

# REPRINTED

FEB 26 1996

Place On Calendar

HOUSE FILE 2316  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 661)

Passed House, <sup>(p.600)</sup> Date 3-7-96      Passed Senate, <sup>(p.1061)</sup> Date 3/26/96  
 Vote: Ayes 97 Nays 0      Vote: Ayes 49 Nays 0  
 Approved April 10, 1996

## A BILL FOR

1 An Act relating to sentences for persons convicted of sexually  
2 predatory offenses.

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

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HF 2316

1 Section 1. Section 692.15, Code Supplement 1995, is  
2 amended by adding the following new subsection:

3 NEW SUBSECTION. 8. The fact that a person was convicted  
4 for a sexually predatory offense under chapter 901A shall be  
5 reported with other conviction data regarding that person.

6 Sec. 2. NEW SECTION. 901A.1 DEFINITIONS.

7 1. As used in this chapter, the term "sexually predatory  
8 offense" means any serious or aggravated misdemeanor or felony  
9 which constitutes:

10 a. A violation of any provision of chapter 709.

11 b. A violation of any of the following if the offense  
12 involves sexual abuse, attempted sexual abuse, or intent to  
13 commit sexual abuse:

14 (1) Murder as defined in section 707.1.

15 (2) Kidnapping as defined in section 710.1.

16 (3) Burglary as defined in section 713.1.

17 (4) Child endangerment under section 726.6, subsection 1,  
18 paragraph "e".

19 c. Sexual exploitation of a minor in violation of section  
20 728.12, subsection 1.

21 d. Pandering involving a minor in violation of section  
22 725.3, subsection 2.

23 e. Any offense involving an attempt to commit an offense  
24 contained in this section.

25 f. An offense under prior law of this state or an offense  
26 committed in another jurisdiction which would constitute an  
27 equivalent offense under paragraphs "a" through "e".

28 2. As used in this section, the term "prior conviction"  
29 includes a plea of guilty, deferred judgment, deferred or  
30 suspended sentence, or adjudication of delinquency.

31 Sec. 3. NEW SECTION. 901A.2 ENHANCED SENTENCING.

32 1. A person convicted of a sexually predatory offense  
33 which is a serious or aggravated misdemeanor, who has a prior  
34 conviction for a sexually predatory offense, shall be  
35 sentenced to and shall serve twice the maximum period of

1 incarceration for the offense, notwithstanding any other  
2 provision of the Code to the contrary, prior to being eligible  
3 for parole or work release. However, a person sentenced under  
4 this subsection shall not have the person's sentence reduced  
5 under chapter 903A or otherwise by more than fifteen percent.

6 2. A person convicted of a sexually predatory offense  
7 which is a serious or aggravated misdemeanor, who has two or  
8 more prior convictions for sexually predatory offenses, shall  
9 be sentenced to and shall serve a period of incarceration of  
10 ten years, notwithstanding any other provision of the Code to  
11 the contrary. A person sentenced under this subsection shall  
12 not have the person's sentence reduced under chapter 903A or  
13 otherwise by more than fifteen percent.

14 3. A person convicted of a sexually predatory offense  
15 which is a felony, who has a prior conviction for a sexually  
16 predatory offense, shall be sentenced to and shall serve twice  
17 the maximum period of incarceration for the offense, or  
18 twenty-five years, whichever is greater, notwithstanding any  
19 other provision of the Code to the contrary. A person  
20 sentenced under this subsection shall not have the person's  
21 sentence reduced under chapter 903A or otherwise by more than  
22 fifteen percent.

23 4. A person convicted of a sexually predatory offense  
24 which is a felony who has previously been sentenced under  
25 subsection 3 shall be sentenced to life in prison on the same  
26 terms as a class "A" felon under section 902.1,  
27 notwithstanding any other provision of the Code to the  
28 contrary. In order for a person to be sentenced under this  
29 subsection, the prosecuting attorney shall allege and prove  
30 that this section is applicable to the person.

31 5. A person sentenced under the provisions of this section  
32 shall not be eligible for deferred judgment, deferred  
33 sentence, or suspended sentence.

34 Sec. 4. NEW SECTION. 901A.3 TRIAL INFORMATION.

35 A prosecuting attorney charging a person with an offense

1 which is believed to constitute a sexually predatory offense  
2 for the purpose of enhancement of sentence on subsequent  
3 offenses shall include a statement to that effect in the trial  
4 information. The court shall allow the indictment to be  
5 amended if it does not contain such information. This  
6 statement shall not be read to a jury.

