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## ISSUE REVIEW

Fiscal Services Division

November 20, 2019



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Ground Floor, State Capitol Building

Des Moines, Iowa 50319

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## An Update on the Iowa Sex Offender Registry

### ISSUE

This **Issue Review** provides an update on the Iowa Sex Offender Registry (SOR). Discussion includes information on who is required to register, registry requirements, and length of registration, as well as an analysis of budget impact resulting from the assessment of civil penalties, registration fees, and General Fund appropriations.

### AFFECTED AGENCIES

Department of Public Safety (DPS)

Department of Corrections (DOC)

Judicial Branch

County Sheriffs

Local and Municipal Law Enforcement

### CODE AUTHORITY

Iowa Code chapters [232](#), [692A](#), [709](#), [726](#), [728](#), [901A](#), [904](#), and [905](#)

Iowa Administrative Code chapter [661—83](#)

### BACKGROUND

The Iowa General Assembly established the SOR in 1995.<sup>1</sup> The Registry was initially amended to establish several residency restrictions for registrants during the 2002 Legislative Session, and again in 2005 to amend existing law to include provisions concerning sex offender treatment and assessments regarding the risk of reoffending.<sup>2</sup> The SOR was amended most recently in 2009, and was updated to include expanded classifications of sex offenses and additional requirements for relevant verification information.<sup>3</sup>

### **The Registration Process**

An individual is required to register with the Iowa Sex Offender Registry if:

- 1) The individual is convicted or adjudicated of a sex offense (including a criminal offense against a minor, sexual exploitation, and sexually violent crime) in Iowa, or

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<sup>1</sup> 1995 Iowa Acts, ch. [146](#).

<sup>2</sup> 2002 Iowa Acts, ch. [1157](#) and 2005 Iowa Acts, ch. [158](#).

<sup>3</sup> 2009 Iowa Acts, ch. [119](#).

- 2) The individual is required to register in another jurisdiction under that jurisdiction's respective sex offender registry law if that individual resides, is employed, or attends school in the State.<sup>4</sup>

The registration requirement includes individuals who are serving a deferred sentence or judgment, and can also include convictions on a federal level and those that occurred in other states. Incarcerated individuals are not required to register during the time of incarceration. The running period of the registration is suspended while the offender is incarcerated.<sup>5</sup>

Upon release or parole, the running period of the registration commences either in its entirety or from the point in time when the offender was previously incarcerated. Additionally, an offender who is placed on probation, parole, or work release will have a registration period that begins anew if the individual violates the terms of any of these arrangements. For purposes of registration requirements, multiple sex offenses prosecuted within a single indictment are considered a single offense.

### Relevant Information and Notification Requirements

Offenders are notified of the requirement to register prior to the termination of their incarceration, and while incarcerated, will complete initial registration forms as part of the release and reentry process. Both incarcerated and nonincarcerated offenders will also need to register with the county sheriff of the county of their place of residence. In order to register, an individual is required to physically appear and meet with the sheriff of each county where the offender will reside, attend school, or maintain employment within five business days of being required to register.<sup>6</sup> The Department of Corrections (DOC) and county sheriff's offices are the designated registering agencies for Iowa, but the registering information is shared with the Department of Public Safety (DPS).<sup>7</sup> All registrations completed by either the DOC or at a county sheriff's office will be sent to the DPS. If an offender remains uncertain about whether or not to register, the individual may contact the DPS and request a status determination. The DPS must respond within 90 days and provide a determination on whether or not the individual must register. If an offender refuses to register at the end of the offender's incarceration, that individual may be held in contempt of court pursuant to the provisions of Iowa Code chapter [665](#).<sup>8</sup> An offender must provide the following information at the time of registration:<sup>9</sup>

- Date of birth.
- Passport and immigration documents.
- Government-issued driver's license or nonoperator's identification card.
- DNA sample, fingerprints, and palm prints.
- Internet identifiers, nicknames, and other aliases.
- Educational institutions attended as a student.
- Employment information.
- Residences and current address.
- Telephone numbers.

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<sup>4</sup> Iowa Code [§692A.103](#)(1). For additional information on the definition of "sex offense," see Iowa Code section [692A.101](#)(27).

<sup>5</sup> Iowa Code [§692A.107](#).

<sup>6</sup> Iowa Code [§692A.104](#)(1).

<sup>7</sup> Email from Chandler Collins, Policy Advisor, DPS, November 7, 2019.

<sup>8</sup> Iowa Code [§692A.109](#)(2)(b).

<sup>9</sup> Iowa Code [§692A.101](#)(23).

- Social Security number.
- Temporary lodging information, including dates of residence, vehicle information, and name and date of birth of each individual residing at the temporary residence.
- Photographs and a physical description.
- Professional licensing information.

Should a registered sex offender change residence, employment, or attendance as a student, the individual is required to appear in person at the county sheriff's office of each county where the individual is registered within five business days of such a change.<sup>10</sup> If relevant information other than residence, employment, or school attendance is updated, the offender must notify the county sheriff of such a change in person, by telephone, or electronically within five business days. Administrative rule states that the county sheriff must provide the offender with acknowledgment of receipt of the information in order for it to be deemed complete.

Additionally, when a registered offender changes residence, the county sheriff of the county where the new residence is located must notify the administrative office of the applicable school district and provide relevant information regarding the offender to both public and nonpublic schools.

In instances where an offender establishes a residence, employment, or attendance as a student in another state, he or she must notify the county sheriff of the county where the individual maintains their primary residence. If an offender maintains multiple residences within the State of Iowa, the individual must notify the county sheriff of each county where a residence is established in person, as well as provide information regarding the dates the offender intends to stay at each residence, and the dates the offender intends to move from one residence to another. Should the offender be away from the principal residence for a period of more than five consecutive days, the offender is required to notify the county sheriff of the county where the principal residence is maintained within five business days of leaving the principal residence.

### Sex Offender Database

The DPS maintains a central registry of information collected from sex offenders, including photographs; residential addresses; aliases; conviction information including date, location, and limited victim information; and data regarding tier assignment, residency, exclusion, and employment restrictions. This information is also shared with the Federal Bureau of Investigation and is entered into the National Sex Offender Registry. The Iowa SOR database is available online at [www.iowasexoffender.gov](http://www.iowasexoffender.gov) and is updated during business hours on weekdays. The DPS must also provide updated or corrected relevant information regarding a sex offender to a criminal and juvenile justice agency within five business days.<sup>11</sup> As of October 1, 2019, there were 5,973 registrants listed on the website.<sup>12</sup> If another state or jurisdiction requires registration as well, the offender must register with that state or jurisdiction within five business days of establishing a residence, employment, or attendance as a student and notify the county sheriff of where the principal residence is maintained.<sup>13</sup> **Graphic 1** shows the number of sex offenders registered in each Iowa county as of October 1, 2019. **Appendix A** at the end of this *Issue Review* provides an additional graphic from the National Center for

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<sup>10</sup> Iowa Code §692A.104(2).

