive jurisdiction over proceedings alleging that a child is a child in need of assistance. The age and marital status of the child at the time the proceedings are initiated are the determinative factors of the juvenile court's jurisdiction. (Sec. 232.61)
- C. *Termination of parent-child relationship proceeding.* The juvenile court has exclusive jurisdiction over such proceedings. (Sec. 232.109)
- D. *Family in need of assistance proceedings.* The juvenile court has exclusive jurisdiction over such proceedings. (Sec. 232.122)
- E. The juvenile court does not have jurisdiction over violations of water navigation regulations, fish and game and other conservation laws, or motor vehicle and snowmobile regulations which would be simple misdemeanors if committed by an adult, or over violations of county or municipal curfew or traffic ordinances. The juvenile court also lacks jurisdiction over a child's violation of section 123.47 of the Iowa Beer and Liquor Control Act, though the court may advise appropriate juvenile authorities and may refer violations of Chapter 123 to the juvenile court where there is reason to believe that the child regularly abuses alcohol. (Sec. 232.8)
- F. A case involving a person charged in a court other than a juvenile court with the commission of a public offense not exempted and who is within the provisions of section A above, must be immediately transferred to juvenile court. (Sec. 232.8(2))
- G. The juvenile court after a hearing may waive jurisdiction of a child alleged to have committed a public offense so that the child may be prosecuted as an adult in another court. (Sec. 232.45)
- H. The state of Iowa through its courts and agencies is authorized to

enter into interstate compacts concerning juveniles with any other contracting state. The purpose of this compact includes the following (Sec. 232.139):

1. Cooperative supervision of delinquent juveniles on probation or parole.
2. The return, from one state to another, of delinquent juveniles who have escaped or absconded, or of nondelinquent juveniles who have run away from home.
3. Confine or order the confinement of a delinquent juvenile within an institution of another party state.
4. Any additional measure for the protection of juveniles and of the public, which any two or more of the party states may find desirable to undertake cooperatively.

II. Judges and Other Officials

- A. *Judges.* The chief judge of the district shall designate one or more of the district judges, district associate judges, or judicial magistrates to act as judge or judges of the juvenile court. (Secs. 231.2-3)
- B. *Referees.* The judge of the juvenile court may appoint a referee in juvenile court proceedings to determine findings of fact and the right to rehearing. The parties to such proceedings have the right to a rehearing by the judge of the juvenile court, but only if they request it within seven days after receiving notice of the findings of fact by the referee. (Sec. 231.3)
- C. *Director of court services.* In counties having a population of more than two hundred fifty thousand, the judge of the juvenile court may appoint a director of court services. (Sec. 231.3)
- D. *Probation officers.*
 1. The judge or judges of the juvenile court may appoint one or more probation officers according to the size of the county. Such officers of the juvenile court are permitted, but not required. (Sec. 231.8)
 2. A probation officer may be appointed to serve two or more counties. Such appointment may be made by the judges of the judicial district. The cost is prorated among the counties served. (Sec. 231.8)
 3. If practicable, the clerk of court must notify a probation officer in advance when any child is to be brought before the juvenile court. (Sec. 231.11)
 4. Probation officers have the powers of peace officers. It is their duty to: make such investigation as required by the court; be present in court in order to represent the interests of the child when the case is heard; furnish to the court such information and assistance as the judge may require; and to take such charge of any child before and after trial as may be directed by the court. (Sec. 231.10)

JUVENILE JUSTICE

Relevant 1979 Code Provision Chapter 232

I. Juvenile Delinquency Proceedings

A. *A delinquent act is defined as (Sec. 232.2(11)):*

1. The violation of any state law or local ordinance which would constitute a public offense if committed by an adult, (except those exempted by law as noted in chapter on juvenile court).
2. The violation of a federal law or a law of another state.

B. *Right to assistance of counsel. (Sec. 232.11)*

1. This right is available at most stages of the proceeding, including:
 - a. from the time the child is taken into custody for any alleged delinquent act and during questioning thereafter,
 - b. detention or shelter-care hearing,
 - c. waiver hearing, that is, where the juvenile court determines whether it should waive jurisdiction over a juvenile offender,
 - d. adjudicatory hearing,
 - e. dispositional hearing,
 - f. hearing to review and modify a dispositional order.
2. The child's right to counsel under (b) through (f) above cannot be waived by a child of any age. The child's right under (a) above cannot be waived by the child without written consent of the child's parent, guardian, or custodian.
3. The court may order that the child's parent, guardian, or custodian pay the expense of counsel if it determines that he/she has the ability to pay all or part of the expense.

C. *A child may be taken into custody (Sec. 232.19): by order of the court; for a delinquent act; by a peace officer upon a reasonable belief that the child has run away from his/her parents, guardian, or custodian, or has committed a material violation of a dispositional order. The child's parents, guardian, or custodian must be notified as soon as possible, and the use of handcuffs or other bodily restraints is prohibited unless the child physically resists or threatens physical violence when being taken into custody.*

D. *Placement in shelter care or detention. (Secs. 232.20-.22)*

1. Unless so placed, the child must be released to the child's parent, guardian, or custodian.
2. To place a child in shelter care:
 - a. the child must be lacking a responsible adult to care for him/her;
 - b. the child must request such care; the child must be held in order to contact a responsible adult;
 - c. the child must be held for transfer to another jurisdiction;

- d. or the child is placed pursuant to a court order.
- 3. No child shall be placed in detention unless:
 - a. there is a warrant;
 - b. the child is an escapee from a juvenile institution;
 - c. there is probable cause to believe the child has violated conditions of release and will run away or be unavailable to the court;
 - d. there is probable cause to believe the child has committed a delinquent act and a substantial risk the child will run away, commit bodily harm to self or others, or commit serious damage to the property of others.
- 4. Time limits. No child shall be held:
 - a. in an adult facility longer than 12 hours without a court order;
 - b. in shelter care for more than 48 hours without a court order;
 - c. if a suspected runaway, in excess of 72 hours in shelter care.
- E. *Detention or shelter care hearing.* (Sec. 232.44) A hearing shall be held within 48 hours (excluding holidays/weekends) of the time of the child's admission to a detention or shelter-care facility or the child must be released. The court shall release the child if it determines there is not probable cause to believe the child is within its jurisdiction, or if holding the child is not authorized or authorized but not warranted. The child may be released to the supervision of his/her parent, guardian, or custodian; or may be placed under an agency's supervision.
- F. *Intake proceedings.* (Sec. 232.28) Any person can file a complaint alleging a delinquent act. The court then refers the complaint to an intake officer for a preliminary inquiry. The intake officer then determines if probable cause exists and whether the best interests of the child and the public will be served by dismissal, informal adjustment of the complaint, or a request to the county attorney to file a petition.
- G. *Informal adjustment.* (Sec. 232.29) If the child admits his/her involvement in a delinquent act, the complaint may be informally adjusted.
 - 1. The child may refuse informal adjustment and demand the filing of a petition and formal adjudication.
 - 2. Any agreement shall be entered into voluntarily and intelligently by the child with the advice of his/her attorney or consent of parents, guardian, or custodian.
 - 3. The terms of the agreement must be clearly stated in writing and signed by all parties.
 - 4. The agreement cannot exceed six months.
 - 5. The child and parents/guardian have the right to terminate the informal agreement at any time and to request the filing of a petition.
- H. *Presence of parents at hearings.* (Sec. 232.38) All juvenile delinquency proceedings should be attended by one or both parents, guardian, or custodian, if they are available, and every effort must be made to contact them.

