

Reprinted

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SENATE FILE 93  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 43)

Passed Senate, <sup>(p.306)</sup> Date 2/9/95 Passed House, <sup>(p.1389)</sup> Date 4-10-95  
Vote: Ayes 49 Nays 1 Vote: Ayes 97 Nays 0  
Approved May 3, 1995

A BILL FOR

1 An Act related to criminal offenses against minors and sexually  
2 violent offenses and offenders committing those offenses, by  
3 requiring registration by offenders, providing for the  
4 establishment of a sex offender registry, and providing  
5 penalties.

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

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S.F. 93

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

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

16 (2) False imprisonment of a minor, except when committed  
17 by a parent.

18 (3) Any public offense involving sexual conduct directed  
19 toward a minor.

20 (4) Solicitation of a minor to engage in an illegal sex  
21 act.

22 (5) Use of a minor in a sexual performance.

23 (6) Solicitation of a minor to practice prostitution.

24 (7) Any public offense against a minor involving sexual  
25 contact with the minor.

26 (8) An attempt to commit an offense enumerated in this  
27 subsection.

28 (9) Dissemination and exhibition of obscene material to  
29 minors in violation of section 728.2.

30 (10) Admitting minors to premises where obscene material  
31 is exhibited in violation of section 728.3.

32 (11) A public offense committed in another jurisdiction  
33 which would constitute a public offense under subparagraphs  
34 (1) through (10).

35 b. "Criminal offense against a minor" does not mean

1 conduct which is criminal only because of the age of the  
2 victim if the perpetrator is eighteen years of age or younger  
3 at the time of the conduct.

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

5 4. "Law enforcement agency" means an agency or department  
6 of federal, state, or local government or an entity which is  
7 wholly owned, financed, or controlled by one or more agencies  
8 or departments of federal, state, or local government, which  
9 performs as its principal function the apprehension,  
10 prosecution, adjudication, incarceration, or rehabilitation of  
11 criminal offenders.

12 5. "Residence" means the place where a person sleeps,  
13 which may include more than one location, and may be mobile or  
14 transitory.

15 6. "Sexually violent offense" means any of the following  
16 public offenses:

17 a. Sexual abuse as defined under section 709.1.

18 b. Assault with intent to commit sexual abuse in violation  
19 of section 709.11.

20 c. Sexual exploitation by a counselor or therapist in  
21 violation of section 709.15.

22 d. Sexual misconduct with offenders in violation of  
23 section 709.16.

24 e. Any of the following offenses, if the offense involves  
25 sexual abuse or attempted sexual abuse: murder, kidnapping,  
26 or burglary.

27 f. A public offense committed in another jurisdiction  
28 which would constitute a public offense under paragraphs "a"  
29 through "e" if committed in this state.

30 Sec. 2. NEW SECTION. 692A.2 PERSONS REQUIRED TO  
31 REGISTER.

32 1. A person who has been convicted of either a criminal  
33 offense against a minor or a sexually violent offense shall  
34 register as provided in this chapter for a period of ten years  
35 commencing from the date of placement on probation, parole,

1 work release, or other release from custody. A person is not  
2 required to register while incarcerated. If a person is  
3 placed on probation, parole, or work release and the  
4 probation, parole, or work release is revoked, the ten years  
5 shall commence anew upon release from custody.

6 2. A person who has been convicted of an offense under the  
7 laws of another state which would qualify the person as a  
8 sexually violent predator under the federal Violent Crime  
9 Control and Law Enforcement Act of 1994, Pub. L. No. 103-322,  
10 shall register as provided in this chapter for an  
11 indeterminate period terminating only upon a determination by  
12 the sentencing court of the other state that registration is  
13 no longer required.

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

15 1. A person required to register under this chapter shall  
16 register with the sheriff of the county of the person's  
17 residence within ten days of establishment of residence in  
18 this state or within ten days of any conviction for which the  
19 person is not incarcerated, a release from custody, or  
20 placement on probation, parole, or work release.

21 2. A person required to register under this chapter shall,  
22 within ten days of changing residence within a county in this  
23 state, notify the sheriff of the county in which the person is  
24 registered of the change of address and any changes in the  
25 person's telephone number in writing on a form provided by the  
26 sheriff. The sheriff shall send a copy of the change of  
27 address to the department within three working days of receipt  
28 of notice of the address change.

29 3. A person required to register under this chapter shall  
30 register with the sheriff of a county in which residence has  
31 been newly established and notify the sheriff of the county in  
32 which the person was registered, within ten days of changing  
33 residence to a location outside the county in which the person  
34 was registered. Registration shall be in writing on a form  
35 provided by the sheriff and shall include the person's change

1 of address and any changes to the person's telephone number.  
2 The sheriff shall send a copy of the change of address to the  
3 department within three working days of receipt of notice of  
4 the address change.

5 4. A person required to register under this chapter shall  
6 notify the sheriff of the county in which the person is  
7 registered, within ten days of changing residence to a  
8 location outside this state, of the new residence address and  
9 any changes in telephone number and shall register in the  
10 other state within the ten days, if persons are required to  
11 register under the laws of the other state. The sheriff shall  
12 send a copy of the change of address to the department within  
13 three working days of receipt of notice of the address change.

14 5. The collection of information by a court or releasing  
15 agency under section 692A.5 shall serve as the person's  
16 initial registration for purposes of this section. The court  
17 or releasing agency shall forward a copy of the registration  
18 to the department within three working days of completion of  
19 registration.

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

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

23 a. On a date which falls within the month in which the  
24 person was initially required to register, the department  
25 shall mail a verification form to the last reported address of  
26 the person. Verification forms shall not be forwarded to the  
27 person who is required to register under this chapter if the  
28 person no longer resides at the address, but shall be returned  
29 to the department.

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

32 c. The verification form shall be signed by the person,  
33 and state the address at which the person resides. If the  
34 person is in the process of changing residences, the person  
35 shall state that fact as well as the old and new addresses or

1 places of residence.

2 2. Verification of address for a person who has been  
3 convicted of an offense under the laws of another state which  
4 would qualify the person as a sexually violent predator under  
5 the federal Violent Crime Control and Law Enforcement Act of  
6 1994, Pub. L. No. 103-322, shall be accomplished in the same  
7 manner as in subsection 1, except that the verification shall  
8 be done every three months at times established by the  
9 department.

10 Sec. 5. NEW SECTION. 692A.5 DUTY TO FACILITATE  
11 REGISTRATION.

12 1. When a person who is required to register under this  
13 chapter is released from confinement from a jail, prison,  
14 juvenile facility, or other correctional institution or  
15 facility, or when such a person is convicted but not  
16 incarcerated, the warden or superintendent, or in the case of  
17 conviction without incarceration, the court, shall do the  
18 following prior to release or sentencing of the convicted  
19 person:

20 a. Obtain fingerprints and a photograph of the person if  
21 fingerprints and a photograph have not already been obtained  
22 in connection with the offense that triggers registration. A  
23 current photograph may also be required.

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

25 c. Inform the person that, within ten days of changing  
26 residence, registration with the sheriff in the county in  
27 which residence is established is required, if the residence  
28 is within the state.

29 d. Inform the person that if the person moves their  
30 residence to another state, the person must give the person's  
31 new address to the sheriff's department in the county of the  
32 person's old residence within ten days of changing addresses,  
33 and that, if the other state has a registration requirement,  
34 the person is also required to register in the new state of  
35 residence, not later than ten days after establishing

1 residence in the other state.

