

# **2016-2017 JUVENILE CODE UPDATES**

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# CONFIDENTIALITY OF DELINQUENCY RECORDS



"Before I tell you what happened at recess, is there such a thing as student-school nurse confidentiality?"

**Under prior law, juvenile court records in cases alleging delinquency were public records unless the records were made confidential or sealed.**

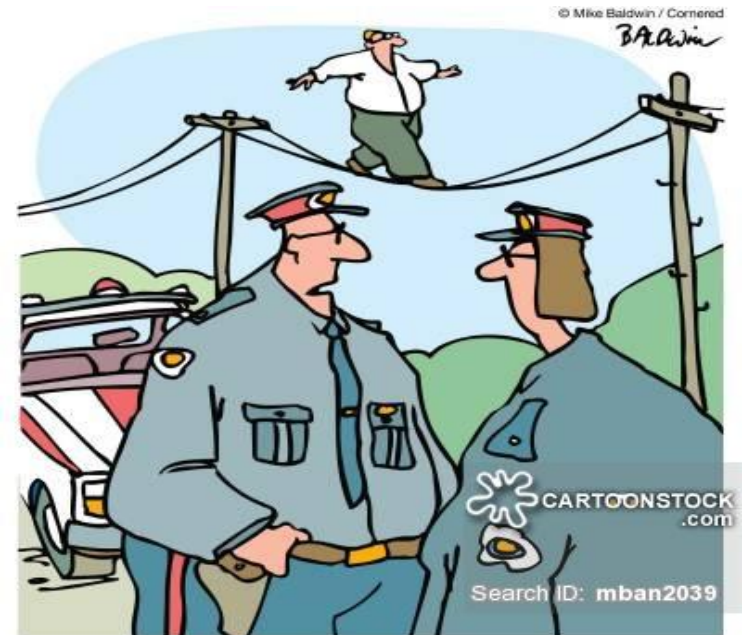
**The Act provides that juvenile court records are confidential and therefore are not public records except in cases alleging the commission of a delinquent act that would be a forcible felony if committed by an adult. A forcible felony is any felonious child endangerment, assault, murder, sexual abuse, kidnapping, robbery, human trafficking, arson in the first degree, or burglary in the first degree.**

# **USE OF ADJUDICATION OF DELINQUENCY FOR PENALTY ENHANCEMENTS OR EVIDENCE.**

- **confidentiality of a final adjudication of delinquency shall not prohibit the state from pleading or proving the adjudication at a subsequent criminal or delinquency proceeding for the purpose of penalty enhancement when Iowa Code specifically deems the delinquency adjudication to constitute a final conviction.**
- **The Act does not limit or restrict the production, use, or introduction of official juvenile court records in any juvenile or adult criminal proceeding, where such records are relevant and deemed admissible under any other provision of the law.**

# RECORDS UNAVAILABLE FOR OPERATING-WHILE-INTOXICATED VIOLATIONS.

The Act provides that the court shall not seal a person's juvenile court records if the person was adjudicated delinquent for violating Iowa Code section 321J.2, which prohibits the operation of a motor vehicle while under the influence of alcohol or a drug.



“He passed the sobriety test. Now I think he’s just showing off.”

# JUSTICE PROCEEDINGS—PATERNITY ESTABLISHED BY LAW INCLUDED



# PATERNITY-

232.2 amends the definition of “parent” relative to the rights, duties, and privileges parents have in the parent-child relationship to provide that:

1. in addition to a biological or adoptive mother or father of a child, the definition includes a father whose paternity has been established by operation of law due to the individual’s marriage to the mother at the time of conception, birth, or at any time during the period between conception and birth of the child;
2. Fixed the previous legislation.....

# **JUVENILE RESTITUTION**

**232A.2 A juvenile victim restitution program is created which shall be funded through moneys appropriated by the general assembly to the judicial branch.**

**The primary purpose of the program is to provide funds to compensate victims for losses due to the delinquent acts of juveniles.**

- **Current law and problems?**



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“There’s so much I want to do with my life...before I reach the age of criminal responsibility, that is.”