7 Sec. 5. NEW SECTION. 901A.4 SEXUALLY PREDATORY OFFENSES  
8 -- FINDING OF FACT -- NOTICE.

9 1. Prior to pronouncing judgment and sentence, the court  
10 shall, if the offense is murder, kidnapping, burglary, or  
11 child endangerment in violation of section 726.6, subsection  
12 1, paragraph "e", make a factual determination whether the  
13 offense constitutes a sexually predatory offense as defined in  
14 section 901A.1 for the purpose of enhancement of future  
15 offenses.

16 2. Upon conviction for a sexually predatory offense as  
17 defined in section 901A.1, the court shall provide written  
18 notice to the person that the conviction meets the definition  
19 of a sexually predatory offense for the purpose of enhancing  
20 future punishment for similar offenses.

21 Sec. 6. REPEAL. Sections 709C.1, 709C.2, 709C.3, 709C.4,  
22 and 709C.6 through 709C.10, Code 1995, are repealed.

23 Sec. 7. REPEAL. Sections 709C.2A, 709C.5, 709C.11, and  
24 709C.12, Code Supplement 1995, are repealed.

25 EXPLANATION

26 This bill repeals chapter 709C regarding the commitment of  
27 sexually violent predators and establishes enhanced sentences  
28 for persons convicted of sexually predatory offenses.

29 Section 692.15 is amended to require that reports of  
30 conviction data for inclusion in criminal history records  
31 include whether the person who is the subject of the report  
32 was convicted of a sexually predatory offense.

33 New chapter 901A is created regarding the enhanced  
34 sentencing provisions for sexually predatory offenses.

35 Section 901A.1 defines sexually predatory offenses. Sexually

1 predatory offenses include any violation of chapter 709 or  
2 murder, kidnapping, burglary, or certain offenses of child  
3 endangerment which involve sexual abuse, attempted sexual  
4 abuse, or intent to commit sexual abuse and similar offenses  
5 from other states.

6 Section 901A.2 provides that a person convicted of a  
7 sexually predatory offense or offenses shall serve the  
8 following enhanced sentences for an additional sexually  
9 predatory offense:

10 1. If the person has one prior conviction for a sexually  
11 predatory offense and is convicted of a second sexually  
12 predatory offense which is a serious or aggravated  
13 misdemeanor, the person shall serve twice the maximum period  
14 of incarceration for the second offense. A serious  
15 misdemeanor has a maximum sentence of one year in jail and an  
16 aggravated misdemeanor has a maximum sentence of two years at  
17 a department of corrections' institution.

18 2. A person with two or more prior convictions for  
19 sexually predatory offenses who is convicted of a serious or  
20 aggravated misdemeanor, shall be incarcerated for a period of  
21 10 years.

22 3. A person with one prior conviction for a sexually  
23 predatory offense who is convicted of a second sexually  
24 predatory offense which is a felony shall serve twice the  
25 maximum term of incarceration for the offense or 25 years,  
26 whichever is greater.

27 4. A person convicted of a felony sexually predatory  
28 offense who has two prior convictions for sexually predatory  
29 offenses, one of which must have been a felony, shall be  
30 sentenced to life in prison. To be sentenced to life in  
31 prison, the prosecuting attorney must prove that the person  
32 has two prior convictions for a sexually predatory offense.

33 A person sentenced for a sexually predatory act, other than  
34 to life in prison, shall not have the person's sentence  
35 reduced by more than 15 percent.

1 A person receiving an enhanced sentence for a sexually  
2 predatory offense is not eligible to receive a deferred  
3 judgment, deferred sentence, or suspended sentence.

4 Section 901A.3 requires the prosecuting attorney to state  
5 in the trial information that the prosecuting attorney  
6 believes the offense committed is a sexually predatory offense  
7 for the purposes of enhanced sentencing for subsequent  
8 offenses. This statement will not be read to the jury:

9 Section 901A.4 requires the court, prior to pronouncing  
10 judgment and sentence to make a finding of fact whether a  
11 person convicted of murder, kidnapping, burglary, or child  
12 endangerment committed a sexually predatory offense. The  
13 court is required to notify the person in writing that the  
14 person has been convicted of a sexually predatory act for the  
15 purposes of future sentence enhancement.

16 This bill may contain a state mandate under chapter 25B.  
17 Under section 25B.2, subsection 3, the state mandate need not  
18 be performed if the state does not appropriate funds to cover  
19 all or a proportion of the costs of the mandate.

