

CHAPTER 38
SEX OFFENDER MANAGEMENT AND TREATMENT

201—38.1(692A,903B) Application of rules. The following rules apply to sex offender electronic monitoring and hormonal intervention therapy.
[ARC 8496B, IAB 1/27/10, effective 3/3/10]

201—38.2(692A,903B) Electronic monitoring. It is the intent of the Iowa department of corrections that the electronic monitoring system (EMS) shall be used to enhance public safety. Appropriate levels of EMS should be used to verify the location and restrict the movement of sex offenders based upon a validated risk assessment, the sex offender's criminal history, progress in treatment and supervision, and other relevant factors. EMS is additionally governed by the provisions of department of corrections policy OP-SOP-06.

38.2(1) Definitions.

"Client" means a person who is required to register with the Iowa sex offender registry.

"Electronic monitoring system" or "EMS" is a term used collectively for technology that determines the location of clients who have restricted movement while being supervised in their respective community.

38.2(2) Selection of clients for EMS. All clients on supervision for a current sex offense who are required to be registered as a sex offender under Iowa Code chapter 692A shall be placed on EMS immediately after assignment to supervision. This level may be changed based on risk assessment.

38.2(3) Risk assessment instrument. Risk assessments used shall be validated and approved by the department of corrections with collaborative input from the judicial districts and other affected stakeholders. The risk assessment should be completed within 30 days prior to the incarcerated individual's release from custody or upon the incarcerated individual's/client's placement on probation, parole, or work release.

38.2(4) Notification of victims. The supervising judicial district department of correctional services shall notify a registered victim regarding a sex offender who is convicted of a sex offense against a minor and who is under the supervision of a judicial district department of correctional services of the following:

a. The beginning date for use of an electronic tracking and monitoring system to supervise the sex offender and the type of electronic tracking and monitoring system used.

b. The date of any modification to the use of an electronic tracking and monitoring system and the nature of the change.

NOTE: Notification includes the initial notification to victims of the date that a client has been placed on an electronic monitoring device, notification as to the date an electronic monitoring device was changed with greater or less monitoring capabilities (GPS to radio frequency or radio frequency to GPS), and notification as to the date the client was removed from an EMS.

38.2(5) Additional rules. The department of public safety's rules regarding the Iowa sex offender registry are published in 661—Chapter 83.

[ARC 8496B, IAB 1/27/10, effective 3/3/10; ARC 3929C, IAB 8/1/18, effective 9/5/18; see Delay note at end of chapter]

201—38.3(692A) Sex offender risk assessment. Rescinded IAB 1/27/10, effective 3/3/10.

201—38.4(903B) Hormonal intervention therapy.

38.4(1) Affected clients. All clients convicted of a "serious sex offense" in which the victim was a child who, at the time the offense was committed, was 12 years of age or younger; or clients convicted of a second or subsequent offense may be required to undergo hormonal intervention therapy as ordered by the court or board of parole in accordance with the provisions of Iowa Code section 903B.10.

38.4(2) Agency responsibility. The department of corrections, judicial districts' departments of correctional services, and the board of parole responsibilities are defined in accordance with the provisions of Iowa Code section 903B.10.

38.4(3) Assessment of affected clients.

a. Psychosexual assessment. A psychosexual assessment shall be conducted on all “affected” clients, as a part of the presentence investigation (PSI) prior to sentencing or upon entry into judicial district department of correctional services supervision or institutional placement if a referral for hormonal intervention therapy is being made.

- (1) The psychosexual assessment shall be conducted by or under the direction of:
 - A licensed psychologist; or
 - A person specifically trained and experienced in the professional administration, scoring and interpretation of psychological tests (graduate level coursework in testing and assessment); or
 - A staff member who meets the experience and educational requirements of the Iowa department of administrative services or Iowa community-based corrections psychologist classification.
- (2) The psychosexual assessment shall include:
 - Tests of emotional and mental stability.
 - I.Q. to measure capability.
 - Measure of denial of deviant sexual characteristics.
 - Plethysmography (optional).
- (3) The assessment shall follow the statewide standardized format and shall include a determination as to the need and effectiveness of hormonal intervention therapy as well as treatment recommendations.

b. Medical assessment. If hormonal intervention therapy is recommended as an appropriate treatment component, the client shall receive a medical assessment to determine biological factors as related to hormonal intervention therapy.

