

2/2/00 Do Pass  
2/29/00 Judiciary  
H-3/7/00 Do Pass

JUDICIARY

REPRINTED

FILED JAN 12 2000

SENATE FILE 2015

BY ANGELO

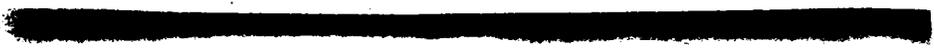
Passed Senate, Date <sup>(p. 412)</sup> 2/28/00 Passed House, Date <sup>(p. 1027)</sup> 3-28-00  
Vote: Ayes 46 Nays 0 Vote: Ayes 97 Nays 0  
Approved 3/31/00

A BILL FOR

1 An Act relating to the enhanced criminal penalties associated  
2 with sexually predatory offenses and providing an effective  
3 date.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SENATE FILE 2015

S-5009

1 Amend Senate File 2015 as follows:  
2 1. Page 1, by inserting before line 1 the  
3 following:  
4 "Section 1. Section 901A.1, subsection 1,  
5 paragraph b, Code 1999, is amended by striking the  
6 paragraph."  
7 2. Page 1, by striking lines 8 through 25 and  
8 inserting the following:  
9 "Sec. \_\_\_\_ Sections 901A.3 and 901A.4, Code 1999,  
10 are repealed."  
11 3. By renumbering as necessary.  
By JEFF ANGELO

S-5009 FILED FEBRUARY 10, 2000  
*adopted 2/28/00*  
*(p. 412)*

SF 2015 JUDICIARY

1 Section 1. Section 901A.1, subsection 2, Code 1999, is  
2 amended to read as follows:

3 2. As used in this chapter, the term "prior conviction"  
4 includes a plea of guilty, deferred judgment, deferred or  
5 suspended sentence, or adjudication of delinquency, regardless  
6 of whether a prior conviction occurred before, on, or after  
7 the effective date of this Act.

8 Sec. 2. Section 901A.4, Code 1999, is amended to read as  
9 follows:

10 901A.4 SEXUALLY PREDATORY OFFENSES -- FINDING OF FACT --,  
11 NOTICE.

12 ~~1. Prior to pronouncing judgment and sentence, the finder~~  
13 ~~of fact shall, if the offense is murder, kidnapping, burglary,~~  
14 ~~or child endangerment in violation of section 726.6,~~  
15 ~~subsection 1, paragraph "e",~~ make a factual determination  
16 whether the offense constitutes a sexually predatory offense  
17 as defined in section 901A.1 ~~for the purpose of enhancement of~~  
18 ~~future offenses,~~ if there has not been a factual determination  
19 of whether the prior offense constitutes a sexually predatory  
20 offense.

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

26 Sec. 3. EFFECTIVE DATE. This Act, being deemed of  
27 immediate importance, takes effect upon enactment.

28 EXPLANATION

29 This bill makes changes to the sexually predatory offenses  
30 law, which became effective on July 1, 1996.

31 The bill provides that a prior conviction for a sexually  
32 predatory offense occurring prior to the effective date of  
33 this bill may be used to enhance the penalty for any future  
34 conviction of a sexually predatory offense.

35 Under existing law and judicial interpretation, only a

1 conviction for a sexually predatory offense occurring on or  
2 after the effective date of the 1996 legislation can be used  
3 to enhance a future conviction for a sexually predatory  
4 offense.

5 The amendments to Code section 901A.4 require the court to  
6 make a factual determination as to whether any prior offense  
7 is a sexually predatory offense for purposes of enhancing a  
8 new sexually predatory offense. The bill also eliminates the  
9 requirement that the court provide written notice to a person  
10 that a conviction of a sexually predatory offense will enhance  
11 the future punishment for a similar offense.

12 A sexually predatory act generally is defined to mean any  
13 misdemeanor or felony that involves an element of sexual  
14 abuse, sexual exploitation of a minor, pandering involving a  
15 minor, or any offense defined under Code chapter 709.