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HOUSE FILE 2316  
FISCAL NOTE

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The estimate for House File 2316 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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House File 2316 repeals Chapter 709C, Code of Iowa regarding the commitment of sexually violent predators and establishes enhanced sentences for persons convicted of sexually predatory offenses. Sexually predatory offenses include Chapter 709 sexual abuse offenses (varying degrees of sexual abuse, lascivious acts with a child or minor, indecent exposure, sexual exploitation by a therapist, and other acts). Sexually predatory offenses also include acts of sexual abuse or intent to commit sexual abuse in connection with certain other felonies and acts committed by a person who has committed other sexual offenses in the past. The sentence enhancements range from twice maximum sentence for a serious or aggravated misdemeanor with earned good time limited to 15.0% of the sentence to life imprisonment.

**ASSUMPTIONS**

1. Charge, conviction, and sentencing patterns will remain stable over the projection period.
2. Prisoner length of stay, revocation rates, and other policies will remain the same, except for those changed by this Bill.
3. There will be a six-month lag effect from the effective date of this Bill for prosecution of the offense and sentencing.
4. The marginal cost for a prison inmate is \$12 per day.
5. The offenses identified in this Bill would have been prosecuted as other offense absent this law. The indigent offenders would have otherwise received representation by the Public Defender or court appointed attorneys. Therefore, there are no additional costs for the Public Defender, Attorney General, or county prosecuting attorneys.

**CORRECTIONAL IMPACT**

The prison population is projected to have the following increases.

FY 1997	3 inmates
FY 1998	14 inmates
FY 2001	63 inmates
FY 2007	119 inmates
FY 2017	299 inmates
FY 2027	373 inmates

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FISCAL IMPACT

The estimated General Fund impact to the Department of Corrections is provided below:

FY 1997	\$ 13,000
FY 1998	61,000
FY 2001	276,000
FY 2007	521,000
FY 2017	1.3 million
FY 2027	1.6 million

(The above amounts are stated in FY 1997 dollars and not adjusted for inflation.)

SOURCES

Criminal and Juvenile Justice Planning Division, Department of Human Rights  
Department of Corrections (LSB 3686hv, MDF)

FILED FEBRUARY 28, 1996

BY DENNIS PROUTY, FISCAL DIRECTOR



HOUSE FILE 2316

H-5199

- 1 Amend House File 2316 as follows:
- 2 1. Page 3, line 9, by striking the word "court"
- 3 and inserting the following: "finder of fact".

By GRUBBS of Scott  
KREIMAN of Davis

H-5199 FILED MARCH 5, 1996

*(p. 600)*  
*Adopted 3-7-96*

HOUSE FILE 2316

H-5235

- 1 Amend House File 2316 as follows:
- 2 1. Page 1, by inserting after line 5, the
- 3 following:
- 4 "Sec. \_\_\_\_ . Section 710.10, Code 1995, is amended
- 5 by adding the following new subsection:
- 6 NEW SUBSECTION. 3. A person's intent to commit an
- 7 illegal act upon the child may be inferred when the
- 8 individual is not known to the child and the
- 9 individual does not have the permission of the child's
- 10 parent, guardian, or custodian to contact the child."
- 11 2. Title page, by striking lines 1 and 2, and
- 12 inserting the following: "An Act relating to sex
- 13 offenses, including enticing away a child and
- 14 sentences for persons convicted of sexually predatory
- 15 offenses."
- 16 3. By renumbering as necessary.

By WEIGEL of Chickasaw  
KREIMAN of Davis  
GRUBBS of Scott

H-5235 FILED MARCH 6, 1996

*(p. 599)*  
*adopted*  
*3-7-96*

37-  
S-3/21/96 (Amend/Dothin  
w/ S-5502

HOUSE FILE **2316**  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 661)

(As Amended and Passed by the House, March 7, 1996)

Re-Passed House, Date 4/2/96 (p.1309) Passed Senate, Date \_\_\_\_\_  
Vote: Ayes 97 Nays 0 Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved April 10, 1996

A BILL FOR

1 An Act relating to sex offenses, including enticing away a child  
2 and sentences for persons convicted of sexually predatory  
3 offenses.

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

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House Amendments \_\_\_\_\_

1 Section 1. Section 692.15, Code Supplement 1995, is  
2 amended by adding the following new subsection:

3 NEW SUBSECTION. 8. The fact that a person was convicted  
4 for a sexually predatory offense under chapter 901A shall be  
5 reported with other conviction data regarding that person.

6 Sec. 2. Section 710.10, Code 1995, is amended by adding  
7 the following new subsection:

8 NEW SUBSECTION. 3. A person's intent to commit an illegal  
9 act upon the child may be inferred when the individual is not  
10 known to the child and the individual does not have the  
11 permission of the child's parent, guardian, or custodian to  
12 contact the child.

