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JUDICIARY

HOUSE FILE 147  
BY DODERER

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act to establish a registry of sex offenders and providing  
2 civil and criminal penalties.

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

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HF 147

1 Section 1. NEW SECTION. 692A.1 DEFINITIONS.

2 As used in this chapter and unless the context otherwise  
3 requires:

4 1. "Convicted" or "conviction" means a person who is found  
5 guilty of, pleads guilty to, or is sentenced or adjudicated  
6 delinquent for an act which is a public offense in this state  
7 or in another jurisdiction, including, but not limited to, a  
8 person who has received a deferred sentence or a deferred  
9 judgment. "Convicted" or "conviction" does not mean a plea,  
10 sentence, adjudication, deferral of sentence or judgment which  
11 has been reversed or otherwise set aside.

12 2. "Criminal offense against a minor" means any of the  
13 following criminal offenses or conduct:

14 a. Kidnapping of a minor, except when committed by a  
15 parent.

16 b. False imprisonment of a minor, except when committed by  
17 a parent.

18 c. An attempt to commit an offense enumerated in paragraph  
19 "a" or "b".

20 d. A public offense committed in another jurisdiction  
21 which would constitute a public offense in this state under  
22 this subsection.

23 3. "Criminal sex offense" means any of the following  
24 criminal offenses or conduct:

25 a. Any public offense involving sexual conduct directed  
26 toward a minor.

27 b. Solicitation of a minor to engage in an illegal sex  
28 act.

29 c. Use of a minor in a sexual performance.

30 d. Solicitation of a minor to practice prostitution.

31 e. Any public offense against a minor involving sexual  
32 contact with the minor.

33 f. Sexual abuse as defined under section 709.1.

34 g. Assault with intent to commit sexual abuse under  
35 section 709.11.

1 h. Sexual exploitation by a counselor or therapist under  
2 section 709.15.

3 i. Sexual misconduct with offenders under section 709.16.

4 j. Any of the following offenses, if the offense involves  
5 sexual abuse or attempted sexual abuse: murder, kidnapping,  
6 or burglary.

7 k. An attempt to commit an offense enumerated in  
8 paragraphs "a" through "g".

9 l. A public offense committed in another jurisdiction  
10 which would constitute a public offense in this state under  
11 this subsection.

12 4. "Department" means the department of public safety.

13 5. "Law enforcement agency" means an agency or department  
14 of federal, state, or local government or an entity which is  
15 wholly owned, financed, or controlled by one or more agencies  
16 or departments of federal, state, or local government, which  
17 performs as its principal function the apprehension,  
18 prosecution, adjudication, incarceration, or rehabilitation of  
19 criminal offenders.

20 6. "Residence" means the place where a person sleeps,  
21 which may include more than one location, and may be mobile or  
22 transitory.

23 Sec. 2. NEW SECTION. 692A.2 PERSONS REQUIRED TO  
24 REGISTER.

25 1. A person who has been convicted of a criminal offense  
26 against a minor or criminal sex offense shall register as  
27 provided in this chapter for a period of ten years commencing  
28 from the date of placement on probation, parole, work release,  
29 or other release from custody. A person is not required to  
30 register while incarcerated. If a person is placed on  
31 probation, parole, or work release and the probation, parole,  
32 or work release is revoked, the ten years shall commence anew  
33 upon release from custody.

34 2. A person who has been convicted of an offense under the  
35 laws of another state which would qualify the person as a

1 sexually violent predator under the federal Violent Crime  
2 Control and Law Enforcement Act of 1994, Pub. L. No. 103-322,  
3 shall register as provided in this chapter for an  
4 indeterminate period terminating only upon a determination by  
5 the sentencing court of the other state that registration is  
6 no longer required.

7 Sec. 3. NEW SECTION. 692A.3 REGISTRATION PROCESS.

8 1. A person required to register under this chapter shall  
9 register with the sheriff of the county of the person's  
10 residence within ten days of establishment of residence in  
11 this state or within ten days of any conviction for which the  
12 person is not incarcerated, a release from custody, or  
13 placement on probation, parole, or work release.

