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A GUIDE TO

# Iowa Laws Concerning Children and Youth

IOWA CITY 1970

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INSTITUTE OF PUBLIC AFFAIRS  
OF THE UNIVERSITY OF IOWA

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## FOREWORD

In 1953 a guide to the Iowa laws concerning children and youth was prepared by the Institute. This publication is a revised and updated version of that first 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 of 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. Ray Pastorino, a College of Law Intern in 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 of the Institute, and Harold Templeman, Director, Catherine Williams, Associate Director, and Marie Yaryan, Adoption Specialist, of the Bureau of Family Services, Iowa State Department of Social Services. These services and the suggestions of others are appreciated.

Dean Zenor, Director  
Institute of Public Affairs

November, 1970

12-70 Answer to 6 of 1011. 9/11

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IOWA DIRECTORY OF  
SOCIAL SERVICES FOR CHILDREN

Children's Agencies and Institutions  
*CC - Child Care, CC-MH - Maternity Home,  
CP - Child-Placing, AA - Adoption Agencies*

American Home Finding Association  
217 East Fifth Street  
Ottumwa, Iowa 52501  
CC-MH, AA & CP

Area Residential Care, Inc.  
2909 Kaufmann  
Dubuque, Iowa 52001  
CC

Beloit of Ames  
1323 Northwestern  
Ames, Iowa 50010  
CC

Booth Memorial Hospital  
2847 Indianola Avenue  
Des Moines, Iowa 50315  
CC-MH

Boys' and Girls' Home  
2601 Douglas Street  
Sioux City, Iowa 51104  
CC

Catholic Charities of Davenport  
418 Main Street  
Davenport, Iowa 52801  
CP & AA

St. Vincent's Home  
2706 Gaines Street  
Davenport, Iowa 52804

Catholic Council for Social  
Concern, Inc.  
1402 Woodland  
Des Moines, Iowa 50309  
CP & AA

Catholic Council for  
Social Concern, Inc.  
210 Bennett Building  
Council Bluffs, Iowa 50501

Catholic Charities of Dubuque  
2909 Kaufmann Avenue  
P.O. Box 724  
Dubuque, Iowa 52003  
CP & AA

Cedar Rapids Area Office  
615 Guaranty Bank Building  
3rd Avenue & 3rd Street, S.E.  
Cedar Rapids, Iowa 52401

Dubuque Area Office  
2909 Kaufmann Avenue  
P.O. Box 724  
Dubuque, Iowa 52003

Waterloo Area Office  
201 First National Building  
607 Sycamore Street  
P.O. Box 2394  
Waterloo, Iowa 50703

Catholic Charities of Sioux City  
1822 Jackson Street  
P.O. Box 2025  
Sioux City, Iowa 51104

Fort Dodge Area Office  
629 Central Avenue  
217 Beh Building  
Fort Dodge, Iowa 50501

St. Barbara's Home - Villa Maria  
Military Road & West Streets  
Sioux City, Iowa 51103

St. Estelle's Home - Villa Maria  
Military Road & West Streets  
Sioux City, Iowa 51103

St. Anthony's Boys Annex  
1417 Grandview  
Sioux City, Iowa 51103

Children's Home of Cedar Rapids  
519 - 15th Street, N.E.  
Cedar Rapids, Iowa 52402  
CC & CP

Christian Home Association  
714 Avenue E - Box 98  
Council Bluffs, Iowa 51501  
CC, CP, & AA



Comprehensive Systems, Inc.  
1700 Clark Street  
Charles City, Iowa 50616  
CC

Family & Children's Services  
of Davenport  
115 West 6th Street  
Davenport, Iowa 52803

Florence Crittenton Home  
1105 - 28th Street  
Sioux City, Iowa 51104  
CC, CP, CC-MH, & AA

Hillcrest Services to Children  
and Youth  
2005 Asbury Road  
P.O. Box 1160  
Dubuque, Iowa 52001  
CC-MH, CP & AA

Atlantic Regional Office  
903 E. Seventh Street  
Atlantic, Iowa 50022

Cedar Rapids Branch Office  
525 - 2nd Avenue, S.E.  
Cedar Rapids, Iowa 52401

Des Moines Branch Office  
Iowa Methodist Services  
to Youth  
525 - 6th Avenue, Room 202  
Des Moines, Iowa 50309

Wesley Place  
1112 Des Moines Street  
Des Moines, Iowa 50319

Iowa Children's & Family Services  
1101 Walnut  
Des Moines, Iowa 50309  
CC, CP & AA

Fort Dodge Branch Office  
619 Beh Building  
Fort Dodge, Iowa 50501

Jerry Rabiner Memorial Boys' Ranch  
R.F.D. Number 3  
Fort Dodge, Iowa 50502  
CC

Jewish Federation of Sioux City  
525 - 14th Street  
Sioux City, Iowa 51105  
CP & AA

Lutheran Children's Home Society  
West Bremer Avenue, Box 268  
Waverly, Iowa 50677  
CC & CP

Lutheran Home Finding Society  
230 Ninth Avenue, N.  
Fort Dodge, Iowa 50501  
CC-MH, CP, & AA

Branch Office  
311 Granby Building  
Cedar Rapids, Iowa 52401

Lutheran Social Service of Iowa  
State Office  
3116 University  
Des Moines, Iowa 50311  
CP & AA

Southwest Branch  
3116 University  
Des Moines, Iowa 50311

Southeast Branch  
1500 Sycamore  
Iowa City, Iowa 52240

North Central Branch  
216 - 2nd Street, N.E.  
P.O. Box 1402  
Mason City, Iowa 50401

Northwest Branch  
1312 Morningside  
Sioux City, Iowa 51106

Northeast Branch  
720 East Fourth Street  
Waterloo, Iowa 50703

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

Orchard Place--Des Moines  
Children's Home  
925 Southwest Porter  
Des Moines, Iowa 50315  
CC

The Powell School  
Red Oak, Iowa 51566  
CC

Siouxland Mental Health Center  
P.O. Box 3376  
411 - 7th Street  
Sioux City, Iowa 51101

South Central Mental Health Center  
Mahaska County Hospital  
Oskaloosa, Iowa 52577

Southeastern Iowa Mental Health Center  
522 North Third Street  
Burlington, Iowa 52601

Southern Iowa Mental Health Center  
1001 East Pennsylvania Avenue  
Ottumwa, Iowa 52501

Southwestern Iowa Mental Health Center  
1408 East 10th Street  
Atlantic, Iowa 50022

State Mental Health Institutes  
located at:  
Cherokee, Iowa 51012  
Clarinda, Iowa 51632  
Independence, Iowa 50644  
Mount Pleasant, Iowa 52641

West Central Mental Health Center  
715 Main Street  
Adel, Iowa 50003

### The Handicapped or Exceptional Child\*

Bureau of Mental Retardation Services  
Division of Child Welfare  
State Department of Social Services  
Lucas Office Building  
Des Moines, Iowa 50319

Child Development Clinic  
University Hospital School  
The University of Iowa  
Iowa City, Iowa 52240

Division of Rehabilitation  
Education and Services  
State Department of Public  
Instruction  
801 Bankers Trust Building  
Des Moines, Iowa 50309

Division of Special Education  
State Department of Public  
Instruction  
Grimes Office Building  
Des Moines, Iowa 50319

Easter Seal Society of Iowa  
P.O. Box 4002  
Des Moines, Iowa 50333

Governor's Committee on  
Employment of the Handicapped  
Grimes Office Building  
Des Moines, Iowa 50319

Glenwood State School  
Glenwood, Iowa 51534

Iowa Association for Children  
with Learning Disabilities  
5105 Waterbury Road  
Des Moines, Iowa 50312

Iowa Association for Mental Health  
917 Walnut, Suite 311  
Des Moines, Iowa 50309

Iowa Association for Retarded Children  
255 Jewett Building  
Des Moines, Iowa 50309

Iowa Braille and Sight-Saving School  
Vinton, Iowa 52349

Iowa Commission for the Blind  
4th and Keo  
Des Moines, Iowa 50309

Iowa School for the Deaf  
Council Bluffs, Iowa 51501

Iowa Society for the Prevention  
of Blindness  
303 Masonic Temple Building  
Des Moines, Iowa 50309

Iowa State Vocational Rehabilitation  
810 Bankers Trust Building  
Des Moines, Iowa 50309

Muscular Dystrophy Association  
4403 First Avenue, S.E., L-7  
Cedar Rapids, Iowa 52401

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\*For a more comprehensive directory of state and area resource people serving the retarded and handicapped in Iowa contact the Bureau of Mental Retardation (Lucas Building, Des Moines).

Powell School for Retarded Children  
Red Oak, Iowa 51566

Reading Clinic  
East Hall  
The University of Iowa  
Iowa City, Iowa 52240

Speech Clinic  
Wendell Johnson Speech and  
Hearing Center  
The University of Iowa  
Iowa City, Iowa 52240

State Services for Crippled Children  
The University of Iowa  
Iowa City, Iowa 52240

University Hospital School  
University of Iowa  
Iowa City, Iowa 52240

### Neighborhood Centers

Ames Boys' Club  
Kellogg & Lincoln Way  
Ames, Iowa 50010

The Cellar - Teenage  
(High School) Club  
819 Lincoln Way  
Ames, Iowa 50010

YMCA Teen Center (Jr. High) Club  
819 Lincoln Way  
Ames, Iowa 50010

The Pit  
Algona, Iowa 50511

Salvation Army  
503 Benton Street  
Boone, Iowa 50036

YM-YWCA of Boone County  
Carroll Street  
Boone, Iowa 50036

Central Branch YMCA  
1st Avenue & 5th Street, N.E.  
Cedar Rapids, Iowa 52401

Ellis Branch YMCA  
1501 Ellis Boulevard, N.W.  
Cedar Rapids, Iowa 52405

Hope Lutheran Church  
2736 Bowling Street, S.W.  
Cedar Rapids, Iowa 52404

Jane Boyd Community House  
14 Avenue & 10th Street, S.E.  
Cedar Rapids, Iowa 52401

Multiple Talent Drop-in Center  
319 First Avenue, S.E.  
Cedar Rapids, Iowa 52401

YWCA  
318 - 5th Street, S.E.  
Cedar Rapids, Iowa 52401

East Side Neighborhood Development  
706 East 10th Street  
Davenport, Iowa 52803

Friendly House  
303 Taylor  
Davenport, Iowa 52802

Sixth Street Community Center  
1021 West 6th Street  
Davenport, Iowa 52802

Bidwell Riverside Center  
1203 Hartford  
Des Moines, Iowa 50315

Boys Club  
1435 East Grand Avenue  
Des Moines, Iowa 50317

Capitol View O.E.O.  
Neighborhood Center  
517 Southeast Scott Street  
Des Moines, Iowa 50309

Chesterfield O.E.O.  
Neighborhood Center  
2744 Maury Street  
Des Moines, Iowa 50317

Delaware O.E.O.  
Neighborhood Center  
2666 Northeast Broadway  
Des Moines, Iowa 50317

Gateway O.E.O.  
Neighborhood Center  
1343 - 13th Street  
Des Moines, Iowa 50314

Jewish Community Center  
954 Cummins Parkway  
Des Moines, Iowa 50312

Logan O.E.O. Neighborhood Center  
1725 East University  
Des Moines, Iowa 50316

Salvation Army Citadel  
Community Center  
1216 East 25th Court  
Des Moines, Iowa 50317

Salvation Army Temple Corps  
1330 - 6th Avenue  
Des Moines, Iowa 50314

Settlement House Association  
215 Keo  
Des Moines, Iowa 50309

Julia B. Mayer Center  
801 Forest  
Des Moines, Iowa 50314

Roadside Settlement  
620 Scott  
Des Moines, Iowa 50309

Wilkie House  
900 - 17th Street  
Des Moines, Iowa 50314

Soul Village  
1407 Forest Avenue  
Des Moines, Iowa 50314

West Des Moines O.E.O.  
Neighborhood Center  
735 Railroad  
Des Moines, Iowa 50265