13 Sec. 3. NEW SECTION. 901A.1 DEFINITIONS.

14 1. As used in this chapter, the term "sexually predatory  
15 offense" means any serious or aggravated misdemeanor or felony  
16 which constitutes:

17 a. A violation of any provision of chapter 709.

18 b. A violation of any of the following if the offense  
19 involves sexual abuse, attempted sexual abuse, or intent to  
20 commit sexual abuse:

21 (1) Murder as defined in section 707.1.

22 (2) Kidnapping as defined in section 710.1.

23 (3) Burglary as defined in section 713.1.

24 (4) Child endangerment under section 726.6, subsection 1,  
25 paragraph "e".

26 c. Sexual exploitation of a minor in violation of section  
27 728.12, subsection 1.

28 d. Pandering involving a minor in violation of section  
29 725.3, subsection 2.

30 e. Any offense involving an attempt to commit an offense  
31 contained in this section.

32 f. An offense under prior law of this state or an offense  
33 committed in another jurisdiction which would constitute an  
34 equivalent offense under paragraphs "a" through "e".

35 2. As used in this section, the term "prior conviction"

1 includes a plea of guilty, deferred judgment, deferred or  
2 suspended sentence, or adjudication of delinquency.

3 Sec. 4. NEW SECTION. 901A.2 ENHANCED SENTENCING.

4 1. A person convicted of a sexually predatory offense  
5 which is a serious or aggravated misdemeanor, who has a prior  
6 conviction for a sexually predatory offense, shall be  
7 sentenced to and shall serve twice the maximum period of  
8 incarceration for the offense, notwithstanding any other  
9 provision of the Code to the contrary, prior to being eligible  
10 for parole or work release. However, a person sentenced under  
11 this subsection shall not have the person's sentence reduced  
12 under chapter 903A or otherwise by more than fifteen percent.

13 2. A person convicted of a sexually predatory offense  
14 which is a serious or aggravated misdemeanor, who has two or  
15 more prior convictions for sexually predatory offenses, shall  
16 be sentenced to and shall serve a period of incarceration of  
17 ten years, notwithstanding any other provision of the Code to  
18 the contrary. A person sentenced under this subsection shall  
19 not have the person's sentence reduced under chapter 903A or  
20 otherwise by more than fifteen percent.

21 3. A person convicted of a sexually predatory offense  
22 which is a felony, who has a prior conviction for a sexually  
23 predatory offense, shall be sentenced to and shall serve twice  
24 the maximum period of incarceration for the offense, or  
25 twenty-five years, whichever is greater, notwithstanding any  
26 other provision of the Code to the contrary. A person  
27 sentenced under this subsection shall not have the person's  
28 sentence reduced under chapter 903A or otherwise by more than  
29 fifteen percent.

30 4. A person convicted of a sexually predatory offense  
31 which is a felony who has previously been sentenced under  
32 subsection 3 shall be sentenced to life in prison on the same  
33 terms as a class "A" felon under section 902.1,  
34 notwithstanding any other provision of the Code to the  
35 contrary. In order for a person to be sentenced under this

1 subsection, the prosecuting attorney shall allege and prove  
2 that this section is applicable to the person.

3 5. A person sentenced under the provisions of this section  
4 shall not be eligible for deferred judgment, deferred  
5 sentence, or suspended sentence.

6 Sec. 5. NEW SECTION. 901A.3 TRIAL INFORMATION.

7 A prosecuting attorney charging a person with an offense  
8 which is believed to constitute a sexually predatory offense  
9 for the purpose of enhancement of sentence on subsequent  
10 offenses shall include a statement to that effect in the trial  
11 information. The court shall allow the indictment to be  
12 amended if it does not contain such information. This  
13 statement shall not be read to a jury.

14 Sec. 6. NEW SECTION. 901A.4 SEXUALLY PREDATORY OFFENSES  
15 -- FINDING OF FACT -- NOTICE.

16 1. Prior to pronouncing judgment and sentence, the finder  
17 of fact shall, if the offense is murder, kidnapping, burglary,  
18 or child endangerment in violation of section 726.6,  
19 subsection 1, paragraph "e", make a factual determination  
20 whether the offense constitutes a sexually predatory offense  
21 as defined in section 901A.1 for the purpose of enhancement of  
22 future offenses.