2 e. Require the person to read and sign a form stating that  
3 the duty of the person to register under this chapter has been  
4 explained. If the person cannot read, is unable to write, or  
5 refuses to cooperate, the duty and the form shall be explained  
6 orally and a written record maintained by the person  
7 explaining the duty and the form.

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

22 3. The warden or superintendent, or in the case the person  
23 is placed on probation, the court, shall forward one copy of  
24 the registration to the department and one copy to the sheriff  
25 of the county in which the person is to reside within three  
26 days after completion of the registration.

27 Sec. 6. NEW SECTION. 692A.6 CIVIL PENALTY FOR SEX  
28 OFFENDERS.

29 1. In addition to any other penalty, at the time of  
30 conviction for a public offense committed on or after the  
31 effective date of this chapter which requires a person to  
32 register under this chapter, the person shall be assessed a  
33 civil penalty of one hundred dollars, to be payable in the  
34 same manner as a fine.

35 2. The clerk of the district court shall transmit money

1 collected under this section each month to the treasurer of  
2 state, who shall deposit the money in the sex offender  
3 registry fund established under section 692A.11.

4 Sec. 7. NEW SECTION. 692A.7 FAILURE TO COMPLY --  
5 PENALTY.

6 1. Failure to register as required under this chapter is  
7 an aggravated misdemeanor for a first offense and a class "D"  
8 felony for a second or subsequent offense. However, a person  
9 who fails to register as required under this chapter and who  
10 commits a criminal offense against a minor or a sexually  
11 violent offense is guilty of a class "C" felony. Any fine  
12 imposed for a second or subsequent offense shall not be  
13 suspended. The court shall not defer judgment or sentence for  
14 any violation of the registration requirements of this  
15 chapter. The failure of a person who is on probation, parole,  
16 or work release, or any other form of release to register as  
17 required under this chapter shall result in the automatic  
18 revocation of the person's probation, parole, or work release.

19 2. In determining if a violation is a second or subsequent  
20 offense, a conviction for a violation of this section which  
21 occurred more than ten years prior to the date of the  
22 violation charged shall not be considered in determining that  
23 the violation charged is a second, third, or subsequent  
24 offense. Violations in any other states under sex offender  
25 registry provisions that are substantially similar to those  
26 contained in this section shall be counted as previous  
27 offenses. The court shall judicially notice the statutes of  
28 other states which are substantially equivalent to this  
29 section.

30 Sec. 8. NEW SECTION. 692A.8 DETERMINATION OF REQUIREMENT  
31 TO REGISTER.

32 1. A person who is registered under this chapter may  
33 request that the department determine whether the offense for  
34 which the person has been convicted requires the person to  
35 register under this chapter or whether the period of time



1 during which the person is obligated to register under this  
2 chapter has expired.

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

7 3. The department shall, within ninety days of the filing  
8 of the request, determine whether the person is required to  
9 register under this chapter.

10 Sec. 9. NEW SECTION. 692A.9 REGISTRATION FORMS.

11 Registration forms shall be prepared by the department and  
12 shall include the registrant's name, the registrant's current  
13 address, and, if applicable, the registrant's telephone  
14 number. The forms may provide for the reporting of additional  
15 relevant information such as, but not limited to, fingerprints  
16 and photographs. Copies of blank forms shall be available  
17 upon request to any person from the sheriff.

18 Sec. 10. NEW SECTION. 692A.10 DEPARTMENT DUTIES --  
19 REGISTRY.

20 The department shall perform all of the following duties:

21 1. Develop and disseminate standard forms for use in  
22 registering of, verifying addresses of, and verifying  
23 understanding of registration requirements by persons required  
24 to register under this chapter. Forms used to verify  
25 addresses of persons required to register under this chapter  
26 shall contain a warning against forwarding of the forms and of  
27 the requirement to return the forms if the person to whom the  
28 form is directed no longer resides at the address listed on  
29 the form or the mailing.

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

33 3. In consultation with the attorney general, adopt rules  
34 under chapter 17A which list specific offenses under present  
35 and former law which constitute criminal offenses against a

1 minor under this chapter.

2 4. Adopt rules under chapter 17A, as necessary, to ensure  
3 compliance with registration and verification requirements of  
4 this chapter, to provide guidelines for persons required to  
5 assist in obtaining registry information, and to provide a  
6 procedure for the dissemination of information contained in  
7 the registry.

8 Sec. 11. NEW SECTION. 692A.11 SEX OFFENDER REGISTRY  
9 FUND.

10 A sex offender registry fund is established as a separate  
11 fund within the state treasury under the control of the  
12 department. The fund shall consist of moneys received as a  
13 result of the imposition of the penalty imposed under section  
14 692A.6 and other funds allocated for purposes of establishing  
15 and maintaining the sex offender registry, conducting research  
16 and analysis related to sex crimes and offenders, and to  
17 perform other duties required under this chapter.  
18 Notwithstanding section 8.33, unencumbered or unobligated  
19 moneys and any interest remaining in the fund on June 30 of  
20 any fiscal year shall not revert to the general fund of the  
21 state, but shall remain available for expenditure in  
22 subsequent fiscal years.

23 Sec. 12. NEW SECTION. 692A.12 DUTIES OF THE SHERIFF.

24 The sheriff of each county shall comply with the  
25 requirements of this chapter and rules adopted by the  
26 department pursuant to this chapter.

27 Sec. 13. NEW SECTION. 692A.13 AVAILABILITY OF RECORDS.

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

31 1. The department or a sheriff may disclose information to  
32 law enforcement agencies for law enforcement or prosecution  
33 purposes.

34 2. The department may disclose information to government  
35 agencies which are conducting confidential background

1 investigations.

2 3. The department or a law enforcement agency with case-  
3 specific authorization from the department may release  
4 relevant information, other than the identity of a victim of a  
5 criminal offense against a minor or a sexually violent  
6 offense, that is necessary to protect the public concerning a  
7 specific person who is required to register under this  
8 chapter.

9 4. The department may disseminate departmental analyses of  
10 information contained in the sex offender registry to persons  
11 conducting bona fide research, if the data does not contain  
12 individually identified information, as defined under section  
13 692.1.

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

18 6. A local law enforcement agency may release information  
19 regarding a specific person who is required to register under  
20 this chapter to a member of the general public if the person  
21 requesting the information gives the person's name and address  
22 in writing, states the person's reason for requesting the  
23 information, and provides the local law enforcement agency  
24 with the name and address of the person about whom the  
25 information is sought. The local law enforcement agency shall  
26 maintain a record of persons requesting information from the  
27 registry.

28 Sec. 14. NEW SECTION. 692A.14 COOPERATION WITH  
29 REGISTRATION.

30 Each agency of state and local government which possesses  
31 information relevant to requirements that a person register  
32 under this chapter shall provide that information to the court  
33 or the department upon request. All confidential records  
34 provided under this section shall remain confidential, unless  
35 otherwise ordered by a court, by the lawful custodian of the

1 records, or by another person duly authorized to release such  
2 information.

3 Sec. 15. NEW SECTION. 692A.15 IMMUNITY FOR GOOD FAITH  
4 CONDUCT.

5 Law enforcement agencies and employees of law enforcement  
6 agencies and state agencies and their employees shall be  
7 immune from liability for good faith conduct under this  
8 chapter.

9 Sec. 16. NEW SECTION. 692A.16 SUPREME COURT RULES.

10 The supreme court shall prescribe rules relating to the  
11 judicial department's administration of procedures required  
12 under this chapter.