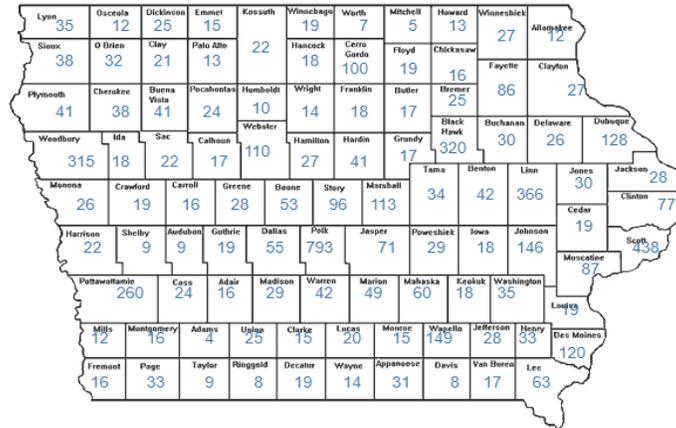
<sup>11</sup> Iowa Code §692A.121(1).

<sup>12</sup> Iowa Division of Criminal Investigation, Iowa Sex Offender Registration Quick Reference, available at [www.iowasexoffender.gov/SORregistration.pdf](http://www.iowasexoffender.gov/SORregistration.pdf) (last visited November 19, 2019).

<sup>13</sup> Iowa Code §692A.104(5).

Missing and Exploited Children that depicts the number of registered sex offenders by state as of 2018.

**Graphic 1: Sex Offender Registrant Numbers by County, October 1, 2019**



Source: [www.iowasexoffender.gov/webstats](http://www.iowasexoffender.gov/webstats)

There are a number of registered sex offenders who do not have a registered address in an Iowa county, or are currently incarcerated or institutionalized. **Chart 1** below also includes nine registrants whose primary address is listed as the Iowa Medical Classification Center (IMCC), as these individuals are offenders who are waiting to obtain placement in a sex offender rehabilitation correctional program in one of Iowa’s penal institutions. Additionally, as of October 1, 2019, there are 23 members under the custody of U.S. Marshals. Registrants are typically under U.S. Marshal custody only if the offender is under federal supervision, has violated the terms of the supervision and is awaiting disposition, or if the offender is in federal custody pending a charge of failure to register on the federal level under the [Adam Walsh Child Protection and Safety Act](#).<sup>14</sup>

**Chart 1: Sex Offender Registrants in Other Locations (as of October 1, 2019)**

<b>Registrants in Other Locations</b> (Other states, correctional institutions):	276
<b>Whereabouts Unconfirmed:</b>	57
<b>Homeless:</b>	44
<b>U.S. Marshal Custody:</b>	23
<b>IMCC:</b>	9

Source: [www.iowasexoffender.gov/webstats](http://www.iowasexoffender.gov/webstats)

<sup>14</sup> Email from Chandlor Collins, Policy Advisor, DPS, November 7, 2019.

Relevant information related to sex offenders is also available to the public by request from the local sheriff's office. Members of the public may contact the local sheriff's office to request information related to a specific sex offender that is not posted on the website, including educational institutions attended, vehicle information, and temporary lodging information.<sup>15</sup> In order to make such a request, the requestor must include one of the following pieces of offender-identifying information:

- Date of birth.
- Social Security number.
- Address.
- Telephone number.
- Internet identifier.

If requested by a member of the general public, a county sheriff is required to provide a list of all registrants residing in the county.<sup>16</sup> Additionally, the general public, the federal government, and other public and private organizations such as child care centers and neighborhood associations may request limited relevant information regarding registered sex offenders from a criminal or juvenile justice agency.

### Registration Duration

The duration of registration, unless otherwise provided, is for a period of 10 years.<sup>17</sup> If an offender violates any registry requirement, the offender is required to register for an additional 10-year term, which commences at the time the original registration duration is completed. Under specific circumstances, an offender may be required to register for life. These circumstances include:

- If an offender is determined to be a sexually violent predator, which is defined as a sex offender who has been convicted of an offense that would qualify the individual as such under the federal [Violent Crime Control and Law Enforcement Act of 1994](#).<sup>18</sup>
- If an offender is convicted of an aggravated offense.
- If an offender commits a second or subsequent offense that requires a second registration.
- If an offender commits a "special sentence" offense that requires lifetime parole pursuant to Iowa Code section [903B.1](#). A special sentence is defined as a sentence "...committing the person into the custody of the director of the Iowa department of corrections for the rest of the person's life, with eligibility for parole."<sup>19</sup>

An offender who chooses not to register, provide additional registration requirements, or verify relevant information, or who knowingly provides false information during the registration process commits an aggravated misdemeanor for a first offense and a Class D felony for a second or subsequent offense. Additionally, an offender who violates registry requirements and is convicted of an aggravated offense against a minor, a sex offense against a minor, or a sexually violent offense commits a Class C felony. A Class D felony is punishable by confinement of no more than five years and a fine of at least \$750 but no more than \$7,500.<sup>20</sup> A Class C felony is

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<sup>15</sup> See Iowa Code [§692A.121](#)(5)(a).

<sup>16</sup> Iowa Code [§692A.121](#)(6).

<sup>17</sup> Iowa Code [§692A.106](#)(1).

<sup>18</sup> Iowa Code [§692A.101](#)(31).

<sup>19</sup> Iowa Code [§692A.106](#)(5).

<sup>20</sup> Iowa Code [§902.9](#)(e).