Woodland-Oakridge O.E.O.  
Neighborhood Center  
1611 Central  
Des Moines, Iowa 50312

Dubuque Boys' Club  
1299 Locust Street  
Dubuque, Iowa 52001

Ecumenical Coffee House  
Ministry, Inc. ("Crossroads")  
544 Locust Street  
Dubuque, Iowa 52001

Fenelon Home  
515 Fenelon Place  
Dubuque, Iowa 52001

River Valley Community  
Action Agency  
Box 1310  
Dubuque, Iowa 52001

River Valley Community  
Action Program  
Dubuque City Regional Economic  
Development Office  
Washington Opportunity Center  
1159 White Street  
Dubuque, Iowa 52001

YMCA  
125 West Ninth Street  
Dubuque, Iowa 52001

YWCA  
1099 Iowa Street  
Dubuque, Iowa 52001

Grinnell Youth Center  
Grinnell, Iowa 50112

Uncle Sams Club  
Grinnell, Iowa 50112

Indianola Youth Center  
Basement U.S.D.A. Building  
Indianola, Iowa 50125

Pied Pier Day Care Center  
310 West Ashland  
Indianola, Iowa 50125

YM-YWCA Youth Center  
and Friendly House  
P.O. Box 251  
Keokuk, Iowa 51632

River Valley Community  
Action Program  
Delaware County Regional  
Economic & Development Office  
East Butler Street  
Grange Hall  
Manchester, Iowa 52057

Agassiz Community Education Center  
Ottumwa, Iowa 52501

Franklin Community Education Center  
Ottumwa, Iowa 52501

Jefferson Street Neighborhood Center  
532 North Jefferson Street  
Ottumwa, Iowa 52501

Riviera Family Recreation Room  
401 East Second  
Ottumwa, Iowa 52501

YMCA  
29 East Second  
Ottumwa, Iowa 52501

YWCA  
133 West Second  
Ottumwa, Iowa 52501

River Valley Community  
Action Program  
Dubuque County Regional  
Economic & Development Office  
Peosta, Iowa 52068

Boys' Club of Sioux City  
823 Pearl Street  
Sioux City, Iowa 51101

C.Y.O. (Catholic  
Youth Organization)  
1102 Grandview Boulevard  
Sioux City, Iowa 51103

Jewish Community Center  
P.O. Box 1468  
Sioux City, Iowa 51102

Mary Treglia Community House  
900 Jennings Street  
Sioux City, Iowa 51105

Sanford Center  
1700 Geneva Street  
Sioux City, Iowa 51103

YMCA  
722 Nebraska Street  
Sioux City, Iowa 51101

YWCA  
6th & Jackson Street  
Sioux City, Iowa 51105

Community Action Program  
Center (Head Start)  
Washington, Iowa 52353

YMCA - Fun Center  
Washington, Iowa 52353

#### Juvenile Detention Homes

Polk County Juvenile Home  
1548 Hull Avenue  
Des Moines, Iowa 50316  
(Provides detention and shelter care)

#### Family Service Societies

Boys' & Girls' Home  
and Family Service  
2601 Douglas Street  
Sioux City, Iowa 51104

Family & Children's Service  
of Davenport  
115 West 6th Street  
Davenport, Iowa 52803

Family Service Agencies  
430 Higley Building  
Cedar Rapids, Iowa 52401

Family Service League  
1028 Headford  
Waterloo, Iowa 50701

Family Service - Travelers Aid  
700 - 6th Avenue  
Des Moines, Iowa 50309

Jewish Federation of Sioux City  
524 - 14th Street  
Sioux City, Iowa 51104

Jewish Social Services  
315 Securities Building  
Des Moines, Iowa 50309

## MARRIAGE

### Relevant 1970 Code Chapters or Sections

144.21	596
595.1-.3, .8-.9, .10-.11, .13-.19	599.1-.2 66.3-.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) However, females of age 18 or older are capable of making valid contracts for marriage even though they are not adults. (Sec. 599.1) Also, a male of age 18 or older and a female of age 16 or older may enter into a valid marriage. (Sec. 599.2) (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, grant an order authorizing issuance of a license and the marriage under such license is valid. (Sec. 599.2)

#### 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 must not be granted if:

- A. The male is under age 18 or the female is under age 16. (Secs. 595.2-.3(1))
- B. The male is a minor (under age 21), or the female is under age 18, 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. 595.3(2), .8-.9) If parents are divorced, the parent having legal custody may give consent. (Sec. 595.3(2))
- C. Either party is disqualified from making a civil contract. (Sec. 595.3(3))
- D. 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.
- E. Where either party is mentally ill or retarded, a mental retardate, or under guardianship as an incompetent. (Sec. 595.3(5))
- F. Either party has not filed a physician's certificate of freedom from syphilis, as indicated by a blood sample taken within twenty days before the license is issued. The license then becomes void unless the marriage is performed within twenty days after the license is issued. If the female is pregnant, the couple may marry regardless of the outcome of the blood test. (Ch. 596)

#### III. Performance of marriage.

- A. A marriage must be performed by one of the following: (Sec. 595.10)
  1. A justice of the peace or the mayor of the city or town wherein the marriage takes place.
  2. A judge of an Iowa court (supreme, district, superior, or municipal).
  3. 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. (Secs. 595.13-16)
- 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, although the husband is responsible for filing of the return with the clerk of court. (Secs. 595.16-.17) Members of such groups are required to file 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 fifteen days he 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)
  - a. If the parties are not under any legal disability to enter a marriage contract, any mutual agreement between them to be husband and wife in presenti (at the present time), followed by cohabitation, constitutes a valid marriage. *Blanchard v. Lambert et al.*, 43 Iowa 228, 22 A.R. 245 (1876).
  - b. The marriage contract is complete when made and does not depend on cohabitation over a period of time. Cohabitation, although not necessary for consummation of the contract, does furnish proof that a contract was entered into. *Love v. Love*, 185 Iowa 930, 171 N.W. 259 (1919), 23 Iowa Law Review 80 (1937).
  - c. Cohabitation, without the intention of assuming the marital relationship, does not constitute a marriage. *Pegg v. Pegg*, 138 Iowa 572, 115 N.W. 1027 (1908). [Note: Although common law marriages are recognized in some states, including Iowa, they are not common and in general the courts do not approve of them. The statutory procedures for consummating a marriage are the only approved methods of marriage. Common law marriages, however, are recognized in some states because under certain circumstances such recognition is regarded as sound social policy. The most significant reasons for recognizing common law marriages are (1) to legitimize innocent offspring of the union, and (2) to protect the dower rights of a widow of this type of union.  
The tendency in America today is against common law marriage inasmuch as the reasons for recognizing them have virtually disappeared in light of the ease with which formal marriages can be performed.]
3. The marriage of a person below the minimum age (16 for females, 18 for males) is valid unless disaffirmed by this person within six months after reaching the minimum age. (Sec. 595.2)
- D. Exceptions. Marriages are void between certain persons because of interfamily relationships and bigamy. (See generally sec. 595.19)

#### IV. Legal effect of marriage.

- A. A minor's period of minority ends when he or she marries. (Sec. 599.1)
- B. Illegitimate children become legitimate by the subsequent marriage of their 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 receipt of proof of legitimation, the state registrar of vital statistics issues a new birth certificate in the new name of the legitimated child. The original birth certificate is sealed in a confidential file and the new certificate is the only one open to public inspection. (Sec. 144.21)

## DUTIES OF PARENTS

### Relevant 1970 Code Chapters or Sections

232, .51	624.23
252.1-.2, .6-.8, .10-.13	627.12 731.1, .3,
252A	.5, .7
252A.1-.6	731A.1-.4
597.10-.11, .14	

#### 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, and in relation to this they may be sued jointly or separately. (Sec. 597.14) (Both parents have some 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 is required to support such person. (Sec. 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 state division of old age assistance. (Sec. 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. 232.51) If the parents fail to pay such sums they may be proceeded against for contempt. These sums, ordered by the court, will be a judgment against each of the parents and constitutes a lien. (Secs. 232.51, 624.23) (Also see Ch. 252A, p. 4.)\*
- D. The personal earnings of a parent are not exempt from any order, judgment or decree for the support of his minor child. (Sec. 627.12)

#### II. Due care--wanton neglect.

- A. Wanton neglect by parents or children under age 18 is unlawful. (Sec. 731A.1)
- B. Wanton neglect is willful neglect which a parent who has ordinary intelligence and normal concern for the child's welfare would not permit. (Sec. 731A.2)
- C. Juvenile courts have jurisdiction of violation. Before a complaint is filed, it must be approved by the juvenile court judge, county attorney, or probation officer after investigation. Trial is by summary proceeding, with right of appeal and trial *de novo* in the district court. (Sec. 731A.4)
- D. The maximum punishment is \$100 fine or thirty days in jail. (Sec. 731A.3)

#### III. Due care--abandonment of small child. If the parent of any child under age 6, intentionally abandons the child so that the child might be exposed to immediate physical danger, the maximum penalty is five years' imprisonment. This statute also applies to any person to whom a child under age 6 has been entrusted. (Sec. 731.7)

#### IV. Support--desertion.

- A. Criminal penalty:
  1. Any parent who abandons or willfully neglects his child under age 16, leaving the child in a destitute condition, is guilty of desertion. (Sec. 731.1)
  2. The maximum sentence is imprisonment in the penitentiary for one year or in the county jail for six months. (Sec. 731.1)
  3. Before sentence, the deserting parent may be released if he files a bond conditioned on proper support. (Sec. 731.3) Failure to support after release on bond will result in carrying out the sentence and forfeiture of the bond. (Sec. 731.5)

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\*NOTE: All references to page numbers are confined to this manual as their source.



- B. Civil liability: A deserter's property may be seized for the benefit of the deserted spouse and children. (Secs. 252.10-.13, 597.10-.11)
- V. **Uniform Support of Dependents Law.** (Ch. 252A)
- 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 husband is liable to support his wife and children under age 17 residing in the same state or any state which has reciprocal laws, if he has sufficient means or is able to earn such means.
    - 2. A mother is liable to support her children under age 17 residing in any state which has reciprocal laws, if she has sufficient means or is able to earn such means.
    - 3. Parents are liable to support their children of age 17 or older, residing in the same state or in any state which has reciprocal laws, if such children are likely to become public charges.
    - 4. 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.
    - 5. A decree of divorce or separation does not affect a parent's duty to support his children.
    - 6. 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))

- E. The defendant parent's personal earnings are not exempt from any order for the support of his minor children, and are not exempt from an alimony order unless his 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 or she continues to occupy it. (If this spouse also has custody of the children, they are thus aided by this statute.) (Sec. 561.16)
  - G. Dissolution of marriage does not remove the defendant parent's liability for support of his children. (Secs. 252.2; 252A.3(7)) (See also pages 3-4.)
  - H. Note the following recent Iowa case law: "In matters involving child custody provisions of a divorce decree, the best interests of the child is the first and governing consideration." *Alex v. Alex*, 161 N.W. 2d 159 (1968). "Usually the mother is best fitted to care for children of a tender age." *Daugherty v. Daugherty*, 260 Iowa 878, 151 N.W. 2d 569 (1967).
- 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. (Ch. 598, as amended, sec. 12)
- IV. Parents under a dissolution of marriage decree--consent to adoption.** (See pages 29-32,)
- V. Annulment.**
- A. In general, the new dissolution of marriage statutes also apply to separate maintenance and annulment actions. (Ch. 598, as amended, sec. 29)
  - B. Children born to the parties, or to the wife, in a marriage relationship which may be terminated or annulled shall be legitimate. (Ch. 598, as amended, sec. 32)