13 EXPLANATION

14 This bill establishes a central registry within the  
15 department of public safety for persons who commit criminal  
16 offenses against a minor and persons who commit sexually  
17 violent offenses. Criminal offenses against a minor are  
18 defined to include kidnapping of a minor, false imprisonment  
19 of a minor, public offenses involving sexual conduct which is  
20 directed toward a minor, solicitation of a minor to commit an  
21 illegal sex act, use of a minor in a sexual performance,  
22 solicitation of a minor to practice prostitution, public  
23 offenses involving sexual contact with a minor, public  
24 offenses under prior law which would be criminal offenses  
25 against a minor if they were current law, dissemination and  
26 exhibition of obscene materials to minors, admitting minors to  
27 premises where obscene material is exhibited and offenses  
28 committed in another jurisdiction which would be criminal  
29 offenses against a minor if committed in this state. Sexually  
30 violent offenses include sexual abuse, assault with intent to  
31 commit sexual abuse, sexual exploitation by a counselor or  
32 therapist, sexual misconduct with offenders, and murder,  
33 kidnapping, or burglary involving sexual abuse or attempted  
34 sexual abuse. Persons who are subject to the registration  
35 requirement are required to be registered for 10 years from

1 the date that the person is placed on probation, parole, work  
2 release, or otherwise released from custody with the sheriff  
3 of the county of the person's residence. When the person is  
4 initially released either the court or the agency or person  
5 releasing the person will collect the initial registration  
6 information, which will be forwarded to the department of  
7 public safety and the sheriff of the county in which the  
8 person is to reside. Each year the department will verify the  
9 address of any persons convicted of committing criminal  
10 offenses against minors. The addresses of persons convicted  
11 of committing sexually violent offenses will be verified every  
12 three months by the department. Persons who are required to  
13 register under the bill are also required to reregister in the  
14 event that the person moves and notify the sheriffs in both  
15 locations of the address change. Penalties are established  
16 for a failure to register. A first offense is an aggravated  
17 misdemeanor; a second or subsequent offense is a class "D"  
18 felony. A person who fails to register and who commits a  
19 criminal offense against a minor or a sexually violent offense  
20 is guilty of a class "C" felony under the bill. Any fines  
21 imposed for a second or subsequent violation are not to be  
22 suspended. Persons who violate the registration requirement  
23 are not eligible for a deferred judgment or sentence. Persons  
24 who are required to register are, at the time of conviction,  
25 also to be assessed a \$100 civil penalty, which is to be  
26 deposited in a sex offender registry fund. The fund is used  
27 to pay for the costs of maintaining the registry by the  
28 department and to pay for research and analysis of the data  
29 collected through the registry. Persons who are not sure  
30 whether they are subject to the registration requirement may  
31 ask the department to issue an opinion on the issue of whether  
32 they are required to register. Registry information is  
33 considered to be a confidential law enforcement record and its  
34 dissemination and redissemination is generally limited to law  
35 enforcement agencies, although further dissemination is

1 permitted under certain circumstances. State and local  
2 government entities are to cooperate with the court and the  
3 department in the provision of information relevant to  
4 implementation of the registry. Law enforcement agencies and  
5 employees of law enforcement agencies, as well as state  
6 agencies and their employees, are immune from liability for  
7 good faith conduct under the new chapter established in the  
8 bill. The department of public safety and the supreme court  
9 are to adopt rules to implement the provisions of the bill.

10 This bill may create a state mandate under chapter 25B.  
11 However, pursuant to section 25B.2, subsection 3, unnumbered  
12 paragraph 2, any requirement imposed under the bill may not be  
13 a state mandate which requires full state funding.

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**SENATE FILE 93      REQ. BY SENATOR MCKEAN**  
**FISCAL NOTE**

The estimate for Senate File 93 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 93 establishes a central registry within the Department of Public Safety for persons who commit criminal offenses against a minor and persons who commit sexually violent offenses. A person who has been convicted of either a criminal offense against a minor or a sexually violent offense shall register for a period of ten years commencing from the date of placement on probation, parole, work release, or other release from custody. A person is not required to register while incarcerated. A person is required to register with the sheriff of the county of the person's residence.

In addition to any other penalty, at the time of conviction for a public offense committed, the person shall be assessed a civil penalty of \$100 to be payable in the same manner as a fine. Fines collected shall be deposited in the Sex Offender Registry Fund. The Fund is to be controlled by the Department of Public Safety. Failure to register as required is an aggravated misdemeanor for a first offense and a Class "D" felony for a second or subsequent offense. A person who fails to register as required and commits a criminal offense against a minor or a sexually violent offense is guilty of a Class "C" felony.

**Assumptions**

1. Charge, conviction, and sentencing patterns and trends will not change over the projection period.
2. Prisoner length of stay, revocation rates, and other corrections policies and practices will not change over the projection period.
3. Lag effects are assumed from the law's effective date to the date of first entry of affected offenders in the correctional system.
4. It is reasonable to assume that some portion of those individuals required to register as specified under the Bill will fail to do so and be charged with the new offense of failure to register.
5. It is likely that most sheriffs will handle less than ten reports a year.

**Fiscal Analysis:**

**Projected Pool of Offenders to be Registered**

Description	FY 1996	FY 1997	FY 2000
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Total Offenders	437	870	2,142
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It is estimated that approximately 1.0% of those individuals registered in a given year who are residing in the community and who otherwise would not have been revoked, will be charged with the new offense of failure to register. These individuals will likely be on probation or parole, and will automatically be revoked to prison, resulting in the following correctional impact on the prison population:

**Increase in Admissions to Prison**

Prison	FY 1996	FY 1997	FY 2000
Admissions	4	9	21
Population Increase	4	11	38

**Fiscal Effect on the General Fund:**

The Department of Corrections may experience the following increase in costs:

Description	FY 1996	FY 1997	FY 2000
Prison	\$16,000	\$44,000	\$151,000

NOTE: The cost per year for an inmate is estimated to be \$3,971.

**Revenues to Sex Offender Registry Fund:**

It is estimated that approximately \$61,900 in civil penalties may be assessed the first year as a result of the adoption of SF 93. The revenues are based on the assumption that 533 adult offenders and 86 juvenile offenders will be required to pay the \$100 civil penalty. However, based on data regarding fines collection rates in 17 Iowa counties, it is anticipated that approximately \$24,210 will actually be collected the first year for the Sex Offender Registry Fund (assuming a collection rate of 18.0% for those sentenced to prison and 54.0% for other offenders).

**Department of Public Safety** - The Department is required to develop and disseminate standard forms for registration, maintain a central registry of information collected from persons required to register, and adopt rules. The estimated cost for implementing the requirements of the Bill include:

Description	FY 1996	FY 1997
Salaries	\$51,272	\$51,272
Support	5,000	5,000



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Capital Eqmt.	75,000	0
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Total Expenditures	\$131,272	\$56,272

Depending on the number of requests received, the Department of Public Safety anticipates employing a minimum of two FTE positions to fulfill the requirements of the Bill. In addition, there would be a need to purchase computer equipment and develop programs for the Sex Crimes Offender Registry. The Registry would be available by way of the Iowa Terminal to all sheriff's offices throughout the State.

The Department expects to collect approximately \$5,000 in revenues the first year by assessing a \$6.00 fee to non-law enforcement agencies requesting information relating to the Sex Offender Registry. Based on the anticipated collection of fines and the anticipated fees generated, there are likely to be insufficient resources to cover the anticipated costs of maintaining the Registry.