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

28 Sec. 7. REPEAL. Sections 709C.1, 709C.2, 709C.3, 709C.4,  
29 and 709C.6 through 709C.10, Code 1995, are repealed.

30 Sec. 8. REPEAL. Sections 709C.2A, 709C.5, 709C.11, and  
31 709C.12, Code Supplement 1995, are repealed.

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HOUSE FILE 2316

S-5502

1 Amend House File 2316, as amended, passed, and  
2 reprinted by the House, as follows:

3 1. Page 3, by inserting after line 5 the  
4 following:

5 "6. In addition to any other sentence imposed on a  
6 person convicted of a sexually predatory offense  
7 pursuant to subsection 1, 2, or 3, the person shall be  
8 sentenced to an additional term of parole or work  
9 release not to exceed two years. The board of parole  
10 shall determine whether the person should be released  
11 on parole or placed in a work release program. The  
12 sentence of parole supervision shall commence  
13 immediately upon the person's release by the board of  
14 parole and shall be under the terms and conditions as  
15 set out in chapter 906. Violations of parole or work  
16 release shall be subject to the procedures set out in  
17 chapter 905 or 908 or rules adopted under those  
18 chapters. For purposes of disposition of a parole  
19 violator upon revocation of parole or work release,  
20 the sentence of an additional term of parole or work  
21 release shall be considered part of the original term  
22 of commitment to the department of corrections."

By COMMITTEE ON JUDICIARY  
RANDAL J. GIANNETTO, Chairperson

S-5502 FILED MARCH 21, 1996

## SENATE AMENDMENT TO HOUSE FILE 2316

H-5646

1 Amend House File 2316, as amended, passed, and  
2 reprinted by the House, as follows:

3 1. Page 3, by inserting after line 5 the  
4 following:

5 "6. In addition to any other sentence imposed on a  
6 person convicted of a sexually predatory offense  
7 pursuant to subsection 1, 2, or 3, the person shall be  
8 sentenced to an additional term of parole or work  
9 release not to exceed two years. The board of parole  
10 shall determine whether the person should be released  
11 on parole or placed in a work release program. The  
12 sentence of parole supervision shall commence  
13 immediately upon the person's release by the board of  
14 parole and shall be under the terms and conditions as  
15 set out in chapter 906. Violations of parole or work  
16 release shall be subject to the procedures set out in  
17 chapter 905 or 908 or rules adopted under those  
18 chapters. For purposes of disposition of a parole  
19 violator upon revocation of parole or work release,  
20 the sentence of an additional term of parole or work  
21 release shall be considered part of the original term  
22 of commitment to the department of corrections."

RECEIVED FROM THE SENATE

H-5646 FILED MARCH 26, 1996

*House concurred 4/2/96 (p.1309)*

Griggs  
Schulte  
Kreiman

HSB 661

JUDICIARY

Succeeded By

SF HF 231

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED GOVERNOR'S BILL)

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

A BILL FOR

1 An Act relating to sentences for persons convicted of sexually  
2 predatory offenses.

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

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1 Section 1. Section 692.15, Code Supplement 1995, is  
2 amended by adding the following new subsection:

3 NEW SUBSECTION. 8. The fact that a person was convicted  
4 for a sexually predatory offense under chapter 901A shall be  
5 reported with other conviction data regarding that person.

6 Sec. 2. NEW SECTION. 901A.1 DEFINITIONS.

7 1. As used in this chapter, the term "sexually predatory  
8 offense" means any serious or aggravated misdemeanor or felony  
9 which constitutes:

10 a. A violation of any provision of chapter 709.

11 b. A violation of any of the following if the offense  
12 involves sexual abuse, attempted sexual abuse, or intent to  
13 commit sexual abuse:

14 (1) Murder as defined in section 707.1.

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18 paragraph "e".

19 c. Sexual exploitation of a minor in violation of section  
20 728.12, subsection 1.

21 d. Pandering involving a minor in violation of section  
22 725.3, subsection 2.

23 e. Any offense involving an attempt to commit an offense  
24 contained in this section.

25 f. An offense under prior law of this state or an offense  
26 committed in another jurisdiction which would constitute an  
27 equivalent offense under paragraphs "a" through "e".

28 2. As used in this section, the term "prior conviction"  
29 includes a plea of guilty, deferred judgment, deferred or  
30 suspended sentence, or adjudication of delinquency.

31 Sec. 3. NEW SECTION. 901A.2 ENHANCED SENTENCING.

32 1. A person convicted of a sexually predatory offense  
33 which is a serious or aggravated misdemeanor, who has a prior  
34 conviction for a sexually predatory offense, shall be  
35 sentenced to and shall serve twice the maximum period of

1 incarceration for the offense, notwithstanding any other  
2 provision of the Code to the contrary, prior to being eligible  
3 for parole or work release. However, a person sentenced under  
4 this subsection shall not have the person's sentence reduced  
5 under chapter 903A or otherwise by more than fifteen percent.