# **CHILDREN CONCEIVED THROUGH SEXUAL ABUSE—TERMINATION OF PARENTAL RIGHTS**

**Provides as one of the grounds for termination of parental rights under Iowa Code chapter 232 (Juvenile Justice) and Iowa Code chapter 600A (Termination of Parental Rights) that:**

- clear and convincing evidence that the child was conceived as the result of sexual abuse**
- the biological parent against whom the sexual abuse was perpetrated requests termination of the parental rights of the biological parent who perpetrated the sexual abuse.**

# **CHILD ENDANGERMENT — STATUTE OF LIMITATIONS.**

**An indictment for felonious child endangerment in violation of Iowa Code section 726.6(4), (5), or (6), shall be found within 10 years after the person upon whom the offense is committed attains 18 years of age.**

**If the person against whom the information or indictment for felonious child endangerment is sought is identified through the use of a DNA profile, an information or indictment shall be found within 10 years after the person upon whom the offense was committed attains 18 years of age, or within three years from the date the person is identified by the person's DNA profile, whichever is later.**

# CONT....

## Prior law:

- provided that an indictment for any felonious child endangerment must be found within three years after its commission.

# **INTERFERENCE WITH OFFICIAL ACTS — JAILERS**

**Under the Act, a person who knowingly resists or obstructs anyone known by the person to be a jailer, in the performance of any act which is within the scope of the lawful duty or authority of that jailer, commits the crime of interference with official acts.**

- The Act defines “jailer” as a person who is employed by a county or other political subdivision of the state to work at a county jail or other facility used for purposes of the confinement of persons who have committed public offenses, but who is not a peace officer.**
- The criminal offense for the commission of interference with official acts pursuant to the Act ranges from a serious misdemeanor through a class “C” felony depending upon the facts of the offense.**

# **QUESTION #1**

**HOW LONG HAS SWILL BEEN AROUND TO PROVIDE  
EXCELLENT CLE CREDITS FOR US?**

# **PERMANENCY HEARING — OTHER PLANNED PERMANENT LIVING ARRANGEMENTS.**

The court, after a permanency hearing, may order another planned permanent living arrangement if the child is 16 years of age or older, and must follow certain guidelines if the court enters such an order.

- Problems with this?

- What about best interest finding?

(1) Document the efforts to place a child permanently with a parent, relative, or in a guardianship or adoptive placement.

(2) Document that the planned permanent living arrangement is the best permanency plan for the child and compelling reasons why it is not in the child's best interest to be placed permanently with a parent, relative, or in a guardianship or adoptive placement.

(3) Document all of the following at the permanency hearing and the six-month periodic review:

(a) The steps the department is taking to ensure that the planned permanent living arrangement follows the reasonable and prudent parent standard.

(b) Whether the child has regular opportunities to engage in age-appropriate or developmentally appropriate activities.

Prior to entering a permanency order pursuant to subsection 2, paragraph “d”, convincing evidence must exist showing that all of the following apply:

- a. A termination of the parent-child relationship would not be in the best interest of the child.
- b. Services were offered to the child’s family to correct the situation which led to the child’s removal from the home.
- c. The child cannot be returned to the child’s home.



# **ADOPTIONS — APPOINTMENT OF GUARDIAN AD LITEM**

**This Act relates to the appointment of a guardian ad litem (GAL) for a minor person in an adoption proceeding. Under the Act, an adoption petition is to state whether a GAL should be appointed for a minor child to be adopted, and if not, the reasons why a GAL should not be appointed.**

**The Act also requires that, prior to ordering a hearing on the adoption petition, the court shall make a determination of the need for a GAL for a minor child to be adopted and shall, in writing, either appoint or waive the appointment of a GAL for purposes of the adoption proceeding in the order setting the adoption hearing.**