- I. *Consent decree.* (Sec. 232.46) At any time after the filing of a petition and prior to an order of adjudication, the court may suspend the proceeding and enter a consent decree, providing the child and parent, guardian, or custodian are informed of the consequences and the child has voluntarily and intelligently agreed to the terms of the decree.
- J. *Adjudicatory hearing.* (Sec. 232.47) If a child denies the allegations of the petition, the child is entitled to a hearing before an impartial judge. The state has the burden of proving the allegations.
- K. *Disposition.* (Secs. 232.50-.55)
 - 1. A dispositional hearing shall be held as soon as practicable after the adjudication.
 - 2. In ordering disposition of a child found to have committed a delinquent act, the court shall order the least restrictive order appropriate in view of the seriousness of the delinquent act, the child's culpability, age, and prior record.
 - 3. A juvenile delinquency adjudication or disposition is not deemed a conviction of a crime nor does it impose any civil disabilities or operate to disqualify the child in any civil service application. (Sec. 232.55)

II. Child in Need of Assistance Proceedings

- A. *Defined as an unmarried child who* (Sec. 232.2(5)):
 - 1. has been abandoned, physically abused, or neglected;
 - 2. has suffered or imminently likely to suffer harmful effects;
 - 3. has been sexually abused by his/her parent, guardian, custodian, or other member of household;
 - 4. is in need of medical treatment and whose parent/guardian is unwilling or unable to provide such treatment;
 - 5. has not been supplied a minimal level of food, clothing, or shelter;
 - 6. has committed a delinquent act as a result of parental/custodial actions.
- B. *Temporary removal.* (Secs. 232.78-.79) A child can be temporarily removed from the home by court order if the parent is absent, or refuses to allow removal, and if it appears that the child's life or health is in danger. A peace officer may remove a child from his/her home or a physician treating a child may keep the child in custody without a court order provided that remaining in the home presents an imminent danger to the child's life or health, and there is insufficient time to apply for a court order.
- C. *Procedure.*
 - 1. Any person having knowledge of the circumstances may file a complaint alleging that a child is a child in need of assistance. (Sec. 232.81)
 - 2. Judicial proceedings are initiated to determine if a child is a child in need of assistance by the filing of a petition. (Sec. 232.87)

3. An adjudicatory hearing is held by the court to determine the truth of the allegations. The state has the burden of proof. (Sec. 232.96)
4. Following an adjudication that a child is a child in need of assistance, a dispositional hearing is held. The court shall make the least restrictive disposition appropriate. (Sec. 232.99) Dispositions open to the court include:
 - a. suspended judgment, subject to terms and conditions imposed to assure proper care and protection (Sec. 232.100);
 - b. retention of custody by parent, subject to appropriate supervision (Sec. 232.101);
 - c. transfer of legal custody of juvenile and placement with a relative or other suitable person, a child-placing agency, or the Department of Social Services. Whenever possible the court should permit the child to remain at home. (Sec. 232.102)
- D. *Right to counsel.* Upon the filing of a petition, the parent, guardian, or custodian has the right to counsel in all subsequent hearings and proceedings. If that person desires but is financially unable to employ counsel, the court will appoint counsel. Counsel shall also be appointed to represent the child. (Sec. 232.89)

III. Termination of Parent-Child Relationship Proceedings

- A. A child's guardian or custodian, the Department of Social Services, a juvenile probation officer, or the county attorney may file a petition for termination of the parent-child relationship. (Sec. 232.111)
- B. *Grounds for termination include (Sec. 232.114):*
 1. The parents voluntarily and intelligently consent to termination of parental rights.
 2. Clear and convincing evidence that the child has been abandoned.
 3. The child has been adjudicated a child in need of adjudication, custody has been transferred from the parent(s) for at least 12 months, and there is clear and convincing evidence the child cannot be returned to parental custody.
- C. *The court need not terminate the relationship if (Sec. 232.114):*
 1. A relative has legal custody.
 2. The child is over 10 years of age and objects to such termination.
 3. Termination would be detrimental to the child.
 4. It is necessary to place the child in a hospital.
 5. The absence of a parent is due to the parent's admission or commitment to an institution or is on active service in the armed forces.
- D. The right to counsel in a termination of parent-child proceeding is the same as for a child in need of assistance proceeding. (See II-D above.) (Sec. 232.113)

IV. Family in Need of Assistance Proceedings

- A. The court may adjudicate a family to be a family in need of assistance if a petition is filed by the parent, guardian, custodian, or child, (Sec.

232.125) and enter a dispositional order if the court finds (Sec. 232.127):

1. There has been a breakdown in the relationship between the child and his/her parent, guardian, or custodian, and
 2. The child or his/her parent, guardian, or custodian has sought services from public or private agencies to maintain and improve the familial relationship, and
 3. The court has at its disposal services for this purpose which can be made available to the family.
- B. 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. (Sec. 232.127)
- C. The court cannot 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. (Sec. 232.127)
- D. 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. (Sec. 232.126)

V. Expenses

- A. The following expenses are charges upon the county in which proceedings are held: fees and mileage of witnesses and expenses and mileage of officers, expenses of transporting a child, reasonable compensation for an attorney, expense of treatment or care ordered by the court, care when legal custody of a minor is transferred, cost of home-maker, home health aide service, and cost of court-ordered physical or mental examinations or treatment. The formula provided in section 232.141(4) determines the county's share of the expenses, with the state paying any remaining costs.
- B. Except where the parent-child relationship is terminated, the court may, after proper inquiry into ability to pay and reasonable opportunity for parents to be heard, order parents to pay all or part of the cost of care, examination, or treatment of the minor.
- C. The cost of providing and maintaining juvenile detention and shelter-care homes may be borne by a single county or by a combination of counties. (Sec. 232.142)

VI. Records

- A. Juvenile court records are confidential. However, official juvenile court records in cases alleging delinquency shall be public records, subject to sealing. Court records in all cases except those alleging delinquency may be disclosed to certain interested parties and juvenile officials and may be disclosed to others pursuant to a court order. (Sec. 232.147)
- B. Section 232.150 provides a procedure where a person may have

records of delinquency proceedings sealed, so that such records are available only upon a court order.

- C. Taking a child into custody is not considered an arrest, and therefore law enforcement records are generally not open to inspection. Section 232.149, however, provides limited exceptions similar to other juvenile court records noted in VI-A above.

CHILD-CARING AND PLACING AGENCIES

Relevant 1979 Code Provisions

122.1, .4	238
235.3	512.61-72
237.2-16	

I. Child-Placing Agencies (Ch. 238)

- A. Definition. Any agency (public, semipublic, or private) which represents itself as placing children permanently or temporarily in private family homes or as receiving children for such placement, or which actually engages, for gain or otherwise, in such placement, is deemed to operate a child-placing agency. (Sec. 238.2)
- B. Child-placing agencies include individuals, institutions, partnerships, voluntary associations, and corporations, other than institutions under the management or control of any division of the Department of Social Services. (Sec. 238.1) The state director of the Division of Child and Family Services is generally supervisor of the state's child-placing agencies and is empowered to grant licenses. Agencies and individuals operating them must meet certain standards of physical care, experience, and morals, and such regulations as the director may promulgate. The license may be revoked at any time by hearing, subject to the right of the licensee to appeal to the Council on Social Services and then the district court. Authorized officers and agents of the director have full power of inspection, and the licensee must annually submit detailed records of all placements, which are confidential. (Secs. 238.3-.24)
- C. *Authority of agencies duly licensed (Sec. 238.32):*
 - 1. Receive children in need of assistance or delinquent children who are under 18 years of age under commitment from the juvenile court and control and dispose of them subject to the provisions of Chapters 232 and 600A.
 - 2. Receive, control, and dispose of all minor children voluntarily surrendered to such institutions.
- D. Records of placements must be submitted monthly, and the state board has full power to inspect the agency and/or foster home. (Secs. 238.30-.31, .42)
- E. Importation and exportation of children for placement may be carried out under Iowa's interstate compact for the placement of children. (Sec. 238.33)

II. Children's Boarding Homes (Ch. 237)

- A. *Definition.* Any person who receives for care and lodging one or more children under age 16 and unattended by parent or guardian,

except children related by blood or marriage or adoption, is deemed to maintain a children's boarding home. (Sec. 237.2)

- B. Such homes are under the supervision and licensing control of the state director, Division of Child and Family Services, and must comply with rules and regulations of the board to receive licenses and lawfully operate. The board has full power of requiring records and making inspections. (Secs. 237.3-.16)

III. Fraternal Insurance Society Homes (Secs. 512.62-.72)

- A. Fraternal benefit societies may operate nonprofit homes and hospitals for children in conjunction with their insurance business.
- B. Such homes are under the supervision of the commissioner of insurance, and the attorney general prosecutes any violations.
- C. Such homes must also be licensed and supervised by the state director. (Secs. 235.3, 237.3, .8) Children's hospitals must be licensed and supervised by the State Department of Health. (Ch. 135B)

IV. Private Child-Caring Agencies

Private child-caring agencies are under the supervision of the state director of the Division of Child and Family Services. The director may make rules and regulations for these agencies as well as license and inspect them. Rules must provide that agencies take into consideration the religious faith of the child. (Sec. 235.3)

V. Solicitation by Child-Caring Agencies (Ch. 122)

- A. No organization or charity may solicit public donations in Iowa unless it (Sec. 122.1):
 - 1. Has obtained a permit from the secretary of state and has filed a \$1,000 bond, or
 - 2. Is incorporated as an Iowa agency, or
 - 3. Is authorized to do business in Iowa.
- B. The secretary of state may issue a permit only after satisfying himself/herself that the applicant is reputable and that its purposes are legitimate and worthy. (Sec. 122.1)
- C. Any local organization may solicit within its own county without complying with Chapter 122. (Sec. 122.4)

VI. Detention and Shelter Care

(See chapter on juvenile justice.)

