

CHAPTER 1082**SEXUALLY PREDATORY OFFENSES – ENTICING AWAY A CHILD***H.F. 2316*

† AN ACT relating to sex offenses, including enticing away a child and sentences for persons convicted of sexually predatory offenses.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 692.15, Code Supplement 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 8. The fact that a person was convicted for a sexually predatory offense under chapter 901A shall be reported with other conviction data regarding that person.

Sec. 2. Section 710.10, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 3. A person's intent to commit an illegal act upon the child may be inferred when the individual is not known to the child and the individual does not have the permission of the child's parent, guardian, or custodian to contact the child.

Sec. 3. **NEW SECTION.** 901A.1 DEFINITIONS.

1. As used in this chapter, the term "sexually predatory offense" means any serious or aggravated misdemeanor or felony which constitutes:

- a. A violation of any provision of chapter 709.
 - b. A violation of any of the following if the offense involves sexual abuse, attempted sexual abuse, or intent to commit sexual abuse:
 - (1) Murder as defined in section 707.1.
 - (2) Kidnapping as defined in section 710.1.
 - (3) Burglary as defined in section 713.1.
 - (4) Child endangerment under section 726.6, subsection 1, paragraph "e".
 - c. Sexual exploitation of a minor in violation of section 728.12, subsection 1.
 - d. Pandering involving a minor in violation of section 725.3, subsection 2.
 - e. Any offense involving an attempt to commit an offense contained in this section.
 - f. An offense under prior law of this state or an offense committed in another jurisdiction which would constitute an equivalent offense under paragraphs "a" through "e".
2. As used in this section,* the term "prior conviction" includes a plea of guilty, deferred judgment, deferred or suspended sentence, or adjudication of delinquency.

Sec. 4. **NEW SECTION.** 901A.2 ENHANCED SENTENCING.

1. A person convicted of a sexually predatory offense which is a serious or aggravated misdemeanor, who has a prior conviction for a sexually predatory offense, shall be sentenced to and shall serve twice the maximum period of incarceration for the offense, notwithstanding any other provision of the Code to the contrary, prior to being eligible for parole or work release. However, a person sentenced under this subsection shall not have the person's sentence reduced under chapter 903A or otherwise by more than fifteen percent.

2. A person convicted of a sexually predatory offense which is a serious or aggravated misdemeanor, who has two or more prior convictions for sexually predatory offenses, shall be sentenced to and shall serve a period of incarceration of ten years, notwithstanding any other provision of the Code to the contrary. A person sentenced under this subsection shall not have the person's sentence reduced under chapter 903A or otherwise by more than fifteen percent.

3. A person convicted of a sexually predatory offense which is a felony, who has a prior conviction for a sexually predatory offense, shall be sentenced to and shall serve twice the

† Estimate of additional local revenue expenditures required by state mandate on file with the Secretary of State

* The word "chapter" probably intended

maximum period of incarceration for the offense, or twenty-five years, whichever is greater, notwithstanding any other provision of the Code to the contrary. A person sentenced under this subsection shall not have the person's sentence reduced under chapter 903A or otherwise by more than fifteen percent.

4. A person convicted of a sexually predatory offense which is a felony who has previously been sentenced under subsection 3 shall be sentenced to life in prison on the same terms as a class "A" felon under section 902.1, notwithstanding any other provision of the Code to the contrary. In order for a person to be sentenced under this subsection, the prosecuting attorney shall allege and prove that this section is applicable to the person.

5. A person sentenced under the provisions of this section shall not be eligible for deferred judgment, deferred sentence, or suspended sentence.

6. In addition to any other sentence imposed on a person convicted of a sexually predatory offense pursuant to subsection 1, 2, or 3, the person shall be sentenced to an additional term of parole or work release not to exceed two years. The board of parole shall determine whether the person should be released on parole or placed in a work release program. The sentence of parole supervision shall commence immediately upon the person's release by the board of parole and shall be under the terms and conditions as set out in chapter 906. Violations of parole or work release shall be subject to the procedures set out in chapter 905 or 908 or rules adopted under those chapters. For purposes of disposition of a parole violator upon revocation of parole or work release, the sentence of an additional term of parole or work release shall be considered part of the original term of commitment to the department of corrections.

Sec. 5. NEW SECTION. 901A.3 TRIAL INFORMATION.

A prosecuting attorney charging a person with an offense which is believed to constitute a sexually predatory offense for the purpose of enhancement of sentence on subsequent offenses shall include a statement to that effect in the trial information. The court shall allow the indictment to be amended if it does not contain such information. This statement shall not be read to a jury.

Sec. 6. NEW SECTION. 901A.4 SEXUALLY PREDATORY OFFENSES – FINDING OF FACT – NOTICE.

1. Prior to pronouncing judgment and sentence, the finder of fact shall, if the offense is murder, kidnapping, burglary, or child endangerment in violation of section 726.6, subsection 1, paragraph "e", make a factual determination whether the offense constitutes a sexually predatory offense as defined in section 901A.1 for the purpose of enhancement of future offenses.

2. Upon conviction for a sexually predatory offense as defined in section 901A.1, the court shall provide written notice to the person that the conviction meets the definition of a sexually predatory offense for the purpose of enhancing future punishment for similar offenses.

Sec. 7. REPEAL. Sections 709C.1, 709C.2, 709C.3, 709C.4, and 709C.6 through 709C.10, Code 1995, are repealed.

Sec. 8. REPEAL. Sections 709C.2A, 709C.5, 709C.11, and 709C.12, Code Supplement 1995, are repealed.

Approved April 10, 1996