# QUESTION #2

**WHO ARE THE PRESIDENT AND VICE PRESIDENT OF SWILL?**

**Did you know we have a website?!**

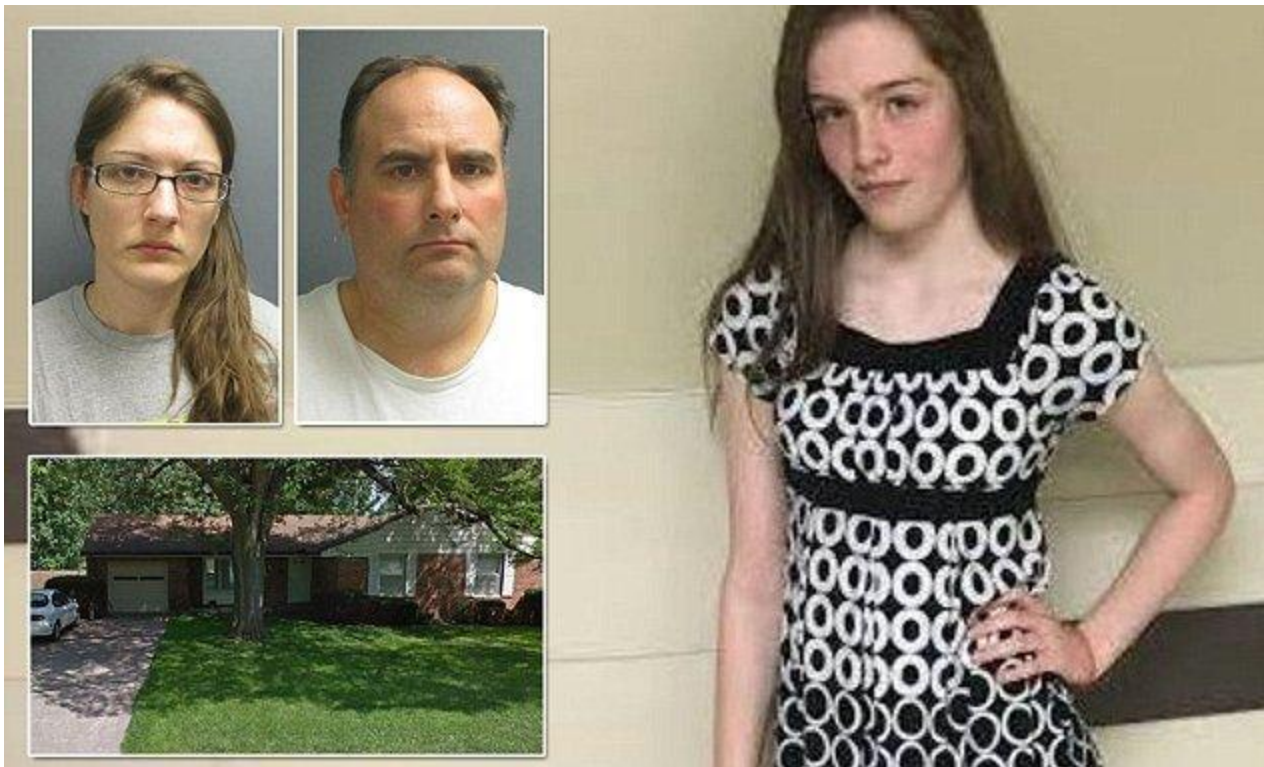
**[www.swilliowa.com](http://www.swilliowa.com)**

**Check it out for past presentations and to register for next year.**

# **PENDING LEGISLATIO N**

**2017 SESSION**

# NATALIE FINN DEATH



# **PUBLIC DISCLOSURE IN CHILD FATALITY**

**Natalie Finn died from emaciation on October 24th due to denial of critical care. Her mother, 42-year-old Nicole Marie Finn, and father, Michael Finn II, 45, have been charged for their roles in her death.**

**Legislators are reviewing child-abuse records subpoenaed from Iowa's Department of Human Services. There is a state agency that has independent authority to investigate complaints about state and local government and has reviewed controversial child deaths in the past.**

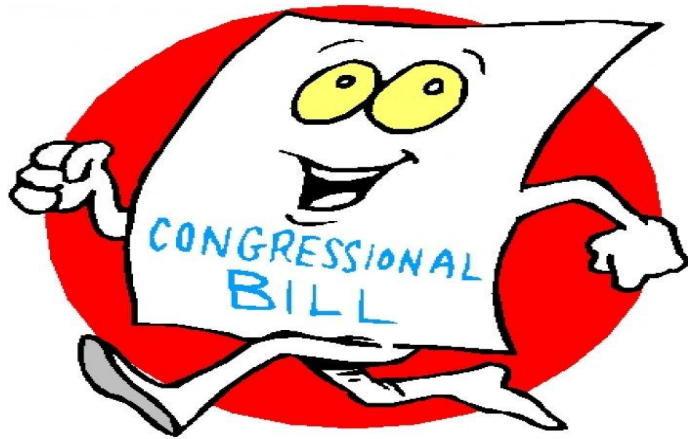
**A Dec. 8 [Watchdog report](#) reported a neighbor in West Des Moines told police that she suspected Natalie Finn was a victim of child abuse — five months before the teen suffered cardiac arrest Oct. 24.**

- One report showed Natalie tried to run away from home in mid-April. Another showed Gordon, whose son attended Walnut Creek campus with Natalie, called police to say she had been asking for food and money, appeared "unkept" and smelled heavily of body odor, and had blisters on her feet and no shoes.
- Gordon also reported to police that Natalie said "she was locked in her bedroom by her mother because one of the pets urinated on the floor," the report showed.
- West Des Moines Officer Matthew Granzow wrote that he and Officer Barry Graham went to the mother's home at 805 15th St. on May 31 and saw someone peering from behind a curtain. No one answered the door, though Granzow said he knocked several times.