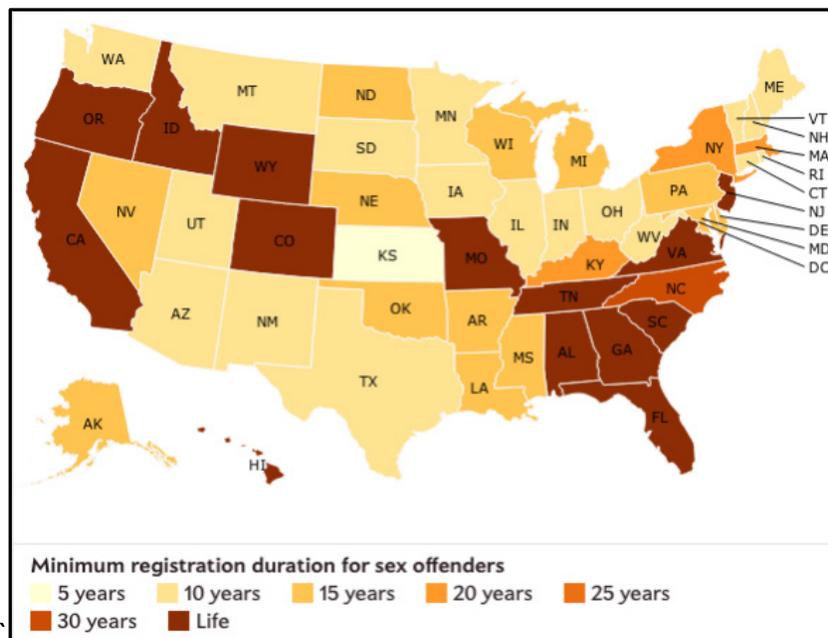
punishable by confinement of no more than 10 years and a fine of at least \$1,000 but no more than \$10,000.<sup>21</sup> The court cannot defer judgment or a sentence of a conviction for a violation of provisions of the Iowa SOR.<sup>22</sup>

Registration duration requirements vary greatly among the 50 states and U.S. territories.

**Graphic 2** depicts that minimum registration requirements range from five years to lifetime.

Iowa is one of 19 states that stipulates a minimum of 10 years of registration time. The state of Kansas has the lowest duration of registration requirements, totaling five years. Thirteen states, including Missouri, carry a requirement of lifetime registration for a first offense resulting in registration on the sex offender registry.

**Graphic 2: Sex Offender Registry Duration Requirements, by State (2014)**



Source: [slate.com/news-and-politics/2014/08/sex-offender-registry-laws-by-state-mapped.html](https://slate.com/news-and-politics/2014/08/sex-offender-registry-laws-by-state-mapped.html)

## The Tier System

Individuals on the Iowa SOR are placed into a Tier system as determined by the DPS. The Tier system dictates the frequency of which an individual is required to verify information with the county sheriff's office and the DPS. Individuals convicted of a sex offense are classified as either a Tier I, Tier II, or Tier III offender. The tiers ascend in order of the severity of the crime associated with them; for example, a Tier II offender has been convicted of a more serious offense than a Tier I offender. It is important to note that Tier designation is based on the offense an individual is convicted of, and not necessarily the offense that an offender was originally charged with. The Tier classification does not affect the duration of the registration requirement.<sup>23</sup> Tier I requires in-person verification of relevant information once per year,

<sup>21</sup> Iowa Code §902.9(d).

<sup>22</sup> Iowa Code §§692A.111(1), 907.3(1)(a)(9), and 907.3(2)(a)(5).

<sup>23</sup> Interview with Bret Braafhart, Karin Hamilton, and Mitch Mortvedt, Sex Offender Registry and Investigation Unit, DPS, August 22, 2019.

whereas Tier II requires in-person verification every six months, and Tier III requires in-person verification every three months.

The Tier system also allows for the possibility of both the modification and reclassification of sex offender Tier designation. An individual currently classified as a Tier I offender is reclassified as a Tier II offender as a result of the determination that the offender has previously committed an offense that can be classified as Tier I. The same process is applicable to Tier II offenders, and should the determination hold, such offenders are reclassified as Tier III offenders. It should be noted that any committed offense that falls under the category of “sexually violent predator” is automatically classified as a Tier III offense.<sup>24</sup> Additionally, a Tier II offense is reclassified as a Tier III offense if the victim is under the age of 13. Reclassification is completed by the DPS.

Modification of sex offender Tier status follows an individual application process through the district court and the petition must be filed in the county of the offender’s principal residence. An offender who is on probation, parole, work release, serving a special sentence, or in any type of conditional release may file an application to request a modification of the registration requirements, which means removal from the registry. Prior to the granting of such a request, the following conditions must be met:<sup>25</sup>

- 1) The offense which led to the registry requirement occurred at least two years prior to the modification application for a Tier I offender, or five years prior to the modification application of a Tier II or III offender.
- 2) The offender must have successfully completed all required sex offender treatment programs.
- 3) The DOC must complete a valid risk assessment of the offender, and the offender must be determined to be at a low risk of reoffending.
- 4) The offender may not be incarcerated at the time of filing the application.
- 5) The director of the judicial district of the DOC that currently supervises the offender, or if necessary, the director’s designee, must also stipulate to the modification.

The county attorney of the county in which the offender’s principal residence is located, as well as the county attorney of any additional county in Iowa where the offense requiring registration occurred, must be notified of a Tier status modification. **Chart 2** provides a 10-year history of sex offender modifications on a calendar year basis. It should be noted that as of October 1, 2019, 31 sex offenders have had their registration requirements modified in calendar year 2019.<sup>26</sup> As calendar year 2019 has not closed, this number is subject to change. According to the DPS, modification numbers for 2019 are on track when compared to modification totals for 2018. As of November 7, 2019, there are 15 pending modification applications.<sup>27</sup>

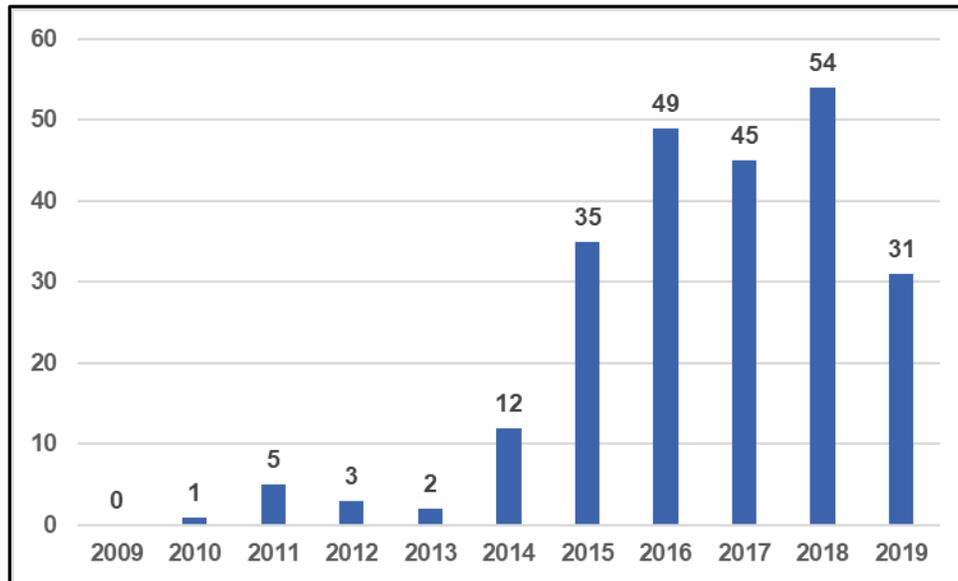
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<sup>24</sup> Iowa Code §[692A.102](#)(4). For additional information regarding the definition of “sexually violent predator,” please see Iowa Code §[692A.101](#)(31).