PARENT-CHILD RIGHTS AND RELATIONS

Relevant 1970 Code Chapters or Sections	
232.2	565A.1-.11
249.6, .25-.27	597.15
252.1-.2, .6-.8, .16 *	599.1-.5
252A.1-.2, .5	627
422.12	627.6, .10
462.14	633.211, .219,
512.9	.238, .267,
554.2	.374, .436,
561.1, .7, .15,	.557, .559,
.17, .19	.572-.574
565A	674.10
	RCP 8, 12, 56(a)

I. Duration and effect of minority.

- A. The period of minority continues until age 21, but all minors attain their majority by marriage. (Secs. 232.2, 599.1)
- B. A minor may make a valid contract for necessaries. (Sec. 599.2) Section 554.2 states that the minor need pay only a reasonable price for necessaries, but section 599.1 and the first sentence of section 554.2 imply that he must pay the contract price.
- C. A minor is bound by any contract unless he disaffirms it, and gives back the benefits he has received under the contract, within a reasonable time after he attains majority. (Sec. 599.2)
- D. A minor cannot disaffirm his contracts if he misrepresented his age or if he engaged in business representing himself as an adult, and if the other party thus had good reason to believe the minor was capable of contracting. (Sec. 599.3)
- E. Where a minor performs a contract for his 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)
- F. The disability of minors has been removed as to certain veterans' loans. (Sec. 599.5)
- G. Service of notice may be made directly upon a minor if he is age 18 or older. (RCP 56(a)) However, 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. Preference shall 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 663. [Note Iowa case law: "The surviving parent has only a presumptive right as natural guardian of his 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 abandoned, 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 also pages 12-13)

- B. A permanent or temporary conservator may be appointed by the court upon the voluntary petition of the proposed ward, provided that he is not mentally ill or a minor under age 14 and that the court determines such an appointment in the best interest of the applicant. (Secs. 633.572-.573)
- C. A parent may act as conservator of his minor child's property to the extent of \$1,000, if no conservator of his child's property has been appointed. (Sec. 633.574) (See pages 14-16.)
- D. A parent or guardian may cast the vote of a minor property-owner in a drainage district election. (Sec. 462.14)
- E. A child is liable to support his parent who would otherwise become a public charge. (Secs. 249.6(7), .25-.27; 252.1-.2, .6-.8; 252A.1-.2(4), .5)
- F. The father (or, if he is unable, the mother) may sue for expenses and actual loss of services resulting from injury to or death of a minor child. (RCP 8) [Note that when a minor child has been emancipated, his parents cannot recover for loss of his services.]
- G. Neither the husband nor the wife can remove the children from the homestead without the other spouse's consent. (Sec. 561.15)
- H. 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 pages 3-4.)
- B. A minor may bring an action through his guardian or next friend. (RCP 12)
- C. If a parent dies intestate, his children or their representatives inherit the net estate after payment of the surviving spouse's statutory share. (Secs. 633.211, .219, .238)
- D. 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)
- E. During probate, dependents of the decedent who reside with the surviving spouse are entitled to an allowance from the deceased parent's estate (twelve-month limit). (Sec. 633.374)
- F. A child's inheritance to the extent of \$15,000 is exempt from the Iowa inheritance tax. (Sec. 450.9)
- G. Workmen's compensation. (See page 47.)
- H. 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 21 is bound by the terms of the application, certificate, and all the laws and rules of the society. They are then entitled to all rights and privileges of membership therein. (Sec. 512.9)
  2. Gifts to minors. Persons over 21 years of age may, during their lives, make a gift of securities or money to a person under 21 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 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 state income tax. (Sec. 422.12(1-2))

### IV. Legal effect of family relationship.

- A. Residence and legal settlement. Legitimate children take the settlement (and residence) of their father (or if he has none, that of their mother). Illegitimate children take the settlement of their mother (or if she has none, that of their putative father). (Sec. 252.16)

- B. A change of the father's name automatically changes the surname of his wife and minor children. (Sec. 674.10)
- C. 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)
- D. Most of the personal property exemptions under Chapter 627 are granted only to persons who are heads of families. (Secs. 627.6, .10)

**V. Emancipation of minor children. [Iowa case law.]**

- A. Emancipation or abandonment of one's right to control his 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 father, after having emancipated his minor child, may withdraw his previous implied consent to his child's acting free of his 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 relationship). *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 parent does not preclude the possibility of his 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 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 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 earnings." *Brandhorst v. Galloway Co.*, 231 Iowa 436, 1 N.W. 2d 651 (1942).
- I. A father was liable for medical expenses incurred, without his knowledge, by his 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 father's liability for necessities furnished to his 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 parent, and who is in fact living in a county other than the one in which the parent from whom he derives legal settlement resides, is considered to have the same legal settlement as does his parent, for purposes of poor relief. *Clay County v. Palo Alto County*, 82 Iowa 626, 48 N.W. 1053 (1891).

## ILLEGITIMACY

Relevant 1970 Code Chapters or Sections	
232	598.30, .32, —, as
236	amended by
252	Laws 1970,
252.3, .16, .43	H.F. 1156
252A	633.219, .221
252A.3	.222
595.18-19	675
	675.1, .5, .8-20,
	.24-28, .31,
	.33-35

- 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 also IV, page 2.)
  - 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 new dissolution of marriage act shall be legitimate. (Ch. 598, as amended, sec. 32)
  
- III. **Partial legal legitimacy.** For certain purposes, a child is deemed legitimate even though the requirements of II above are not met:
  - A. Legitimacy as to one parent; annulment as derived from II-C above.
    1. Where the marriage between the parties is prohibited by law (i.e., consanguinity, section 595.19). (Ch. 598, as amended, sec. 30)
    2. Where the marriage is annulled because either party was impotent at the time of marriage. (Ch. 598, as amended, sec. 30)
    3. Where the marriage is annulled where either party had a husband or wife living at the time of the 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. (Ch. 598, as amended, sec. 30)
    4. Where the marriage is annulled because one party was mentally ill or a mental retardate at the time of the marriage. (Ch. 598, as amended, sec. 30)
  - B. 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. If an illegitimate child has been adopted, the adoptive parents and kin take priority over the natural parents. (Sec. 633.219)
  - C. 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 also V, page 4.)

**VI. 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. (Sec. 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 may also be tried in a proceeding to compel support of a poor child under Chapter 252. (Sec. 252.3)

**V. Parent's obligations to illegitimate child (arising after paternity is established):**

- A. Duties of parents include:
  - 1. Care and support.
    - a. The parents must provide reasonable care, support, and education until the child reaches age 16. (Secs. 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 also pages 3- 4.)
  - 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 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 obligations to illegitimate children.**

- A. Support.
  - 1. The county will provide relief for illegitimate children and may levy a poor tax when necessary. (Ch. 252, sec. 252.43)
  - 2. For this purpose, the illegitimate child takes the legal settlement (residence) of his mother (or if she has none, then that of the putative father). (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)
- C. Licensing of maternity homes by the commissioner of public health of the State Department of Health. (Ch. 236)

## GUARDIANSHIP

### Relevant 1970 Code Chapters or Sections

222.31, .33,	633
.52-.54	633.174, .552-.554,
232.2, .48	.556-.560,
238, .25-.29, .32(3)	.591-.597,
282.2, .6, .22-.23	.627-.628,
447.7	.634, .669,
469.19	.675
472.15-.16	RCP 12-14, 56(a)
597.15	(b), 298

I. **General guardianship of the person.** [Note: The information in this section derived from the new probate code (Ch. 633) is subject to the following exceptions. Any guardianship applied for and approved before January 1, 1964, will be subject to Chapter 668, of the old probate code dealing with guardianship. Also, any guardianship originating between January 1, 1964, and July 1, 1965, will be subject to the provisions of the new probate code before amendment.]

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 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 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 tuition payments, etc. (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 exercise of authority and performance of his duties. (Sec. 633.669)

## II. Special methods by which a guardianship is created.

### A. General guardianship.

1. If after a hearing the court terminates the parent-child relationship between the child and both parents, or either of them, the court shall order guardianship of the person and legal custody transferred to:
  - a. The county department of social welfare.
  - b. A licensed child-placing agency.
  - c. A reputable individual of good moral character.
  - d. The commissioner of social services or his designee. (Secs. 232.2, .48)
2. Relinquishment of a child to a proper agency gives that agency most of the legal rights and duties of a guardian, (Ch. 238, specifically secs. 238.25-.29, .32(3)) However, this statute does not expressly make such agency the legal guardian of the child. In the absence of such a provision, the child apparently has no legal guardian. (Op. Atty. Gen., August 13, 1947 (not published in 1948 Op. Atty. Gen.))

### 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 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.
  - a. Service may be made upon his parent or guardian if the minor is under age 18. (RCP 56(b))
  - b. Service may be made upon the minor if he is age 18 or older. (RCP 56(a))
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)
5. The clerk of court appoints a guardian where land of a minor is sought to be condemned for a claim. (Sec. 469.19)

### C. Guardianship of property apart from litigation. His guardian may redeem a minor's real property sold for taxes. (Sec. 447.7)

## CONSERVATORSHIP

### Relevant 1970 Code Chapters or Sections

#### 518A.1

633.3(7)(17)(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. [Note: The information contained in this section is based almost exclusively on the new probate code (Ch. 633). It should be noted that any conservatorship applied for and approved before January 1, 1964, will be subject to Chapter 688 of the old probate code dealing with guardianships. Also any conservatorship originating between January 1, 1964, and July 1, 1965, will be subject to the provisions of the new probate code before amendment.]
- 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." (Secs. 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 sections dealing with guardianship in Chapter 633 of the Code on pages 12-13 of this manual. (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 minor child's property unless he is duly appointed as such. However, the parent of a minor may receive any money or property to which the minor is entitled to 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 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 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 and 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 is authorized, subject to court approval, to apply the property of the ward for the support of the spouse and minor children. (Secs. 633.566, .570, .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. (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 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 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, and 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 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.

- A. A minor may not convey, encumber, or dispose of property in any manner

other than by will, and then only if he 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 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 petitions 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 \$500, 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)
- E. The Code is silent as to whether emancipation of a minor specifically enables him to act for himself in matters where a conservator would ordinarily be necessary.

## STATE AGENCIES DEALING WITH CHILDREN\*

Relevant 1970 Code Chapters or Sections	
135	218.1-.2, .34, .36
135.11	235.2-.3
135B, C	236.6
136.1, .3	237.4
137	238.21
139.1-.7	257
140	257.1, .9-.11, .17
144	258
147.2-.3	259
152.3	262
217	262.7
217.2-.9, .22-.26,	263.5-.6
.28-.29	281
218	

### I. State Department of Social Services. (Ch. 217)

- 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 State Department of Social Services. (Sec. 217.2) These duties are facilitated by the requirement that all employment be based upon merit as determined by an examination. (Sec. 217.25)
  2. The duties of the Council of Social Services shall 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. Meet at least four times a year. (Secs. 217.3-.4)
- C. Commission 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 Social Services into divisions and may appoint the directors thereof. (Secs. 217.6-.7)
  3. The commissioner manages certain state institutions, including: (Sec. 218.1)
    - a. Glenwood State School (for the mentally ill).
    - b. Woodward State Hospital and School (for epileptics and the mentally ill).

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\*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.

- c. Iowa Juvenile Home (Toledo).
  - d. Iowa Annie Wittenmyer Home (Davenport).
  - e. Training School for Boys (Eldora).
  - f. Training School for Girls (Mitchellville).
  - g. Women's Reformatory (Rockwell City).
  - h. Men's Reformatory (Anamosa).
  - i. Iowa Security Facility.
  - j. Correctional Release Center.
  - k. Soldiers' Home.
  - l. Four mental health institutes (at Cherokee, Clarinda, Independence, and Mt. Pleasant), and the state prison for men, 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, .22-.24)
- 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, Iowa Annie Wittenmyer Home, State Training School 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. Report and exchange information in cooperation with appropriate federal agencies.
    - g. Supervise and inspect private child-caring institutions.
    - h. Receive all reports required of courts and institutions, and compile statistics (juvenile court, adoptions, and transfers).
    - i. License and inspect maternity hospitals, private boarding homes for children, and private child-placing agencies; make reports; and revoke licenses when necessary.
    - j. Cooperate with the social security board and make rules and regulations as may be needed to qualify for federal aid.
    - k. Exercise general supervision over the county boards of social welfare.
    - l. Furnish information to acquaint the public with the operation of the Department. (Secs. 217.9, .24, 235.3)
  - 2. The powers and duties of the State Division of Child and Family Services includes 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.

