

CHAPTER 83
IOWA SEX OFFENDER REGISTRY

[Prior to 2/16/05, see 661—8.301 to 8.305]

661—83.1(692A) Sex offender registry established. The Iowa sex offender registry, as authorized by Iowa Code chapter 692A, is hereby established in the division of criminal investigation.

661—83.2(692A) Definitions. The following definitions apply to rules 661—83.1(692A) to 661—83.5(692A).

83.2(1) “*Aggravated offense*” means a conviction for any of the following offenses:

- a. Sexual abuse in the first degree in violation of Iowa Code section 709.2.
- b. Sexual abuse in the second degree in violation of Iowa Code section 709.3.
- c. Sexual abuse in the third degree in violation of Iowa Code section 709.4, subsection 1.
- d. Lascivious acts with a child in violation of Iowa Code section 709.8, subsection 1.
- e. Assault with intent to commit sexual abuse in violation of Iowa Code section 709.11.
- f. Burglary in the first degree in violation of Iowa Code section 713.3, subsection 1, paragraph “d.”
- g. Kidnapping, if sexual abuse as defined in Iowa Code section 709.1 is committed during the offense.
- h. Murder, if sexual abuse as defined in Iowa Code section 709.1 is committed during the offense.
- i. Criminal transmission of human immunodeficiency virus in violation of Iowa Code section 709C.1, subsection 1, paragraph “a.”

83.2(2) “*Convicted*” or “*conviction*” means a guilty verdict in a criminal case or an adjudication of delinquency in juvenile court for an offense specified in these rules or in Iowa Code chapter 692A as requiring registration with the Iowa sex offender registry. For purposes of these rules, “convicted” or “conviction” includes deferred judgments, deferred sentences, and acquittals by reason of insanity, and adjudications of delinquency of persons whose juvenile court records have been sealed under Iowa Code section 232.150.

83.2(3) “*Criminal or juvenile justice agency*” means an agency or department of any level of government or an entity wholly owned, financed, or controlled by one or more such agencies or departments which performs as its principal function the apprehension, prosecution, adjudication, incarceration, or rehabilitation of criminal or juvenile offenders.

83.2(4) “*Criminal offense against a minor*” means a violation of any of the following sections of the Code of Iowa or equivalent laws of the United States or of any other jurisdiction, if committed against a minor:

- a. Enticing a person into a brothel or detaining a person in a brothel by force, intimidation, or false pretenses in violation of Iowa Code section 709.7.
- b. Kidnapping of a minor.
- c. False imprisonment of a minor.
- d. Any indictable offense involving sexual conduct directed toward a minor:
 - (1) Stalking in violation of Iowa Code section 708.11, subsection 3, paragraph “b,” subparagraph (3), if the offense is sexually motivated.
 - (2) Any violation of the following Iowa Code sections, subsections, and paragraphs: 709.3(2), 709.4(2) “b,” 709.4(2) “c,” 709.8, 709.12, or 709.14.
 - (3) Any violation of the following Iowa Code sections with a minor victim: 709.2, 709.3, 709.4, 709.9, 709.15, 709.16, or 726.2; violations of section 698.1 (Iowa Code, 1975), 704.1 (Iowa Code, 1975), or 705.2 (Iowa Code, 1975).
- e. Solicitation of a minor to engage in an illegal sex act; any violation of Iowa Code section 709A.6 involving an offense which would warrant registration.
- f. Enticing away a child in violation of Iowa Code section 710.10.

- g. Use of a minor in a sexual performance: any violation of Iowa Code section 728.12(1).
- h. Sexual exploitation of a minor in violation of Iowa Code section 728.12, subsection 2 or 3.
- i. Solicitation of a minor to practice prostitution: any violation of Iowa Code section 725.3(2).
- j. Incest in violation of Iowa Code section 726.2, when committed against a minor.
- k. Dissemination or exhibition of obscene materials to minors:
 - (1) Any violation of Iowa Code section 728.2 or 728.15.
 - (2) Any violation of Iowa Code section 728.4 if delivery is to a minor.
- l. Admitting minors to premises where obscene material is exhibited: any violation of Iowa Code section 728.3.
- m. An attempt to commit sexual abuse of a minor: any violation of Iowa Code section 709.11; also, any violation of section 698.4 (Iowa Code, 1975).

