

SENATE FILE **2208**
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 2032)

Passed Senate, Date 3/5/96 (P.627)
Vote: Ayes 48 Nays 1
Passed House, Date 4/3/96 (P.1376)
Vote: Ayes 95 Nays 0
Approved April 17, 1996
(P.1249) Passed 4-8-96
Vote 48-0

A BILL FOR

1 An Act relating to persons required to register with the sex
2 offender registry and providing a penalty.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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S.F. 2208

1 Section 1. Section 692A.1, subsection 3, paragraph k, Code
2 Supplement 1995, is amended to read as follows:

3 k. Stalking, if it is directed toward a person under the
4 age of eighteen years.

5 l. Sexual exploitation of a minor in violation of section
6 728.12, subsection 2 or 3.

7 m. An indictable offense committed in another jurisdiction
8 which would constitute an indictable offense under paragraphs
9 "a" through "j" "l".

10 Sec. 2. Section 692A.1, subsection 6, Code Supplement
11 1995, is amended by adding the following new paragraphs after
12 paragraph c:

13 NEW PARAGRAPH. d. Telephone dissemination of obscene
14 materials in violation of section 728.15.

15 NEW PARAGRAPH. e. Rental or sale of hard-core pornography
16 in violation of section 728.4.

17 NEW PARAGRAPH. f. Indecent exposure in violation of
18 section 709.9.

19 Sec. 3. Section 692A.1, subsection 6, paragraph d, Code
20 Supplement 1995, is amended to read as follows:

21 d. g. Any of the following offenses, if the offense
22 involves sexual abuse or attempted sexual abuse: murder,
23 attempted murder, kidnapping, or burglary, or manslaughter.

24 Sec. 4. Section 692A.1, Code Supplement 1995, is amended
25 by adding the following new subsection:

26 NEW SUBSECTION. 3A. "Criminal offense requiring
27 registration" means a criminal offense which is not defined in
28 this section but which the court determines to require
29 registration pursuant to section 692A.2, subsection 3.

30 Sec. 5. Section 692A.2, Code Supplement 1995, is amended
31 by adding the following new subsection:

32 NEW SUBSECTION. 3. A prosecuting attorney may petition
33 the court at the time of sentencing to require that an
34 offender register as a sex offender where the offense is not
35 classified as a criminal offense against a minor, sexually

1 violent offense, or sexual exploitation. The court shall hold
2 a hearing on the petition and shall only require the person to
3 register if the prosecuting attorney proves by a preponderance
4 of the evidence that the offense for which an offender has
5 been convicted involved a sexual motivation.

6 Sec. 6. Section 692A.5, subsection 2, Code Supplement
7 1995, is amended by adding the following new unnumbered
8 paragraph:

9 NEW UNNUMBERED PARAGRAPH. If the offender refuses to
10 register, the sheriff, warden, or superintendent shall
11 immediately notify a prosecuting attorney of the refusal to
12 register. The prosecuting attorney may bring a contempt of
13 court action against the offender in the county in which the
14 offender was convicted. An offender who refuses to register
15 may be held in contempt and incarcerated following the entry
16 of judgment by the court on the contempt action until the
17 offender complies with the registration requirements.

18 Sec. 7. Section 692A.13, Code Supplement 1995, is amended
19 by adding the following new subsection:

20 NEW SUBSECTION. 8. Records regarding the persons
21 requesting registry information shall be maintained for ten
22 years.

23 EXPLANATION

24 This bill provides that criminal offenses against a minor
25 for the purposes of registration requirements for the sex
26 offender registry include stalking if the target is a person
27 age 17 or under and sexual exploitation of a minor which
28 involve knowingly promoting or possessing any material
29 visually depicting a live performance of a minor engaging in
30 prohibited sexual conduct. Sexual exploitation of a minor
31 involving inducing or knowingly permitting a minor to engage
32 in prohibited sexual conduct is currently considered a
33 criminal offense against a minor for the purposes of the
34 registry.

35 The bill also adds the following offenses to the definition

1 of sexually violent offenses: indecent exposure; telephone
2 dissemination of obscenity; rental or sale of hard-core
3 pornography; and attempted murder or manslaughter, if either
4 involves sexual abuse or attempted sexual abuse.