ADOPTION AND TERMINATION OF PARENT-CHILD RELATIONSHIP

Relevant 1979 Code Provisions Chapters 600 and 600A

I. Termination of Parent-Child Relationship

The termination of parental rights can be accomplished according to Chapter 232, Division IV, or Chapter 600A, except termination of parental rights between an adult child and the child's parents may be accomplished by a decree of adoption establishing a new parent-child relationship.

A. Proceedings under Chapter 232. (See chapter on juvenile justice.)

B. *Proceedings under Chapter 600A.*

1. *Release of custody.* Custody of a minor child may be assumed by a stepparent or a relative within the fourth degree of consanguinity, or by acceptance of a release of custody by an agency or a person making an independent placement. A release of custody must (Sec. 600A.4):
 - a. Be accepted only by an agency or a person making an independent placement and not by a person who in any way intends to adopt the child.
 - b. Be written and signed not less than 72 hours after the birth of the child to be released.
 - c. Be followed within a reasonable time by the filing of a petition for termination of parental rights.
 - d. State the purpose of the release, indicate that if it is not revoked it may be grounds for termination, and fully inform the signing parent of the manner in which a revocation of the release may be sought.
2. *Petition for termination.* The following persons may petition a juvenile court for termination of parental rights if the child is born or is expected to be born within 180 days (Secs. 600A.5):
 - a. A parent or prospective parent of the parent-child relationship.
 - b. A custodian or guardian of the child.
3. *Grounds for termination of parental rights include (Sec. 600A.8):*
 - a. Parent has signed a release of custody which has not been revoked.
 - b. Parent has petitioned for the termination.
 - c. Parent has abandoned a child.
 - d. Parent does not object to the termination after having been given proper notice or after every reasonable effort has been made to identify, locate, and give notice to the parent.
4. *Notice of Termination Hearing. (Sec. 600A.6)* A termination of parental rights generally is not effective until notice has been served

on all necessary parties and these parties have been given an opportunity to be heard before the juvenile court. Necessary parties include the child's living parents, guardian, custodian, guardian *ad litem*, and the petitioner.

5. *Termination Hearing*. The hearing can be held not less than one week after the child is born. A petition for termination may be granted upon a showing of clear and convincing proof. (Secs. 600A.7-.9)

II. Adoptions

- A. The following persons may file an adoption petition (Sec. 600.4):
 1. An unmarried adult.
 2. Husband and wife together.
 3. A husband or wife separately if the person to be adopted is not the other spouse and if the adopting spouse:
 - a. Is the stepparent of the person to be adopted,
 - b. Has been abandoned, or
 - c. Is unable to petition with the other spouse because of unexplained absence, unavailability, or incapacity.
- B. An adoption petition cannot be filed until the termination of parental rights has been accomplished, except in the following circumstances (Sec. 600.3):
 1. The person to be adopted is an adult,
 2. The natural parent is the spouse of the petitioning stepparent, or
 3. A consent to adopt, recognized by the courts of another jurisdiction, and obtained from a resident of that jurisdiction.
- C. Unless the court makes a determination that any such person refuses to or cannot be located to give consent, the following persons must consent to the adoption (Sec. 600.7):
 1. Any guardian of the person to be adopted.
 2. The spouse of the petitioner who is the stepparent.
 3. The spouse of the petitioner who is separately petitioning to adopt an adult person.
 4. The person to be adopted if that person is 14 years of age or older.
- D. *Notice of the adoption hearing must be given to the following (Sec. 600.11)*:
 1. A guardian, guardian *ad litem* if appointed for the adoption proceedings, and custodian of, and any person in a parent-child relationship with the person to be adopted.
 2. The person to be adopted who is an adult.
 3. Any person who is designated to make an investigation and report under section 600.8.
 4. Any other person who is required to consent under section 600.7.
- E. A postplacement and background information investigation, and the reports of these investigations, should be completed and filed with the court prior to the adoption hearing. (Sec. 600.8)

- F. Adoption of a minor person shall not be decreed until that person has lived with the adoption petitioner for a minimum residence period of 180 days. The court may waive this period if (Sec. 600.10):
1. The petitioner is a stepparent,
 2. The petitioner is related to the minor within the fourth degree of consanguinity, or
 3. Good cause is shown.
- G. At the conclusion of the adoption hearing the court can dismiss the the petition or issue a final or interlocutory adoption decree. An interlocutory decree has the same legal effect as a final decree except that it may be vacated by the court upon a showing of good cause. An interlocutory decree automatically becomes a final decree at a date specified by the court, which shall not be less than 180 or more than 360 days after the interlocutory decree is issued. (Sec. 600.13)
- H. After the time for appeal has expired, the permanent termination of parental rights record of the juvenile court and the permanent adoption record of the district court shall be sealed. Upon application to the court for good cause shown the court may order the adoption records of the court to be opened for the adopted person who is an adult and reveal the names of either or both of the natural parents. (Sec. 600.16)

EDUCATION*

Relevant 1979 Code Provisions

35.7-.10	282.1, .3-7, .17-18,
257.25	.22-24
262	285.1-2, .14
263.1	287.1-4
266.2	288.1-2
268.1-2	289.1, .3
279.8, .10	299.1-2, .8-11
280.3, .6,	301.1, .24-25, .27
.7, .10, .11	321.372-380

I. Attendance

- A. Any child over 7 and under 16 years of age who is in physical and mental condition to attend school must attend some public school for at least 24 consecutive weeks in each school year. The district school board may require attendance for the entire time the schools are in session during the school year. (Sec. 299.1) School shall be in session for at least 36 weeks each year. (Sec. 279.10)
- B. *Exceptions.* School attendance is not required for children who:
1. Have received equivalent instruction from a certified teacher elsewhere. (Sec. 299.1)
 2. Have educational qualifications equal to an eighth-grade education. (Sec. 299.2)
 3. Are excused by a court or judge. (Sec. 299.2)
 4. Are temporarily attending religious services. (Sec. 299.2)
 5. Are over age 14 and regularly employed. (Sec. 299.2)
 6. Are attending a private college preparatory school approved or probationally approved under section 257.25(14), of the *Code*. (Sec. 299.2)
- C. The school board may establish truant schools or separate rooms and must prescribe rules for the punishment of truants. The board may (and in large school districts must) appoint truancy officers who shall take custody of truant children. (Secs. 299.8-.11)
- D. *Part-time schools.* The school board must establish a part-time school in cities of over twelve thousand population and may in smaller ones if there are in the city 15 or more children of age 14 and 15 who are not attending a full-time school. When a part-time school is established, such children must attend it. Each part-time school must offer

* This section deals only with those portions of the school laws which apply directly to children. (See also chapter on education of children requiring special education.)

at least eight hours of daytime instruction per week during the school term. (Secs. 289.1, .3)

- E. *Evening schools.* The school board may establish an evening school for persons over age 16 and must do so if 10 residents over age 16 request such instruction. (Secs. 288.1-2)
- F. Where attendance is compulsory, parents or custodians who violate the duty to send a child to school are guilty of a simple misdemeanor.
- G. The minimum age limits for admission to public schools are age five by September 15 of the current year for admission to kindergarten, and age six by September 15 of the current year for admission to the first grade. The board may also exclude children whose presence would be harmful to others or nonbeneficial to themselves. (Secs. 282.3-.4)

II. Uniform School Requirements

- A. The board of directors of each public school district must establish attendance centers based upon the needs of the school-age pupils enrolled in the school district. Kindergarten and prekindergarten programs may be provided. (Sec. 280.3)
- B. The minimum educational curriculum is as follows: (Sec. 257.25)
 - 1. The following areas must be taught in grades one through six: English-language arts, social studies, mathematics, science, health and physical education, characteristics of communicable diseases, traffic safety, music, and art.
 - 2. In grades seven and eight the following must be included in the curriculum: science, mathematics, social studies, cultures of other peoples and nations, English-language arts, health and physical education, music, and art.
 - 3. The minimum program for grades nine through twelve shall be: four units of science, social studies, English-language arts, a sequential program in mathematics, one unit of general mathematics, two units of one foreign language, five units of occupational education subject, units or partial units in the fine arts, and physical education.
 - 4. Upon request of the board of directors of any public school district or authorities in charge of any nonpublic school, the state board of public instruction may, for a number of years to be specified by the state board, grant the school an exemption from one or more of the above curriculum requirements.
- C. Religious books such as the Bible, the Torah, and the Koran need not be excluded from any public school or instruction in the state, but no child may be required to read such books contrary to the wishes of his/her parent or guardian. (Sec. 280.6)
- D. *Textbooks are chosen by the school board.* (Sec. 301.1) The school board or the voters in a regular election may decide whether to sell, rent, or loan free of charge the textbooks to school children. (Secs.