83.2(5) “*Full-time or part-time*” means a period of time exceeding 14 days or an aggregate period of time exceeding 30 days during any calendar year pursuant to 42 U.S.C. § 14071(a)(3)(F).

83.2(6) “*Offender*” means a person who is required to register with the Iowa sex offender registry.

83.2(7) “*Other relevant offenses*” means any of the following offenses:

- a. Telephone dissemination of obscene materials in violation of Iowa Code section 728.15.
- b. Rental or sale of hard-core pornography in violation of Iowa Code section 728.4.
- c. Indecent exposure in violation of Iowa Code section 709.9.
- d. Incest committed in violation of Iowa Code section 726.2 against a dependent adult, as defined in Iowa Code section 235B.2.
- e. A criminal offense committed in another jurisdiction which would constitute an indictable offense under paragraphs “a” through “d” if committed in this state.

83.2(8) “*Registrant*” means a person who is currently registered with the Iowa sex offender registry.

83.2(9) “*Relevant information*” means information including, but not limited to, offender’s name, offender’s address or addresses, a photograph or photographs of the offender, locations frequented by the offender, criminal history information from the registry, physical descriptors of the offender, ages and genders of victims, and other information deemed relevant by the department.

83.2(10) “*Sexual exploitation*” means sexual exploitation by a counselor or therapist in violation of Iowa Code section 709.15.

83.2(11) “*Sexually violent offense*” means any of the following indictable offenses:

- a. Sexual abuse as defined in Iowa Code section 709.1.
- b. Assault with intent to commit sexual abuse in violation of Iowa Code section 709.11.
- c. Sexual misconduct with offenders in violation of Iowa Code section 709.16.
- d. Any of the following offenses, if the offense involves sexual abuse or attempted sexual abuse: murder, attempted murder, kidnapping, burglary, or manslaughter.
- e. A criminal offense committed in another jurisdiction which would constitute an indictable offense under paragraphs “a” through “d” of this subrule if committed in this state.

83.2(12) “*Sexually violent predator*” means a person who has been convicted of an offense under the laws of this state or of another state which would qualify the person as a sexually violent predator under the federal Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14071(a)(3)(B), (C), (D), and (E).

661—83.3(692A) Forms and procedures. The following forms and procedures are prescribed for use with the Iowa sex offender registry. Supplies of these forms may be obtained by contacting the Iowa sex offender registry at the division of criminal investigation.

83.3(1) Notification. Form DCI-144, Notification of Registration Requirement, which notifies offenders of their duty to register with the Iowa sex offender registry, shall be provided to persons identified as being required to register. Failure to provide offenders with Form DCI-144 does not relieve offenders of their duty to register with the Iowa sex offender registry.

83.3(2) Registration.

a. Form DCI-145, Sex Offender Registration, shall be completed by or on behalf of each offender and submitted to the sheriff of the county in which the offender will be residing and to the division of criminal investigation, in order to satisfy the registration requirements of the Iowa sex offender registry. This form shall also be completed by or on behalf of each offender and submitted to the sheriff of the county in which the offender will be a student, be employed, or be engaging in a vocation on a full-time or part-time basis at an institution of higher education, in order to satisfy the registration requirements of Iowa Code section 692A.3A.

b. Form DCI-145 shall be used to report changes of residence, telephone number, name of registrant, or change in status as a student, employee, or practicing a vocation at an institution of higher education. A completed copy of Form DCI-145 shall be submitted by the registrant to the sheriff of the county of residence each time the registrant's place of residence, telephone number, or name changes within five days of the change of residence, telephone number, or name, whether within or outside the state of Iowa. A completed copy of Form DCI-145 shall be submitted by the registrant to the sheriff of the county in which the registrant is a student, employee, or practicing a vocation on a full-time or part-time basis at an institution of higher education within five days of the registrant's becoming a student, employee, or engaged in a vocation at the institution of higher education. The original of each completed Form DCI-145 shall be forwarded to the division of criminal investigation by the registering agency within three days of receiving the completed form.