5 In addition, the bill authorizes a prosecuting attorney to
6 petition the court to require a person convicted of a crime
7 other than one of the crimes requiring registration to
8 register. The court must hold a hearing on the petition and
9 shall not require the person to register unless the
10 prosecuting attorney proves by a preponderance of the evidence
11 that the crime for which the offender was convicted had a
12 sexual motivation.

13 The bill further provides that a person who refuses to
14 register may be prosecuted for contempt of court and jailed
15 until the person registers. Also, records under the sex
16 offender registry are required to be kept for 10 years.

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**SENATE FILE 2208
FISCAL NOTE**

The estimate for **Senate File 2208** 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.

Senate File 2208 adds additional crimes to the list of criminal offenses included in the registration requirements of the sex offender registry. The Bill also adds offenses to the definition of sexually violent offenses. The Bill authorizes a prosecuting attorney to petition the Court to require a person convicted of an offense not included in the registration requirement to register, if the Court finds by a preponderance of the evidence that the crime for which the offender was convicted had a sexual motivation. The Bill provides for contempt of court and jail sentences for a person who refuses to register.

ASSUMPTIONS

1. Approximately 114 additional offenders would be required to register each year. Most of these offenders were convicted of indecent exposure.
2. One percent of these additional registrants will fail to register and will be convicted of an aggravated misdemeanor. The actual impact of the failure to register provisions depends upon the amount of law enforcement and correctional resources devoted to monitoring offender compliance.
3. The caseload of the Judicial Department will increase due to additional post-trial and post-plea hearings and due to the expanded registration requirements. This increase is not expected to be significant.

CORRECTIONAL IMPACT

One additional conviction for failure to register, an aggravated misdemeanor, will occur in FY 1997. The number of convictions will increase to two in FY 1998 and to six in FY 2001.

FISCAL IMPACT

The estimated fiscal impact of Senate File 2208 to the Department of Corrections is a cost of \$4,500 in FY 1997, \$9,000 in FY 1998, and \$27,000 in FY 2001.

SOURCES

Criminal and Juvenile Justice Planning Agency
Department of Justice
Judicial Department

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Department of Public Safety

(LSB 3291SV, JMN)

FILED APRIL 9, 1996

BY DENNIS PROUTY, FISCAL DIRECTOR

SENATE FILE 2208

H-5606

1 Amend Senate File 2208, as passed by the Senate, as
2 follows:

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

5 "Section 1. Section 125.14A, subsections 1 and 2,
6 Code 1995, are amended to read as follows:

7 1. If a person is being considered for licensure
8 under this chapter, or for employment involving direct
9 responsibility for a child or with access to a child
10 when the child is alone, by a program admitting
11 juveniles subject to licensure under this chapter, or
12 if a person will reside in a facility utilized by such
13 a program, and if the person has been convicted of a
14 crime, is registered in the sex offender registry
15 under chapter 692A, or has a record of founded child
16 abuse, the department of human services and the
17 program, for an employee of the program, shall perform
18 an evaluation to determine whether the crime or
19 founded child abuse warrants prohibition of licensure,
20 employment, or residence in the facility. The
21 department of human services shall conduct criminal,
22 sex offender, and child abuse record checks in this
23 state and may conduct these checks in other states.
24 The evaluation shall be performed in accordance with
25 procedures adopted for this purpose by the department
26 of human services.

27 2. If the department of human services determines
28 that a person has committed a crime, is registered in
29 the sex offender registry, or has a record of founded
30 child abuse and is licensed, employed by a program
31 licensed under this chapter, or resides in a licensed
32 facility the department shall notify the program that
33 an evaluation will be conducted to determine whether
34 prohibition of the person's licensure, employment, or
35 residence is warranted.