<sup>25</sup> Iowa Code §[692A.128](#).

<sup>26</sup> Email from Bret Braafhart, Special Agent in Charge, Sex Offender Registry and Investigation Unit, DPS, October 11, 2019.

<sup>27</sup> Email from Chandlor Collins, Policy Advisor, DPS, November 7, 2019.

**Chart 2: Sex Offender Registry Modifications, CY 2009-CY 2019**

Source: Sex Offender Registry and Investigation Unit, DPS, October 10, 2019

The significant increase of 12 modifications to 49 modifications from 2014 to 2016 results from a legal decision granted by the Iowa Supreme Court in 2014 (see [State v. Story County, 843 N.W.2d 76](#) (Iowa 2014)), that made modification available to all registrants and not just those under supervision of the DOC and the DPS, as was the case previously.

### Residence Restrictions, Exclusion Zones, and Prohibited Employment

Upon registration, registrants of the SOR must comply with certain restrictions regarding residence, employment, and certain public places. Similar to the determination of the placement level on the Tier system, the type and severity of the restriction and/or prohibition is dependent upon the crime an individual is convicted of and not necessarily the crime the offender was originally charged with.<sup>28</sup> Several residency restrictions were enacted in 2002.<sup>29</sup> An offender convicted of an aggravated offense (sexual abuse in the first or second degrees, or in certain cases sexual abuse in the third degree) against a minor is prohibited from residing within 2,000 feet of real property that consists of a child care facility or school.<sup>30</sup> For other convictions involving minors (and all convictions involving adults) that do not fall under the determination of sexual abuse in the first, second, and in some cases, third degree sexual abuse, these residency restrictions do not apply.<sup>31</sup>

Additionally, when an individual's registration has expired or has been modified the individual is also not subject to the 2,000-foot residency restriction. Residency restrictions also do not apply to the following:

- If an offender is serving a commitment order as a result of being determined a sexually violent predator.

<sup>28</sup> Interview with Bret Braafhart, Karin Hamilton, and Mitch Mortvedt, Sex Offender Registry and Investigation Unit, DPS, August 22, 2019.

<sup>29</sup> 2002 Iowa Acts, ch. 1157.

<sup>30</sup> Iowa Division of Criminal Investigation, Iowa Sex Offender Registration Quick Reference, available at [www.iowasexoffender.gov/SORregistration.pdf](http://www.iowasexoffender.gov/SORregistration.pdf) (last visited November 19, 2019).

<sup>31</sup> Ibid.

- If an offender established the existing residence prior to July 1, 2002, or prior to any new school or child care facility being established.
- If the offender is under a guardianship and a district judge or associate probate judge grants an exemption from the residency restriction.
- If the offender is a resident at a hospital or hospice facility.

Individuals required to register on the SOR for being convicted of a crime involving a minor are also subject to a 300-foot exclusion zone in certain public areas. Such individuals are prohibited from “loitering” (as defined by Iowa Code section [692A.101\(17\)](#)) on the real property of a school, day care center or public library, or “any place primarily intended for the use of minors.” The DPS defines “any place primarily intended for the use of minors” as including (but not limited to):

- A playground available to the public.
- A children’s play area available to the public.
- A recreational or sport-related activity area when in use by a minor.
- A swimming or wading pool available to the public when in use by a minor.
- A public beach when in use by a minor.

An offender subject to exclusion zones is also prohibited from being present on or in any vehicle or other means of transportation that is owned, leased, or contracted by public or nonpublic elementary or secondary schools.

Similar to residency restrictions, there are several exceptions to the exclusion zone requirements. Exclusion zones apply only to persons required to register whose sex offenses involve minor victims.<sup>32</sup> Therefore, registrants who are convicted of offenses involving adults are not subject to exclusion zones, nor are individuals whose registration has expired or has been modified.<sup>33</sup> Additionally, some offenders may not be subject to certain exclusion zone requirements:

- An offender who is enrolled in a public or nonpublic elementary or secondary school is exempt from the provisions of the exclusion zone requirements regarding educational institutions, including vehicles and other means of transportation owned, leased, or contracted by a public or nonpublic elementary or secondary school.
- An offender who has received permission from the school administrator or the school administrator’s designee is exempt from the provisions of the exclusion zone requirements regarding educational institutions. This includes vehicles and other means of transportation owned, leased, or contracted by a public or nonpublic elementary or secondary school. Additionally, if the vehicle is also used as a form of public transportation to transport children to and from school, the offender is also exempt from the exclusion zone provisions regarding educational institutions.
- An offender who has received written permission from the administrator of a child care facility stating that the individual is exempt from the child care provisions of the exclusion zone restrictions. Similarly, an offender is exempt from a library exclusion zone if the individual receives written permission from the administrator of a public library.

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<sup>32</sup> For additional information regarding the definition of “sex offense against a minor,” please see Iowa Code [§692A.101\(28\)](#).

<sup>33</sup> Iowa Division of Criminal Investigation, Iowa Sex Offender Registration Quick Reference, available at [www.iowasexoffender.gov/SORRegistration.pdf](http://www.iowasexoffender.gov/SORRegistration.pdf) (last visited November 19, 2019).

- An offender who was convicted of a sex crime against a minor and is also a parent or legal guardian of a child or children does not violate exclusion zone provisions during the period of time deemed reasonably necessary to transport the parent or legal guardian's own child or children to or from a place subject to such provisions.
- An offender who has been convicted of a sex crime against a minor is exempt from exclusion zone provisions for the time deemed reasonably necessary to vote in a public election, if the polling place is located in an exclusion zone.