If a registrant moves from one county to another, the registrant shall submit copies of completed Form DCI-145 reporting the change of residence to the sheriff of the prior county of residence and the sheriff of the new county of residence. The sheriff of the new county of residence shall be responsible for transmitting a copy of completed Form DCI-145 to the Iowa sex offender registry.

When the department receives notification that a registrant has changed residence to a location outside of Iowa, the department shall notify the registering state agency in the registrant's new state of residence of the registrant's name, new address, and telephone number. Upon notification of the appropriate out-of-state agency, the department shall remove the registrant from the active registry. The registrant shall not be required to submit annual or quarterly verifications of address while residing outside of Iowa, provided that the registrant is not a student at, employed by, or engaged in a vocation at an institution of higher education in Iowa. The department shall maintain the registrant's file in the event the registrant establishes a residence in Iowa or becomes a student, employee, or practices a vocation at an institution of higher education in Iowa in the future. The department may also maintain the file for any other purpose.

c. Upon initial submission of Form DCI-145, the form shall be accompanied by current photographs and fingerprints of the offender. Current photographs of the registrant shall accompany submission of Form DCI-145 upon each subsequent submission of Form DCI-145 unless the registrant's appearance has not changed significantly in the judgment of the submitting agency.

d. A list of all registrants within a county may be provided by the division of criminal investigation to the county sheriff.

83.3(3) Annual verification. Form DCI-146, Annual Verification of Address, shall be mailed annually by the division of criminal investigation to each registrant at the last address known to the registry during the month of original registration. Form DCI-146 shall be returned by the registrant to the division of criminal investigation within ten days of receipt. Form DCI-146 shall be mailed to the registrant in an envelope on which it is clearly stated that it is to be returned to the division of criminal investigation if the addressee no longer resides at the address indicated and that Iowa law prohibits its being forwarded.

EXCEPTION: Form DCI-146 shall be mailed quarterly by the division of criminal investigation to each registrant who is a sexually violent predator to the last address known to the registry and shall be completed and returned to the division of criminal investigation by the registrant within ten days of receipt.

83.3(4) Application for determination. Form DCI-148, Application for Determination, shall be completed by a registrant to initiate a request that the department review whether one or more offenses of which the registrant has been convicted require registration with the Iowa sex offender registry, whether the time period during which the registrant is required to register has expired, or whether the registrant is exempt from the placement of information on the sex offender registry Web site. A registrant who submits a completed copy of Form DCI-148 for review shall provide with it copies of any sentencing or adjudicatory orders related to each offense for which a determination of whether registration is required is being requested. The completed application (Form DCI-148) shall specify the exact grounds for the application and shall include a statement of any additional facts or law which the registrant intends to present to the department in support of the application. Failure to submit any of the required information shall constitute grounds for denial of the application. If the application sets forth an issue of fact which cannot be evaluated based upon the record of convictions, sentencing and adjudicatory orders, relevant statutory provisions, and other records provided, and is material to the determination, the commissioner may refer the matter to an administrative law judge or presiding officer for a contested case hearing.

83.3(5) Decision of determination. Form DCI-149, Decision of Determination, shall be used by the division of criminal investigation to notify a registrant who has submitted a request for determination (Form DCI-148) of the results of that review. A completed Form DCI-149 shall be mailed to any registrant who has filed a completed Form DCI-148 within 90 days of the receipt by the division of criminal investigation of the completed Form DCI-148 and all required supporting documents. A decision of determination shall be signed by the commissioner and shall constitute final agency action for the purposes of Iowa Code chapter 17A.

If an administrative law judge or presiding officer has been assigned to hold a hearing regarding an application for determination, the administrative law judge or presiding officer shall prepare a proposed decision of determination. The proposed decision of determination shall be reviewed by the commissioner who may uphold or modify the proposed decision of determination and shall then sign a final decision of determination. The final decision of determination shall constitute final agency action for the purposes of Iowa Code chapter 17A.