Sources:  
 Criminal Juvenile Justice Planning  
 Department of Public Safety  
 Iowa State Association of Counties

(LSB 1172SV, LAM)

FILED FEBRUARY 9, 1995

BY DENNIS PROUTY, FISCAL DIRECTOR

## SENATE FILE 93

S-3043

1 Amend Senate File 93 as follows:  
2 1. Page 4, line 14, by striking the word "court"  
3 and inserting the following: "sheriff".  
4 2. Page 4, line 16, by striking the word "court"  
5 and inserting the following: "sheriff".  
6 3. Page 5, line 16, by striking the word "warden"  
7 and inserting the following: "sheriff, warden,".  
8 4. Page 5, line 17, by striking the words "do  
9 the" and inserting the following: "inform the person  
10 of the person's duty to register and the penalties  
11 associated with the failure to register as required  
12 under this chapter. If the person is convicted but  
13 not incarcerated, the court shall order the person to  
14 register, within ten days of the order releasing the  
15 person, with the sheriff of the person's county of  
16 residence. If the person is being released from  
17 confinement, the sheriff, warden, or superintendent  
18 shall obtain the registration information prior to  
19 release of the person. In obtaining the registration  
20 information, the sheriff, warden, or superintendent  
21 shall do the following:"  
22 5. Page 5, by striking lines 18 and 19.  
23 6. Page 6, line 1, by inserting after the word  
24 "state" the following: "and to verify the address at  
25 least annually".  
26 7. Page 6, by striking lines 12 and 13 and  
27 inserting the following: "incarcerated, the sheriff,  
28 warden, or superintendent, shall verify that".  
29 8. Page 6, line 15, by inserting before the word  
30 "accept" the following: "in the case of release by a  
31 warden or superintendent".  
32 9. Page 6, by striking line 16, and inserting the  
33 following: "registration. The sheriff, warden, or  
34 superintendent shall".  
35 10. Page 6, line 23, by striking the word "court"  
36 and inserting the following: "sheriff".  
37 11. Page 6, line 24, by striking the words  
38 "department and" and inserting the following:  
39 "department. If the person is released by a warden or  
40 superintendent, or a sheriff other than the sheriff of  
41 the county of the person's residence, the sheriff,  
42 warden, or superintendent shall also forward".  
43 12. By striking page 6, line 27, though page 7,  
44 line 1, and inserting the following:  
45 "Sec. \_\_\_\_ . NEW SECTION. 692A.6 REGISTRATION FEES  
46 FOR OFFENDERS.  
47 1. At the time of filing a registration statement,  
48 or a change of registration, with the sheriff of the  
49 county of residence, a person who is required to  
50 register under this chapter shall pay a fee of ten

S-3043

-1-

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Page ~~2~~

1 dollars to the sheriff. If, at the time of  
 2 registration, the person who is required to register  
 3 is unable to pay the fee, the sheriff may allow the  
 4 person time to pay the fee, permit the payment of the  
 5 fee in installments, or may waive payment of the fee.  
 6 Fees paid to the sheriff shall be used to defray the  
 7 costs of duties related to the registration of persons  
 8 under this chapter.

9 2. The sheriff shall charge, upon receipt of a  
 10 registry information request from a member of the  
 11 general public, a fee of five dollars. The fee shall  
 12 be used to defray the costs associated with obtaining  
 13 the registry information and maintaining the list of  
 14 persons requesting information from the registry.

15 3. A person who is required to register under this  
 16 chapter shall annually, at the time of completion and  
 17 mailing of a verification of address form, pay the  
 18 department a fee of ten dollars. The department shall  
 19 remit the funds received to the treasurer of".

20 13. Page 9, line 7, by inserting after the word  
 21 "registry." the following: "The procedure for the  
 22 dissemination of information shall include, but not be  
 23 limited to, practical guidelines for use by law  
 24 enforcement in determining when public release of  
 25 information contained in the registry is appropriate.  
 26 The department, in developing the procedure, shall  
 27 consult with associations which represent the  
 28 interests of law enforcement officers."

29 14. Page 10, line 18, by striking the words  
 30 "local law enforcement agency" and inserting the  
 31 following: "sheriff".

32 15. Page 10, line 23, by striking the words  
 33 "local law enforcement agency" and inserting the  
 34 following: "sheriff".

35 16. Page 10, line 25, by striking the words  
 36 "local law enforcement agency" and inserting the  
 37 following: "sheriff".

38 17. Page 11, by striking lines 9 through 12.

39 18. Title page, line 4, by inserting after the  
 40 word "registry," the following: "permitting the  
 41 charging of fees,".

By RANDAL J. GIANNETTO

S-3043 FILED FEBRUARY 8, 1995

(P. 300) A. Adopted 2/9/95  
 B. Adopted "

## SENATE FILE 93

S-3044

- 1 Amend Senate File 93 as follows:  
 2 1. Page 10, by inserting after line 27 the  
 3 following:  
 4 " . Notwithstanding sections 232.147 through  
 5 232.151, records concerning delinquent acts of a child  
 6 may be released in the same manner as records of  
 7 convictions of adults."  
 8 2. By numbering, renumbering, and correcting  
 9 internal references as necessary.

By TONY BISIGNANO

S-3044 FILED FEBRUARY 8, 1995

*(p.301) out of order 2/9/95 -*

SENATE FILE 93

S-3045

- 1 Amend Senate File 93 as follows:  
 2 1. Page 1, line 9, by inserting after the word  
 3 "judgment" the following: "or has been acquitted by  
 4 reason of insanity".

By ROD HALVORSON

S-3045 FILED FEBRUARY 8, 1995

*(p.300) 2/9/95 Adopted*

SENATE FILE 93

S-3046

- 1 Amend the amendment, S-3043, to Senate File 93, as  
 2 follows:  
 3 1. Page 2, by striking lines 9 through 14.  
 4 2. Page 2, line 25, by inserting after the word  
 5 "appropriate" the following: "and a requirement that  
 6 if a member of the general public requests information  
 7 regarding a specific individual in the manner provided  
 8 in section 692A.13, subsection 6, the information  
 9 shall be released".  
 10 3. Page 2, line 30, by inserting after the word  
 11 "agency" the following: "may".  
 12 4. Page 2, line 31, by inserting after the word  
 13 "sheriff" the following: "shall".

By BRAD BANKS

S-3046 FILED FEBRUARY 8, 1995

SENATE FILE 93

S-3042

- 1 Amend Senate File 93 as follows:  
 2 1. Page 2, by striking lines 20 and 21.  
 3 2. By redesignating and changing internal  
 4 references as necessary.

By TONY BISIGNANO

S-3042 FILED FEBRUARY 8, 1995

*p.300 Adopted  
2/9/95*

H-2/13/95 Judiciary  
H-3/31/95 Amended/Do Pass W/  
H-4/19/95 Appropriations (p.1727) H-3660

SENATE FILE 93  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 43)

(AS AMENDED AND PASSED BY THE SENATE FEBRUARY 9, 1995)

- New Language by the Senate
- \* - Language Stricken by the Senate

Passed Senate, Date 4/25/95 (p.1405) Passed House, Date 4-10-95 (p.1389)  
 Vote: Ayes 48 Nays 0 Vote: Ayes 97 Nays 0  
 Approved May 3, 1995 Re-passed 4/25/95  
 Vote 92-0  
 (p.1879)

A BILL FOR

1 An Act related to criminal offenses against minors and sexually  
 2 violent offenses and offenders committing those offenses, by  
 3 requiring registration by offenders, providing for the  
 4 establishment of a sex offender registry, permitting the  
 5 charging of fees, and providing penalties.