Additionally, an offender convicted of a sex crime against a minor whose primary residence is within 300 feet of a public or nonpublic elementary or secondary school, child care facility, public library, or other place characterized as an exclusion zone is not considered to be loitering or in violation of exclusion zone provisions due to the location of the primary residence.<sup>34</sup>

Regardless of the type or severity of conviction, individuals who are required to register on the SOR are prohibited from being an employee of or volunteering at a facility that provides services for dependent adults or at events where dependent adults participate in programming. These persons are also prohibited from loitering on the premises or grounds of such a facility or event.<sup>35</sup> In certain cases, a sex offender may be exempt from provisions restricting being in the presence of dependent adults. If an adult offender is a patient or resident of a health care facility, a participant in a medical assistance community-based services waiver program, or a participant in a medical assistance state plan employment services as a part of the offender's rehabilitation plan, he or she is not in violation of the prohibited employment provisions related to dependent adults.<sup>36</sup>

Offenders who are convicted of a sex crime against a minor are subject to further employment restrictions. Such offenders are prohibited from operating, managing, being employed by, contracting with, or acting as a volunteer at the following locations when a minor is on the premises:

- Any municipal, county, or state fair or carnival
- A children's arcade
- Certain amusement centers
- Facilities that provide programs or services primarily to minors<sup>37</sup>

Iowa law further stipulates that offenders who are convicted of a sex crime against a minor are also prohibited from being affiliated with or acting as a contractor or volunteer at the following locations primarily intended for the use of minors, including (but not limited to):

- A playground or children's play area.
- A recreational or sports-related activity area.
- A swimming or wading pool, or beach.
- A public or nonpublic elementary or secondary school.
- A child care facility.
- A public library.<sup>38</sup>

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<sup>34</sup> Iowa Code §692A.113(2)(a).

<sup>35</sup> Iowa Code §692A.115(1).

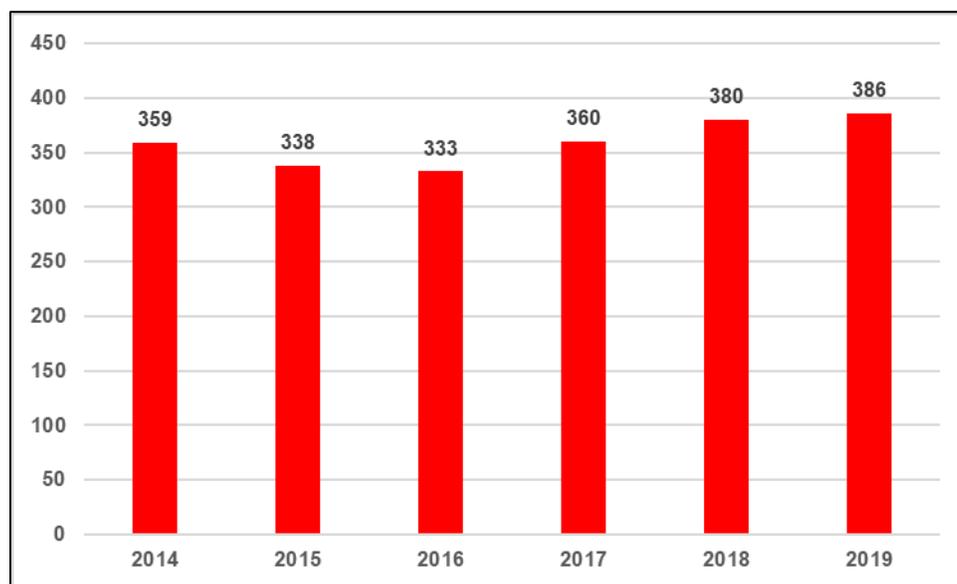
<sup>36</sup> Iowa Code §692A.115(2).

<sup>37</sup> Iowa Code §692A.113(3)(a) and (b).

<sup>38</sup> Iowa Code §692A.113(3)(c) and (d).

Additionally, an offender convicted of a sex crime against a minor is prohibited from operating, managing, being employed by, or acting as a contractor or volunteer at a business that operates a motor vehicle for the primary use of selling ice cream or other food products to minors.<sup>39</sup> An offender who violates any provision related to exclusion zones, prohibited employment and employment where dependent adults reside or participate in programming, and applicable residency restrictions commits an aggravated misdemeanor for the first offense and a Class D felony for a second or subsequent offense. In cases where the offender violates the SOR provisions and is subsequently convicted of an aggravated offense against a minor, a sex offense against a minor, or a sexually violent offense, the offender commits a Class C felony in addition to any other penalty as provided by law. **Chart 3** shows the annual number of SOR noncompliance violations from FY 2014 to FY 2019.

**Chart 3: Convictions of Violations of SOR Requirements  
FY 2014 – FY 2019**



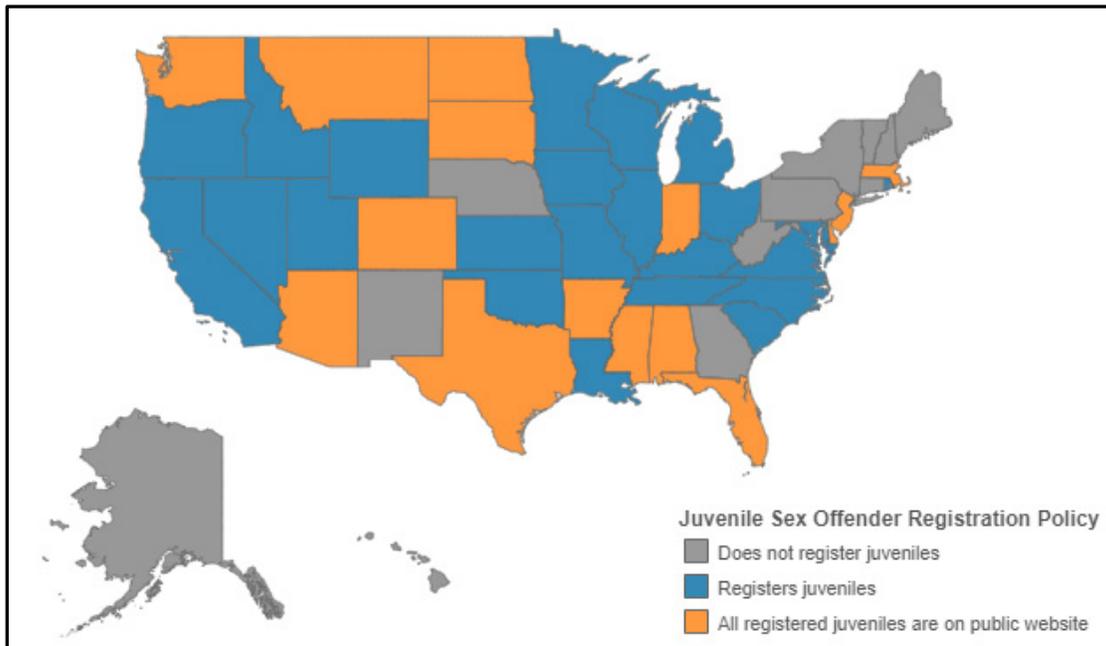
Source: Email from Bret Braafhart, Special Agent in Charge, Sex Offender Registry Unit, DPS, October 11, 2019.