36 Sec. ____ . Section 135C.33, subsection 1, Code
37 1995, is amended to read as follows:

38 1. On or after July 1, ~~1994~~ 1996, with regard to
39 new applicants for licensure or employment, if a
40 person is being considered for licensure under this
41 chapter, or for employment involving direct
42 responsibility for a resident or with access to a
43 resident when the resident is alone, or if the person
44 considered for licensure or employment under this
45 chapter will reside in a facility, the ~~facility may~~
46 ~~request-that-the~~ department of human services shall
47 conduct criminal, sex offender registry, and child and
48 dependent adult abuse record checks in this state and
49 in other states, ~~on-a-random-basis~~. ~~Beginning-July-1,~~
50 ~~1994,~~ ~~a-facility-shall-inform-all-new-applicants-for~~

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~~1 employment-of-the-possibility-of-the-performance-of-a~~
~~2 record-check-and-shall-obtain,-from-the-applicant,-a~~
~~3 signed-acknowledgment-of-the-receipt-of-the~~
4 information. Additionally, on or after July 1, 1994,
5 a facility shall include the following inquiry in an
6 application for employment: "Do you have a record of
7 founded child or dependent adult abuse or have you
8 ever been convicted of a crime, in this state or any
9 other state?" If the person has been convicted of a
10 crime under a law of any state, is registered in the
11 sex offender registry, or has a record of founded
12 child or dependent adult abuse, the department of
13 human services shall perform an evaluation to
14 determine whether the crime, sex offense, or founded
15 child or dependent adult abuse warrants prohibition of
16 licensure, employment, or residence in the facility.
17 The evaluation shall be performed in accordance with
18 procedures adopted for this purpose by the department
19 of human services.

20 Sec. ____ . Section 135H.7, subsection 2, paragraphs
21 a and b, Code 1995, are amended to read as follows:

22 a. If a person is being considered for licensure
23 under this chapter, or for employment involving direct
24 responsibility for a child or with access to a child
25 when the child is alone, by a licensed psychiatric
26 institution, or if a person will reside in a facility
27 utilized by a licensee, and if the person has been
28 convicted of a crime, is registered in the sex
29 offender registry under chapter 692A, or has a record
30 of founded child abuse, the department of human
31 services and the licensee, for an employee of the
32 licensee, shall perform an evaluation to determine
33 whether the crime or founded child abuse warrants
34 prohibition of licensure, employment, or residence in
35 the facility. The department of human services shall
36 conduct criminal and child abuse record checks in this
37 state and may conduct these checks in other states.
38 The evaluation shall be performed in accordance with
39 procedures adopted for this purpose by the department
40 of human services.

41 b. If the department of human services determines
42 that a person has committed a crime, is registered in
43 the sex offender registry, or has a record of founded
44 child abuse and is licensed, employed by a psychiatric
45 institution licensed under this chapter, or resides in
46 a licensed facility the department shall notify the
47 program that an evaluation will be conducted to
48 determine whether prohibition of the person's
49 licensure, employment, or residence is warranted.

50 Sec. ____ . NEW SECTION. 217.45 RECORDS CHECKS.

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1 1. For the purposes of this section, "licensee"
2 means an applicant for or licensee under chapter 135B,
3 135G, or 135J. If a person is being considered for
4 licensure under chapter 135B, 135G, or 135J, or for
5 employment involving direct responsibility for a
6 patient receiving services from a licensee or with
7 access to a patient when the patient is alone, by a
8 licensee, or if a person will reside in a facility
9 utilized by a licensee, and if the person has been
10 convicted of a crime, is registered in the sex
11 offender registry under chapter 692A, or has a record
12 of founded child or dependent adult abuse, the
13 department and the licensee for an employee of the
14 licensee shall perform an evaluation to determine
15 whether the crime or founded dependent adult abuse or
16 child abuse warrants prohibition of licensure,
17 employment, or residence in the facility. The
18 department shall conduct criminal, sex offender
19 registry, and child abuse and dependent adult abuse
20 record checks in this state and may conduct these
21 checks in other states. The evaluation shall be
22 performed in accordance with procedures adopted for
23 this purpose by the department.

24 2. If the department determines that a person has
25 committed a crime, is registered in the sex offender
26 registry, or has a record of founded abuse and is
27 licensed, employed by a licensee, or resides in a
28 facility utilized by a licensee, the department shall
29 notify the licensee that an evaluation will be
30 conducted to determine whether prohibition of the
31 person's licensure, employment, or residence is
32 warranted.