S.F. 93

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

7 Sen. Conference Comm.  
 8  
 9 Sen. Bisignano, Ch.  
 10 Sen. Liannetto  
 11 Sen. Vilsack  
 12 Sen. McKean  
 13 Sen. Maddox  
 14  
 15 4/19/95 (p.1316)  
 16  
 17 Rpt. adopted (p.1403)  
 18  
 19  
 20

Rep. Conference Comm.  
 Rep. Coon, Ch.  
 Rep. Lambetta  
 Rep. Winkla  
 Rep. Roderer  
 Rep. Moreland  
 4/19/95 (p.1728)  
 Rpt. adopted (p.1879)

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 or has been acquitted by reason of insanity.

10 "Convicted" or "conviction" does not mean a plea, sentence,  
11 adjudication, deferral of sentence or judgment which has been  
12 reversed or otherwise set aside.

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

15 (1) Kidnapping of a minor, except when committed by a  
16 parent.

17 (2) False imprisonment of a minor, except when committed  
18 by a parent.

19 (3) Any public offense involving sexual conduct directed  
20 toward a minor.

21 (4) Solicitation of a minor to engage in an illegal sex  
22 act.

23 (5) Use of a minor in a sexual performance.

24 (6) Solicitation of a minor to practice prostitution.

25 (7) Any public offense against a minor involving sexual  
26 contact with the minor.

27 (8) An attempt to commit an offense enumerated in this  
28 subsection.

29 (9) Dissemination and exhibition of obscene material to  
30 minors in violation of section 728.2.

31 (10) Admitting minors to premises where obscene material  
32 is exhibited in violation of section 728.3.

33 (11) A public offense committed in another jurisdiction  
34 which would constitute a public offense under subparagraphs  
35 (1) through (10).

1 b. "Criminal offense against a minor" does not mean  
2 conduct which is criminal only because of the age of the  
3 victim if the perpetrator is eighteen years of age or younger  
4 at the time of the conduct.

5 3. "Department" means the department of public safety.

6 4. "Law enforcement agency" means an agency or department  
7 of federal, state, or local government or an entity which is  
8 wholly owned, financed, or controlled by one or more agencies  
9 or departments of federal, state, or local government, which  
10 performs as its principal function the apprehension,  
11 prosecution, adjudication, incarceration, or rehabilitation of  
12 criminal offenders.

13 5. "Residence" means the place where a person sleeps,  
14 which may include more than one location, and may be mobile or  
15 transitory.

16 6. "Sexually violent offense" means any of the following  
17 public offenses:

18 a. Sexual abuse as defined under section 709.1.

19 b. Assault with intent to commit sexual abuse in violation  
20 of section 709.11.

\*21 c. Sexual misconduct with offenders in violation of  
22 section 709.16.

23 d. Any of the following offenses, if the offense involves  
24 sexual abuse or attempted sexual abuse: murder, kidnapping,  
25 or burglary.

26 e. A public offense committed in another jurisdiction  
27 which would constitute a public offense under paragraphs "a"  
28 through "e" if committed in this state.

29 7. "Sexual exploitation" means sexual exploitation by a  
30 counselor or therapist under section 709.15.

31 Sec. 2. NEW SECTION. 692A.2 PERSONS REQUIRED TO  
32 REGISTER.

33 1. A person who has been convicted of either a criminal  
34 offense against a minor, sexual exploitation, or a sexually  
35 violent offense shall register as provided in this chapter for

1 a period of ten years commencing from the date of placement on  
2 probation, parole, work release, or other release from  
3 custody. A person is not required to register while  
4 incarcerated. If a person is placed on probation, parole, or  
5 work release and the probation, parole, or work release is  
6 revoked, the ten years shall commence anew upon release from  
7 custody.

8 2. A person who has been convicted of an offense under the  
9 laws of another state which would qualify the person as a  
10 sexually violent predator under the federal Violent Crime  
11 Control and Law Enforcement Act of 1994, Pub. L. No. 103-322,  
12 shall register as provided in this chapter for an  
13 indeterminate period terminating only upon a determination by  
14 the sentencing court of the other state that registration is  
15 no longer required.

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

17 1. A person required to register under this chapter shall  
18 register with the sheriff of the county of the person's  
19 residence within ten days of establishment of residence in  
20 this state or within ten days of any conviction for which the  
21 person is not incarcerated, a release from custody, or  
22 placement on probation, parole, or work release.

23 2. A person required to register under this chapter shall,  
24 within ten days of changing residence within a county in this  
25 state, notify the sheriff of the county in which the person is  
26 registered of the change of address and any changes in the  
27 person's telephone number in writing on a form provided by the  
28 sheriff. The sheriff shall send a copy of the change of  
29 address to the department within three working days of receipt  
30 of notice of the address change.

31 3. A person required to register under this chapter shall  
32 register with the sheriff of a county in which residence has  
33 been newly established and notify the sheriff of the county in  
34 which the person was registered, within ten days of changing  
35 residence to a location outside the county in which the person



1 was registered. Registration shall be in writing on a form  
2 provided by the sheriff and shall include the person's change  
3 of address and any changes to the person's telephone number.  
4 The sheriff shall send a copy of the change of address to the  
5 department within three working days of receipt of notice of  
6 the address change.

7 4. A person required to register under this chapter shall  
8 notify the sheriff of the county in which the person is  
9 registered, within ten days of changing residence to a  
10 location outside this state, of the new residence address and  
11 any changes in telephone number and shall register in the  
12 other state within the ten days, if persons are required to  
13 register under the laws of the other state. The sheriff shall  
14 send a copy of the change of address to the department within  
15 three working days of receipt of notice of the address change.

16 5. The collection of information by a sheriff or releasing  
17 agency under section 692A.5 shall serve as the person's  
18 initial registration for purposes of this section. The  
19 sheriff or releasing agency shall forward a copy of the  
20 registration to the department within three working days of  
21 completion of registration.

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

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

25 a. On a date which falls within the month in which the  
26 person was initially required to register, the department  
27 shall mail a verification form to the last reported address of  
28 the person. Verification forms shall not be forwarded to the  
29 person who is required to register under this chapter if the  
30 person no longer resides at the address, but shall be returned  
31 to the department.

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

34 c. The verification form shall be signed by the person,  
35 and state the address at which the person resides. If the

1 person is in the process of changing residences, the person  
2 shall state that fact as well as the old and new addresses or  
3 places of residence.

4 2. Verification of address for a person who has been  
5 convicted of an offense under the laws of another state which  
6 would qualify the person as a sexually violent predator under  
7 the federal Violent Crime Control and Law Enforcement Act of  
8 1994, Pub. L. No. 103-322, shall be accomplished in the same  
9 manner as in subsection 1, except that the verification shall  
10 be done every three months at times established by the  
11 department.

12 Sec. 5. NEW SECTION. 692A.5 DUTY TO FACILITATE  
13 REGISTRATION.

14 1. When a person who is required to register under this  
15 chapter is released from confinement from a jail, prison,  
16 juvenile facility, or other correctional institution or  
17 facility, or when such a person is convicted but not  
18 incarcerated, the sheriff, warden, or superintendent, or in  
19 the case of conviction without incarceration, the court, shall  
20 inform the person of the person's duty to register and the  
21 penalties associated with the failure to register as required  
22 under this chapter. If the person is convicted but not  
23 incarcerated, the court shall order the person to register,  
24 within ten days of the order releasing the person, with the  
25 sheriff of the person's county of residence. If the person is  
26 being released from confinement, the sheriff, warden, or  
27 superintendent shall obtain the registration information prior  
28 to release of the person. In obtaining the registration  
29 information, the sheriff, warden, or superintendent shall do  
30 the following:

- \* 31 a. Obtain fingerprints and a photograph of the person if  
32 fingerprints and a photograph have not already been obtained  
33 in connection with the offense that triggers registration. A  
34 current photograph may also be required.
- 35 b. Inform the person of the duty to register.