301.1, .24-.25, .27) Textbooks adopted and purchased by a school district may and shall to the extent funds are appropriated by the General Assembly, be made available to pupils attending nonpublic schools upon the request of the pupil or the pupil's parents under comparable terms as made available to pupils attending public schools. (Sec. 301.1)

III. Discipline and Protection of School Children

- A. The school board makes and enforces all necessary rules and regulations governing the schools, teachers, and pupils. (Sec. 279.8)
- B. The school may expel a student for violations of rules, immorality, or when his/her presence is detrimental. The power to suspend temporarily or to dismiss a student may be delegated to a teacher or school official, but the power to expel may not be delegated. (Sec. 282.4) When a student is thus dismissed by a teacher, principal, or superintendent, he/she may be readmitted by such teacher, principal, or superintendent; when expelled by the board, he/she may be readmitted only by the board or in the manner prescribed by it. (Sec. 282.5)
- C. No secret societies or fraternities are allowed in public schools. Nor is the solicitation of membership to such societies or fraternities allowed. Violators may be suspended or dismissed. (Secs. 287.1-.4)
- D. *Special provisions for protection of children's health:*
 - 1. The use of tobacco, alcoholic liquor or beer, or controlled substances by students is prohibited; violators may be suspended or expelled. (Sec. 279.9)
 - 2. Dental clinics may be established by school boards. (Sec. 280.7)
 - 3. Eye- and ear-protective devices are required to be worn when involved in any activity of a course which may subject the student to a hearing or sight loss. (Sec. 280.10, .11)

IV. Tuition; Attendance outside Home District

- A. Residents of the school district attending elementary or secondary schools are not required to pay tuition if they are:
 - 1. Between the ages of 5 and 21. (Sec. 282.6)
 - 2. Past age 21, in the case of honorably discharged members of the armed forces. (Sec. 282.6)
 - 3. The tuition exclusion expressed above does not apply to area vocational or community college students.
- B. Tuition is required in all schools beyond high school to cover the cost of instruction received. (Sec. 282.6)
- C. The school board may accept nonresident and temporary pupils upon such terms as it establishes, including tuition. (Sec. 282.1)
- D. The following are expressly authorized to attend schools outside their home districts, but their home districts must pay tuition:
 - 1. When a school district closes some or all of its schools, the board

- may designate another school which its residents are to attend; but high school pupils may attend the school of their choice. (Sec. 282.7)
2. A high school pupil whose district does not have a high school may attend high school in any Iowa district which will accept him/her. (Sec. 282.17)
- E. The State Superintendent of Public Instruction determines, according to state law, the maximum tuition rate. (Sec. 282.24)
 - F. Children cared for in any private charitable institution may attend school in the district where the institution is located and may attend any Iowa high school which will receive them. Their tuition and transportation are paid by the state. (Secs. 282.18, .22-.23)
 - G. The state also pays tuition for children in licensed family-boarding homes provided three conditions are satisfied: (Sec. 282.23)
 1. The boarding home is licensed,
 2. The home is not in the child's home district,
 3. The child is a public charge.
 - H. Needy orphans of veterans may receive up to \$400 per year from the war orphans educational aid fund to aid in college-level education. (Secs. 35.7-.10)

V. Transportation

- A. The school board must provide transportation to school for pupils who live at specified distances from the school. If for some reason such transportation is not available or impracticable, the parent or guardian shall be reimbursed. (Sec. 285.1(1)(3))
- B. Resident pupils attending a nonpublic school located either within or without the school district of the pupil's residence are entitled to transportation on the same basis as provided resident public-school pupils (Sec. 285.1(14-18)); but only during school years when the General Assembly has appropriated the necessary funds. (Sec. 285.2)
- C. *Safety:*
 1. Drivers of school buses must be at least 18 years of age (unless such person has successfully completed an approved driver education course, in which case the minimum age is 16 years), physically and mentally competent (an annual physical examination is required), and of good moral character. They must also have a chauffeur's license and a permit issued by the Department of Public Instruction. (Secs. 321.375-.376)
 2. School buses may not be operated at a speed in excess of 45 miles per hour, except where students are being transported for educational or extracurricular activities a speed of 50 miles per hour may be maintained. [Note: School buses are allowed to travel at a rate of 55 miles per hour on interstate and four-lane highways. (Sec. 321.377)] It is unlawful to overtake and pass from either direction a school bus which is loading or unloading. Rigorous

standards of safety construction, emergency doors, uniform marking, and signaling, and so forth, are fixed by statute. These provisions are to be enforced by all peace officers and school boards. (Secs. 285.14, 321.372-.380)

VII. Higher Education

- A. The University of Iowa shall provide a liberal education and knowledge of literature and the various arts and sciences. (Sec. 263.1)
- B. Iowa State University of Science and Technology shall teach agriculture and mechanic arts and related subjects. (Sec. 266.2)
- C. The University of Northern Iowa shall instruct and prepare teachers and other educated personnel for schools, colleges, and universities, and to carry out research and consultation for the improvement of education throughout the state. (Secs. 268.1-.2)
- D. These three institutions are governed by the State Board of Regents. (Ch. 262) Rules for admission to each of these institutions are established by the State Board of Regents. (Sec. 262.9(3))

RECREATION

Relevant 1979 Code Provisions

110.24	359.28
111A	384.24
300.1	

I. Hunting and Fishing (Sec. 110.24)

- A. Residents under 16 years of age are not required to have a license to hunt game if accompanied by a competent adult who possesses a valid hunting license and has parental consent to accompany the minor. One licensed adult must accompany each person under 16 years of age.
- B. Children who are residents of Iowa and who are under 16 years of age are not required to have a license to fish in the waters of the state. A nonresident child is exempted from obtaining a license to fish only if under 14 years of age.

II. Recreational Facilities

- A. School boards of school districts in which cities are located may maintain recreation places and playgrounds for public school children at public expense and may make appropriate arrangements with other public officials and boards for the supervision of such recreational facilities. (Sec. 300.1)
- B. Municipal governments have the power to establish, maintain, and issue general obligation bonds for the construction and improvement of community center houses, recreation grounds and buildings, juvenile playgrounds, swimming pools, parks, and golf courses. (Sec. 384.24)
- C. Township trustees may establish a community center or juvenile playgrounds in the same manner as provided for cities. (Sec. 359.28)
- D. Counties and their conservation boards have the authority to develop and maintain parks, preserves, playgrounds, and recreational centers, wildlife, and other conservation areas. (Ch. 111A)

EDUCATION OF CHILDREN REQUIRING SPECIAL EDUCATION

Relevant 1979 Code Provisions

222.1-.2, .13	259.1, .3-.4
.15, .31, .52-.53,	263.9-.13
.59-.60, .78-.87	269.1
252.16	270.3
257.10	281.1-.4, .8, .9
258.3	299.18-.23

I. Special Education

Division of Special Education for Handicapped Children in the State Department of Public Instruction. (Ch. 281)

- A. This division supervises the education of children under age 21 who are so physically, emotionally, or intellectually handicapped that they cannot attend regular public-school classes. However, if a student's disability or prolonged illness prevents him/her from completing his/her studies by age 21 he/she may be assisted for an additional period up to 3 years. (Secs. 281.1, .2, .8)
- B. To the maximum extent possible, children requiring special education shall attend regular classes and be educated with students who do not require special education. (Sec. 281.2(2))
- C. It is the primary responsibility of each school district, not the division, to provide special education for those children requiring such instruction who reside in the district. (Sec. 281.2(2))
- D. This division is empowered to aid school districts in the establishment of special schools, classes, and facilities for handicapped children and to that end may: (Sec. 281.3)
 1. Establish teachers' standards and prescribe courses of study.
 2. Provide for certification of such children by medical and psychological authorities and initiate establishment of special classes in hospitals.
 3. Plan special methods for this education, work with school boards to establish classes or arrange for exchange of students, provide special equipment, make investigations, and make suitable rules and regulations.
 4. Cooperate with other existing child-welfare agencies to carry out this program.
- E. School districts, operating under the division's supervision, are empowered to establish a variety of home, hospital, and school facilities for education of handicapped children. (Sec. 281.4) Where such special facilities and courses are provided by a school district, the state

will reimburse the district for the excess costs in accordance with the weighting plan set forth in section 281.9.