14 2. A person required to register under this chapter shall,  
15 within ten days of changing residence within a county in this  
16 state, notify the sheriff of the county in which the person is  
17 registered of the change of address and any changes in the  
18 person's telephone number in writing on a form provided by the  
19 sheriff. The sheriff shall send a copy of the change of  
20 address to the department within three working days of receipt  
21 of notice of the address change.

22 3. A person required to register under this chapter shall  
23 register with the sheriff of a county in which residence has  
24 been newly established and notify the sheriff of the county in  
25 which the person was registered, within ten days of changing  
26 residence to a location outside the county in which the person  
27 was registered. Registration shall be in writing on a form  
28 provided by the sheriff and shall include the person's change  
29 of address and any changes to the person's telephone number.  
30 The sheriff shall send a copy of the change of address to the  
31 department within three working days of receipt of notice of  
32 the address change.

33 4. A person required to register under this chapter shall  
34 notify the sheriff of the county in which the person is  
35 registered, within ten days of changing residence to a

1 location outside this state, of the new residence address and  
2 any changes in telephone number and shall register in the  
3 other state within the ten days, if persons are required to  
4 register under the laws of the other state. The sheriff shall  
5 send a copy of the change of address to the department within  
6 three working days of receipt of notice of the address change.

7 5. The collection of information by a court or releasing  
8 agency under section 692A.5 shall serve as the person's  
9 initial registration for purposes of this section. The court  
10 or releasing agency shall forward a copy of the registration  
11 to the department within three working days of completion of  
12 registration.

13 Sec. 4. NEW SECTION. 692A.4 VERIFICATION OF ADDRESS.

14 1. The address of a person required to register under this  
15 chapter shall be verified annually as follows:

16 a. On a date which falls within the month in which the  
17 person was initially required to register, the department  
18 shall mail a verification form to the last reported address of  
19 the person. Verification forms shall not be forwarded to the  
20 person who is required to register under this chapter if the  
21 person no longer resides at the address, but shall be returned  
22 to the department.

23 b. The person shall complete and mail the verification to  
24 the department within ten days of receipt of the form.

25 c. The verification form shall be signed by the person,  
26 and state the address at which the person resides. If the  
27 person is in the process of changing residences, the person  
28 shall state that fact as well as the old and new addresses or  
29 places of residence.

30 2. Verification of address for a person who has been  
31 convicted of an offense under the laws of another state which  
32 would qualify the person as a sexually violent predator under  
33 the federal Violent Crime Control and Law Enforcement Act of  
34 1994, Pub. L. No. 103-322, shall be accomplished in the same  
35 manner as in subsection 1, except that the verification shall

1 be done every three months at times established by the  
2 department.

3 Sec. 5. NEW SECTION. 692A.5 DUTY TO FACILITATE  
4 REGISTRATION.

5 1. When a person who is required to register under this  
6 chapter is released from confinement from a jail, prison,  
7 juvenile facility, or other correctional institution or  
8 facility, or when such a person is convicted but not  
9 incarcerated, the warden or superintendent, or in the case of  
10 conviction without incarceration, the court, shall do the  
11 following prior to release or sentencing of the convicted  
12 person:

13 a. Obtain fingerprints and a photograph of the person if  
14 fingerprints and a photograph have not already been obtained  
15 in connection with the offense that triggers registration. A  
16 current photograph may also be required.

17 b. Inform the person of the duty to register.

18 c. Inform the person that, within ten days of changing  
19 residence, registration with the sheriff in the county in  
20 which residence is established is required, if the residence  
21 is within the state.

22 d. Inform the person that if the person moves their  
23 residence to another state, the person must give the person's  
24 new address to the sheriff's department in the county of the  
25 person's old residence within ten days of changing addresses,  
26 and that, if the other state has a registration requirement,  
27 the person is also required to register in the new state of  
28 residence, not later than ten days after establishing  
29 residence in the other state.

30 e. Require the person to read and sign a form stating that  
31 the duty of the person to register under this chapter has been  
32 explained. If the person cannot read, is unable to write, or  
33 refuses to cooperate, the duty and the form shall be explained  
34 orally and a written record maintained by the person  
35 explaining the duty and the form.