33 3. In an evaluation, the department and the
34 licensee for an employee of the licensee shall
35 consider the nature and seriousness of the crime or
36 founded abuse in relation to the position sought or
37 held, the time elapsed since the commission of the
38 crime or founded abuse, the circumstances under which
39 the crime or founded abuse was committed, the degree
40 of rehabilitation, the likelihood that the person will
41 commit the crime or founded abuse again, and the
42 number of crimes or founded abuses committed by the
43 person involved. The department may permit a person
44 who is evaluated to be licensed, employed, or to
45 reside, or to continue to be licensed, employed, or to
46 reside in a facility utilized by a licensee, if the
47 person complies with the department's conditions
48 relating to the person's licensure, employment, or
49 residence, which may include completion of additional
50 training. For an employee of a licensee, these

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1 conditional requirements shall be developed with the
2 licensee. The department has final authority in
3 determining whether prohibition of the person's
4 licensure, employment, or residence is warranted and
5 in developing any conditional requirements under this
6 paragraph.

7 4. If the department determines that the person
8 has committed a crime or has a record of founded abuse
9 which warrants prohibition of licensure, employment,
10 or residence, the person shall not be licensed under
11 chapter 135B, 135G, or 135J and shall not be employed
12 by a licensee or reside in a facility utilized by a
13 licensee.

14 Sec. _____. Section 237.8, subsection 2, paragraphs
15 a and b, Code 1995, are amended to read as follows:

16 a. If a person is being considered for licensure
17 under this chapter, or for employment involving direct
18 responsibility for a child or with access to a child
19 when the child is alone, by a licensee under this
20 chapter, or if a person will reside in a facility
21 utilized by a licensee, and if the person has been
22 convicted of a crime, is registered in the sex
23 offender registry under chapter 692A, or has a record
24 of founded child abuse, the department and the
25 licensee for an employee of the licensee shall perform
26 an evaluation to determine whether the crime or
27 founded child abuse warrants prohibition of licensure,
28 employment, or residence in the facility. The
29 department shall conduct criminal, sex offender
30 registry, and child abuse record checks in this state
31 and may conduct these checks in other states. The
32 evaluation shall be performed in accordance with
33 procedures adopted for this purpose by the department.

34 b. If the department determines that a person has
35 committed a crime, is registered in the sex offender
36 registry, or has a record of founded child abuse and
37 is licensed, employed by a licensee, or resides in a
38 licensed facility the department shall notify the
39 licensee that an evaluation will be conducted to
40 determine whether prohibition of the person's
41 licensure, employment, or residence is warranted.

42 Sec. _____. Section 237A.5, subsection 2, paragraphs
43 a and b, Code 1995, are amended to read as follows:

44 a. If a person is being considered for licensure
45 or registration under this chapter, or for employment
46 involving direct responsibility for a child or with
47 access to a child when the child is alone, by a child
48 day care facility subject to licensure or registration
49 under this chapter, or if a person will reside in a
50 facility, and if the person has been convicted of a

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1 crime, is registered in the sex offender registry
2 under chapter 692A, or has a record of founded child
3 abuse, the department and the licensee or registrant
4 for an employee of the licensee or registrant shall
5 perform an evaluation to determine whether the crime
6 or founded child abuse warrants prohibition of
7 licensure, registration, employment, or residence in
8 the facility. The department shall conduct criminal,
9 sex offender registry, and child abuse record checks
10 in this state and may conduct these checks in other
11 states. The evaluation shall be performed in
12 accordance with procedures adopted for this purpose by
13 the department.

14 b. If the department determines that a person has
15 committed a crime, is registered in the sex offender
16 registry, or has a record of founded child abuse and
17 is licensed, employed by a licensee or registrant or
18 registered under this chapter, or resides in a
19 licensed or registered facility the department shall
20 notify the licensee or registrant that an evaluation
21 will be conducted to determine whether prohibition of
22 the person's licensure, registration, employment, or
23 residence is warranted."