II. Vocational Rehabilitation (Ch. 259)

- A. The vocational rehabilitation program is administered by the State Board for Vocational Education in cooperation with federal authorities. The State Board of Public Instruction serves as the State Board of Vocational Education. (Secs. 257.10, 258.3, 259.3) Its purpose is to aid the rehabilitation and employment of disabled persons, including handicapped children who have completed school. (Secs. 259.1, .3-.4)
- B. The State Board for Vocational Education may utilize all educational facilities in the state and services of persons specially qualified to instruct handicapped persons. (Sec. 259.4)
- C. When the board has placed a rehabilitated person in suitable employment, it may continue to supervise this person for a reasonable time. (Sec. 259.4)
- D. The board may also provide vocational rehabilitation services to socially disadvantaged persons who are substantially impaired in their ability to earn a living. This may include, but is not limited to, recipients of public assistance, inmates of correctional institutions, and rejectees of the selective service system. (Sec. 259.4)

III. Deaf and Blind Children

Compulsory education in the Iowa Braille and Sight-Saving School and the State School for the Deaf. (Chs. 269, 270)

- A. All blind persons and all deaf persons from age 5 to age 21 are entitled to free education in the state schools if they are unable to be given proper instruction in the regular public schools. (Secs. 269.1, 270.3)
- B. Deaf and blind children over age 7 and under 19 are required to attend the state schools, with certain exceptions for extreme conditions, moral habits, or private tutoring. (Secs. 299.18, .22)
- C. Attendance may be enforced against the parent or guardian by contempt proceedings, and an agent of the State Board of Regents is charged with aiding local authorities in enforcement of this provision. (Secs. 299.19-.21, .23)

IV. Mentally Ill and Retarded Persons

Glenwood State School, Woodward State Hospital and School, and the Iowa Security Medical Facility. (Chs. 222 and 223)

- A. These institutions care for the mentally ill and mentally retarded adults and children, who are defined as those who, as a result of inadequately developed intelligence, are significantly impaired in ability to learn or to adapt to the demands of society. (Secs. 222.1-.2)
- B. Minors may be voluntarily admitted to and discharged from hospital

schools by their parents or guardians, or if the admitting hospital has no appropriate program for the treatment of such persons, the board of supervisors must arrange for their placement in a facility which offers appropriate services. The facility may be within or out of the state and must be approved by the commissioner of the Department of Social Services. (Secs. 222.13, .15)

- C. To be adjudicated mentally retarded there must be a petition for such an adjudication as well as notice and a public hearing in district court. See Sections 22.16-.30 for the necessary procedure and rules.
- D. A petition may be filed for adjudication of retardation during proceedings against an alleged delinquent child, or upon a court's determination of delinquency or dependency, or before the convicting court upon conviction of a child for a crime. (Secs. 222.52, .53)
- E. A mentally ill child may be committed to one of the above institutions, a private institution, or placed under a guardianship at the discretion of the court. (Sec. 222.31)
- F. All necessary and legal expenses for the cost of admission or commitment or for the treatment, training, care, and transportation of patients in a state hospital school or any public or private facility for the mentally retarded shall be paid by either (Sec. 222.60):
 - 1. The county in which such person has legal settlement (as defined in section 252.16); or
 - 2. The state when such person has no legal settlement or when such settlement is unknown.
- G. Before any patient is discharged, the county liable for his/her support must receive notice 30 days prior to the time of release. (Sec. 222.59)
- H. The patient and those legally obligated to support him/her are liable to the county for any support which it provides, and a lien attaches to their property. (Secs. 222.78-.87)

V. Hospital School for Severely Handicapped Children (Secs. 263.9-.13)

- A. This institution is maintained by the State Board of Regents at The University of Iowa in conjunction with the Children's Hospital of the University. (Sec. 263.9)
- B. Those eligible to attend include every resident of the state who is not more than 21 years of age, who is so handicapped as to be uneducable in the common schools, and ineligible for admission to the state schools for the deaf, blind, epileptic, or mentally ill. Nonresidents and persons between the ages of 21 and 35 may be admitted on conditions prescribed by the State Board of Regents. (Secs. 263.10-.11)

VI. State Services for Crippled Children (See chapter on state agencies dealing with children.)

MEDICAL CARE

Relevant 1979 Code Provisions

135	144
135B	147.2
135C	237.4
136.1, .3	255.1-.12, .16, .25-.26,
137	.28
139.1-.6	283.21
140	347.16

I. State Department of Health (Ch. 135)

- A. The commissioner of public health is the head of the State Department of Health. (Sec. 135.11) The State Board of Health consists of nine members learned in health-related disciplines. The commissioner of public health serves as secretary of the board. (Sec. 136.1)
- B. *The duties of this agency affect children and youth in many ways, including (Sec. 135.11):*
 1. Public education in hygiene and sanitation.
 2. Investigations and development of educational and administrative programs for control and prevention of disease and epidemics. (See also Secs. 139.1-.6.)
 3. Inspection of sanitary conditions in all educational, charitable, correctional, and penal institutions in Iowa. (See also Secs. 136.3, 237.4, 238.21.)
 4. Distribution of antitoxins and vaccines.
 5. Supervising the enforcement of the venereal-disease law. (Ch. 140)
 6. Supervising the administration of the vital-statistics law. (Ch. 144)
 7. Licensing and regulating all hospitals, sanatoria, and nursing homes. (Chs. 135B, C)
 8. Licensing and practice of medicine and surgery, podiatry, osteopathy, osteopathy and surgery, chiropractic, physical therapy, nursing, optometry, pharmacy, cosmetology, barbering, funeral directing, or embalming. (Sec. 147.2)
- C. The State Department of Health's enforcement work is primarily handled through local and county boards of health and health officers. (Ch. 137)

II. Medical and Surgical Care of Indigents (Chs. 255, 347)

- A. The juvenile court may order that an indigent sick person be sent to the State University Hospitals for proper treatment, or that the county provide treatment if the patient cannot be admitted to the University Hospitals. (Secs. 255.1-.12)
- B. Expenses of treatment in the University Hospitals are paid by the state

to the extent that appropriations permit. When a county has exceeded its annual quota of state-paid patients (in excess of 10 percent), the expenses of treating any further patients are paid by the county through the state treasurer; these expenses may be charged to the patient or to his/her parents or guardian if feasible. (Sec. 255.16, .25-.26)

- C. Any resident of an Iowa county who is sick or injured is entitled to care and treatment in any public hospital established and maintained by that county. Free care and treatment shall be furnished in any such hospital to any sick or injured person who has legal settlement in the county maintaining the hospital, and who is indigent. (Sec. 347.16)
- D. Determination of need for free care is made by the board of hospital trustees, the overseer of the poor, or the director of social welfare. The cost of free care is charged to the county. Whenever possible an indigent should pay to the board of trustees reasonable compensation for the care and treatment received. (Sec. 347.16)
- E. A county public hospital may, but shall not be required to, provide care and treatment for persons afflicted with tuberculosis. (Sec. 347.16)
- F. The commissioner of the Department of Social Services, and the directors of that department's divisions, and the board in control of Iowa Braille and Sight-Saving School, and Iowa's State School for the Deaf may send persons in state institutions governed by them to University Hospitals for care and treatment. (Sec. 255.28)

III. Venereal Disease

Chapter 140 provides for compulsory reporting and treatment of venereal disease, with exceptions for certain religious beliefs. Records are confidential. Provisions as to minors include:

- A. Every physician is required to treat the eyes of infants at birth (except for those children exempted for religious reasons) with an approved prophylactic solution. (Sec. 140.13)
- B. A minor who seeks diagnosis or treatment for a venereal disease has the legal capacity to consent to medical treatment without the consent of any other persons. (Sec. 140.9)
- C. A minor female who is pregnant will be subjected to a blood test for the presence of venereal disease. If the blood test is positive and the pregnant woman single, the person responsible for the pregnancy and other children by the same mother shall be subjected to the same blood tests. This would also apply to a positive test within boundaries of ceremonial marriage. (Sec. 140.11)
- D. No minor child of a parent whose religious beliefs are opposed to medical prophylaxis or the treatment of disease is required to undergo treatment for venereal disease. (Secs. 140.13-.14)