### Juvenile Offender Registration, Exceptions, and Modification

The registration process for a juvenile convicted of a sex offense differs from that of an adult if the juvenile is adjudicated in juvenile court and not tried as an adult. The practice of registering juvenile offenders on a statewide sex offender registry varies from state to state. Iowa is one of 38 states that registers juvenile offenders, but does not post limited identifying information on a public website. As of October 1, 2019, there are eight juveniles listed on the Iowa SOR, and 742 persons on the registry that were under the age of 18 at the time of their crime.<sup>40</sup> **Graphic 3** depicts juvenile sex offender registration policies by state.

<sup>39</sup> Iowa Code §692A.113(3)(e).

<sup>40</sup> Email from Bret Braafhart, Special Agent in Charge, Sex Offender Registry and Investigation Unit, DPS, October 11, 2019.

**Graphic 3: Juvenile Sex Offender Registration Policies by State (2015)**

Source: [www.theatlantic.com/politics/archive/2015/11/states-slowly-scale-back-juvenile-sex-offender-registries/433473/](http://www.theatlantic.com/politics/archive/2015/11/states-slowly-scale-back-juvenile-sex-offender-registries/433473/)

The adjudicatory process in juvenile courts allows for the possibility of the waiver of the SOR registration requirement if the court finds that the convicted juvenile should not register.<sup>41</sup> However, if the juvenile is 14 years of age or older and has committed an offense with force or threat of serious violence by rendering the victim unconscious or by involuntary drugging, the eligibility to acquire a registration waiver is automatically withdrawn.<sup>42</sup> Additionally, Iowa law stipulates that juveniles who are prosecuted in adult court are not eligible to have their registry requirement waived.<sup>43</sup>

A juvenile who is required to register may apply for modification or suspension of registration requirements upon demonstrating proof of good behavior. Prior to the termination of the dispositional order made during the adjudication process, the juvenile court is required to determine whether or not the juvenile offender will be required to remain on the registry. Should the court decide to require the juvenile offender to remain on the registry, the juvenile offender may appeal the decision and file an application to modify the registration.<sup>44</sup> In order to be considered for a registration modification, the offender cannot be under any supervision of the juvenile court or a judicial department of correctional services, and the offender must meet the following criteria to be considered for a modification:

- 1) The offense which led to the registry requirement occurred at least two years prior to the modification application for a Tier I offender, or five years prior to the modification application for a Tier II or III offender.
- 2) The offender must have successfully completed all required sex offender treatment programs.

<sup>41</sup> Iowa Code §692A.103(3).

<sup>42</sup> Iowa Code §692A.103(5)(e).

<sup>43</sup> Iowa Code §§232.8(1) and (3) and 692A.103(3)-(6).

<sup>44</sup> Iowa Code §692A.128(6).

- 3) The DOC must complete a valid risk assessment of the offender, and the offender must be determined to be at a low risk of reoffending.
- 4) The offender may not be incarcerated at the time of filing the application.

It should be noted that unlike the request for an adult offender registration modification, in a request for a registration modification concerning a juvenile offender, the juvenile offender is not required to obtain a stipulation from the director of the judicial district of the DOC that currently supervises the offender, or the director's designee.<sup>45</sup> The registration of juveniles on sex offender registries has evolved into a controversial topic of debate in many states, including Iowa. For more information on recent Iowa court cases involving juveniles being required to register on the SOR, please see the Legislative Services Agency's Legal Services Division [Legislative Guide to Sex Offender Registry Law](#), published in December 2014.

## **BUDGET IMPACT**

The SOR and Investigation Unit is under the purview of the Support Operations Bureau of the Division of Criminal Investigation of the DPS. The Unit is responsible for maintaining the SOR and database, including the entry of new offenders and the modification or reclassification of existing offenders. Additionally, the Unit also verifies relevant information of current registrants, including name and current address, and provides a photograph of the offender that is updated annually. The Unit is responsible for public notification and re-notification of offender status and limited identifying information, as well as making sure that the State database is in compliance with federal guidelines. The Unit also investigates all acts of noncompliance with the registry and the requirements associated with failing to register or failure of notice of a change of address.<sup>46</sup>

The SOR and Investigation Unit is staffed by 6.0 full-time equivalent (FTE) positions that are funded by a General Fund appropriation allocated to the DCI. Currently, the Unit is comprised of 5.0 Special Agent II positions, 2.0 Administrative Assistant II positions, and 1.0 Program Planner II position.

## **General Fund Funding**

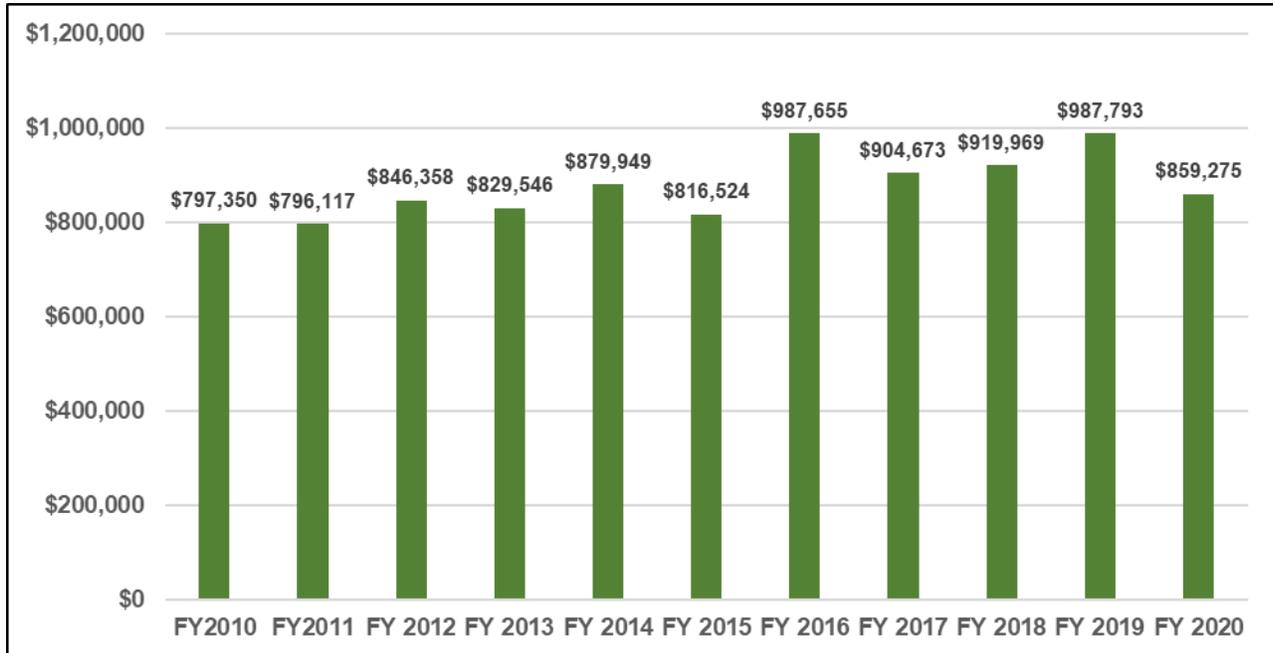
The SOR and Investigation Unit receives annual funding through an allocation from the Justice System Appropriations Committee. [Senate File 615](#) (FY 2020 Justice System Appropriation Act) appropriated a total of \$15.0 million to the Division of Criminal Investigation. A total of approximately \$895,000 was allocated to the SOR Fund. **Chart 4** shows an overview of the annual appropriations allocated to the SOR and Investigation Unit from FY 2010 to FY 2020. General Fund appropriations to the SOR and Investigation Unit have remained relatively steady for the last 10 fiscal years.