1 c. Inform the person that, within ten days of changing  
2 residence, registration with the sheriff in the county in  
3 which residence is established is required, if the residence  
4 is within the state.

5 d. Inform the person that if the person moves their  
6 residence to another state, the person must give the person's  
7 new address to the sheriff's department in the county of the  
8 person's old residence within ten days of changing addresses,  
9 and that, if the other state has a registration requirement,  
10 the person is also required to register in the new state of  
11 residence, not later than ten days after establishing  
12 residence in the other state and to verify the address at  
13 least annually.

14 e. Require the person to read and sign a form stating that  
15 the duty of the person to register under this chapter has been  
16 explained. If the person cannot read, is unable to write, or  
17 refuses to cooperate, the duty and the form shall be explained  
18 orally and a written record maintained by the person  
19 explaining the duty and the form.

20 2. When a person who is required to register under this  
21 chapter is released from confinement from a jail, prison,  
22 juvenile facility, or other correctional institution or  
23 facility, or when such a person is convicted but not  
24 incarcerated, the sheriff, warden, or superintendent, shall  
25 verify that the person has completed initial registration  
26 forms, and in the case of release by a warden or  
27 superintendent accept the forms on behalf of the sheriff of  
28 the county of registration. The sheriff, warden, or  
29 superintendent shall send a copy of the initial registration  
30 form to the department within three working days of completion  
31 of the registration. Probation, parole, work release, or any  
32 other form of release after conviction shall not be granted  
33 unless the person has registered as required under this  
34 chapter.

35 3. The warden or superintendent, or in the case the person

1 is placed on probation, the sheriff, shall forward one copy of  
2 the registration to the department. If the person is released  
3 by a warden or superintendent, or a sheriff other than the  
4 sheriff of the county of the person's residence, the sheriff,  
5 warden, or superintendent shall also forward one copy to the  
6 sheriff of the county in which the person is to reside within  
7 three days after completion of the registration.

8 Sec. 6. NEW SECTION. 692A.6 REGISTRATION FEES FOR  
9 OFFENDERS.

10 1. At the time of filing a registration statement, or a  
11 change of registration, with the sheriff of the county of  
12 residence, a person who is required to register under this  
13 chapter shall pay a fee of ten dollars to the sheriff. If, at  
14 the time of registration, the person who is required to  
15 register is unable to pay the fee, the sheriff may allow the  
16 person time to pay the fee, permit the payment of the fee in  
17 installments, or may waive payment of the fee. Fees paid to  
18 the sheriff shall be used to defray the costs of duties  
19 related to the registration of persons under this chapter.

20 2. A person who is required to register under this chapter  
21 shall annually, at the time of completion and mailing of a  
22 verification of address form, pay the department a fee of ten  
23 dollars. The department shall remit the funds received to the  
24 treasurer of state, who shall deposit the money in the sex  
25 offender registry fund established under section 692A.11.

26 3. The fees required by this section shall not be assessed  
27 against a person who has been acquitted by reason of insanity  
28 of the offense which requires registration under this chapter.

29 Sec. 7. NEW SECTION. 692A.7 FAILURE TO COMPLY --  
30 PENALTY.

31 1. Failure to register as required under this chapter is  
32 an aggravated misdemeanor for a first offense and a class "D"  
33 felony for a second or subsequent offense. However, a person  
34 who fails to register as required under this chapter and who  
35 commits a criminal offense against a minor, sexual

1 exploitation, or a sexually violent offense is guilty of a  
2 class "C" felony. Any fine imposed for a second or subsequent  
3 offense shall not be suspended. The court shall not defer  
4 judgment or sentence for any violation of the registration  
5 requirements of this chapter. The failure of a person who is  
6 on probation, parole, or work release, or any other form of  
7 release to register as required under this chapter shall  
8 result in the automatic revocation of the person's probation,  
9 parole, or work release.

10 2. In determining if a violation is a second or subsequent  
11 offense, a conviction for a violation of this section which  
12 occurred more than ten years prior to the date of the  
13 violation charged shall not be considered in determining that  
14 the violation charged is a second, third, or subsequent  
15 offense. Violations in any other states under sex offender  
16 registry provisions that are substantially similar to those  
17 contained in this section shall be counted as previous  
18 offenses. The court shall judicially notice the statutes of  
19 other states which are substantially equivalent to this  
20 section.

21 Sec. 8. NEW SECTION. 692A.8 DETERMINATION OF REQUIREMENT  
22 TO REGISTER.

23 1. A person who is registered under this chapter may  
24 request that the department determine whether the offense for  
25 which the person has been convicted requires the person to  
26 register under this chapter or whether the period of time  
27 during which the person is obligated to register under this  
28 chapter has expired.

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

33 3. The department shall, within ninety days of the filing  
34 of the request, determine whether the person is required to  
35 register under this chapter.

1 Sec. 9. NEW SECTION. 692A.9 REGISTRATION FORMS.

2 Registration forms shall be prepared by the department and  
3 shall include the registrant's name, the registrant's current  
4 address, and, if applicable, the registrant's telephone  
5 number. The forms may provide for the reporting of additional  
6 relevant information such as, but not limited to, fingerprints  
7 and photographs. Copies of blank forms shall be available  
8 upon request to any person from the sheriff.

9 Sec. 10. NEW SECTION. 692A.10 DEPARTMENT DUTIES --  
10 REGISTRY.

11 The department shall perform all of the following duties:

12 1. Develop and disseminate standard forms for use in  
13 registering of, verifying addresses of, and verifying  
14 understanding of registration requirements by persons required  
15 to register under this chapter. Forms used to verify  
16 addresses of persons required to register under this chapter  
17 shall contain a warning against forwarding of the forms and of  
18 the requirement to return the forms if the person to whom the  
19 form is directed no longer resides at the address listed on  
20 the form or the mailing.

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

24 3. In consultation with the attorney general, adopt rules  
25 under chapter 17A which list specific offenses under present  
26 and former law which constitute criminal offenses against a  
27 minor under this chapter.

28 4. Adopt rules under chapter 17A, as necessary, to ensure  
29 compliance with registration and verification requirements of  
30 this chapter, to provide guidelines for persons required to  
31 assist in obtaining registry information, and to provide a  
32 procedure for the dissemination of information contained in  
33 the registry. The procedure for the dissemination of  
34 information shall include, but not be limited to, practical  
35 guidelines for use by law enforcement in determining when

1 public release of information contained in the registry is  
2 appropriate and a requirement that if a member of the general  
3 public requests information regarding a specific individual in  
4 the manner provided in section 692A.13, subsection 6, the  
5 information shall be released. The department, in developing  
6 the procedure, shall consult with associations which represent  
7 the interests of law enforcement officers.

8     Sec. 11. NEW SECTION. 692A.11 SEX OFFENDER REGISTRY  
9 FUND.

10     A sex offender registry fund is established as a separate  
11 fund within the state treasury under the control of the  
12 department. The fund shall consist of moneys received as a  
13 result of the imposition of the penalty imposed under section  
14 692A.6 and other funds allocated for purposes of establishing  
15 and maintaining the sex offender registry, conducting research  
16 and analysis related to sex crimes and offenders, and to  
17 perform other duties required under this chapter.  
18 Notwithstanding section 8.33, unencumbered or unobligated  
19 moneys and any interest remaining in the fund on June 30 of  
20 any fiscal year shall not revert to the general fund of the  
21 state, but shall remain available for expenditure in  
22 subsequent fiscal years.