CHILD LABOR

Relevant 1979 Code Provisions

85.31, .49-.50	218.40
91.5	356.16
92	

- I. Child-labor Prohibition and Restrictions by Ages and Occupations**
- A. *Persons under 18.*** Persons less than 18 years of age are prohibited from working at or in: any plant or establishment storing or making explosives or articles containing explosives; foundries; where there is exposure to poisons or dangerous chemicals, compounds, or fumes; motor vehicle or helper occupations; logging or mill occupations; occupations involving operation of power-driven woodworking, hoisting (elevators included), metal forming or punching or shearing, bakery and paper-products machines; where there is exposure to radioactive substances; mining; slaughter houses, meat-packing or rendering establishments; wrecking, demolition, and ship breaking operations; transmission, distribution, or delivery of goods or messages between 10:00 p.m. and 5:00 a.m.; occupations involved with operation of circular and band saws and guillotine shears; and any other occupations deemed by the State Committee on Child Labor to be hazardous to life or limb. (Sec. 92.8)
- B. *Persons under 16.*** No person under 16 years of age may be employed or permitted to work during regular school hours in any occupation, unless he/she is: legally out of school; working in a supervised school-work program; between 14 and 16 years of age, enrolled in school part-time, and required to work as part of school training; or working as a migrant laborer during hours when summer school is in session. (Sec. 92.4)
- C. *Persons 14 and 15.***
1. Persons 14 and 15 years of age may not be employed in: any manufacturing, mining-processing operation; any public messenger service; operation of any power-driven or hoisting machinery; occupations found and declared to be hazardous by the State Committee of Child Labor; occupations in connection with the transportation of persons or property by rail, highway, or water, pipe line, or other means, warehousing and storage communications and public utilities, construction and repair, except office or sales work connected with the aforementioned; dangerous occupations in retail, food service, or gasoline establishments. (Sec. 92.6)
 2. Persons of these ages may be employed in: retail, food, and gasoline service establishments; office and clerical work; cashiering, selling, modeling, artwork, window trimming, and comparative

shopping; packing and shelving, assembling orders, marking and tagging; bagging and carrying out; errand and delivery work; clean-up work; kitchen work and food preparation; nondangerous motor-vehicle work as specified in Section 92.5(9) of the *Code of Iowa*; and such other work as may be approved by the State Committee on Child Labor. (Sec. 92.5)

- D. *Persons under 14.* Persons under the age of 14 may be employed only in street trade occupations and migratory labor. Migratory laborers 12 to 14 years of age may not work prior to or during regular school hours. (Sec. 92.3)
- E. *Persons under 12.*
 - 1. Persons under the age of 12 may work in migratory labor, but only if a work permit is obtained from the labor commission of the Iowa Bureau of Labor. The labor commission may only grant the work permit upon sufficient showing by a juvenile court judge of its need. (Sec. 92.1 (2))
 - 2. No person under the age of 10 may work in street occupations, except where the labor commission has granted such a person a work permit under direction of an order to do so by a juvenile court judge. (Sec. 92.1(1))

II. Work Permits

Work permits are required for minor employees under the age of 16. Permits are issued upon application of the parent, guardian, or custodian of the child desiring such permit.

A. *General Occupations.*

- 1. Issuing authorities for work permits include (Sec. 92.11):
 - a. Superintendent of Schools (or designee).
 - b. Iowa State Employment Service Division.
 - c. State Labor Commission.
- 2. Before the appropriate authority may issue a work permit, the applicant must file (92.11):
 - a. A written agreement from the prospective employer describing the work to be performed by the minor, and
 - b. Evidence showing that the child is 14 years of age or older.
- 3. No person under age 16 may be employed unless the employer receives and keeps on file a work permit for each minor and keeps a complete list of the names and ages of such minors employed.

B. *Street Occupations.*

- 1. Work permits are required for persons over the age of 10 and under the age of 16 engaging in street occupations in cities of ten thousand or more population. Permits are not required for the same minor persons in cities of less than ten thousand and in unincorporated areas. However, these persons still are controlled by the other prohibitions and restrictions of Chapter 92. (Sec. 92.2)
- 2. Minors under the age of ten are prohibited from working at street

occupations, except where such a person has obtained an order from a judge of a juvenile court directing the labor commissioner to issue a work permit for that person. (Sec. 92.1)

C. Migratory Labor.

1. Children under the age of 12 ordinarily may not work in migratory-labor occupations. However, the labor commissioner may, upon sufficient showing by a juvenile court judge, grant a work permit to such a person. (Sec. 92.1(2))
2. Persons over the age of 12 and under the age of 16 may work in migratory labor occupations only if a work permit has been obtained from one of the following issuing authorities (Sec. 92.12):
 - a. Superintendent of Schools (or designee) nearest to the living quarters of the person's family.
 - b. County director of social welfare.
 - c. Iowa State Employment Service Division.
 - d. State Labor Commissioner.
3. Before the permit may be issued, the issuing authority must receive from the applicant as evidence of age a birth certificate, passport, baptismal certificate, or school record. Applicants under the age of 14 must obtain a certificate evidencing normal development and sound health from a registered nurse or physician before the permit may be granted. (Sec. 92.12) The issuing authority may refuse to grant a permit if the best interest of the minor would be served by such a refusal. (Sec. 92.13)
4. Employers of migratory labor must obtain from the issuing authorities, a special work permit prior to employment of such migratory labor; otherwise, such employment is unlawful. The employer must keep the permits on file accessible to inspection from the issuing authorities, labor commissioner's office, and local law enforcement officials, and keep on hand a complete list of the names and ages of all persons under 16 years of age employed. (Secs. 92.10, .12)
5. Migratory labor is defined so as to include any person who repeatedly travels interstate for the purpose of obtaining seasonal employment. (Sec. 92.18)

III. Exceptions to the Child-Labor Law

- A. Prisoners over the age of 16 may be sentenced to hard labor (Sec. 356.16); and inmates of all state institutions are required to render reasonable service. (Sec. 218.40)
- B. Pupils working under an instructor in school manual-training shops or in an approved vocational education course are allowed to engage in the occupations otherwise prohibited to all persons under age 18 (see I-A above). (Sec. 92.9)
- C. *Chapter 92 does not prohibit the following child labor (Sec. 92.17):*

1. Part-time, occasional, or volunteer work for nonprofit, educational, charitable, religious, or community-service organizations.
2. Work in and around home before or after school or during vacation.
3. Work in the production of seed, limited to removal of off-type plants, corn tassels, and hand-pollinating during the summer months by persons aged 14 or over; and part-time work in agriculture, not including migratory labor.
4. Work in an occupation or business operated by the child's parents.

IV. Hours

- A. *Children under the age of 16 shall not (Sec. 92.7):*
 1. Work before 7:00 a.m., nor after 7:00 p.m., except during the period from June 1 through Labor Day when the hours may be extended to 9:00 p.m.
 2. Work more than five hours per day without a lunch period.
 3. Work more than eight hours per day.
 4. Work more than 40 hours per week.
 5. Work for more than four hours per day or 28 hours per week when school is in session.
- B. Minors employed in street occupations are permitted to work before 7:00 a.m. When a work permit is not required, a minor may begin work at 5:00 a.m. When a permit is necessary, a minor may work in street occupations at such times specified in the permit, but not before 4:00 a.m.

V. Workmen's Compensation

- A. Minor employees who are injured are entitled to benefits regardless of age and regardless of employment in violation of child-labor laws. (Sec. 85.61(4))
- B. The clerk of the district court where the minor resides serves as trustee for minors and receives and conserves benefits to which minors are entitled. (Secs. 85.49-.50)
- C. Death of a minor upon whom his/her parent was totally dependent entitles the parent to receive full compensation equal to that of an adult with like earnings. (Sec. 85.31(2))

VI. Enforcement and Penalties

- A. The state labor commissioner and his/her staff are charged with enforcement. (Secs. 91.5(2), 92.22)
- B. Local school officials, peace officers, and mayors are required to cooperate in enforcing the child-labor laws. (Sec. 92.22)
- C. The county attorney is required to investigate and prosecute violators. (Sec. 92.22)
- D. Any parent, guardian, or employer who violates the child-labor laws is guilty of a simple misdemeanor.