24 Sec. ____ . Section 600.8, subsection 1, paragraph
25 a, subparagraph (3), Code 1995, is amended to read as
26 follows:

27 (3) Whether the prospective adoption petitioner
28 has been convicted of a crime under a law of any
29 state, is registered in the sex offender registry
30 under chapter 692A, or has a record of founded child
31 abuse."

32 2. Page 2, by inserting after line 22 the
33 following:

34 "Sec. ____ . Section 692A.13, Code Supplement 1995,
35 is amended by adding the following new subsection:
36 NEW SUBSECTION. ____ . The department shall disclose
37 information to any of the following individuals,
38 agencies, or facilities associated with providing care
39 to a person:

40 a. To an employee or agent of the department of
41 human services responsible for conducting record
42 checks or evaluations of employees of a juvenile
43 substance abuse program licensed under section 125.14A
44 and the administrator of a program if the information
45 concerns a person employed by or being considered for
46 employment by or living in a facility utilized by the
47 program.

48 b. To an employee or agent of the department of
49 human services responsible for conducting record
50 checks or evaluations of employees of a psychiatric

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1 medical institution for children licensed under
2 chapter 135H and the administrator of a licensee if
3 the information concerns a person employed by or being
4 considered for employment by or living in a facility
5 utilized by the licensee.

6 c. To an employee or agent of the department of
7 human services for purposes of records checks of
8 licensees and applicants for licenses under chapters
9 135B, 135G, and 135J and of employees and prospective
10 employees of the licensees, as required by section
11 217.45.

12 d. To an employee or agent of the department of
13 human services responsible for registering or
14 licensing or approving the registration or licensing
15 of an individual, agency, or facility under section
16 232.142 or chapter 237 or 237A.

17 e. To an employee of the department of human
18 services responsible for an adoptive placement, a
19 certified adoption investigator, or licensed child-
20 placing agency responsible for an adoptive placement.

21 f. To an administrator of a child foster care
22 facility licensed under chapter 237 if the information
23 concerns a person employed by or being considered for
24 employment by or living in the facility.

25 g. To an administrator of a child day care
26 facility registered or licensed under chapter 237A if
27 the information concerns a person employed by or being
28 considered for employment by or living in the
29 facility."

30 3. Title page, by striking lines 1 and 2 and
31 inserting the following: "An Act providing for
32 criminal record, sex offender registry, and child and
33 dependent abuse record checks for certain facilities
34 and requiring certain persons to register with the sex
35 offender registry and providing a penalty."

36 4. By renumbering as necessary.

By KREIMAN of Davis

H-5606 FILED MARCH 26, 1996

WITHDRAWN 4/3/96 (p. 137B)

1 Amend Senate File 2208, as passed by the Senate, as
2 follows:

3 1. Page 2, by inserting after line 22 the
4 following:

5 "Sec. _____. The department of human services shall
6 work with the department of public safety to develop a
7 single point of contact for persons seeking
8 information regarding individuals who may be listed on
9 the child abuse registry created in section 235A.14,
10 the dependent adult abuse registry created in section
11 235B.5, or the sex offender registry created in
12 section 692A.10. The department of human services and
13 the department of public safety shall also study the
14 issue of information sharing among the registries.
15 The department of human services and the department of
16 public safety shall present a joint report to the
17 general assembly not later than December 15, 1996,
18 regarding the feasibility of creating a single point
19 of contact for information on the registries and
20 providing information sharing among the registries,
21 including the statutory changes necessary for
22 implementation."

23 2. Title page, line 2, by striking the words
24 "registry and" and inserting the following:
25 "registry, requiring a departmental study, and".

26 3. By renumbering as necessary.