83.3(6) Request for information. Form DCI-150, Request for Registry Information, shall be used by a member of the public to request information about whether a specific person is registered with the Iowa sex offender registry. A person requesting information about whether a specific individual is registered with the Iowa sex offender registry shall submit a completed copy of Form DCI-150 to a sheriff or police department. A separate form shall be submitted for each person about whom information is being requested.

83.3(7) Confidential records. Completed forms filled out pursuant to rules 661—83.1(692A) through 83.5(692A) are confidential records that shall not be released to the public.

661—83.4(692A) Availability of records.

83.4(1) Release of information to criminal or juvenile justice agencies. The department may, without restriction, release information regarding any registrant to any criminal or juvenile justice agency, an agency of the state of Iowa, any sex offender registry of another state, or the federal government.

83.4(2) Sex offender registry Web site. The department shall place information regarding each registrant on the registry Web site (www.iowasexoffenders.com), except that information regarding any registrant for whom the sole basis of registration is a conviction or convictions for a violation or violations of Iowa Code section 709.4, subsection 2, paragraph “c,” subparagraph (4), and whose offense was committed when the offender was under 20 years of age, shall not be placed on the Web site. Information regarding a registrant placed on the sex offender registry Web site may include any relevant information.

83.4(3) Release of information by a criminal or juvenile justice agency. A criminal or juvenile justice agency may provide relevant information from the sex offender registry to the following:

a. A criminal or juvenile justice agency, an agency of the state, any sex offender registry of another state, or the federal government.

b. The general public, including public and private agencies, organizations, public places, public and private schools, child care facilities, religious and youth organizations, neighbors, neighborhood associations, community meetings, and employers. Registry information may be distributed to the public through printed materials, visual or audio press releases, or a criminal or juvenile justice agency's Web site.

83.4(4) List of registrants in county. Any county sheriff shall provide access to the list of all registrants within the county in which the sheriff has jurisdiction to any person who requests such a list; however, records of persons protected under 18 U.S.C. Section 3521 shall not be disclosed.

83.4(5) Release of information in response to individual request. A sheriff or police department that receives a completed Form DCI-150 shall inquire of the division of criminal investigation via the Iowa on-line warrants and articles (IOWA) system as to whether the person about whom information was requested is registered with the Iowa sex offender registry. If the division of criminal investigation notifies the sheriff or police department that the person about whom inquiry is made is not on the registry, the sheriff or police department shall so notify the person who submitted the request. If the division of criminal investigation notifies the sheriff or police department that the subject about whom inquiry was made is a registrant with the Iowa sex offender registry, the sheriff or police department shall notify the person making the inquiry that the subject about whom the inquiry was made is a registrant and may provide the requester with the relevant information regarding the registrant.

83.4(6) Submission of information to the National Sex Offender Registry. The division shall submit sex offender registry data as required to the National Sex Offender Registry of the Federal Bureau of Investigation.

83.4(7) Single contact repository. The division shall perform a search of the sex offender registry for information about an individual, based on a request submitted through the single contact repository established pursuant to Iowa Code section 135C.33. The information provided from the registry shall be limited to whether the identified person is registered.

83.4(8) No identification of victims. Any release of information regarding any registrant, other than to criminal or juvenile justice agencies, shall not identify any victim of the registrant.

661—83.5(692A) Expungement of records.

83.5(1) Expungement upon reversal of conviction. Upon receipt of a certified copy of a court order reversing a conviction which forms the basis for a registrant's being required to register, the division of criminal investigation shall expunge the registration, provided that the registrant has been convicted of no other offense requiring registration.

83.5(2) Expungement upon expiration of registration period. The division of criminal investigation shall expunge a registrant's registration upon expiration of the period during which the registrant is required to register, provided that the registrant has not subsequently been convicted of an offense that would require registration.

These rules are intended to implement Iowa Code chapter 692A.

[Filed 1/26/05, Notice 9/29/04—published 2/16/05, effective 4/1/05]