# 235A.15 DISCLOSURE

**A bill has been introduced to amend this code section to add:**

1. Any relevant child abuse information concerning the cause of and circumstances surrounding the child fatality or near fatality, including the age and gender of the child and the department's response and findings.
2. Information describing any previous child abuse or neglect investigations of the caregivers responsible for the child abuse or neglect that are pertinent to the child abuse or neglect that led to the child fatality or near fatality, and the results of any such investigations



In addition, the bill includes any services or actions the state took on behalf of the child that are pertinent to the child fatality or near fatality as part of the information required to be disclosed.



# **SEX OFFENDER ACCESS-232.68**

**New bill clarify what constitutes the child abuse definition for  
Allowing Access to a Registered Sex Offender.**

“Knowingly allowing a person custody or control of, or unsupervised access to a child or minor, after knowing the person is required to register or is on the sex offender registry” under chapter 692A for a violation of section 726.6.

However, **within the past 2 years, appeal decisions have interpreted that the current language requires the individual who is allowed access to the children be on the sex offender registry as a result of a violation of section 726.6 (Child Endangerment only). This has resulted in founded incidents of a caretaker who is allowing access to a registered sex offender to be reversed upon appeal.**

**NEEDS FIXED!!!**

# QUESTION #3-NAME THESE PREVIOUS PANELISTS!



# NEW DESIGNATION OF DRUGS

The bill classifies the substance commonly known as tramadol, a centrally acting opioid analgesic, as a schedule IV controlled substance. This substance was previously marketed and distributed as a noncontrolled prescription drug. Effective August 18, 2014, the federal drug enforcement administration classified tramadol as a schedule IV controlled substance under federal law.

# DRUGS CONT.....

The bill classifies thiafentanil, an opioid and analogue of fentanyl, as a schedule II controlled substance.

The bill removes hydrocodone-combination products from the list of substances classified as schedule III controlled substances. Currently, hydrocodone, as a single-entity substance, is classified as a schedule II controlled substance.

Currently, hydrocodone, as a single-entity substance, is classified as a schedule II controlled substance. The change under the bill effectively makes all hydrocodone-containing products subject to the controls, security, reporting, and penalty provisions for schedule II controlled substances.

# DRUGS CONT

The bill classifies suvorexant, an insomnia treatment approved by the federal food and drug administration, as a schedule IV controlled substance. This is a novel, first-in-class, chemical substance and information on actual abuse data is not available. However, data from clinical studies supports the classification in schedule IV.



# **AUTOMATED TICKETS**

**The City of Council Bluffs utilizes automated camera technology for the detection of red light violations. This technology allows the Police Department to monitor more intersections with fewer officers, helping to make our streets safer.**

**Each location of ATE cameras is clearly marked with signage in advance of the intersection. A still photograph and video are taken of the vehicle entering the intersection against a red light. You can review the video at [www.photonotice.com](http://www.photonotice.com). In order to review the video, you will need to enter City Code CBLF. After verification and approval by a police officer, a citation is sent to the registered owner of the vehicle. This citation is considered a municipal infraction and is not reported to the State of Iowa or any other Department of Transportation and does not become a part of the vehicle owner's driving record.**

# **AUTOMATED TICKETS**

This bill imposes a statewide prohibition on the placement and use of automated or remote traffic law enforcement systems including but not limited to unmanned aerial vehicles and any devices with one or more sensors working in conjunction with a traffic-control signal or device, signal light, speed measuring device, or parking meter device. This provision of the bill takes effect July 1, 2017. Local authorities that are currently using automated or remote traffic law enforcement systems must discontinue their use and remove related equipment on or before July 1, 2017.