1       2. When a person who is required to register under this  
2 chapter is released from confinement from a jail, prison,  
3 juvenile facility, or other correctional institution or  
4 facility, or when such a person is convicted but not  
5 incarcerated, the warden or superintendent, or in the case of  
6 conviction without incarceration, the court, shall verify that  
7 the person has completed initial registration forms, and  
8 accept the forms on behalf of the sheriff of the county of  
9 registration. The warden or superintendent or the court shall  
10 send a copy of the initial registration form to the department  
11 within three working days of completion of the registration.  
12 Probation, parole, work release, or any other form of release  
13 after conviction shall not be granted unless the person has  
14 registered as required under this chapter.

15       3. The warden or superintendent, or in the case the person  
16 is placed on probation, the court, shall forward one copy of  
17 the registration to the department and one copy to the sheriff  
18 of the county in which the person is to reside within three  
19 days after completion of the registration.

20       Sec. 6. NEW SECTION. 692A.6 BODILY FLUID SAMPLES.

21       1. A person required to register under this chapter shall,  
22 prior to placement on probation, parole, work release, or  
23 other release from custody, provide two specimens of blood and  
24 a saliva sample to the warden or superintendent, or in case of  
25 conviction without incarceration, to the court. The  
26 department shall provide assistance to the warden or  
27 superintendent, or the court, to ensure that the collection of  
28 the specimens is in accordance with accepted medical  
29 procedures.

30       2. The specimens shall be forwarded to the division which  
31 shall carry out DNA analysis and profiling and other genetic  
32 typing analysis. The division may contract with private  
33 entities for DNA profiling. "DNA profiling" means the  
34 procedure established by the division for determining a  
35 person's genetic identity. The DNA profiling and other

1 genetic typing analysis shall be used for law enforcement  
2 purposes only.

3 3. The deoxyribonucleic acid and other genetic typing  
4 information shall be filed with the person's registry file at  
5 the department of public safety.

6 4. The requirements of this section shall only apply if  
7 the commissioner of public safety determines that the  
8 department has sufficient resources to carry out the  
9 requirements of this section.

10 Sec. 7. NEW SECTION. 692A.7 CIVIL PENALTY FOR SEX  
11 OFFENDERS.

12 1. In addition to any other penalty, at the time of  
13 conviction for a public offense committed on or after the  
14 effective date of this chapter which requires a person to  
15 register under this chapter, the person shall be assessed a  
16 civil penalty of one hundred dollars, to be payable in the  
17 same manner as a fine.

18 2. The clerk of the district court shall transmit money  
19 collected under this section each month to the treasurer of  
20 state, who shall deposit the money in the sex offender  
21 registry fund established under section 692A.12.

22 Sec. 8. NEW SECTION. 692A.8 FAILURE TO COMPLY --  
23 PENALTY.

24 1. Failure to register as required under this chapter is a  
25 serious misdemeanor for a first offense, an aggravated  
26 misdemeanor for a second offense, and a class "D" felony for a  
27 third or subsequent offense. Any fine imposed for a second or  
28 subsequent offense shall not be suspended. The court shall  
29 not defer judgment or sentence for any violation of the  
30 registration requirements of this chapter. The failure of a  
31 person who is on probation, parole, or work release, or any  
32 other form of release to register as required under this  
33 chapter shall result in the automatic revocation of the  
34 person's probation, parole, or work release.

35 2. In determining if a violation is a second or subsequent



1 offense, a conviction for a violation of this section which  
2 occurred more than ten years prior to the date of the  
3 violation charged shall not be considered in determining that  
4 the violation charged is a second, third, or subsequent  
5 offense. Violations in any other states under sex offenders  
6 registry provisions that are substantially similar to those  
7 contained in this section shall be counted as previous  
8 offenses. The court shall judicially notice the statutes of  
9 other states which are substantially equivalent to this  
10 section.

11 Sec. 9. NEW SECTION. 692A.9 DETERMINATION OF REQUIREMENT  
12 TO REGISTER.

13 1. A person who is registered under this chapter may  
14 request that the department determine whether the offense for  
15 which the person has been convicted requires the person to  
16 register under this chapter or whether the period of time  
17 during which the person is obligated to register under this  
18 chapter has expired.

19 2. Application for determination shall be made on forms  
20 provided by the department and accompanied by copies of  
21 sentencing or adjudicatory orders with respect to each offense  
22 for which the person asks that a determination be made.