6 2. A person convicted of a sexually predatory offense  
7 which is a serious or aggravated misdemeanor, who has two or  
8 more prior convictions for sexually predatory offenses, shall  
9 be sentenced to and shall serve a period of incarceration of  
10 ten years, notwithstanding any other provision of the Code to  
11 the contrary. A person sentenced under this subsection shall  
12 not have the person's sentence reduced under chapter 903A or  
13 otherwise by more than fifteen percent.

14 3. A person convicted of a sexually predatory offense  
15 which is a felony, who has a prior conviction for a sexually  
16 predatory offense, shall be sentenced to and shall serve twice  
17 the maximum period of incarceration for the offense, or  
18 twenty-five years, whichever is greater, notwithstanding any  
19 other provision of the Code to the contrary. A person  
20 sentenced under this subsection shall not have the person's  
21 sentence reduced under chapter 903A or otherwise by more than  
22 fifteen percent.

23 4. A person convicted of a sexually predatory offense  
24 which is a felony who has previously been sentenced under  
25 subsection 3 shall be sentenced to life in prison on the same  
26 terms as a class "A" felon under section 902.1,  
27 notwithstanding any other provision of the Code to the  
28 contrary. In order for a person to be sentenced under this  
29 subsection, the prosecuting attorney shall allege and prove  
30 that this section is applicable to the person.

31 5. A person sentenced under the provisions of this section  
32 shall not be eligible for deferred judgment, deferred  
33 sentence, or suspended sentence.

34 Sec. 4. NEW SECTION. 901A.3 TRIAL INFORMATION.

35 A prosecuting attorney charging a person with an offense

1 which is believed to constitute a sexually predatory offense  
2 for the purpose of enhancement of sentence on subsequent  
3 offenses shall include a statement to that effect in the trial  
4 information. The court shall allow the indictment to be  
5 amended if it does not contain such information. This  
6 statement shall not be read to a jury.

7 Sec. 5. NEW SECTION. 901A.4 NOTICE TO PERSONS ALREADY  
8 CONVICTED.

9 1. The department of corrections shall implement an  
10 administrative procedure for determining, with respect to  
11 persons currently incarcerated or in work release status for  
12 murder, kidnapping, burglary, or child endangerment in  
13 violation of section 726.6, subsection 1, paragraph "e",  
14 whether the offense was a sexually predatory offense. A copy  
15 of the determination and evidence of notification to the  
16 inmate shall be filed with the sentencing court. Such  
17 determinations shall be subject to judicial review as provided  
18 in chapter 17A.

19 2. The board of parole shall implement an administrative  
20 procedure for determining, with respect to persons currently  
21 on parole for murder, kidnapping, burglary, or child  
22 endangerment in violation of section 726.6, subsection 1,  
23 paragraph "e", whether the offense was a sexually predatory  
24 offense. A copy of the determination and evidence of  
25 notification shall be filed with the sentencing court. Such  
26 determinations shall be subject to judicial review as provided  
27 in chapter 17A.

28 Sec. 6. NEW SECTION. 901A.5 SEXUALLY PREDATORY OFFENSES  
29 -- FINDING OF FACT -- NOTICE.

30 1. Prior to pronouncing judgment and sentence, the court  
31 shall, if the offense is murder, kidnapping, burglary, or  
32 child endangerment in violation of section 726.6, subsection  
33 1, paragraph "e", make a factual determination whether the  
34 offense constitutes a sexually predatory offense as defined in  
35 section 901A.1 for the purpose of enhancement of future

1 offenses.

2 2. Upon conviction for a sexually predatory offense as  
3 defined in section 901A.1, the court shall provide written  
4 notice to the person that the conviction meets the definition  
5 of a sexually predatory offense for the purpose of enhancing  
6 future punishment for similar offenses.

7 Sec. 7. REPEAL. Sections 709C.1, 709C.2, 709C.3, 709C.4,  
8 and 709C.6 through 709C.10, Code 1995, are repealed.

9 Sec. 8. REPEAL. Sections 709C.2A, 709C.5, 709C.11, and  
10 709C.12, Code Supplement 1995, are repealed.

11 EXPLANATION

12 This bill repeals chapter 709C regarding the commitment of  
13 sexually violent predators and establishes enhanced sentences  
14 for persons convicted of sexually predatory offenses.