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<sup>45</sup> Iowa Code §§[692A.128\(2\)](#) and [692A.128\(6\)](#).

<sup>46</sup> Interview with Bret Braafhart, Karin Hamilton, and Mitch Mortvedt, Sex Offender Registry and Investigation Unit, DPS, August 22, 2019.

**Chart 4: Annual Appropriation Allocations to the Sex Offender Registry and Investigation Unit  
FY 2010 – FY 2020**



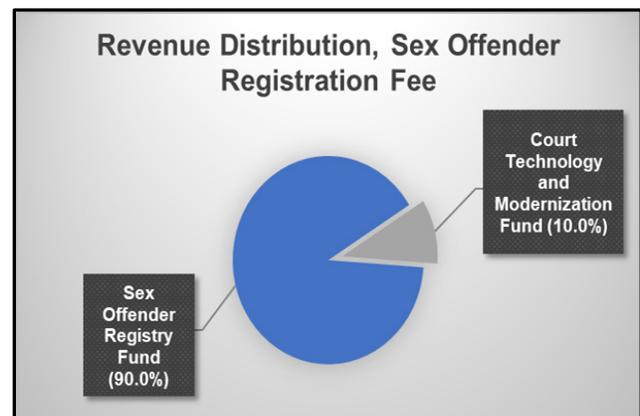
Source: Integrated Information System for Iowa (I/3)

### Fee and Fine Revenue

When an offender is convicted of an offense that requires registration on the SOR, the offender is also assessed a \$250 civil penalty.<sup>47</sup> This penalty is to be paid to the clerk of the district court, and is then split between two funding sources. The first of these sources is the SOR Fund maintained by the SOR and Investigation Unit.<sup>48</sup> The second source is the Court Technology and Modernization Fund administered by the Judicial Branch. The civil penalty is split on a 90/10 ratio, with 90.0%, or \$225, deposited in the SOR Fund, and 10.0%, or \$25, deposited in the Court Technology and Modernization Fund.

Moneys in the SOR Fund are primarily used for technological maintenance of the registry itself. Moneys in the Court Technology and Modernization Fund are used to enhance the ability of the Judicial Branch to process cases quickly and efficiently; electronically transmit information to State and local governments, law enforcement agencies, and the public; and to improve public access to the Judicial Branch and associated court system.

**Chart 5** shows the total amount of fees collected and deposited in the SOR Fund from



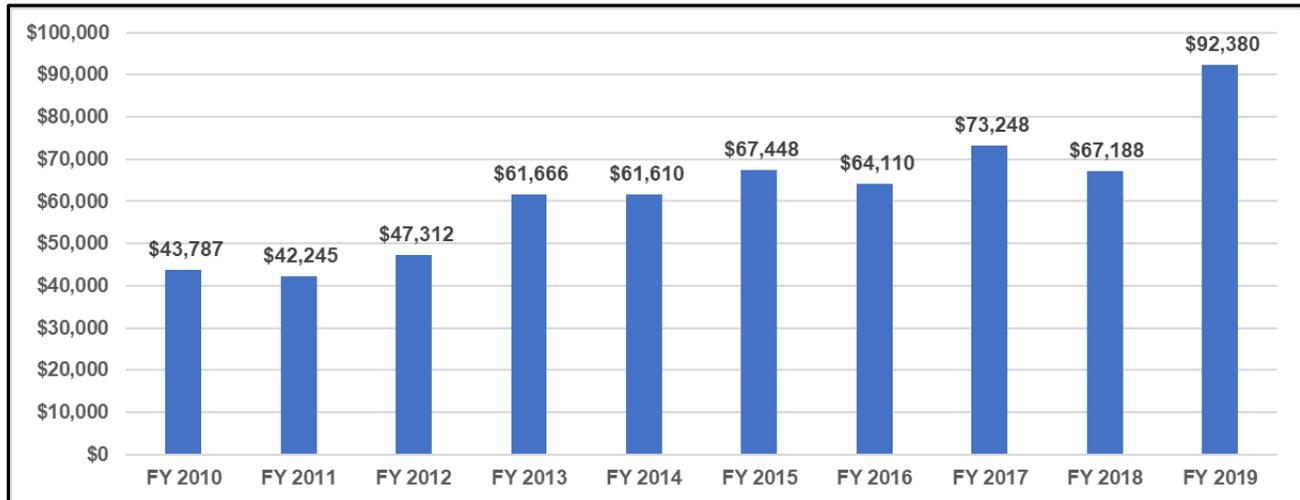
Source: Legislative Services Agency, October 2019

<sup>47</sup> Iowa Code §692A.110(2).

<sup>48</sup> Iowa Code §692A.119.

FY 2010 to FY 2019. Data regarding the total amount of fees collected in FY 2020 was not available at the time of the publishing of this *Issue Review*. **Chart 5** does not include interest earnings deposited in the Fund.