MOTOR-VEHICLE SAFETY LAWS

Relevant 1979 Code Provisions
321.1, .176-.178, .180, .184, .186, .189,
.219-.220, .376, .482, .793

I. Jurisdiction

The juvenile court has no jurisdiction over motor-vehicle violations which are simple misdemeanors. (Sec. 321.482)

II. Licensing and operation

A. It is unlawful to permit a minor under age 18 to drive a motor vehicle in violation of any provision of Chapter 321. (Secs. 321.219, .220)

B. The State Department of Transportation is authorized to require a new applicant for a motor-vehicle operating license to take a written test on the state's traffic laws, an eye examination, and an actual driving test. (Sec. 321.186)

1. *Operator's license.* (Sec. 321.177) No license may be issued to anyone under age 18 who has not successfully completed an approved driver-education course. Upon completion of such a course, the minimum age is 16 years, except that:

a. A temporary instruction permit (valid for two years) may be issued to minors of age 14 or older authorizing operation of a motor vehicle only while accompanied by a licensed adult driver, chauffeur, or an approved or prospective driver-education instructor. However, persons less than age 16 must be accompanied by a licensed parent or guardian, by an approved or prospective driver-education instructor, or by any person 25 years of age or more who has the written permission of the parent or guardian. Qualified drivers accompanying a minor must occupy the seat beside the driver. (Sec. 321.180)

b. A restricted license may be issued to minors between the ages of 14 and 18 permitting them to drive alone to school by the most direct route to attend regularly scheduled courses of instruction during the hours of 7:00 a.m. to 6:00 p.m. The applicant must show a genuine need for such a license and furnish a supporting affidavit by a school official. (Sec. 321.194)

c. Any person between 16 and 18 years of age who is not attending school or attending a school where an approved driver's education course is not offered or available, may be issued a one-year probationary operator's license without having completed a driver's education course. (Sec. 321.178(2))

2. *Chauffeur's license.* Such a license may not be issued to anyone

- under the age of 18 years. (Sec. 321.177) For an explanation of when a chauffeur's license is required see Sections 321.1(43), .176, and .376.
3. *Motorized bicycle license.* A person 14 years or older may be issued a license to operate a motorized bicycle on the highways of the state. (Sec. 321.189(2)) A motorized bicycle is defined as a two-wheeled vehicle with an engine displacement of 50 cubic centimeters or less and not capable of speeds in excess of 25 miles per hour. (Sec. 321.1(3)(b))
 4. All applications for licenses and permits for unmarried persons under age 18 must contain the signed and verified consent and confirmation of the applicant's birthday by the parents or guardian of the minor. (Sec. 321.184)

III. Civil Liability

In all cases where damage is done by a motor vehicle by reason of the driver's negligence, and driven with the consent of the owner, the owner of the motor vehicle is liable for such damage. (Sec. 321.493)

CRIMINAL ACTS HARMFUL TO CHILDREN

Relevant 1979 Code Provisions

98.2-.5, .40-.41	709.1-.4, .8
123.3, .47, .49, .92	710.5-.6
204	724.8, .15, .22
205.9	726.3, .5-.6
233.1-.5	728.2
599.1	

I. Applicability.

All minors attain their majority by marriage. (Sec. 599.1) Therefore, it appears that the statutes below which prohibit certain acts as to "minors" do not apply to married persons who are under age 18. On the other hand, statutes which state an age limit, such as 18 or 21, apply to all minors below the stated age even if they are married.

II. Wrongful Custody

- A. *Child Stealing*. The taking, decoying, or enticing away of any child with intent to detain or conceal such child from its parents or guardians is unlawful and punishable as a class "C" felony. (Sec. 710.5)
- B. *Violating Custodial Order*. Any relative of a child acting in violation of a court order which fixes custody of the child, by removing the child from the state and concealing the child's whereabouts commits a class "D" felony. If a parent of such a child violates a custodial order by such an act, he/she is guilty of a serious misdemeanor. (Sec. 710.6)

III. Abandonment, Neglect, and Nonsupport

- A. A person who is the father, mother, or other person having custody of a child, who knowingly or recklessly exposes such person to a hazard or danger against which such person cannot reasonably be expected to protect himself/herself, or who deserts or abandons such person, knowing or having reason to believe that the person will be exposed to such hazard or danger, commits a class "C" felony. (Sec. 726.3)
- B. A parent or any person having custody of a minor commits wanton neglect, a serious misdemeanor, when:
 1. The person knowingly acts in a manner likely to be injurious to the physical, mental, or moral welfare of such minor; or
 2. The person abandons such minor to fend for himself/herself, knowing that the minor is unable to do so. (Sec. 726.6)
- C. A person who being able to do so, fails or refuses to provide support

for his/her child under the age of 18 commits nonsupport, a class "D" felony. Support means any support which has been fixed by court order, or in the absence of any such order, the minimal requirements of food, clothing, and shelter. (Sec. 726.5)

IV. Liquor and Beer

- A. It is unlawful to sell, offer, or make available beer or alcoholic beverages to a person under the age of 19 except within a private home and with parental consent, or to permit any person under the age of 18 to be employed in the sale or serving of alcoholic liquor or beer for consumption on the premises where sold. (Secs. 123.3(33), .47, .49)
- B. No person under age 19 shall misrepresent his/her age for the purpose of purchasing or attempting to purchase any alcoholic beverage or beer from any licensee. (Sec. 123.49(3))
- C. It is unlawful to give or supply liquor to a person under the age of 19, except that a parent or doctor may supply liquor to a minor for beverage or medicinal purposes. (Sec. 123.47)
- D. Mere presence of a minor in a tavern is not illegal under state law, but may be regulated by city ordinances.
- E. A child who is injured in person, property, or means of support by any intoxicated person has the right to a cause of action against any person who by the selling or giving away of intoxicating liquors has caused the intoxication of such person, for all damages sustained, as well as exemplary damages. The damages so recovered by a minor are to be paid as the court directs either to the child, his/her parent, guardian, or next friend. (Sec. 123.92)

V. Cigarettes and Tobacco

- A. It is unlawful to furnish cigarettes to any minor under age 18. (Secs. 98.2-.3)
- B. It is unlawful to sell or give tobacco in any form to a minor under age 18, except with the written consent of his/her parent or guardian. (Secs. 98.2-.3)
- C. Any minor under 18 years of age in possession of cigarettes or cigarette papers outside of the home is required upon request to give information as to where he/she obtained the article. Any such minor refusing to do so is guilty of a misdemeanor and may be punished at the discretion of the juvenile court. (Secs. 98.4-.5)
- D. No advertising of tobacco in any form except for newspaper advertisements, is permitted within 400 feet of public-school premises. (Secs. 98.40-.41)

VI. Guns

- A. No person shall be issued a professional or nonprofessional permit to carry weapons unless the person is 18 years of age or older. (Sec.

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- A. It is unlawful to sell, offer, or make available beer or alcoholic beverages to a person under the age of 19 except within a private home and with parental consent, or to permit any person under the age of 18 to be employed in the sale or serving of alcoholic liquor or beer for consumption on the premises where sold. (Secs. 123.3(33), .47, .49)
- B. No person under age 19 shall misrepresent his/her age for the purpose of purchasing or attempting to purchase any alcoholic beverage or beer from any licensee. (Sec. 123.49(3))
- C. It is unlawful to give or supply liquor to a person under the age of 19, except that a parent or doctor may supply liquor to a minor for beverage or medicinal purposes. (Sec. 123.47)
- D. Mere presence of a minor in a tavern is not illegal under state law, but may be regulated by city ordinances.
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- C. Any minor under 18 years of age in possession of cigarettes or cigarette papers outside of the home is required upon request to give information as to where he/she obtained the article. Any such minor refusing to do so is guilty of a misdemeanor and may be punished at the discretion of the juvenile court. (Secs. 98.4-5)
- D. No advertising of tobacco in any form except for newspaper advertisements, is permitted within 400 feet of public-school premises. (Secs. 98.40-.41)

VI. Guns

- A. No person shall be issued a professional or nonprofessional permit to carry weapons unless the person is 18 years of age or older. (Sec.