15 Section 692.15 is amended to require that reports of  
16 conviction data for inclusion in criminal history records  
17 include whether the person who is the subject of the report  
18 was convicted of a sexually predatory offense.

19 New chapter 901A is created regarding the enhanced  
20 sentencing provisions for sexually predatory offenses.

21 Section 901A.1 defines sexually predatory offenses. Sexually  
22 predatory offenses include any violation of chapter 709 or  
23 murder, kidnapping, burglary, or certain offenses of child  
24 endangerment which involve sexual abuse, attempted sexual  
25 abuse, or intent to commit sexual abuse and similar offenses  
26 from other states.

27 Section 901A.2 provides that a person convicted of a  
28 sexually predatory offense or offenses shall serve the  
29 following enhanced sentences for an additional sexually  
30 predatory offense:

31 1. If the person has one prior conviction for a sexually  
32 predatory offense and is convicted of a second sexually  
33 predatory offense which is a serious or aggravated  
34 misdemeanor, the person shall serve twice the maximum period  
35 of incarceration for the second offense. A serious

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1 misdemeanor has a maximum sentence of one year in jail and an  
2 aggravated misdemeanor has a maximum sentence of two years at  
3 a department of corrections' institution.

4 2. A person with two or more prior convictions for  
5 sexually predatory offenses who is convicted of a serious or  
6 aggravated misdemeanor, shall be incarcerated for a period of  
7 10 years.

8 3. A person with one prior conviction for a sexually  
9 predatory offense who is convicted of a second sexually  
10 predatory offense which is a felony shall serve twice the  
11 maximum term of incarceration for the offense or 25 years,  
12 whichever is greater.

13 4. A person convicted of a felony sexually predatory  
14 offense who has two prior convictions for sexually predatory  
15 offenses, one of which must have been a felony, shall be  
16 sentenced to life in prison. To be sentenced to life in  
17 prison, the prosecuting attorney must prove that the person  
18 has two prior convictions for a sexually predatory offense.

19 A person sentenced for a sexually predatory act, other than  
20 to life in prison, shall not have the person's sentence  
21 reduced by more than 15 percent.

22 A person receiving an enhanced sentence for a sexually  
23 predatory offense is not eligible to receive a deferred  
24 judgment, deferred sentence, or suspended sentence.

25 Section 901A.3 requires the prosecuting attorney to state  
26 in the trial information that the prosecuting attorney  
27 believes the offense committed is a sexually predatory offense  
28 for the purposes of enhanced sentencing for subsequent  
29 offenses. This statement will not be read to the jury.

30 Section 901A.4 provides that the department of corrections  
31 and the board of parole are to implement administrative  
32 proceedings to determine whether a person at a corrections  
33 institution or on parole for murder, kidnapping, burglary, or  
34 certain acts of child endangerment committed a sexually  
35 predatory offense. A determination that an offense is a

1 sexually predatory offense is subject to judicial review in  
2 accordance with chapter 17A (administrative procedure Act).

3 Section 901A.5 requires the court, prior to pronouncing  
4 judgment and sentence to make a finding of fact whether a  
5 person convicted of murder, kidnapping, burglary, or child  
6 endangerment committed a sexually predatory offense. The  
7 court is required to notify the person in writing that the  
8 person has been convicted of a sexually predatory act for the  
9 purposes of future sentence enhancement.

10 This bill may contain a state mandate under chapter 25B.  
11 Under section 25B.2, subsection 3, the state mandate need not  
12 be performed if the state does not appropriate funds to cover  
13 all or a proportion of the costs of the mandate.

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HOUSE FILE 2316

AN ACT

RELATING TO SEX OFFENSES, INCLUDING ENTICING AWAY A CHILD AND SENTENCES FOR PERSONS CONVICTED OF SEXUALLY PREDATORY OFFENSES.

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

Section 1. Section 692.15, Code Supplement 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 8. The fact that a person was convicted for a sexually predatory offense under chapter 901A shall be reported with other conviction data regarding that person.

Sec. 2. Section 710.10, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 3. A person's intent to commit an illegal act upon the child may be inferred when the individual is not known to the child and the individual does not have the

permission of the child's parent, guardian, or custodian to contact the child.

Sec. 3. NEW SECTION. 901A.1 DEFINITIONS.

1. As used in this chapter, the term "sexually predatory offense" means any serious or aggravated misdemeanor or felony which constitutes:

a. A violation of any provision of chapter 709.

b. A violation of any of the following if the offense involves sexual abuse, attempted sexual abuse, or intent to commit sexual abuse:

(1) Murder as defined in section 707.1.