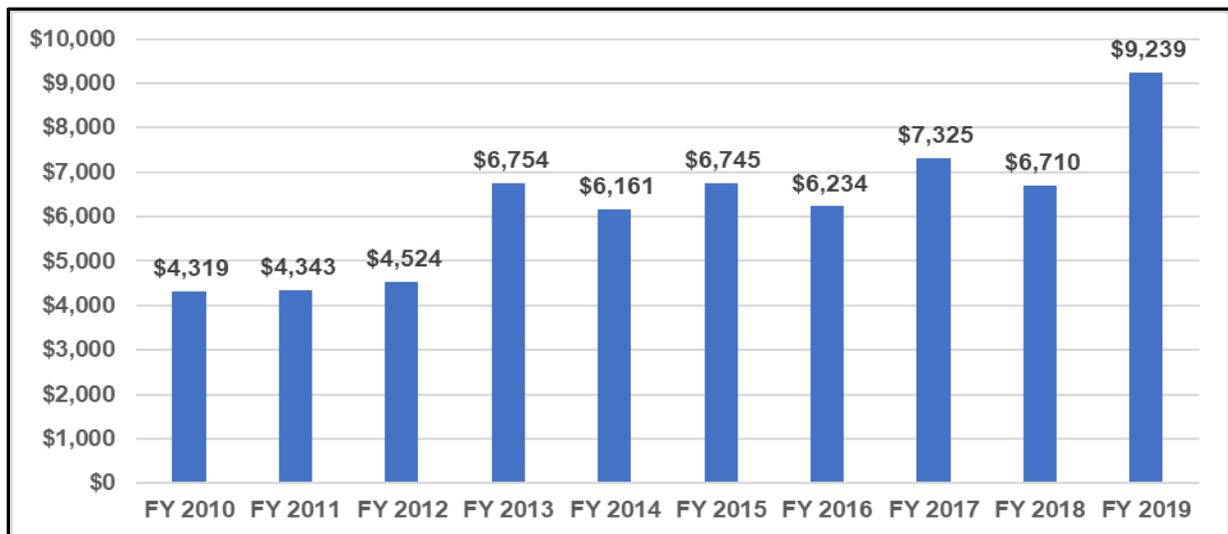
**Chart 5: Civil Fees Collected, Sex Offender Registry Fund  
FY 2010 – FY 2019**



Source: Integration Information for Iowa System (I/3), Iowa Courts Information System (ICIS)

**Chart 6** shows the total amount of fees collected and deposited in the Court Technology and Modernization Fund from FY 2010 to FY 2019.

**Chart 6: Civil Fees Collected, Court Technology and Modernization Fund  
FY 2010 – FY 2019**



Source: Iowa Court Information System (ICIS), Iowa Courts Information System (ICIS)

In addition to a civil penalty, an offender is required to pay a registration fee to the county sheriff at the time of verification of relevant information. A registrant is required to pay an annual fee of \$25 to the county sheriff's office of the county of the offender's primary residence.<sup>49</sup> This fee is collected and maintained by the county sheriff's office and is used to defray the costs of duties associated with the registration process. Should an offender be unable to pay the \$25 fee, the county sheriff is allowed to permit the fee to be paid in installments, or waive the fee entirely.<sup>50</sup>

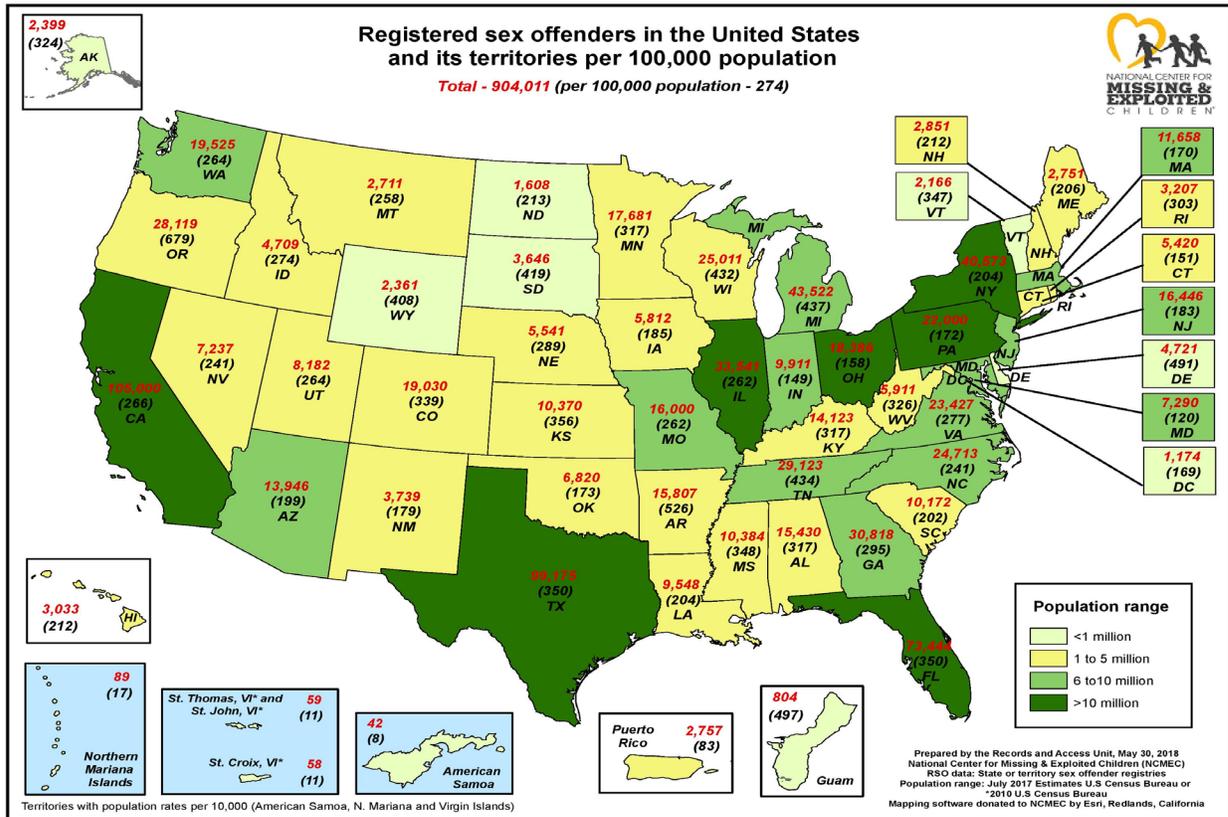
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<sup>49</sup> Iowa Code §[692A.110](#)(1).  
<sup>50</sup> Iowa Code §[692A.110](#)(1).

## Appendix A: Number of Registered Sex Offenders by State and Territory, 2018



Source: National Center for Missing and Exploited Children, [www.missingkids.com](http://www.missingkids.com)