724.8) An annual permit to acquire a pistol or revolver shall not be issued to any person who is not 21 years of age or older. (Sec. 724.15)

- B. A person who sells, loans, gives, or makes available a rifle or shotgun or ammunition to a minor commits a simple misdemeanor, except:
1. A parent, guardian, spouse who is 18 years of age or older, or another with the express consent of the minor's parent or guardian or spouse who is 18 years of age or older may allow a minor to possess a rifle or shotgun or the ammunition therefor which may be lawfully used. (Sec. 724.22)
- C. A person who sells, loans, gives, or makes available a pistol or revolver or ammunition to a person below the age of 21 commits a simple misdemeanor, except:
1. A person 18, 19, or 20 years of age may possess a firearm and the ammunition therefor while on military duty or while a peace officer, security guard, or correctional officer, when such duty requires the possession of such a weapon or while the person receives instruction in the proper use thereof from an instructor who is 21 years of age or older.
 2. A parent or guardian or spouse who is 21 years of age or older, of a person 14 years of age but less than 21 may allow the person to possess a pistol or revolver or the ammunition therefor for any lawful purpose while under the direct supervision of the parent or guardian or spouse who is 21 years of age or older, or while the person receives instruction in the proper use thereof from an instructor 21 years of age or older with the consent of such parent, guardian, or spouse. (Sec. 724.22)

VII. Narcotics, Drugs, and Poisons

A. *Uniform Controlled Substances Act.*

1. Chapter 204 of the *Code* classifies controlled substances (drugs) into five schedules or types. (Secs. 204.101, .201-.212) The penalty arising from a violation of Chapter 204 depends upon the schedule of the controlled substances involved in the violation.
2. *Penalties for violation of Chapter 204:*
 - a. For intent to possess for manufacturing or delivery, or the actual manufacturing or delivery of controlled substances, classified in schedule I or II as a narcotic a person is guilty of a class "C" felony. The commission of the same acts involving other nonnarcotic substances classified in schedules I, II, or III, is punishable as a class "D" felony. Acts involving controlled substances classified in schedules IV are punishable as a serious misdemeanor. Schedule V violations are punishable as a simple misdemeanor. (Sec. 204.401(1))
 - b. In a prosecution for unlawful delivery or possession with in-

tent to deliver a controlled substance, if the prosecution can prove the elements of the crime but cannot prove that the act was done for profit, the defendant shall be guilty only of an accommodation offense. The punishment is the same as for possession set forth in (c) below. (Sec. 204.410)

- c. It is unlawful for any person knowingly or intentionally to possess a controlled substance unless such substance was obtained pursuant to a valid medical prescription. A violation is punishable as a serious misdemeanor. If the controlled substance is marijuana, the punishment shall be by imprisonment in the county jail for not more than six months, or by a fine of not more than \$1,000, or by both. (Sec. 204.401(3))
- B. It is unlawful to sell poisons to a minor under age 16 except upon a written order signed by some responsible person known to the person selling the poison. (Sec. 205.9)

VIII. Sexual Crimes

- A. *Abuse*. Any sex act between persons is sexual abuse by either of the participants when the other participant is a child. A "child" is defined as any person under the age of 14. (Secs. 709.1-.4)
 - 1. First degree abuse is committed when serious injury results.
 - 2. Second degree abuse is committed when the other person is under the age of 12.
 - 3. Third degree abuse is committed when:
 - a. The other participant is a child;
 - b. The other participant is 14 or 15 years of age and the person is a member of the same household as the other participant, the person is related to the other participant by blood or affinity to the fourth degree, or the person is in a position of authority over the other participant and used this authority to coerce the other participant to submit;
 - c. The person is six or more years older than the other participant, and that participant is 14 or 15 years of age.
- B. *Lascivious acts*. It is unlawful for any person 18 years or older to perform any of the following acts with a child with or without his/her consent unless married to each other, for the purpose of arousing or satisfying the sexual desires of either of them:
 - 1. Fondle or touch the pubes or genitals of a child.
 - 2. Permit a child to fondle or touch his/her genitals or pubes.
 - 3. Solicit a child to engage in a sex act.
 - 4. Inflict pain or discomfort upon a child or permit a child to inflict pain or discomfort on him/her. (Sec. 709.8)
- C. *Obscene material*. Any person, other than the parent or guardian, who knowingly disseminates or exhibits obscene material to a minor is guilty of a serious misdemeanor. (Sec. 728.2) Any person who knowingly sells, gives, delivers, or provides a minor with a pass or

admits a minor to premises where obscene material is exhibited is also guilty of a serious misdemeanor.

IX. Contributing to Juvenile Delinquency (Secs. 233.1-.5)

A. *It is unlawful to:*

1. Encourage any child under age 18 to commit any act of delinquency.
 2. Send any child under age 18 to a brothel, place where liquor is illegally sold, gambling place, poolroom, and so forth, or induce any child to go into any such place.
 3. Knowingly encourage or cause a child under age 18 to violate any law.
 4. Knowingly permit, encourage, or cause a child under age 18 to be guilty of any vicious or immoral conduct.
 5. For a parent willfully to fail to support his/her child under 18 years of age whom he/she has a legal obligation to support.
- B. Punishment is by fine up to \$100, or imprisonment up to 30 days, or both. Such punishment is no bar to a prosecution for an indictable offense if one was committed.**

If any of the above-mentioned persons in categories 2-4 functions as a member of the staff of a public or private institution, agency, or facility, that person must report the suspected case of abuse or neglect to the person in charge of the same (or its designated agent) who, in turn, is required to report the case to the Department of Social Services.

B. *Reporting Procedure.*

1. Each report made by a mandatory reporter must be made both orally and in writing. Reports made by a permissive reporter may be written, oral, or both.
2. The oral report shall be made by telephone or otherwise to the Department of Social 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.
3. The written report shall be made to the Department of Social Services within 48 hours after such oral report.
4. Any report must contain certain statutorily prescribed information or as much of the same as the reporter is able to furnish. The necessary information is enumerated in Section 232.70(5).

C. *Sanctions for failure to report and immunity from liability. (Secs. 232.73, .75)*

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 to report a suspected case of child abuse who knowingly fails to do so is civilly liable for the damages proximately caused by such failure.
3. Any person making a good-faith report is immune from civil or criminal liability which otherwise might be imposed. The same immunity applies to any such person with respect to his/her participation in any judicial proceeding resulting from such report or relating to its subject matter.

D. *Duties of the Department of Social Services upon receipt of a report. (Sec. 232.71)*

1. The department is required to conduct an investigation of the reported incident of abuse pursuant to receipt of the report and according to statutory guidelines.
2. The county attorney or any law-enforcement or social-services agency in the state is required to cooperate and assist in the investigation upon the request of the Department of Social Services. Additionally, the county attorney or appropriate law-enforcement agencies can also take any other lawful action which may be necessary or advisable for the protection of the child.
3. Upon completion of its investigation, the department shall make a preliminary report. A copy of this report shall be transmitted to

juvenile court within 96 hours after the department initially receives the abuse report unless the juvenile court grants an extension.

4. A copy of the department's investigation report must also be given to the county attorney and the registry. The county attorney is required to notify the registry of any actions pursuant to the suspected case of abuse.
5. The department, based on its investigation, is required to offer to the family of the abused child, or the child, or both, such services as appear appropriate.
6. Upon completion of its investigation the department may institute juvenile court action under Chapter 232 of the *Code*.

III. Central Registry

Maintained within the Department of Social Services is a central registry for child-abuse information. The registry's primary duties relate to the collection, maintenance, and dissemination of child-abuse information. (Sec. 235A.14)

- A. Access to child-abuse information possessed by the registry may *only* be given to the following persons in the following circumstances (Sec. 235A.15):
 1. A health practitioner examining, attending, or treating a child whom the practitioner believes or has reason to believe has been a victim of abuse.
 2. Child-abuse investigations of the Department of Social Services.
 3. A law-enforcement officer having responsibility for the temporary emergency removal of a child from the child's parent or legal guardian.
 4. Juvenile or district court in a case involving child abuse, except this information cannot be used in any aspect of a criminal prosecution.
 5. Any person or agency responsible for the care or supervision of a child previously reported as a victim of abuse or the person previously reported as the child abuser. The person or agency must first acquire the permission of the juvenile court in order to gain access to this information.
 6. Any researcher with a bona fide research interest in child abuse.
 7. Any person who is the subject of any report.
 8. The registry or Department of Social Services' personnel where necessary to the performances of their duties.
 9. A court hearing an appeal for correction of expungement of registry information.
- B. Any person or agency with access to child abuse information cannot disseminate it except in certain statutorily allowed circumstances. (See section 235A.17.)
- C. Penalties for abuse of registry information. Civil damages under Chap-

ter 235A or 613A of the *Code* or injunctive relief are allowed to any person aggrieved by an abuse of child-abuse information. Criminal penalties are also provided for certain kinds of abuse of this information. (Secs. 235A.20, .21)

- D. Chapter 235A, specifically Sections 235A.18-19, provides for the sealing, expungement, examination, and correction of child-abuse information by certain parties.
- E. *Registry reports*. The registry may compile statistics and issue reports on child abuse. Additionally, it must issue an annual report on its operation. (Sec. 235A.23)

IV. Council on Child Abuse Information

The council established under Section 235A.24 of the *Code* monitors the operation of the registry, reviews the implementation and effectiveness of the legislation and administrative rules and regulations concerning the registry, recommends changes in these matters, can require reports from state agencies as may be necessary to perform its duties, and can receive and review complaints from the public concerning the operation of the registry.

Barcode Inside