**In 2015, the speed cameras located on interstates through the three cities generated more than 200,000 citations. The cameras have generated more than \$40 million for the cities a**

**Automated traffic enforcement speed cameras are in Des Moines, Cedar Rapids and Sioux City. Private vendors that own the devices.**

**The reality is that Iowa is the only state in the nation with permanent speed cameras on the interstate system.**

## **QUESTION #4**

**WHO IN THIS ROOM HAS BEEN  
TO EVERY SWILL?**

# TEXTING AND DRIVING



# TEXTING AND DRIVING

Under current law, Code section 321.276 prohibits the use of hand-held electronic communication devices to write, send, or read text messages while driving a motor vehicle. This bill expands that provision to prohibit any use of an electronic communication device while driving.

Generally, the bill does not alter the exceptions existing under current law, and adds an exception for the use of an electronic communication device in a hands-free mode. The bill eliminates the provision prohibiting a peace officer from stopping or detaining a person solely for a suspected violation of Code section 321.276, and makes a violation of Code section 321.276 a moving violation. Under current law, a moving violation can be considered for purposes of administrative suspension of a driver's license or to establish habitual offender status.

# **QUESTION #5**

**What year did Judge Gary Anderson get appointed to the Bench in the 4<sup>th</sup> Judicial District?**

**Also, what is his favorite table game at the casino?**

# SMOKING AGE TO 21



## **SMOKING CONT...**

This bill provides that, beginning January 1, 2018, the legal age relative to tobacco, tobacco products, alternative nicotine products, vapor products, and cigarettes is 21 years of age.

# 911 CALLS BY OR INVOLVING JUVENILES

This bill relates to the confidentiality of audio records and transcripts of 911 service calls when involving a child as a witness or victim, or as the maker or the subject of the 911 service call.

The bill creates new subsection 22.7(5A) to provide that audio or transcripts of 911 service calls shall be kept confidential, when the service calls involve a child as a witness or victim, or as the maker or the subject of the 911 service call.



# **PRESENCE OF CHILD NEAR DANGEROUS DRUGS**

This bill relates to the definition of a dangerous substance for purposes of child in need of assistance and child abuse proceedings under Code chapter 232

**Amends 232.2(6)(p) by adding**

- **Cocaine, Heroin, Opium and Opiate**
- **Current law is just meth**

Thus making the presence of a child near such substances an essential factor in some circumstances to declare a child a child in need of assistance or to establish the existence of child abuse under this code section.

# MENTAL HEALTH

Under current Code section 232.2(6)(f), a child is a child in need of assistance if the child is in need of treatment to cure or alleviate serious mental illness or disorder, or emotional damage as evidenced by severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others and whose parent, guardian, or custodian is unwilling to provide such treatment.

**Years ago the Code changed 232.2(6)(f) by deleting “unable.”  
The new amendment would add “unable” back in.**

# **MENTAL HEALTH**

**This is a BIG deal to juvenile court. The State created Integrated Health to avoid CINA's being filed. The State also allows private PMIC placements.**

**CINA's were meant for child abuse and neglect. Not for mental health care.**

**PROPOSED CHANGES TO (F)=MORE CINA'S BEING FILED**

# TPR “REMOVED”

## 232.116

**Current case law this session has found that the child must be “removed” from the physical custody of both parents for a period of at least 6 consecutive months or 12/18 months to terminate rights under these code sections.**

### **Meaning?-Colorado parent?**

- The bill amends this element to require that either the child has been removed from or was not placed in the physical custody of the child’s parent for a specified period of time.

# **SUBSIDIZED GUARDIANSHIPS**

**Previous law required 6 months prior placement for guardianships. Also, NO MONEY!**

The bill requires the department of human services to submit a Title IV-E guardianship assistance state plan amendment to the United States department of health and human services to allow Title IV-E funding through the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (Pub. L. No. 110-351) to be used for a subsidized guardianship program to enable children to remain in the care of grandparents and other relatives to avoid placement in state care.

# AMENDS CINA DEFINITION

## Provides:

- an unmarried child whose parent, guardian, custodian, or other adult member of the child's household who unlawfully uses, possesses, manufactures, cultivates, or distributes a dangerous substance in the presence of a child
- or knowingly allows such activities by another person in the presence of a child; possesses a product with the intent to use the product as a precursor or an intermediary to a dangerous substance in the presence of a child; or unlawfully uses, possesses, manufactures, cultivates, or distributes a dangerous substance in a child's home, on the premises, or in a motor vehicle located on the premises, may be the subject of a child in need of assistance petition.

# **QUESTION #6**

**How many people signed up for SWILL 2017?**

**THANK YOU!**