By KREIMAN of Davis

H-5605 FILED MARCH 26, 1996

WITHDRAWN 4/3/96 (p. 1376)

SENATE FILE 2208

H-5540

- 1 Amend Senate File 2208, as passed by the Senate, as
2 follows:
3 1. Page 1, by striking lines 3 and 4 and
4 inserting the following:
5 "k. Stalking in violation of section 708.11,
6 subsection 3, paragraph "b", subparagraph (3), if the
7 fact-finder determines by clear and convincing
8 evidence that the offense was sexually motivated."
9 2. By striking page 1, line 24, through page 2,
10 line 5.
11 3. Page 2, by inserting after line 22 the
12 following:
13 "Sec. _____. The department of human services shall
14 work with the department of public safety to develop a
15 single point of contact for persons seeking
16 information regarding individuals who may be listed on
17 the child abuse registry created in section 235A.14,
18 the dependent adult abuse registry created in section
19 235B.5, or the sex offender registry created in
20 section 692A.10. The department of human services and
21 the department of public safety shall also study the
22 issue of information sharing among the registries.
23 The department of human services and the department of
24 public safety shall present a joint report to the
25 general assembly not later than December 15, 1996,
26 regarding the feasibility of creating a single point
27 of contact for information on the registries and
28 providing information sharing among the registries,
29 including the statutory changes necessary for
30 implementation."
31 4. Title page, line 2, by striking the words
32 "registry and" and inserting the following:
33 "registry, requiring a departmental study, and".
34 5. By renumbering, relettering, or redesignating
35 and correcting internal references as necessary.

By COMMITTEE ON JUDICIARY

HURLEY of Fayette, Chairperson

H-5540 FILED MARCH 25, 1996

Adopted 4/3/96 (p. 1376)

HOUSE AMENDMENT TO
SENATE FILE 2208

S-5671

1 Amend Senate File 2208, as passed by the Senate, as
2 follows:

3 1. Page 1, by striking lines 3 and 4 and
4 inserting the following:

5 "k. Stalking in violation of section 708.11,
6 subsection 3, paragraph "b", subparagraph (3), if the
7 fact-finder determines by clear and convincing
8 evidence that the offense was sexually motivated."

9 2. By striking page 1, line 24, through page 2,
10 line 5.

11 3. Page 2, by inserting after line 22 the
12 following:

13 "Sec. ____ . The department of human services shall
14 work with the department of public safety to develop a
15 single point of contact for persons seeking
16 information regarding individuals who may be listed on
17 the child abuse registry created in section 235A.14,
18 the dependent adult abuse registry created in section
19 235B.5, or the sex offender registry created in
20 section 692A.10. The department of human services and
21 the department of public safety shall also study the
22 issue of information sharing among the registries.
23 The department of human services and the department of
24 public safety shall present a joint report to the
25 general assembly not later than December 15, 1996,
26 regarding the feasibility of creating a single point
27 of contact for information on the registries and
28 providing information sharing among the registries,
29 including the statutory changes necessary for
30 implementation."

31 4. Title page, line 2, by striking the words
32 "registry and" and inserting the following:

33 "registry, requiring a departmental study, and".

34 5. By renumbering, relettering, or redesignating
35 and correcting internal references as necessary.

RECEIVED FROM THE HOUSE

S-5671 FILED APRIL 3, 1996

Senate Concurred 4-8-96 (p. 1248)

SSB-2032

Judiciary

Succeeded By
SF/HF 2208

Bisignero
Diannetto
Hammond
McKean
Boettger

SENATE/HOUSE FILE _____
BY (PROPOSED ATTORNEY GENERAL
BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to persons required to register with the sex
2 offender registry and providing a penalty.

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

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1 Section 1. Section 692A.1, subsection 3, paragraph k, Code
2 Supplement 1995, is amended to read as follows:

3 k. Stalking, if it is directed toward a person under the
4 age of eighteen years.

5 l. Sexual exploitation of a minor in violation of section
6 728.12, subsection 2 or 3.

7 m. An indictable offense committed in another jurisdiction
8 which would constitute an indictable offense under paragraphs
9 "a" through "j" "l".

10 Sec. 2. Section 692A.1, subsection 6, Code Supplement
11 1995, is amended by adding the following new paragraphs after
12 paragraph c:

13 NEW PARAGRAPH. d. Telephone dissemination of obscene
14 materials in violation of section 728.15.

15 NEW PARAGRAPH. e. Rental or sale of hard-core pornography
16 in violation of section 728.4.

17 NEW PARAGRAPH. f. Indecent exposure in violation of
18 section 709.9.

19 Sec. 3. Section 692A.1, subsection 6, paragraph d, Code
20 Supplement 1995, is amended to read as follows:

21 d- g. Any of the following offenses, if the offense
22 involves sexual abuse or attempted sexual abuse: murder,
23 attempted murder, kidnapping, or burglary, or manslaughter.