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\*NOTE: For daily usage "Bureau" should be used in place of "Division."

- 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 boards 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 boards directly administer aid; the state division and council are primarily policy-making and supervisory bodies. (Secs. 217.24, .26, .28-.29)
  - F. A sufficient number of persons shall be appointed as state agents for the soldiers' orphans home, the two training schools, the juvenile home, and the women's reformatory. (Sec. 218.34) The duties of the agents include: (Sec. 218.36)
    - 1. Finding suitable homes and employment for inmates who are to be or who have been released; inspecting such homes; obtaining new homes or new employment for released inmates when their environment is bad.
    - 2. Exercising supervision over discharged or released persons and examining into their conduct and environment.
    - 3. Returning to the institution from which released all inmates who have been conditionally released and whose conduct has been bad or in violation of their release.
  - G. 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 the 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 Board of Public Instruction and with Senate approval every four years after January 1, 1955. (Sec. 257.11) The superintendent's 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 page 38 for a discussion of the Division's functions.)**
- 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. The University of Northern Iowa.
  - D. The Iowa Braille and Sight-Saving School.
  - E. The State School for the Deaf.
  - F. The State Sanitorium (Tuberculosis).
  - G. The State Hospital-School.

**V. Iowa Child Welfare Research Station.**

- A. Management of the Station is vested in the director by 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 Station 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. (See page 40.)**

**VII. 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. 139.1-7.)
  - 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. Inspection of maternity hospitals. (Sec. 236.6)
  - 8. Licensing and regulating all hospitals, sanatoria, and nursing homes. (Chs. 135B,C)
  - 9. 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) Such licenses may not be issued to persons under 21 years of age except that women may be licensed as dental hygienists or cosmetologists at age 18, and men or women may be licensed as barbers at age 18. (Sec. 147.3) To be eligible for a license as a licensed practical or registered nurse an applicant must have reached 18 years of age. (Sec. 152.3) [Acts of 1967 (62 G.A.) Ch. 66, repealing Ch. 153, Code of 1966, relating to the practice of dentistry, provides in sec. 36 thereof that Ch. 147 shall not apply to the practice of dentistry.]
- C. The State Department of Health's enforcement work is primarily handled through local and county boards of health and health officers. (Ch. 137)



## JUVENILE COURT\*

### Relevant 1970 Code Chapters or Sections

231	240.2
231.2-.3, .5, .8, .10-.11, .14-.15	321.482 356.3
232	368A.19
232.2, .19, .36, .62-.64	748

#### I. Jurisdiction of juvenile court. (Chs. 231, 232)

- A. The juvenile court has exclusive jurisdiction in proceedings concerning any child alleged to be delinquent, neglected, or dependent, and in proceedings for termination of parental rights under sections 232.41-.50, and in proceedings concerning any minor alleged to have been a delinquent prior to having become 18 years of age or who was under 18 years of age at the time of the alleged offense. (Sec. 232.63) (See also sec. 232.64.)
- B. The criminal court has concurrent jurisdiction with the juvenile court over children less than 18 years of age who commit a criminal offense. (Sec. 232.62)
- C. The juvenile court may commit to a private institution any neglected, dependent, or delinquent minor who is over age 18. (Sec. 240.2)
- D. The juvenile court does not have jurisdiction over motor vehicle violations specifically as such, although a minor could be charged with delinquency and his violation of motor vehicle laws cited as evidence of delinquency. (Secs. 232.2, 321.482)
- E. The juvenile court should always be open for business. (Sec. 231.5) [Note: In this respect, the juvenile court differs from the district courts.]
- F. All orders for supervision, custody, or commitment are enforced until the minor reaches 21 years of age unless otherwise specified. Such orders are to be reviewed by the court at least annually unless the court's jurisdiction has been terminated. (Sec. 232.36)
- G. The state of Iowa through its courts and agencies is authorized to enter into interstate compacts concerning juveniles with any other contracting state. (Sec. 231.14) The purpose of this compact includes the following: (Sec. 231.14)
  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. (Sec. 231.15)
  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. The county juvenile court consists of: (Secs. 231.2-.3)

- A. The judges of the district court; or
- B. The judges of any municipal or superior court when so designated by the judges of the district court; or
- C. One judge of the district court so designated by the other judges of the district court.

#### III. 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. (Sec. 231.3) The

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\*The specific powers of the juvenile court relating to neglected, dependent, and delinquent children are described on pages 23-25.

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)

**IV. Director of court services.** In counties having a population of more than 250,000, the judge of the juvenile court may appoint a director of court services. (Sec. 231.3)

**V. Probation officers.**

- A. 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)
- B. 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)
- C. 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)
- D. Probation officers have the powers of peace officers. (Sec. 231.10) Powers of peace officers are given in Chapter 748 of the Code.

**VI Jails.**

- A. Minors under age 18 must be separately confined, and must not be associated with other prisoners. (Sec. 356.3) (See also sec. 232.19.) The only exception to this is upon an order of the judge where the child is alleged to be delinquent and has shown by his habits, conduct, or conditions that he constitutes a menace to himself and society. (Sec. 232.19)
- B. Where police departments include police matrons, they have charge of all women and children under arrest. (Sec. 368A.19)

**NEGLECTED, DEPENDENT, AND DELINQUENT  
CHILDREN—COURT PROCEEDINGS**

Relevant 1970 Code Chapters or Sections	
232	232.27(2) - Old Code
232.2-.5, .7-9, .10 <sup>f</sup>	242
.21, .24-.25, .27-	242.4-.14
.28, .33-.34, .36,	244
.48, .51, .59-.60,	244.1, .3-.5, .7,
.64, .72-.73	.9-.14
	245.4-.5
	600

**I. Definitions, (Ch. 232)**

- A. Neglected child. A child is neglected if he is: (Sec. 232.2)
  - 1. Abandoned by his parents or guardian.
  - 2. Without parental care because of the emotional, mental, physical disability, or immaturity of his parents or guardian.
  - 3. Without parental care because of the faults or habits of his parents or guardian.
  - 4. Living under conditions injurious to his mental or physical health.
- B. Dependent child. A dependent child means: (Sec. 232.2)
  - 1. Without a parent or guardian.
  - 2. In need of special care and treatment, which the parent or guardian is unable to provide.
  - 3. Whose parent or guardian, for good cause, desires to be relieved of his care or custody.
- C. Delinquent child. A child is delinquent if he: (Sec. 232.2)
  - 1. Has violated any state or local law or ordinance.
  - 2. Has violated a federal law or a law of another state.
  - 3. Is uncontrolled by his parents or guardian by reason of being continually disobedient.
  - 4. Habitually conducts himself in a manner that is injurious to himself or others.
- D. A neglected, dependent, or delinquent "child" does not come within the provisions of Chapter 232 if he is age 18 or older. (Sec. 232.2) [Note: This does not refer to "minors."]

**II. Juvenile court proceedings, (Ch. 232)**

- A. Any informed and competent person may file a petition alleging that a child is neglected, dependent, or delinquent. [Note that the petition may not be filed by an officer as such, though he may file it as a private citizen if he is competent and informed.] (Sec. 232.3)
- B. Before such a petition is filed, there must be an inquiry of the facts presented by the citizen. Usually the inquiry is handled by the probation officer, county attorney, or court. (Sec. 232.3)
- C. Service of notice or summons is to be made not less than five days before the time fixed for hearing. (Secs. 232.4-.5, .8-9)
- D. Contempt. Warrants for a child's custody may be issued when any person who has been personally served with a summons or subpoena fails without reasonable cause to appear or to bring the child, and when it appears to the court that service will be ineffectual or that the welfare of the child requires such action. (Sec. 232.10)
- E. Hearings on any matter are held without a jury and may be conducted in an informal manner. Hearings may be continued from time to time, the court in the meantime being allowed to make such orders as it considers necessary for the best interests of the child. (Secs. 232.7, .27)
- F. The court may exclude the general public from hearings but may admit the

news media or persons with a direct interest in the case, except in those cases where it would conflict with the child's best interest. (Sec. 232.27)

- G. However, if a hearing involves a child charged with a felony, persons having legitimate interest in the proceedings, including responsible representatives of the press, may not be excluded. (Sec. 232.27)
- H. The child, parents, or guardian have the right to legal counsel. If they are unable to employ counsel, such counsel will be appointed for them by the court. (Sec. 232.28)

**III. Transfer from district court.** When a petition alleging delinquency is based on the alleged act committed after a minor's fourteenth birthday, and the court, after a hearing, considers it contrary to the best interests of the minor to retain jurisdiction, it may refer the minor to the appropriate prosecuting authority for action under the criminal law. (Sec. 232.72)

- A. When a minor pleads guilty or is found guilty in another court, that court, with the consent of the juvenile court may refer the child back to juvenile court for disposition. The court hearing the plea or handing down the conviction has the authority to set aside the plea or conviction but only after the child has successfully completed a year of probation. (Sec. 232.72)
- B. All juveniles under 18 years of age appearing in any court other than juvenile court and charged with a public offense shall immediately be transferred to the juvenile court of the county. (Sec. 232.64) Exceptions and limits to this are as follows: (Sec. 232.73)
  - 1. A child referred to juvenile court may be transferred to criminal court and tried as an adult by the filing of a county attorney's information or grand jury indictment charging an indictable offense.
  - 2. However, the grand jury indictment, or information shall not be filed or be valid to affect such a transfer after there has been an adjudication of delinquency in juvenile court.

**IV. Commitment by the juvenile court.**

- A. Where a child is found to be neglected or dependent by the juvenile court, the court may: (Sec. 232.33)
  - 1. Continue the proceedings from time to time as the court may direct.
  - 2. Place the child under the "protective supervision" of the county department of social welfare or a child-placing agency.
  - 3. Transfer "legal custody" of the child to a child-placing agency, the county, or State Department of Social Services or a reputable individual of good moral character.
  - 4. Commit the child to the commissioner of social services or his designee for placement.
  - 5. Commit to any public or private institution or hospital for care and training (other than 4 above and section 232.34, subsection 4).
  - 6. If the child is in need of special treatment or care the court may order the treatment or care provided.
  - 7. While the child is under the court's jurisdiction, the court may at any time terminate the proceedings and release the child from the control of the court.
- B. Where a child has been found delinquent by the juvenile court, the court may: (Sec. 232.34)
  - 1. Dispose in the same manner found in section A above, subsections 1, 4, 6, and 7.
  - 2. Place the child under the supervision of a probation officer or other suitable person in the home of the child.
  - 3. Subject to the continued jurisdiction of the court, transfer legal custody to a child-placing agency, a probation department, or a reputable individual of good moral character.
  - 4. Commit the child in any public or private institution or hospital for care or training (other than 4 above and section 232.33, subsection 4).
- C. Juvenile court jurisdiction. (See page 21.)