23 3. The department shall, within ninety days of the filing  
24 of the request, determine whether the person is required to  
25 register under this chapter.

26 Sec. 10. NEW SECTION. 692A.10 REGISTRATION FORMS.

27 Registration forms shall be prepared by the department and  
28 shall include the registrant's name, the registrant's current  
29 address, and, if applicable, the registrant's telephone  
30 number. The forms may provide for the reporting of additional  
31 relevant information such as, but not limited to, fingerprints  
32 and photographs. Copies of blank forms shall be available  
33 upon request to any person from the sheriff.

34 Sec. 11. NEW SECTION. 692A.11 DEPARTMENT DUTIES --  
35 REGISTRY.

1 The department shall perform all of the following duties:

2 1. Develop and disseminate standard forms for use in  
3 registering of, verifying addresses of, and verifying  
4 understanding of registration requirements by persons required  
5 to register under this chapter. Forms used to verify  
6 addresses of persons required to register under this chapter  
7 shall contain a warning against forwarding of the forms and of  
8 the requirement to return the forms if the person to whom the  
9 form is directed no longer resides at the address listed on  
10 the form or the mailing.

11 2. Maintain a central registry of information collected  
12 from persons required to register under this chapter, which  
13 shall be known as the sex offender registry.

14 3. Adopt rules under chapter 17A, as necessary, to ensure  
15 compliance with registration and verification requirements of  
16 this chapter, to provide guidelines for persons required to  
17 assist in obtaining registry information, and to provide a  
18 procedure for the dissemination of information contained in  
19 the registry.

20 Sec. 12. NEW SECTION. 692A.12 SEX OFFENDER REGISTRY  
21 FUND.

22 A sex offender registry fund is established as a separate  
23 fund within the state treasury under the control of the  
24 department. The fund shall consist of moneys received as a  
25 result of the imposition of the penalty imposed under section  
26 692A.7 and other funds allocated for purposes of establishing  
27 and maintaining the sex offender registry, conducting research  
28 and analysis related to sex crimes and offenders, and to  
29 perform other duties required under this chapter.

30 Notwithstanding section 8.33, unencumbered or unobligated  
31 moneys and any interest remaining in the fund on June 30 of  
32 any fiscal year shall not revert to the general fund of the  
33 state, but shall remain available for expenditure in  
34 subsequent fiscal years.

35 Sec. 13. NEW SECTION. 692A.13 DUTIES OF THE SHERIFF.

1 The sheriff of each county shall comply with the  
2 requirements of this chapter and rules adopted by the  
3 department pursuant to this chapter.

4 Sec. 14. NEW SECTION. 692A.14 CONFIDENTIALITY OF  
5 RECORDS.

6 Information contained in the sex offender registry is a  
7 confidential record under section 22.7, subsection 9, and  
8 shall only be disseminated or redisseminated as follows:

9 1. The department or a sheriff may disclose information to  
10 law enforcement agencies for law enforcement or prosecution  
11 purposes.

12 2. The department may disclose information to government  
13 agencies which are conducting confidential background  
14 investigations.

15 3. The department or a law enforcement agency with case-  
16 specific authorization from the department may release  
17 relevant information, other than the identity of a victim of a  
18 criminal offense against a minor or a sexually violent  
19 offense, that is necessary to protect the public concerning a  
20 specific person who is required to register under this  
21 chapter.

22 4. The department may disseminate departmental analyses of  
23 information contained in the sex offender registry to persons  
24 conducting bona fide research, if the data does not contain  
25 individually identified information, as defined under section  
26 692A.1.

27 5. Criminal history information contained in the registry  
28 may be released as provided in chapter 692 or used by law  
29 enforcement agencies as an index for purposes of locating a  
30 relevant conviction record.

31 Sec. 15. NEW SECTION. 692A.15 COOPERATION WITH  
32 REGISTRATION.

33 Each agency of state and local government which possesses  
34 information relevant to requirements that a person register  
35 under this chapter shall provide that information to the court

1 or the department upon request. All confidential records  
2 provided under this section shall remain confidential, unless  
3 otherwise ordered by a court, by the lawful custodian of the  
4 records, or by another person duly authorized to release such  
5 information.