24 Sec. 4. Section 692A.1, Code Supplement 1995, is amended
25 by adding the following new subsection:

26 NEW SUBSECTION. 3A. "Criminal offense requiring
27 registration" means a criminal offense which is not defined in
28 this section but which the court determines to require
29 registration pursuant to section 692A.2, subsection 3.

30 Sec. 5. Section 692A.2, Code Supplement 1995, is amended
31 by adding the following new subsection:

32 NEW SUBSECTION. 3. A prosecuting attorney may petition
33 the court at the time of sentencing to require that an
34 offender register as a sex offender where the offense is not
35 classified as a criminal offense against a minor, sexually

1 violent offense, or sexual exploitation. The court shall hold
2 a hearing on the petition and shall only require the person to
3 register if the prosecuting attorney proves by a preponderance
4 of the evidence that the offense for which an offender has
5 been convicted involved a sexual motivation.

6 Sec. 6. Section 692A.5, subsection 2, Code Supplement
7 1995, is amended by adding the following new unnumbered
8 paragraph:

9 NEW UNNUMBERED PARAGRAPH. If the offender refuses to
10 register, the sheriff, warden, or superintendent shall
11 immediately notify a prosecuting attorney of the refusal to
12 register. The prosecuting attorney may bring a contempt of
13 court action against the offender in the county in which the
14 offender was convicted. An offender who refuses to register
15 may be held in contempt and incarcerated following the entry
16 of judgment by the court on the contempt action until the
17 offender complies with the registration requirements.

18 Sec. 7. Section 692A.13, Code Supplement 1995, is amended
19 by adding the following new subsection:

20 NEW SUBSECTION. 8. Records regarding the persons
21 requesting registry information shall be maintained for ten
22 years.

23 **EXPLANATION**

24 This bill provides that criminal offenses against a minor
25 for the purposes of registration requirements for the sex
26 offender registry include stalking if the target is a person
27 age 17 or under and sexual exploitation of a minor which
28 involve knowingly promoting or possessing any material
29 visually depicting a live performance of a minor engaging in
30 prohibited sexual conduct. Sexual exploitation of a minor
31 involving inducing or knowingly permitting a minor to engage
32 in prohibited sexual conduct is currently considered a
33 criminal offense against a minor for the purposes of the
34 registry.

35 The bill also adds the following offenses to the definition

1 of sexually violent offenses: indecent exposure; telephone
2 dissemination of obscenity; rental or sale of hard-core
3 pornography; and attempted murder or manslaughter, if either
4 involves sexual abuse or attempted sexual abuse.

5 In addition, the bill authorizes a prosecuting attorney to
6 petition the court to require a person convicted of a crime
7 other than one of the crimes requiring registration to
8 register. The court must hold a hearing on the petition and
9 shall not require the person to register unless the
10 prosecuting attorney proves by a preponderance of the evidence
11 that the crime for which the offender was convicted had a
12 sexual motivation.

13 The bill further provides that a person who refuses to
14 register may be prosecuted for contempt of court and jailed
15 until the person registers. Also, records under the sex
16 offender registry are required to be kept for 10 years.

17 BACKGROUND STATEMENT

18 SUBMITTED BY THE AGENCY

19 The Iowa sex offender registry law was enacted in 1995
20 following a requirement in the federal crime bill directing
21 states to adopt such legislation or face loss of federal drug
22 funds. At this time, 47 states have enacted registry laws.
23 The Iowa law follows federal guidelines regarding which crimes
24 are covered, who has access to the information, and the
25 duration of the registration requirement, among other factors.
26 The Iowa sex offender registry is administered by the division
27 of criminal investigation within the department of public
28 safety.

29 The Iowa program has been in operation since July 1, 1995,
30 and has experienced a dramatic response from offenders, and
31 personnel in the state justice system. The total number of
32 registrants as of December 31, 1995, was 999.