16 The bill takes effect upon enactment.

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H. 2/29/00 Judiciary  
H. 3/23/00 Unfinished Business  
Calendar

SENATE FILE 2015  
BY ANGELO

(AS AMENDED AND PASSED BY THE SENATE FEBRUARY 28, 2000)

\_\_\_\_\_ - New Language by the Senate

Passed Senate, Date \_\_\_\_\_ Passed House, <sup>(p. 1027)</sup> Date 3-28-00  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes 97 Nays 0  
Approved 3/31/00

**A BILL FOR**

1 An Act relating to the enhanced criminal penalties associated  
2 with sexually predatory offenses and providing an effective  
3 date.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 2015

1 Section 1. Section 901A.1, subsection 1, paragraph b, Code  
2 1999, is amended by striking the paragraph.

3 Sec. 2. Section 901A.1, subsection 2, Code 1999, is  
4 amended to read as follows:

5 2. As used in this chapter, the term "prior conviction"  
6 includes a plea of guilty, deferred judgment, deferred or  
7 suspended sentence, or adjudication of delinquency, regardless  
8 of whether a prior conviction occurred before, on, or after  
9 the effective date of this Act.

10 Sec. 3. Sections 901A.3 and 901A.4, Code 1999, are  
11 repealed.

12 Sec. 4. EFFECTIVE DATE. This Act, being deemed of  
13 immediate importance, takes effect upon enactment.

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**SENATE FILE 2015  
FISCAL NOTE**

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The estimate for Senate File 2015 as passed by the Senate is hereby submitted as a fiscal note pursuant to Joint Rule 17 and as a correctional impact statement pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

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Senate File 2015 makes technical changes to the sexually predatory offenses law due to a recent Supreme Court Opinion. In State v. Tornquist, 600 N.W.2d 301 (Iowa 1999), the Supreme Court concluded that the enhancement provisions of Chapter 901A.2, Code of Iowa, may not be applied retroactively to permit use of convictions occurring before the effective date of the Act to enhance a sentence for a later conviction. The Legislature must expressly indicate statutes are to apply retroactively, if that is the intent. The Bill also repeals one definition of certain sexually predatory offenses. Senate File 2015 takes effect upon enactment.

**ASSUMPTIONS**

1. The State Supreme Court case had no impact on county attorneys' decisions to file for enhanced sexual predator charges.
2. At the time of enactment of the sexually predatory offenses law (July 1996), it was estimated that there would be 30 convictions per year under the statute. To date, county attorneys' charging and convicting practices are below that figure.
3. No one has had a sexual abuse sentence enhanced due to committing murder, kidnapping, burglary, or child endangerment while committing the sexual abuse (the definition being repealed).

**CORRECTIONAL IMPACT**

There is no correctional impact of Senate File 2015.

**FISCAL IMPACT**

Senate File 2015 has no fiscal impact.

**SOURCES**

Criminal and Juvenile Justice Planning Division, Department of Human Rights  
Department of Corrections  
State Court Administrator's Office  
Attorney General's Office  
Department of Human Services  
State Public Defender's Office

(LSB 5099SS, BAL)

Sec. 4. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

SENATE FILE 2015

AN ACT

RELATING TO THE ENHANCED CRIMINAL PENALTIES ASSOCIATED WITH SEXUALLY PREDATORY OFFENSES AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 901A.1, subsection 1, paragraph b, Code 1999, is amended by striking the paragraph.

Sec. 2. Section 901A.1, subsection 2, Code 1999, is amended to read as follows:

2. As used in this chapter, the term "prior conviction" includes a plea of guilty, deferred judgment, deferred or suspended sentence, or adjudication of delinquency, regardless of whether a prior conviction occurred before, on, or after the effective date of this Act.

Sec. 3. Sections 901A.3 and 901A.4, Code 1999, are repealed.

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MARY E. KRAMER  
President of the Senate

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BRENT SIEGRIST  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2015, Seventy-eighth General Assembly.

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MICHAEL E. MARSHALL  
Secretary of the Senate

Approved March 31, 2000

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THOMAS J. VILSACK  
Governor