23     Sec. 12. NEW SECTION. 692A.12 DUTIES OF THE SHERIFF.

24     The sheriff of each county shall comply with the  
25 requirements of this chapter and rules adopted by the  
26 department pursuant to this chapter.

27     Sec. 13. NEW SECTION. 692A.13 AVAILABILITY OF RECORDS.

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

31     1. The department or a sheriff may disclose information to  
32 law enforcement agencies for law enforcement or prosecution  
33 purposes.

34     2. The department may disclose information to government  
35 agencies which are conducting confidential background

1 investigations.

2 3. The department or a law enforcement agency with case-  
3 specific authorization from the department may release  
4 relevant information, other than the identity of a victim of a  
5 criminal offense against a minor, sexual exploitation, or a  
6 sexually violent offense, that is necessary to protect the  
7 public concerning a specific person who is required to  
8 register under this chapter.

9 4. The department may disseminate departmental analyses of  
10 information contained in the sex offender registry to persons  
11 conducting bona fide research, if the data does not contain  
12 individually identified information, as defined under section  
13 692.1.

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

18 6. A sheriff shall release information regarding a  
19 specific person who is required to register under this chapter  
20 to a member of the general public if the person requesting the  
21 information gives the person's name and address in writing,  
22 states the person's reason for requesting the information, and  
23 provides the sheriff with the name and address of the person  
24 about whom the information is sought. The sheriff shall  
25 maintain a record of persons requesting information from the  
26 registry.

27 7. Notwithstanding sections 232.147 through 232.151,  
28 records concerning convictions for criminal offenses against a  
29 minor or sexually violent offenses which are committed by a  
30 minor may be released in the same manner as records of  
31 convictions of adults.

32 Sec. 14. NEW SECTION. 692A.14 COOPERATION WITH  
33 REGISTRATION.

34 Each agency of state and local government which possesses  
35 information relevant to requirements that a person register



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

7 Sec. 15. NEW SECTION. 692A.15 IMMUNITY FOR GOOD FAITH  
8 CONDUCT.

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

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## SENATE FILE 93

S-3051

1 Amend the amendment, S-3049, to Senate File 93, as  
2 follows:  
3 1. Page 1, by inserting after line 2, the  
4 following:  
5 " \_\_\_\_ . Page 2, by inserting before line 22 the  
6 following:  
7 " \_\_\_\_ . Sexual exploitation by a law enforcement  
8 officer under section 709.15A.""  
9 2. Page 1, by inserting after line 13, the  
10 following:  
11 " \_\_\_\_ . Page 11, by inserting after line 12 the  
12 following:  
13 "Sec. \_\_\_\_ . Section 702.11, Code 1995, is amended  
14 to read as follows:  
15 702.11 FORCIBLE FELONY.  
16 A "forcible felony" is any felonious child  
17 endangerment, assault, murder, sexual abuse,  
18 kidnapping, robbery, arson in the first degree, or  
19 burglary in the first degree. However, sexual abuse  
20 in the third degree committed between spouses, sexual  
21 abuse in violation of section 709.4, subsection 2,  
22 paragraph "c", subparagraph (4), or sexual  
23 exploitation by a counselor or therapist in violation  
24 of section 709.15, or sexual exploitation by a law  
25 enforcement officer in violation of section 709.15A is  
26 not a "forcible felony".  
27 Sec. \_\_\_\_ . NEW SECTION. 709.15A SEXUAL  
28 EXPLOITATION BY A LAW ENFORCEMENT OFFICER -- PENALTY.  
29 1. As used in this section:  
30 a. "Law enforcement officer" means a peace officer  
31 employed by the state or a political subdivision of  
32 the state.  
33 b. "Sexual exploitation by a law enforcement  
34 officer" occurs when any sexual conduct occurs between  
35 a law enforcement officer and a victim for the purpose  
36 of arousing or satisfying the sexual desires of the  
37 law enforcement officer or victim, which includes but  
38 is not limited to the following: kissing; touching of  
39 the clothed or unclothed inner thigh, breast, groin,  
40 buttock, anus, pubes, or genitals; or a sex act as  
41 defined in section 702.17.  
42 c. "Victim" means a person who is the subject of  
43 an act being investigated or responded to by a law  
44 enforcement officer as a crime.  
45 2. A law enforcement officer who commits sexual  
46 exploitation commits a class "D" felony."  
47 3. By numbering, renumbering, and correcting  
48 internal references as necessary.

By JIM LIND

S-3051 FILED FEBRUARY 9, 1995  
RULED OUT OF ORDER

## SENATE FILE 93

## S-3050

- 1 Amend the amendment, S-3043, to Senate File 93 as  
 2 follows:  
 3 1. Page 2, by inserting after line 19 the  
 4 following:  
 5 "\_\_\_\_. Page 7, by inserting after line 3 the  
 6 following:  
 7 "4. The fees required by this section shall not be  
 8 assessed against a person who has been acquitted by  
 9 reason of insanity of the offense which requires  
 10 registration under this chapter."  
 11 2. By renumbering as necessary.

By RANDAL J. GIANNETTO  
 ROD HALVORSON

(P. 300) S-3050 FILED FEBRUARY 9, 1995  
 ADOPTED

## SENATE FILE 93

## S-3049

- 1 Amend Senate File 93 as follows:  
 2 1. Page 2, by striking lines 20 and 21.  
 3 2. Page 2, by inserting after line 29 the  
 4 following:  
 5 "7. "Sexual exploitation" means sexual  
 6 exploitation by a counselor or therapist under section  
 7 709.15."  
 8 3. Page 2, line 33, by inserting after the word  
 9 "minor" the following: ", sexual exploitation,".  
 10 4. Page 7, line 10, by inserting after the word  
 11 "minor" the following: ", sexual exploitation,".  
 12 5. Page 10, line 5, by inserting after the word  
 13 "minor" the following: ", sexual exploitation,".  
 14 6. By redesignating and correcting internal  
 15 references as necessary.

By NANCY BOETTGER  
 ANDY MCKEAN

TONY BISIGNANO  
 MAGGIE TINSMAN

(P. 306) S-3049 FILED FEBRUARY 9, 1995  
 ADOPTED

## SENATE FILE 93

## S-3052

- 1 Amend Senate File 93 as follows:  
 2 1. Page 10, by inserting after line 27 the  
 3 following:  
 4 "\_\_\_\_. Notwithstanding sections 232.147 through  
 5 232.151, records concerning convictions for criminal  
 6 offenses against a minor or sexually violent offenses  
 7 which are committed by a minor may be released in the  
 8 same manner as records of convictions of adults."  
 9 2. By numbering, renumbering, and correcting  
 10 internal references as necessary.

By MARY NEUHAUSER  
 TONY BISIGNANO  
 RANDAL GIANNETTO

(P. 306) S-3052 FILED FEBRUARY 9, 1995  
 ADOPTED

SENATE FILE 93

H-3294

1 Amend Senate File 93, as amended, passed, and  
2 reprinted by the Senate, as follows:  
3 1. Page 10, line 7, by inserting after the word  
4 "officers." the following: "Rules adopted shall also  
5 include a procedure for removal of information from  
6 the registry upon the reversal or setting aside of a  
7 conviction of a person who is registered under this  
8 chapter."