- D. The inference can be drawn that commitments are classified in order to attempt the separation of neglected and dependent children from delinquent children and the less delinquent from the seriously delinquent.
  - E. When the court commits a child to any proper person or institution, that person or institution has "legal custody," with the exception that if the parent-child relationship has been terminated "guardianship of the person" shall also exist. (Secs. 232.2, .48)
  - F. Expenses--described in I, section C, page , which describes section 232.51 of the Code.
  - G. In committing children the court must, as far as practicable, choose a person or institution of the same religious faith as the parents. (Sec. 232.60)
  - H. The state director of the Division of Child and Family Services shall adopt minimum rules, regulations, and standards for the establishment, maintenance, and operation of all juvenile homes that are necessary. The juvenile court and such institutions must make an annual report to the state director of all cases brought before the court and the disposition of the children involved. (Secs. 232.24-.25, .59)
- V. Parole, release, or placing.
- A. Supervision, custody, or commitment shall be until the child reaches age 21, unless otherwise specified by the court. (Sec. 232.36)
  - B. The state director may transfer to the schools minor wards of the state from any institution under his charge, except that mentally ill or retarded children must be specifically transferred to the proper state institution. (Sec. 242.14)
  - C. The court may make on its own notion or on that of an interested party, after notice and hearing, any other disposition of the case it sees fit so long as the court retains jurisdiction. (Sec. 232.36)
- VI. Iowa Juvenile Home and the Annie Wittenmyer Home. (Ch. 244)
- A. These homes are under the management of the state director of the child and family services division, and are to care for veterans' orphans, neglected, dependent, or delinquent children committed by the juvenile court, other destitute children, and children voluntarily committed by their legal custodians with the approval of a judge or the county board of supervisors. Such applications are subject to the approval of the state director. However, children whose presence would be harmful to normal children may not be admitted. (Secs. 232.33-.34, 244.1, .3-.5) [Note: Section 244.3(2) permits delinquent children to be committed to the Juvenile Home and the Iowa Annie Wittenmyer Home, whereas section 232.34, eliminates delinquents from these homes. The latter statute would appear to prevail as the Code chapter was revised in 1965. The Code also apparently leaves no provision for the troublesome child under 10 years of age inasmuch as old Code section 232.27(2), which permitted commitment of such children to the Juvenile Home, was repealed. (See also IV-D above.)
  - B. Children admitted or committed to these homes are:
    1. Subject to rules and discipline, including expulsion if necessary. (Sec. 244.7)
    2. Discharged at age 18, or sooner if able to support themselves. (Sec. 244.7)
    3. Eligible for adoption under Chapter 600. (Sec. 244.9)
    4. Subject to be placed in the care and custody of any person or family under contract on terms approved by the state director. Placements are generally controlled by the state director although administered locally by the superintendent of the home. (Secs. 244.10-13)
  - C. Each county is liable for one-half of the sums paid by the home in support of children from that county. (Sec. 244.14)

- VII. State training schools for boys and girls.** (Ch. 242)
- A. Any minor may be committed under the Chapter 232 procedure outlined above. Any minor between the ages 12 and 18 found guilty in a district court of a crime other than murder may be committed. (Secs. 242.5-6)
  - B. The schools are required to teach subjects offered in the common schools, and in addition must give suitable vocational training. (Sec. 242.4)
  - C. The state director manages the schools. He may, by written approval, place the children in homes, or discharge or parole them on such terms as he deems best for the interests of the child. (Secs. 242.7-13) (See V above.)
- VIII. Women's Reformatory.** All females over age 18 and all married females sentenced to more than thirty days are committed to the Women's Reformatory. Any unmarried female over age 10 and under age 18, if sentenced to life imprisonment, may be committed either to the training school for girls or to the reformatory. (Secs. 245.4-5)
- IX. County detention homes.** County boards of supervisors singly or in conjunction with others, may maintain a juvenile home for dependent, neglected, and delinquent children. Such homes must be separate from any jail or police station and must as far as is practicable separate children requiring detention from those requiring shelter. (Sec. 232.21)

## PRIVATE CHILD-CARING AND CHILD-PLACING AGENCIES

### Relevant 1970 Code Chapters or Sections

122	237.2-.16
122.1, .4	238
135B	238.1-.34, .42
232	240
232.24-.25,	240.2-.3,
.33-.34	.5-.10
235.3	282.18, .22-.23
236.22	512.62-.72
237	

### 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 of 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. To receive neglected, dependent, and delinquent children under age 18 under commitment from the juvenile court, and to dispose of them according to the terms of Chapter 238 and the restrictions embodied in Chapter 232.
  2. To receive such children under 21 and over 18 as the juvenile court may commit, and dispose of them under the provisions of Chapter 238.
  3. To receive, control, and dispose of all minor children voluntarily surrendered to such institutions. (Secs. 238.25-.29, .32)
- D. Records of placements must be submitted monthly, and the state board has full power to inspect the agency and/or the 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) (See also pages 29-30 of this report.)
- F. Maternity hospitals may not directly or indirectly promise to place children as an inducement for prospective mothers to patronize such hospitals. (Sec. 236.22)

### II. Private child-caring agencies. (Ch. 240)

- A. 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)

- B. Commitments to private agencies may be made by the juvenile court, and when a child is under age 18 and is so committed the county is required to pay the agency a monthly allowance for expenses of care. The rate of monthly allowance is determined through the judgment and discretion of the board of supervisors. (Secs. 240.2-.3, .5) Reference to the possible disposition of minors by juvenile courts can be found in sections 232.33-.34 of the Code.
  - C. Children between age 7 and 14 in these private agencies must attend school during the term time in the district in which the home is located. (Sec. 240.2)
  - D. Females of age 18 to 21 sentenced to jail may alternatively be committed to a licensed private agency willing to receive them, with continuing jurisdiction of the court during the commitment. (Secs. 240.6-.10)
- III. 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)
- IV. 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)
- V. Education.** 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 will be paid by the state. (Secs. 282.18, .22-.23)
- VI. General powers of the state director.** In addition to his specific powers incidental to licensing procedures, the state director has general power to adopt rules and regulations and to inspect all private child-placing and child-caring institutions. (Secs. 232.24-.25, 235.3)
- VII. Solicitation by child-caring agencies. (Ch. 122)**
- A. No organization or charity may solicit public donations in Iowa unless it: (Sec. 122.1; Op. Atty. Gen, 1940, p. 3)
    - 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 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)



## ADOPTION

### Relevant 1970 Code Chapters or Sections

85.42(2)	410.10
97A.1(1, 9), .6(8)	411.1(11)
144.44-.45	450.9(1-3)
232	600
238	600.1-.10
238.25-.29, .33-.43	633.212, .219, .223
.33-.43	675.5
244.1, .9	

#### I. Who may adopt and be adopted: (Ch. 600)

- A. Any person of lawful age may adopt. (Sec. 600.1) [Note: This statute and Iowa court decisions do not indicate whether "lawful age" means 21 years or majority, which can be attained either by age or by marriage.]
- B. Any person who is not the petitioner's own child may be adopted. (Sec. 600.1) [Note: This provision appears to bar adoption of one's own illegitimate child.]
- C. An adult may be adopted, in which case only such provisions of Chapter 600 apply as the court may order. (Sec. 600.1)
- D. Children in the Iowa Juvenile Home and Annie Wittenmyer Home may be adopted under Chapter 600. (Secs. 244.1, .9)
- E. Children previously relinquished to a licensed child-placing agency, the state director, or other proper person may be adopted. (Secs. 238.25-.29)
  1. Relinquishment of a child under age 14 must be by one of the following:
    - a. By court order. (Sec. 238.26)
    - b. By parent or parents, in the form of a written and witnessed release. (Sec. 238.26)
    - c. By one parent where the other is dead, insane, imprisoned for crime, or has been deprived of the custody of the child by judicial proceedings, etc. (Sec. 238.27)
    - d. By the parent having the care of the child, if the parents are not married to each other (i.e., if the parents are divorced or the child is illegitimate), except that in case of divorce the court must determine what notice, if any, is to be given to the parent not having custody (as a matter of good practice both parents are usually notified in Iowa). (Secs. 238.28, 600.4)
  2. After relinquishment, the parents may recover the child only by court decree based upon proof of neglect by the foster parent, guardian, or custodian. (Sec. 238.29)
- F. Children may be imported into Iowa for adoption under agencies such as the American Branch of International Social Services and under the Interstate compact on the placement of children (described below). (Sec. 238.33) (See also secs. 238.34-.43.)
- G. Interstate compact on the placement of children.
  1. Conditions for placement. No sending state may cause to be sent into a party state any child for placement unless such sending agency:
    - a. Complies with all requirements of the compact.
    - b. Furnishes notice of an intent to send.
    - c. Supplies any information requested.
    - d. Has received a written notice from the receiving state that the placement does not appear to be contrary to the child's best interests.
  2. Retention of jurisdiction. The sending state retains jurisdiction over the

child which it would have had if the child had remained in the sending agency's state. This jurisdiction continues until the child is adopted, reaches majority, or becomes self-supporting. During the period of supervision the sending agency continues to have financial responsibility for the child.

3. Institutional care of delinquent children. A child adjudicated delinquent may be placed in an institution in another party jurisdiction pursuant to the compact but not unless prior to being sent:
  - a. The child is given a court hearing, on notice to the parent or guardian, with opportunity to be heard.
  - b. The court finds that equivalent facilities for the child are not available in the sending state's jurisdiction. [Note: Art. VI does not make it clear which court.]
  - c. That institutional care in the other jurisdiction is in the child's best interest.
4. Limitations. This compact does not apply to:
  - a. The sending or bringing of a child into a receiving state by his parent, relative, or guardian and leaving him with any relative or nonagency guardian in the receiving state.
  - b. Any placement, sending, or bringing of a child into a receiving state pursuant to any other compact or agreement between the two states.
  - c. Note: Although not applied in most jurisdictions, yet not totally unappreciated, one should be aware of the supreme court holding in *Edwards v. People of State of California*, 314 U.S. 160, 62 S. Ct. 164, 86 L. Ed. 119 (1941), which held that the right to move freely is an incident of national citizenship protected by the Fourteenth Amendment. In light of the foregoing quaere whether this should also apply to minor children.

## II. Procedure for adoption. (Ch. 600)

- A. Jurisdiction. The district court in the county of residence of the child or adopting parent has jurisdiction. However, the district court may designate a municipal court judge to handle adoption matters. (Sec. 600.1)
- B. Petition. This must be made by the person who seeks to adopt. If married, his spouse must join in the petition unless the spouse is a natural parent of the child. (Sec. 600.1)
- C. Investigation to determine whether the proposed adoption would be advisable. This investigation is made by the State Department of Social Services or a person named by the court. It may be waived by the court only if the petitioner is closely related to the child or is married to a natural parent of the child (in actual practice the courts construe this provision more liberally). (Sec. 600.2)
- D. Residence. The child must reside in the proposed home for twelve months, unless the court shortens this period. During the period, the State Department of Social Services may (and shall, upon court order) make a further investigation and final report to the court. The residence requirement may be waived by the court in the same two situations in which investigation may be waived. (Sec. 600.2)
- E. Consent to adoption. In general, consent must always be given by the persons or agency having custody and control of a child. Courts may omit consent only on proof that the parents are disqualified from giving consent (see 2 and 3 below), and that no person, agency, or court is guardian and has jurisdiction over the child. Otherwise, consent must be given as follows: (Sec. 600.3)
  1. The consent of both parents is ordinarily required.
  2. One parent may consent if the other is dead, mentally ill, imprisoned for a felony, or an inmate or keeper of a house of ill fame.
  3. If the parents are not married to each other (i.e., if they are divorced or the child is illegitimate), the parent having the care of the child may

consent. [Note: The other divorced parent's consent is not required unless he contributes to the support of the child or there is divided custody. Therefore, if the parents' rights are limited solely to visitation, they may be cut off by adoption without his consent. In re Chinn's Adoption, 238 Iowa 4, 25 N.W. 2d 735 (1947); In re Adoption of Perkins, 242 Iowa 1374, 49 N.W. 2d 248 (1951); 256 Iowa 490 127 N.W. 2d 78; 33 Iowa Law Review 678 (1948).]