6 Sec. 16. NEW SECTION. 692A.16 IMMUNITY FOR GOOD FAITH  
7 CONDUCT.

8 Law enforcement agencies and employees of law enforcement  
9 agencies and state agencies and their employees shall be  
10 immune from liability for good faith conduct under this  
11 chapter.

12 Sec. 17. NEW SECTION. 692A.17 SUPREME COURT RULES.

13 The supreme court shall prescribe rules relating to the  
14 judicial department's administration of procedures required  
15 under this chapter.

16 EXPLANATION

17 This bill establishes a central registry within the  
18 department of public safety for persons who commit criminal  
19 sex offenses. Criminal sex offenses include kidnapping of a  
20 minor, false imprisonment of a minor, public offenses  
21 involving sexual conduct which is directed toward a minor,  
22 solicitation of a minor to commit an illegal sex act, use of a  
23 minor in a sexual performance, solicitation of a minor to  
24 practice prostitution, public offenses involving sexual  
25 contact with a minor, public offenses under prior law which  
26 would be criminal offenses against a minor if they were  
27 current law, and offenses committed in another jurisdiction  
28 which would be criminal offenses against a minor if committed  
29 in this state. Criminal sex offenses also include sexual  
30 abuse, assault with intent to commit sexual abuse, sexual  
31 exploitation by a counselor or therapist, sexual misconduct  
32 with offenders, and murder, kidnapping, or burglary involving  
33 sexual abuse or attempted sexual abuse.

34 Persons who subject to the registration requirement are  
35 required to be registered for 10 years from the date that the

1 person is placed on probation, parole, work release, or  
2 otherwise released from custody with the sheriff of the county  
3 of the person's residence. When the person is initially  
4 released either the court or the agency or person releasing  
5 the person will collect the initial registration information,  
6 which will be forwarded to the department of public safety and  
7 the sheriff of the county in which the person is to reside.  
8 In addition, the bill provides that, if sufficient funds are  
9 available to the division of criminal investigation of the  
10 department of public safety, criminal sex offenders are to  
11 provide blood and saliva samples for DNA and other genetic  
12 analysis, which will be included in the offender's registry  
13 file.

14 Each year the department will verify the address of any  
15 persons convicted of committing criminal offenses against  
16 minors. The addresses of persons convicted as sexually  
17 violent predators will be verified every three months by the  
18 department. Persons who are required to register under the  
19 bill are also required to reregister in the event that the  
20 person moves and notify the sheriffs in both locations of the  
21 address change. Penalties are established for a failure to  
22 register. A first offense is a serious misdemeanor; a second  
23 offense is an aggravated misdemeanor; and a third or  
24 subsequent offense is a class "D" felony. Any fines imposed  
25 for a second or subsequent violation are not to be suspended.  
26 Persons who violate the registration requirement are not  
27 eligible for a deferred judgment or sentence.

28 Persons who are required to register are, at the time of  
29 conviction, also to be assessed a \$100 civil penalty, which is  
30 to be deposited in a sex offender registry fund. The fund is  
31 used to pay for the costs of maintaining the registry by the  
32 department and to pay for research and analysis of the data  
33 collected through the registry.

34 Persons who are not sure whether they are subject to the  
35 registration requirement may ask the department to issue an

1 opinion on the issue of whether they are required to register.  
2 Registry information is considered to be a confidential law  
3 enforcement record and its dissemination and redissemination  
4 is generally limited to law enforcement agencies, although  
5 further dissemination is permitted under certain limited  
6 circumstances. State and local government entities are to  
7 cooperate with the court and the department in the provision  
8 of information relevant to implementation of the registry.  
9 Law enforcement agencies and employees of law enforcement  
10 agencies, as well as state agencies and their employees, are  
11 immune from liability for good faith conduct under the new  
12 chapter established in the bill. The department of public  
13 safety and the supreme court are to adopt rules to implement  
14 the provisions of the bill.  
15 This bill may create a state mandate under chapter 25B.  
16 However, pursuant to section 25B.2, subsection 3, unnumbered  
17 paragraph 2, any requirement imposed under the bill may not be  
18 a state mandate which requires full state funding.  
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