38.4(4) *Pharmaceuticals and distribution.* The director of corrections may contract the purchase and distribution process to reduce pharmaceutical costs and ensure effective distribution and management of all pharmaceuticals related to the hormonal therapy program.

38.4(5) *Educational/treatment programming.*

a. Hormonal intervention therapy is to be utilized in conjunction with a sex offender treatment program (SOTP). The client should be involved in concurrent cognitive-behavioral treatment. In all cases where the treatment plan includes hormonal therapy, the plan shall also include monitoring and counseling.

b. All institutional or community-based corrections SOTPs shall meet the current Iowa board for the treatment of sexual abusers (IBTSA) standards .

38.4(6) *Application of hormonal therapy.*

a. Utilization of hormonal therapy.

(1) Therapy shall utilize medroxyprogesterone acetate (MPA) or other approved pharmaceutical agents.

(2) Therapy shall be initiated as soon as reasonably possible after the client is sentenced.

1. If the client is incarcerated within a local jurisdiction (jail, residential facility), the judicial district department of correctional services shall coordinate initiation of treatment prior to the release of the client from custody.

2. If the client is incarcerated within the department of corrections, initiation of treatment shall be determined by department of corrections medical staff.

(3) Requests for hormonal therapy by the client when the aforementioned criteria are not met shall be reviewed for consideration by the agency of jurisdiction.

(4) At any time during the course of supervision, the agency of jurisdiction may conduct a reassessment to determine if hormonal therapy should be considered or reconsidered as part of the treatment plan.

b. Monitoring/termination of hormonal therapy.

(1) Monitoring. The agency of jurisdiction shall continue to monitor the client’s therapy throughout the client’s confinement or supervision. The agency of jurisdiction may adjust medication, initiate other medication, or continue prescribed therapy with medical approval.

(2) Termination. Hormonal therapy may be discontinued only by the medical authority, with consent of the supervising officer. Termination requires a reassessment conclusion that the therapy has been determined ineffective or is no longer necessary.

38.4(7) Client fees. Clients are required to pay a reasonable fee for the costs related to hormonal therapy. Client fees shall be based on the client's ability to pay as determined by the statewide client fee policy.

38.4(8) Maintenance/transfer of records. Client file information shall be available and shared upon request between responsible agencies including court of jurisdiction.

[ARC 3929C, IAB 8/1/18, effective 9/5/18; see Delay note at end of chapter]

These rules are intended to implement Iowa Code chapters 692A and 903B.

[Filed emergency 7/10/98—published 7/29/98, effective 7/10/98]

[Filed 10/16/98, Notice 7/29/98—published 11/4/98, effective 12/9/98]

[Filed 2/12/01, Notice 12/13/00—published 3/7/01, effective 4/11/01]

[Filed emergency 6/4/01—published 6/27/01, effective 6/4/01]

[Filed emergency 6/26/03—published 7/23/03, effective 6/26/03]

[Filed 11/17/04, Notice 9/15/04—published 12/8/04, effective 1/12/05]

[Filed emergency 7/15/05—published 8/3/05, effective 7/15/05]

[Filed 9/9/05, Notice 8/3/05—published 9/28/05, effective 11/2/05]

[Filed 6/14/06, Notice 4/12/06—published 7/5/06, effective 8/9/06]

[Filed ARC 8496B (Notice ARC 8321B, IAB 12/2/09), IAB 1/27/10, effective 3/3/10]

[Filed ARC 3929C (Notice ARC 3806C, IAB 5/23/18), IAB 8/1/18, effective 9/5/18]¹

¹ September 5, 2018, effective date of ARC 3929C [amendments to chs 1, 5, 10, 11, 20, 38, 40, 41, 42, 43, 44, 45, 47, 50, 51] delayed 70 days by the Administrative Rules Review Committee at its meeting held August 14, 2018.