(2) Kidnapping as defined in section 710.1.

(3) Burglary as defined in section 713.1.

(4) Child endangerment under section 726.6, subsection 1, paragraph "e".

c. Sexual exploitation of a minor in violation of section 728.12, subsection 1.

d. Pandering involving a minor in violation of section 725.3, subsection 2.

e. Any offense involving an attempt to commit an offense contained in this section.

f. An offense under prior law of this state or an offense committed in another jurisdiction which would constitute an equivalent offense under paragraphs "a" through "e".

2. As used in this section, the term "prior conviction" includes a plea of guilty, deferred judgment, deferred or suspended sentence, or adjudication of delinquency.

Sec. 4. NEW SECTION. 901A.2 ENHANCED SENTENCING.

1. A person convicted of a sexually predatory offense which is a serious or aggravated misdemeanor, who has a prior conviction for a sexually predatory offense, shall be sentenced to and shall serve twice the maximum period of incarceration for the offense, notwithstanding any other provision of the Code to the contrary, prior to being eligible for parole or work release. However, a person sentenced under

this subsection shall not have the person's sentence reduced under chapter 903A or otherwise by more than fifteen percent.

2. A person convicted of a sexually predatory offense which is a serious or aggravated misdemeanor, who has two or more prior convictions for sexually predatory offenses, shall be sentenced to and shall serve a period of incarceration of ten years, notwithstanding any other provision of the Code to the contrary. A person sentenced under this subsection shall not have the person's sentence reduced under chapter 903A or otherwise by more than fifteen percent.

3. A person convicted of a sexually predatory offense which is a felony, who has a prior conviction for a sexually predatory offense, shall be sentenced to and shall serve twice the maximum period of incarceration for the offense, or twenty-five years, whichever is greater, notwithstanding any other provision of the Code to the contrary. A person sentenced under this subsection shall not have the person's sentence reduced under chapter 903A or otherwise by more than fifteen percent.

4. A person convicted of a sexually predatory offense which is a felony who has previously been sentenced under subsection 3 shall be sentenced to life in prison on the same terms as a class "A" felon under section 902.1, notwithstanding any other provision of the Code to the contrary. In order for a person to be sentenced under this subsection, the prosecuting attorney shall allege and prove that this section is applicable to the person.

5. A person sentenced under the provisions of this section shall not be eligible for deferred judgment, deferred sentence, or suspended sentence.

6. In addition to any other sentence imposed on a person convicted of a sexually predatory offense pursuant to subsection 1, 2, or 3, the person shall be sentenced to an additional term of parole or work release not to exceed two years. The board of parole shall determine whether the person

should be released on parole or placed in a work release program. The sentence of parole supervision shall commence immediately upon the person's release by the board of parole and shall be under the terms and conditions as set out in chapter 906. Violations of parole or work release shall be subject to the procedures set out in chapter 905 or 908 or rules adopted under those chapters. For purposes of disposition of a parole violator upon revocation of parole or work release, the sentence of an additional term of parole or work release shall be considered part of the original term of commitment to the department of corrections.

Sec. 5. NEW SECTION. 901A.3 TRIAL INFORMATION.

A prosecuting attorney charging a person with an offense which is believed to constitute a sexually predatory offense for the purpose of enhancement of sentence on subsequent offenses shall include a statement to that effect in the trial information. The court shall allow the indictment to be amended if it does not contain such information. This statement shall not be read to a jury.

Sec. 6. NEW SECTION. 901A.4 SEXUALLY PREDATORY OFFENSES -- FINDING OF FACT -- NOTICE.

1. Prior to pronouncing judgment and sentence, the finder of fact shall, if the offense is murder, kidnapping, burglary, or child endangerment in violation of section 726.6, subsection 1, paragraph "e", make a factual determination whether the offense constitutes a sexually predatory offense as defined in section 901A.1 for the purpose of enhancement of future offenses.

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

Sec. 7. REPEAL. Sections 709C.1, 709C.2, 709C.3, 709C.4, and 709C.6 through 709C.10, Code 1995, are repealed.



Sec. 8. REPEAL. Sections 709C.2A, 709C.5, 709C.11, and 709C.12, Code Supplement 1995, are repealed.

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RON J. CORBETT  
Speaker of the House

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LEONARD L. BOSWELL  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2316, Seventy-sixth General Assembly.

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ELIZABETH ISAACSON  
Chief Clerk of the House

Approved April 10, 1996

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TERRY E. BRANSTAD  
Governor

HF 2316