4. Neither parent's consent is required where:
    - a. Both parents are disqualified as in E-2 above; or
    - b. The parents have relinquished the child to a child-placing agency in accordance with Chapter 238; or
    - c. The relationship between the parent and child has been terminated under Chapter 232 of the Code or terminated under a law or court decision of another state which is not appealable.
  5. Where neither parent's consent is required, consent must be given by (except as noted in E above):
    - a. The licensed child-placing or child-caring agency, or the department or institution having custody.
    - b. The guardian where one has been appointed.
    - c. The state director of the Division of Child and Family Services under the Department of Social Services where the child is a ward of the state in a state institution.
    - d. The court which deprived the parents of custody of the child, if this court has not placed the child in the custody of the state or a licensed child-placing agency. (Sec. 600.3)
  6. The child himself if he is age 14 or over.
  7. Minority of a parent will not invalidate consent.
- F. Notice of hearing. Notice to interested persons must be given as prescribed by the court. Notice may be waived by the court if both parents are dead or have abandoned the child, and if he has no guardian in Iowa. Notice as prescribed by the court must be given to a divorced parent who does not have custody of the child. (Sec. 600.4)
- G. Decree. The court's decree declares the child to be the child of the adopting parents and may change the child's name. (Sec. 600.5)
- H. Protection of privacy. Only persons designated by the court may attend adoption hearings. (Sec. 600.4) The record in an adoption proceeding must be sealed, and may be opened only by court order. (Secs. 144.44-.45; 600.8-.9) Improper disclosure of any information contained in adoption papers or proceedings is a misdemeanor. (Sec. 600.10)

### III. Rights of adopted child.

- A. An adopted child has the same rights and status as a child by lawful birth. (Sec. 600.6)
- B. An adopted child's right of inheritance is the same as that of any other child. (Secs. 600.6, 633.219) This is true only if the mandatory provisions of Chapter 600 are complied with. *Sheaffer v. Sheaffer*, 228 Iowa 779, 292 N.W. 789 (1940); *Caulfield v. Noonan*, 229 Iowa 955, 295 N.W. 466 (1940); *Herman v. McIver*, 248 Iowa 619, 80 N.W. 2d 500 (1957).
- C. Miscellaneous statutes give the adopted child equal rights and status in certain situations:
  1. Workmen's compensation benefits. (Sec. 85.42(2))
  2. Inheritance tax exemptions. (Sec. 450.9(1-3))
  3. Disabled firemen's and policemen's benefits. (Sec. 410.10)
  4. Retired firemen's and policemen's benefits. (Sec. 411.1(11))
  5. Public safety peace officers' benefits. (Secs. 97A.1(1,9), .6(8))

### IV. Effect of adoption. (Sec. 633.223)

- A. An adopted child and his eventual heirs inherit from the adoptive parents the same as a natural born child. The adoptive parents inherit through the child in the same manner. (Sec. 633.223)

- B. A lawful adoption of a child extinguishes his right of inheritance from his natural parents, except in an intestate estate situation under the following circumstances: (Sec. 633.223)
    - 1. When the adopted person is of majority at the time of adoption; or
    - 2. The adopted person is related to the adoptive parents within the fourth degree of consanguinity.
  - C. Likewise, an adoption will extinguish the natural parent or parents' right of inheritance through the adopted person except in an intestate situation under the following circumstances: (Sec. 633.223)
    - 1. When the adopted person has attained majority at the time of the adoption, and the adoptive parents are deceased at the time of the adopted person's death; or
    - 2. When the adopted person is related to one or both of the adopted parents within the fourth degree of consanguinity.
- V. Rights and duties of parents of the adopted child.**
- A. Adoptive parents have all the rights and duties of lawful parents. (Sec. 600.6)
  - B. Inheritance:
    - 1. Adoptive parents inherit from the adopted child as if they were the natural parents. (Secs. 633.212, .219)
    - 2. Natural parents and their heirs may inherit from a child adopted into another family if the entire line of one of the adoptive parents has died out. (Sec. 633.219)
  - C. Support. Legal adoption of an illegitimate child into another family removes the natural father's duty to support the child. (Sec. 675.5)
- VI. Annulment of an adoption. (Sec. 600.7)**
- A. Grounds. Adoptive parents may obtain an annulment if within five years after adoption the child develops mental retardation, mental illness, epilepsy, venereal infection, or other permanent and serious disability; and if this disability was caused by conditions existing prior to adoption, of which the adoptive parents had no notice. (Sec. 600.7)
  - B. Procedure. A petition is filed in the district court of the county where the adoptive parents reside. [Note: This is often not the court which granted the adoption.] The county attorney must represent the child's interests. (Sec. 600.7)
  - C. If annulment is granted, the court may refer the child to the juvenile court or take such other action as the case may require. (Sec. 600.7)

## EDUCATION\*

Relevant 1970 Code Chapters or Sections	
35.7-.10	282.1, .3-.4, .6-7,
240.2	.17-.18, .22-.24
253.9	285.1-.2, .14
257.25	287.1-4
262	288.1-.2
262.9	289.1, .3, .6
263.1	291.9
266.2	292.4
268.1-.2	297.14
273.13, .18	299.1-.2, .6, .8-.11,
279.8-.10, .25	.13, .16
280.1, .3, .5,	301.1, .20, .24-.27
.7-.11, .13-.15	321.372-.380
.16-.18	479.94
280A	

### 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 twenty-four 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 thirty-six 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, subsection 13, 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 12,000 population and may in smaller ones if there are in the city fifteen 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 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 ten 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 may be punished by fine and in some cases imprisonment. (Secs. 289.6, 299.6)
- G. School census. This census is taken every two years in order to obtain the names of all school-age children and all handicapped children (whose names

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\*This section deals only with those portions of the school laws which apply directly to children. (See also pages 38-40.)

are then reported to the proper state authorities or agencies). (Secs. 273.18(28), 291.9, 299.16)

- H. The minimum age limits for admission to public schools are age 5 by September 15 of the current year for admission to kindergarten, and age 6 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. Courses of study.

- A. The school board may establish:
  - 1. Graded schools and high schools. (Sec. 280.17)
  - 2. Kindergartens, upon petition by parents. (Sec. 280.16)
  - 3. Junior colleges, if approved by the voters and by the State Superintendent of Public Instruction. (Sec. 280.18)
  - 4. Evening and part-time schools. (Chs. 288-289)
- B. Area vocational schools and community colleges. The state board is instrumental in fulfilling the state policy of providing not more than seventeen different areas, covering the entire state, which may be operated either as vocational schools or area community colleges. (Ch. 280A) Chapter 280A also provides for the merger of all areas in the state for the purpose of consolidating schools. It further provides that any merged area within a county containing a city with population in excess of 50,000 shall provide an area vocational school attendance center.
- C. The district school board prescribes the courses of study in the public schools. (Sec. 280.1) In most cases, the courses of study must also be approved by the State Board of Public Instruction. (Sec. 280.17)
- D. Required subjects in all public schools include:
  - 1. Reading, writing, arithmetic, spelling, grammar, geography, physiology, United States history, Iowa history, and principles of American government. (These subjects must also be taught by all private schools.) (Sec. 280.3)
  - 2. Physical education. (Secs. 280.13-15)
  - 3. Physiology and hygiene, including the effects of stimulants and narcotics. (Sec. 280.10)
- E. Instruction in American history (which shall include the history and contributions of minority racial and ethnic groups), civics, and the U.S. and Iowa Constitutions is required in all public and private high schools. The constitutional instruction must begin at least by the eighth grade. (Sec. 280.7-.8)
- F. The Bible may not be excluded from the schools, but no child is required to read it contrary to his parents' wishes. (Sec. 280.9)
- G. All instruction except the study of foreign languages as such must be conducted in English. (Sec. 280.5)
- H. The State Board of Educational Examiners is required to prepare an annual list of books suitable for use in school libraries. (Sec. 292.4)
- I. 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, 273.13(4)) Parents and pupils are responsible for loss of or damage to books. (Secs. 301.20, .26)

## 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 board may expel a student for violations of rules, immorality, or when his 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)

- C. The school board may place incorrigible children in truant schools, or an action may be brought in juvenile court to commit the child to a state institution. (Sec. 299.13)
- D. 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)
- E. Special provisions for protection of children's health:
  - 1. The use of tobacco or narcotics by students is prohibited; violators may be suspended or expelled. (Sec. 279.9)
  - 2. Dental clinics may be established by school boards. (Sec. 280.11)
  - 3. No barbed wire fence may be placed within ten feet of any school grounds. (Sec. 297.14)

**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)
- 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. (Sec. 282.17)
- E. The State Superintendent of Public Instruction determines the maximum tuition rate. (Sec. 282.24)

**V. Needy children and children in charitable institutions.**

- A. 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)
- B. All children over age 7 and under age 14 in private child-caring institutions must attend school during the school term in the district in which the institution is located. (Sec. 240.2)
- C. Poor children cared for at the county home attend public school in that district, and the county pays a ratable share of the expenses to the school district. (Sec. 253.9)
- D. 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.
- E. 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)
- F. Textbooks may be furnished to indigent children by the school board. (Sec. 279.25)

## **VI. Transportation.**

- A. The school board must provide transportation to school for pupils who live at specified distances from the school. (Sec. 285.1)
- B. 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 60 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, etc., are fixed by statute. These provisions are to be enforced by all peace officers and school boards. (Secs. 285.14, 321.372-.380)
- C. Common carriers may legally give passes, free transportation, and reduce fares to school children while traveling to and from school. (Sec. 479.94)

## **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. (Sec. 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 1970 Code Chapters or Sections

110.17	371
300	374
359.28	377
368.30	

- I. **Recreational facilities:** General powers of municipal corporations. All municipal corporations have power to establish and maintain parks, playgrounds, and recreational facilities. (Sec. 368.30) [Note: This section does not apply to cities having a population of 125,000 or more according to the last federal census; those cities are governed by Chapter 371.]
- II. **Juvenile playgrounds:** General powers of cities. When authorized by the voters, cities may provide playgrounds, recreation centers, and buildings. The city council may create a playground commission to maintain and supervise such facilities. Cities shall cooperate with local school boards and join with them in operating the public playgrounds. The city shall appoint a superintendent to be in charge of the children at each playground. (Ch. 377)
- III. **Community centers and recreational groups.** Incorporated cities and towns may maintain and provide community center houses and adjoining recreational grounds. The city may also create a community center board to maintain and supervise such facilities. Cities may also cooperate with school boards to establish such centers jointly on public school premises. (Ch. 374)
- IV. **Township recreational facilities.** Township trustees may establish a community center or juvenile playgrounds in the same manner as provided for cities and towns. (Sec. 359.28)
- V. **School playgrounds.** School boards in school districts in which cities are located may maintain recreation places and playgrounds for public school children at public expense. (Ch. 300)
- VI. **Hunting and fishing.** Children who are residents of Iowa and who are under age 16 are not required to procure fishing licenses, nor are they required to have hunting licenses if accompanied by a competent adult who is licensed and has parental consent to watch over the child. [Note: In the latter situation one licensed adult must accompany each person under 16 years of age.] (Sec. 110.17)

**EDUCATION OF CHILDREN REQUIRING  
SPECIAL EDUCATION**

**Relevant 1970 Code Chapters or Sections**

145.9	258.3
222	259
222.1-.2, .13,	259.1, .3-.4
.15-.20, .23,	263.9-.13
.26-.27, .31,	269
.52-.56, .59,	269.1
.60, .78-.87	270
223	270.3
252.16	281
255	281.1-.9
257.10	282.6
	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 from completing his studies by age 21 he may be assisted as much as three years or more. (Secs. 281.1-.2, .8)
- B. The division will also assist disabled veterans not receiving basic education through the Veterans' Administration to complete their basic education in their local school for as many months after they are 21 years of age as they spent in military service before they reached age 21. (Secs. 281.3, 282.6)
- C. The division does not have responsibility for blind and deaf children, or for other handicapped children for whom education is being provided in special state schools or institutions. (Sec. 281.2) The division serves these children through the local school until they enter the state special school.
- 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. Attendance is compulsory, except for certain cases where the duty is on the parent or guardian to compel attendance. (Secs. 281.4-.8)
- F. Where such special facilities are provided by a school board, the state shall reimburse the district for all costs per pupil in excess of the per-pupil costs of the regular school. (Sec. 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. Since January 1,