33 The crimes that require registration include sex abuse,
34 lascivious acts with a child, indecent contact with a child,
35 assault with intent to commit sexual abuse, sexual

1 exploitation of a minor, among many others.

2 The proposed amendments address situations which the
3 program has experienced in its short time in existence, but
4 which have posed significant challenges. One of the
5 challenges that has arisen has resulted from the effect that
6 plea bargains have on the registration requirement. For
7 example, the crime that is committed may have clearly involved
8 sexual abuse on a child, but for various reasons the charge is
9 plea bargained to a simple assault. The plea bargain results
10 in a sex offender avoiding the registration requirement. This
11 amendment is proposed in order to not infringe on county
12 attorneys' authority to plea bargain, but also provides a
13 mechanism for requiring perpetrators of sexually motivated
14 crimes to register.

15 Another challenge that has arisen is that the crime of
16 indecent exposure requires registration only if the victim is
17 a minor. It is the opinion of the registry program that the
18 crime of indecent exposure if the victim is an adult should
19 also require registration.

20 The process for pursuing an action against an offender who
21 refuses to register is unclear in the current statute.
22 Establishing a clear procedure such as contained in the bill
23 would be beneficial.

24 The sheriffs' association requests that a deadline be
25 placed on the time that they are required to maintain written
26 records of requests for information.

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SENATE FILE 2208

AN ACT

RELATING TO PERSONS REQUIRED TO REGISTER WITH THE SEX OFFENDER
REGISTRY, REQUIRING A DEPARTMENTAL STUDY, AND PROVIDING A
PENALTY.

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

Section 1. Section 692A.1, subsection 3, paragraph k, Code Supplement 1995, is amended to read as follows:

k. Stalking in violation of section 708.11, subsection 3, paragraph "b", subparagraph (3), if the fact-finder determines by clear and convincing evidence that the offense was sexually motivated.

l. Sexual exploitation of a minor in violation of section 728.12, subsection 2 or 3.

m. An indictable offense committed in another jurisdiction which would constitute an indictable offense under paragraphs "a" through "j" "1".

Sec. 2. Section 692A.1, subsection 6, Code Supplement 1995, is amended by adding the following new paragraphs after paragraph c:

NEW PARAGRAPH. d. Telephone dissemination of obscene materials in violation of section 728.15.

NEW PARAGRAPH. e. Rental or sale of hard-core pornography in violation of section 728.4.

NEW PARAGRAPH. f. Indecent exposure in violation of section 709.9.

Sec. 3. Section 692A.1, subsection 6, paragraph d, Code Supplement 1995, is amended to read as follows:

~~d.~~ g. Any of the following offenses, if the offense involves sexual abuse or attempted sexual abuse: murder, attempted murder, kidnapping, or burglary, or manslaughter.

Sec. 4. Section 692A.5, subsection 2, Code Supplement 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If the offender refuses to register, the sheriff, warden, or superintendent shall immediately notify a prosecuting attorney of the refusal to register. The prosecuting attorney may bring a contempt of court action against the offender in the county in which the offender was convicted. An offender who refuses to register may be held in contempt and incarcerated following the entry of judgment by the court on the contempt action until the offender complies with the registration requirements.

Sec. 5. Section 692A.13, Code Supplement 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 8. Records regarding the persons requesting registry information shall be maintained for ten years.

Sec. 6. The department of human services shall work with the department of public safety to develop a single point of contact for persons seeking information regarding individuals who may be listed on the child abuse registry created in section 235A.14, the dependent adult abuse registry created in section 235B.5, or the sex offender registry created in section 692A.10. The department of human services and the department of public safety shall also study the issue of information sharing among the registries. The department of human services and the department of public safety shall present a joint report to the general assembly not later than December 15, 1996, regarding the feasibility of creating a single point of contact for information on the registries and

providing information sharing among the registries, including the statutory changes necessary for implementation.

LEONARD L. BOSWELL
President of the Senate

RON J. CORBETT
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2208, Seventy-sixth General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved April 17, 1996

TERRY E. BRANSTAD
Governor