1954, the State Board of Public Instruction has served 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 the 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, deaf persons from age 5 to 21, and deaf persons from age 21 to 35 who have the consent of the State Board of Regents 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 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 retarded persons:** Glenwood State School, Woodward State Hospital and School, and the Iowa Security Medical Facility. (Chs. 222, 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. (Secs. 222.13, .15)
- C. To be adjudicated mentally ill there must be a petition for such an adjudication as well as notice and a public hearing in equity. The person whose commitment is sought must be present as well as his counsel, party respondents, a physician or psychologist, the county attorney if requested, and representatives of the court. (Secs. 222.16-.20, .23, .26-.27)
- D. 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. (Secs. 222.31, .52-.56)
- E. 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.
- F. Before any patient is discharged the county liable for his support must receive notice thirty days prior to the time of release. (Sec. 222.59)
- G. The patient and those legally obligated to support him are liable to the county for any support which it provides, and a lien attaches to their property. (Secs. 222.78-.87) [Note: If after an examination the State Board of Eugenics finds that procreation by certain persons would produce children having an inherited tendency to feeble-mindedness, syphilis, insanity, epilepsy, criminality, or

degeneracy, or who would probably become a social menace or ward of the state, with no probability that the persons examined will improve so as to avoid such consequences, it is the Board's duty to make an order embodying its conclusions and recommending the best type of sterilization of such persons. (Ch. 145, specifically sec. 9)]

**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. [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 the result of a 1936 opinion of the Attorney General (Op. Atty. Gen. 1936, pp. 429-434). Chapter 255 of the Iowa Code 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 is a service for chronically ill or crippled children who are in need of consultative and treatment facilities which would otherwise not be available to them. 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 22 years of age with such conditions as cerebral palsy, crippling orthopedic conditions, crippling conditions remediable by plastic surgery, poliomyelitis, rheumatic fever, diabetes, nephritis, nephrosis, convulsive disorders, speech and hearing defects, congenital heart disease, and other congenital anomalies. A child is not eligible if his only handicap is an eye defect, behavior disorder, or simple mental retardation.
- C. Services.
  - 1. Field clinics.
  - 2. Diagnostic clinics.
  - 3. Permanent clinics in the orthopedic, pediatric, and otolaryngology services of the College of Medicine at The University of Iowa Hospitals. Admission to the permanent clinics is by:
    - a. Legal commitment under the Perkins-Haskell-Klaus Acts (Ch. 255) of persons who are legal residents of Iowa and reside in the county where they apply for papers.
    - b. Authorization by a local physician by means of a clinical pay certificate.
    - c. Authorization by the director of the state services for medically indigent patients who have no legal settlement or who are from counties where quotas for treatment at the University Hospitals are exhausted.

## MEDICAL CARE

### Relevant 1970 Code Chapters or Sections

140	255
140.9, .11, .13-.14	255.1-.12, .16, .25-.26, .28
241.14	271.10, .14-.15
252.16, .35	347
254	347.16

#### I. 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 per cent), 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 parents or guardian if feasible. (Secs. 255.16, .25-.26)
- C. County public hospitals must provide free treatment to indigent persons who are residents of the county. County public hospitals in counties with a population of more than 135,000 must provide free treatment to indigent persons who have established a legal settlement (residence) in the county as defined in section 252.16. The hospital may also treat persons from other counties in which case the county of legal settlement pays for the treatment. (Sec. 347.16) (See also sec. 252.35.)
- 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. Persons in state institutions governed by the Board of Control may be sent to the University Hospitals for treatment by order of the commissioner of the Department of Social Services or the director of any of the divisions of such department. (Sec. 255.28)

#### II. Tuberculosis.

- A. Counties may provide free tuberculosis care and treatment to residents. (Ch. 254) If a county public hospital has facilities for treatment of tuberculosis, such treatment is furnished under Chapter 347 to persons who have established a legal settlement in the county. (Sec. 347.16)
- B. The State Sanatorium provides, and the state pays for, treatment of indigent pulmonary tuberculosis patients who are entitled to free treatment under Chapter 254 and who do not have a legal settlement in Iowa. If an indigent has a legal settlement, his home county must reimburse the state for his care. (Secs. 271.10, .14-.15)

#### III. Eyesight. Minors as well as adults are eligible for remedial services to preserve or restore eyesight, and may have such services at public expenses if they are unable to pay. (Sec. 241.14)

#### IV. 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 over 16 years of age has the legal capacity to act and give consent to medical care and service for venereal disease by public and private hospitals. The physician shall notify the parents of a child with a venereal disease if it appears that the child might communicate the disease to other members of the family. (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 is 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)

## AID TO DEPENDENT CHILDREN

### Relevant 1970 Code Chapters or Sections

232	250.1-10
239	252.
239.1-12, .18	252.32
250.1-10	

- I. Aid to dependent children. (Ch. 239)**
- A. This aid is granted by the county under the control and regulation of the state Division of Child and Family Services of the Department of Social Services. (Secs. 239.11, .18)
- B. Eligibility for aid:
1. Definition of a dependent child. [Note: This definition for purposes of Chapter 239 is somewhat different from the definition for juvenile court purposes under Chapter 232.] A dependent child is a needy child under age 16, or under age 20 and a student regularly attending high school or vocational school, who has been deprived of parental care and support because of death, illness, abandonment, etc., and who is living with either his parents or near relatives, a licensed foster home, or a child-caring agency. (Sec. 239.1(3)) The child must not be in a public institution or in need of continued care therein because of a physical or mental condition. (Sec. 239.2(3))
  2. If a child is under the care and custody of a foster home or nonprofit public agency, aid will be granted only if: (Sec. 239.2(1))
    - a. The child already had been adjudicated in need of aid for dependent children and already was receiving such aid.
    - b. The plan of care includes services designated to improve the conditions of the home from which he was removed.
  3. Dependent children to be eligible for aid must merely be settled within the state; no waiting period is necessary under a recent U.S. Supreme Court holding (*Shapiro v. Thompson*, 394 U.S. 618 (1969)).
  4. The parent receiving aid must be cooperating in efforts to obtain support from the persons legally responsible for support. (Sec. 239.5)
- C. Assistance is given upon application, and after an investigation by the county board of social welfare. Payments are in amounts fixed by the State Department of Social Services upon the basis of actual need. All grants are subject to periodic reconsideration. The applicant has a right of appeal to the Department of Social Services. (Secs. 239.3-9)
- D. All records are confidential, except that the county board of social welfare must prepare a quarterly public record which lists all recipients and the amounts paid to them. This list may not be used for commercial or political purposes. (Sec. 239.10)
- E. That part of the cost of benefits which is not paid by federal contributions is divided between the county funds and the state fund for aid to dependent children. (Secs. 239.11-12) [Note: Recent Federal Supreme Court holdings have been used to infer that a distinction in AFDC grants based upon a classification of illegitimacy will be held unconstitutional. (*Doe v. Shapiro*, 302 F. Supp. 761 (D. Conn. 1969), *Levy v. Louisiana*, 391 U.S. 68 (1968))]
- II. Poor relief.** Needy children who are unable to obtain support from parents or relatives may receive poor relief under Chapter 252.
- III. Soldiers' relief. (Ch. 250)**
- A. The county soldiers' relief commission is composed of veterans of various wars, and its aid is supported by a tax levied by the board of supervisors. (Secs. 250.1-6)

- B. The commission grants assistance to indigent minor children (not over age 18) of veterans, though it is primarily organized for relief of veterans. (Secs. 250.1-.10)
- C. The commission may employ personnel subject to the approval of the board of supervisors and set up an administrative office. (Secs. 250.5-.6)
- D. Periodically, lists of all persons who receive assistance must be transmitted to the board of supervisors. Apparently the purpose of this statute is to prevent duplication of poor relief and soldiers' relief. (Secs. 250.9, 252.32) [Note: The procedures outlined in I-D above are also required of the soldiers' relief commission. (Sec. 250.10)]



## CHILD LABOR

### Relevant 1970 Code Chapters or Sections

82.76	124.21
85.31, .49-.50,	218.40, .42
.61	242.4, .7-8
86.13	244.6, .10
91.4-.5, .7	356.16
92.1-.6, .9,	
.11-.17	

### I. Child labor prohibitions and restrictions by ages and occupations.

- A. Minors are prohibited from working at or in:
1. Any mine, manufacturing establishment, factory, mill, shop, laundry, slaughter house, packing house, any store or mercantile establishment where more than eight persons are employed, any livery stable, garage, place of amusement, or in the distribution or transmission of merchandise or messages, except parents' establishment, if under age 14. (Sec. 92.1)
  2. Cleaning and operating machinery as follows: (Sec. 92.4)
    - a. Operating elevator if under age 16.
    - b. Operating dangerous machinery, except during approved vocational training, if under age 16.
    - c. Cleaning moving machinery if male and under age 16, or female and under age 18.
  3. Any unhealthy or morally depraving place if under age 16, including the following occupations: (Sec. 92.11)
    - a. Where explosives are used.
    - b. Mining (during school term).
    - c. Hotels, restaurants, cafes, bowling alleys, pool rooms, cigar stores, or barber shops.
    - d. Any occupation dangerous to life and limb.
  4. Any occupation requiring constant standing if female and under age 21. (Sec. 92.11)
  5. Any street occupation in cities over 10,000 if male and under age 11 or female and under age 18. (Sec. 92.12)
  6. Any delivering or errand-running occupation in cities over 10,000 between 10:00 p.m. and 5:00 a.m. if under age 18. (Sec. 92.14)
  7. Serving beer in any place where beer sales constitute over 50 per cent of the business, so long as a minor. (Sec. 124.21)
  8. Any migratory agricultural labor, with or without compensation, if under age 10. (Sec. 92.17)
  9. Any migratory agricultural labor, if the child is under age 14, occurring during regular school hours of any public or private school which is available to such child. (Sec. 92.17)
- B. Minors must have work permits to work at or in:
1. Any mine, manufacturing establishment, factory, mill, shop, laundry, slaughter house, packing house, any store or mercantile establishment where more than eight persons are employed, any livery stable, garage, place of amusement, or in the distribution or transmission of merchandise or messages, except parents' establishment, if between ages 14 and 16. (Sec. 92.5)
  2. Any street occupation of male between age 11 and age 16. (Sec. 92.13)
  3. A street occupation special permit for males under age 11 may be issued by the superintendent of schools or person authorized by him, upon sufficient showing made by a judge of a superior, municipal, or juvenile court. (Sec. 92.12)

- C. Special situations not covered by child labor law.
  - 1. Vocational training and work may be required or provided for inmates of the State Training Schools and the Iowa Juvenile and Annie Wittenmyer Homes. (Secs. 242.4, 244.6)
  - 2. Children from these homes may be placed with respectable families under articles which, among other things, determine disposition of earnings. (Secs. 242.7-8, 244.10)
  - 3. Male prisoners over age 16 may be sentenced to hard labor. (Sec. 356.16)
  - 4. There is an exception to the dangerous machinery restriction for pupils working under an instructor in school manual training shops or in an approved vocational education course. (Sec. 92.4(3))
  - 5. Inmates of all state institutions are required to render reasonable service. (Sec. 218.40) The director in control of such institutions is authorized to pay an inmate for such service if it is deemed wise to do so. (Sec. 218.42)
  
- II. **Work permits.** The forms for permits and related papers are prescribed by the State Superintendent of Public Instruction and furnished to the local school authorities. (Sec. 92.9)
  - A. A request application for work permit must be made by the child's parent, guardian, or custodian. (Sec. 92.6)
  - B. Requirements for issuance of a permit include: (Sec. 92.6)
    - 1. Employer's description of work and promise of employment.
    - 2. School record showing satisfactory completion of sixth grade, except for vacation permits where the child is physically capable.
    - 3. Medical certificate of physical fitness.
    - 4. Evidence of the child's age.
  - C. Permits are issued by the superintendent of schools or by another person designated in writing by the superintendent of schools. Where there is no superintendent, permits are issued by a person authorized in writing by the local school board. (Sec. 92.6)
  - D. Permits are issued only to the employer. (Sec. 92.5)
    - 1. The employer must keep the permit and duplicate lists open to inspection. (Sec. 92.5)
    - 2. A foreman or pit boss must keep a record of boys under age 16 working in a mine during school vacations. (Sec. 82.76(5)) [Note: Sec. 92.11]
    - 3. When employment is terminated, the employer must return the permit within two days with reasons for termination. (Sec. 92.5)
  - E. Permits for street occupations for boys between age 11 and 16 need not certify satisfactory completion of the sixth grade. (Sec. 92.13)
  
- III. **Hours.**
  - A. For any mine, manufacturing establishment, factory, mill, shop, laundry, slaughter house, packing house, any store or mercantile establishment where more than eight persons are employed, any livery stable, garage, place of amusement, or in the distribution or transmission of messages, except parents' establishment, children under age 16 shall not: (Sec. 92.2)
    - 1. Work before 7:00 a.m., nor after 6:00 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 forty-eight hours per week.
  - B. Minors in street occupations may not work earlier than 4:00 a.m., nor later than 7:30 p.m., except for an 8:30 p.m. limitation during summer vacation. (Sec. 92.13)
  - C. In any school district where a part-time school has been established, no person under age 16 may work more than forty hours per week. (Sec. 92.3)

#### **IV. 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. Payment of benefits to a minor:
  - 1. 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)
  - 2. The minor or trustee may give a valid release for payments of compensation on the minor's account. (Sec. 86.13)
- C. Death of a minor upon whom his parent was totally dependent entitles the parent to receive full compensation equal to that of an adult with like earnings. (Sec. 85.31(2))

#### **V. Enforcement and penalties.**

- A. The state Labor Commissioner and his staff are charged with enforcement. (Secs. 91.5(2), 92.16)
  - 1. The woman inspector in the Labor Bureau is charged with inspecting children's employment and collecting statistics on child labor. (Sec. 91.7)
  - 2. The Labor Commissioner is charged with collecting statistics, including employment of children. (Sec. 91.4(2))
- B. Local school officials, peace officers, and mayors are required to cooperate in enforcing the child labor laws. (Sec. 92.16)
- C. The county attorney is required to investigate and prosecute violators. (Sec. 92.16)
- D. Penalties include fines up to \$100 and up to thirty days in jail for any parent, custodian, or employer who violates the law. (Sec. 92.15)

## MOTOR VEHICLE SAFETY LAWS

### Relevant 1970 Code Chapters or Sections 321.177, .179-.180, .184, .186, .194, .219, .375-.376, .482, .493

- I. **Jurisdiction.** The juvenile court has no jurisdiction over motor vehicle violations which are punishable by a fine of not more than \$100 or by imprisonment for no more than thirty days. (Sec. 321.482, Op. Atty. Gen., January 24, 1968)
- 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. [Note: Parents and guardians are referred to section 321.219.]
- B. License requirements (written and driving examinations and a vision test are required of all applicants. Inferred from section 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, in which case, the minimum age is 16 years, except that:
    - a. A temporary instruction permit (good for two years) authorizing operation of a motor vehicle only while accompanied by a licensed adult driver, chauffeur, or an approved or prospective driver education instructor, may be issued to minors of age 14 or older, except that those persons less than age 16 must be accompanied by a licensed parent or guardian, by an approved or prospective drivers education instructor, or by any person 25 years or 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, and to drive at any time during the daytime (between 7:00 a.m. and 6:00 p.m. when accompanied by a license-holding parent or guardian. The applicant must show a genuine need for such a license and furnish a supporting affidavit by a school official. (Sec. 321.194)
  2. Chauffeur's license. (Sec. 321.177) Such a license may not be issued to anyone under age 18, except that no person under age 21 may drive any carrier of combustibles or common carrier of persons, except a school bus. (Secs. 321.179, .375-.376)
  3. All applications for licenses and permits for 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)
  4. Persons under age 18 who are not attending a school which offers an approved drivers education course are not required to complete such a course prior to receiving a one-year probationary operator's license. However, if such person prior to age 18 re-enters a school offering such approved course of study he or she will be required to attend the drivers education course. (Sec. 321.184)
- C. School buses. (See page 36.)
- D. [Note: Warning on 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 the damage. (Sec. 321.493)]

## CRIMINAL ACTS HARMFUL TO CHILDREN

### Relevant 1970 Code Chapters or Sections

98.2-.5, .40-.41	599.1
123.43, .45	695.18, .26-.28
124	698
124.20-.21, .37	706.2
125.7	724.7, .10
129.2, .4	725.2-.8
130.11-.13	726.9-.10
204	731.7
204.20	731A
204A.11	732.8, .17-.19
205.9	739.12
233.1-5	

- 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 21. 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. Child-stealing.** The taking, decoying, or enticing away from its parents or guardian of any child under the age of 16 is unlawful, and punishable by fine up to \$1,000 or imprisonment up to ten years. (Sec. 706.2)
- III. Abandonment and neglect.**
- A. Exposing and abandoning a child under the age of 6, when done by parents, guardian, or a person to whom such child has been entrusted, is punishable by imprisonment up to five years. (Sec. 731.7)
  - B. Wanton neglect (such neglect as a normal parent would not permit) is unlawful as to any child under the age of 18, and punishable in summary proceedings in the juvenile court by fine up to \$100 or imprisonment up to thirty days. (Ch. 731A)
- 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 21 except within a private home and with parental consent; or to permit such minor to serve beer in a place where beer sales constitute more than 50 per cent of the business. Minors who violate any provisions of Chapter 124 are to be fined no more than \$100 or imprisoned in the county jail, no more than thirty days. Penalties for adults include fines of not less than \$300, nor more than \$1,000, or imprisonment in the county jail for not less than three months nor more than a year, or both. (Secs. 124.20-.21, .37)[Note: Laws and restrictions of the code concerning liquor and beer also apply to the licensed pharmacist who has obtained a permit to sell intoxicating liquors. (Secs. 130.11-.13)]
  - B. It is also unlawful for a minor (under age 21) to purchase, obtain, or attempt to purchase through misrepresentation of age, any alcoholic beverage or beer. (Sec. 124.20) Such falsification is a misdemeanor and will be punished by a fine of from \$100 to \$300 or imprisonment up to thirty days, or both. (Sec. 123.45)
  - C. It is unlawful to give or supply liquor to a person under the age of 21, except that a parent or doctor may supply liquor to a minor for beverage or medicinal purposes. (Sec. 123.43)
  - D. Any person who sells or gives liquor to a minor (no age specified) is deemed a bootlegger, and will be punished accordingly. (Sec. 125.7)

- E. Mere presence of a minor in a tavern is not illegal under state law, but may be regulated by city ordinances.
  - F. 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 parent, guardian, or next friend. (Secs. 129.2, .4)
- 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 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 or 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 and explosives.**
- A. It is unlawful to give or sell a pistol, revolver, or other dangerous weapon to any person under age 21. However, hunting and fishing knives are excepted. (Sec. 695.18)
  - B. It is unlawful to sell or give a pistol, or revolver to any minor. However, ammunition may be sold to a minor who has a hunting license or is entitled to hunt on his own premises without license. (Sec. 695.26)
  - C. Sale of fireworks, explosives, etc. is prohibited, except for dynamite caps for necessary purposes. (Secs. 695.27-.28, 732.17-.19)
- VII. Narcotics, drugs, and poisons.**
- A. Narcotic Drug Act. (Sec. 204.20)
    - 1. Selling or administering any narcotic drug to a minor except for medicinal purposes is punishable by imprisonment for five to twenty years. (Sec. 204.20)
    - 2. Theft of narcotic drugs in order to administer or sell them, and all other violations of Chapter 204, are punishable by fine of not more than \$2,000 and imprisonment for two to five years unless otherwise provided. Minimum imprisonment is five years for second offense, and ten years for third offense. (Sec. 204.20)
    - 3. No parole, probation, or suspended sentence may be granted to persons convicted under Chapter 204 until the minimum sentence has been served. (Sec. 204.20)
    - 4. Any person possessing or attempting to possess marijuana in quantities indicative of personal use only is guilty of possession of marijuana and shall, upon first conviction be imprisoned up to six months or fined up to \$1,000, or both. Subsequent violations or violations in which the quantity involved indicates intent to sell are to be punished the same as 1-3 above. (Sec. 204.20)
  - B. Depressant, stimulant, counterfeit, and hallucinogenic drugs. Any person 18 years of age or more who is convicted of delivering or otherwise making available any depressant or stimulant drug to a person under age 21 is to be punished by a fine of not more than \$2,000 and imprisonment for not more than five years, or both. For second and subsequent offenses the maximums are \$5,000, twenty years, or both. (Sec. 204A.11)
  - C. Poisons. It is unlawful to sell poisons to a minor under age 16 except upon written prescription, or order from parent or guardian. (Sec. 205.9)
  - D. It is unlawful to deposit drugs or medicines upon porches, lawns, vehicles, or in other places where such articles might be picked up by children. (Sec. 732.8)

**VIII. Sex crimes.**

- A. Statutory rape. (Ch. 698)
  - 1. Carnal knowledge and abuse of a female under age 16 (against her will) is statutory rape punishable by life imprisonment or any term of years not less than five.
  - 2. Carnal knowledge of a female under the age of 17 by any male over age 25 is statutory rape, and punishable as above.
- B. It is unlawful to take away or entice any unmarried female under age 18 for the purpose of prostitution. Punishment may be up to five years imprisonment or a fine of up to \$1,000 and imprisonment in the county jail up to one year. (Sec. 724.10) Permitting a female under age 18 who is unmarried to reside in a house of prostitution is unlawful and punishable by imprisonment for from one to five years. (Sec. 724.7)
- C. Lascivious acts with children, including any lewd, immoral, or lascivious act by a person over 18 years of age committed in the presence of or on the body of any minor under the age of 16, is punishable by a fine up to \$500 or imprisonment up to three years. (Sec. 725.2)
- D. Immoral or obscene plays, entertainments, exhibitions, books, pictures, circulars, or literature of any kind, and drugs or medicine advertized for the cure of private or venereal disease, or for the procurement of an abortion, are illegal, and the sale, gift, or display of any of these things to a minor (no age specified) is punishable by fine and imprisonment. (Secs. 725.3-8)

**IX. Contributing to the delinquency of a minor. (Secs. 233.1-5)**

- A. It is unlawful to: (Sec. 233.1)
  - 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, pool room, etc., or induce any child to go into any such place.
  - 3. Knowingly encourage or cause any 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. Knowingly contribute to the delinquency of a child.
- B. Punishment is by fine up to \$100 or imprisonment up to thirty days, or both. Such punishment is no bar to a prosecution for an indictable offense if one was committed. (Secs. 233.2-5)

**X. Billiards.** It is unlawful to permit minors to remain in a billiard hall or participate in a game of billiards. The council in any city or town has the power by ordinance to establish minimum age limits for minors for the purpose of regulating their admittance to billiard halls. Violations are punishable by fine up to \$100 or imprisonment up to thirty days. (Secs. 726.9-10)

**XI. Bribery in athletic contests.** It is unlawful to give or offer anything of value to an athletic contestant or official, etc., with intent to influence him to lose the athletic contest or alter any contestant's score. Violations are punishable by a fine up to \$10,000 or imprisonment up to ten years, or both, (Sec. 739.12)

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