By FALLON of Polk

H-3294 FILED MARCH 14, 1995

*Adopted*  
4-10-95  
(P. 1389)

SENATE FILE 93

H-3646

1 Amend Senate File 93, as amended, passed, and  
2 reprinted by the Senate, as follows:  
3 1. Page 11, line 26, by inserting after the word  
4 "registry." the following: "The record of persons  
5 requesting information from the registry is a  
6 confidential record under section 22.7, subsection 9,  
7 unless the person requesting the information from the  
8 registry requests that the record of the information  
9 request be a public record."

By COON of Warren  
KREIMAN of Davis

HURLEY of Fayette  
LAMBERTI of Polk

H-3646 FILED MARCH 30, 1995

*Adopted*  
4-10-95  
(P. 1389)

## SENATE FILE 93

H-3660

1 Amend Senate File 93, as amended, passed, and  
2 reprinted by the Senate, as follows:

3 1. Page 1, line 7, by inserting after the words  
4 "to, a" the following: "juvenile who has been  
5 adjudicated delinquent, but whose juvenile court  
6 records have been sealed under section 232.150, and  
7 a".

8 2. Page 1, by inserting after line 12 the  
9 following:

10 "\_\_\_\_\_. "Criminal justice agency" means an agency or  
11 department of any level of government or an entity  
12 wholly owned, financed, or controlled by one or more  
13 such agencies or departments which performs as its  
14 principal function the apprehension, prosecution,  
15 adjudication, incarceration, or rehabilitation of  
16 criminal offenders."

17 3. Page 2, by striking lines 1 through 4.

18 4. Page 2, by striking lines 6 through 12.

19 5. Page 4, line 16, by striking the word  
20 "sheriff" and inserting the following: "court".

21 6. Page 4, line 19, by striking the word  
22 "sheriff" and inserting the following: "court".

23 7. Page 5, line 18, by striking the words  
24 "sheriff, warden," and inserting the following:  
25 "warden".

26 8. Page 5, by striking lines 20 through 30 and  
27 inserting the following: "do the following prior to  
28 release or sentencing of the convicted person:"

29 9. Page 5, line 31, by inserting after the word  
30 "photograph" the following: "and the social security  
31 number".

32 10. Page 6, by striking line 24 and inserting the  
33 following: "incarcerated, the warden or  
34 superintendent, or in the case of conviction without  
35 incarceration, the court shall".

36 11. Page 6, by striking lines 26 through 28 and  
37 inserting the following: "forms, and accept the forms  
38 on behalf of the sheriff of the county of  
39 registration. The warden or".

40 12. Page 6, line 29, by striking the words  
41 "superintendent shall send a copy of" and inserting  
42 the following: "the court shall send".

43 13. Page 6, line 30, by striking the word "form"  
44 and inserting the following: "information".

45 14. Page 7, line 1, by striking the word  
46 "sheriff" and inserting the following: "court".

47 15. Page 7, by striking lines 2 through 5 and  
48 inserting the following: "the registration  
49 information to the department and to the".

50 16. Page 7, line 8, by inserting after the word

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Page 2

1 "FEES" the following: "AND CIVIL PENALTY".

2 17. Page 7, by striking lines 20 through 25 and  
3 inserting the following:

4 "2. In addition to any other penalty, at the time  
5 of conviction for a public offense committed on or  
6 after the effective date of this Act which requires a  
7 person to register under this chapter, the person  
8 shall be assessed a civil penalty of two hundred  
9 dollars, to be payable in the same manner as a fine.

10 The clerk of the district court shall transmit money  
11 collected under this subsection each month to the  
12 treasurer of state, who shall deposit the money in the  
13 sex offender registry fund established under section  
14 692A.11."

15 18. Page 7, line 26, by inserting after the word  
16 "fees" the following: "and civil penalty".

17 19. Page 9, line 3, by inserting after the word  
18 "name," the following: "the registrant's social  
19 security number,".

20 20. Page 9, line 7, by inserting after the word  
21 "photographs" the following: "but shall not include  
22 information identifying the victim of the crime of  
23 which the registrant was convicted".

24 21. Page 9, line 35, by striking the words "law  
25 enforcement" and inserting the following: "criminal  
26 justice agencies".

27 22. Page 10, line 32, by striking the words "law  
28 enforcement" and inserting the following: "criminal  
29 justice".

30 23. Page 11, line 2, by striking the words "law  
31 enforcement" and inserting the following: "criminal  
32 justice".

33 24. Page 11, line 4, by striking the words "  
34 other than the identity of a victim of" and inserting  
35 the following: "from the registry regarding".

36 25. Page 11, lines 15 and 16, by striking the  
37 words "law enforcement" and inserting the following:  
38 "criminal justice".

39 26. Page 12, by striking line 9 and inserting the  
40 following:

41 "Criminal justice agencies, officials, and  
42 employees of criminal justice".

43 27. Page 12, line 11, by striking the words "good  
44 faith conduct under" and inserting the following:  
45 "acts or omissions arising from a good faith effort to  
46 comply with".

47 28. By numbering and renumbering as necessary.

By COMMITTEE ON JUDICIARY

HURLEY of Fayette, Chairperson

H-3660 FILED MARCH 31, 1995

*Adopted*

4-10-95

(P. 1388)

H-3686

- 1 Amend the amendment, H-3660, to Senate File 93, as  
2 amended, passed, and reprinted by the Senate as  
3 follows:  
4 1. Page 1, by inserting after line 7 the  
5 following:  
6 "\_\_\_\_. Page 1, by striking line 9 and inserting  
7 the following: "judgment."  
8 2. Page 1, by inserting after line 16 the  
9 following:  
10 "\_\_\_\_. Page 1, by striking lines 15 through 18 and  
11 inserting the following:  
12 "(1) Kidnapping of a minor.  
13 (a) False imprisonment of a minor."  
14 3. Page 2, line 2, by striking the figure "25"  
15 and inserting the following: "28".  
16 4. Page 2, line 12, by striking the words "the  
17 money" and inserting the following: "ten percent of  
18 the moneys transmitted into the court technology and  
19 modernization fund, for use for the purposes  
20 established in section 602.8108, subsection 4,  
21 paragraph "a", and the balance of the moneys  
22 transmitted".  
23 5. Page 2, by inserting after line 16 the  
24 following:  
25 "\_\_\_\_. Page 7, line 31, by striking the word  
26 "Failure" and inserting the following: "A willful  
27 failure".  
28 \_\_\_\_\_. Page 7, line 34, by striking the words "who  
29 fails" and inserting the following: "who willfully  
30 fails".  
31 \_\_\_\_\_. Page 8, line 5, by inserting after the word  
32 "The" the following: "willful".  
33 6. By numbering and renumbering as necessary.

By COON of Warren  
KREIMAN of Davis

H-3686 FILED APRIL 3, 1995

WITHDRAWN  
4-10-95  
(P. 1387)

## SENATE FILE 93

H-3816

1 Amend the amendment, H-3660, to Senate File 93, as  
2 amended, passed, and reprinted by the Senate as  
3 follows:  
4 1. Page 1, by inserting after line 7 the  
5 following:  
6 "\_\_\_\_. Page 1, by striking line 9 and inserting  
7 the following: "judgment."  
8 2. Page 1, by inserting after line 16 the  
9 following:  
10 "\_\_\_\_. Page 1, by striking lines 15 through 18 and  
11 inserting the following:  
12 "(1) Kidnapping of a minor.  
13 (2) False imprisonment of a minor."  
14 3. Page 2, line 2, by striking the figure "25"  
15 and inserting the following: "28".  
16 4. Page 2, line 12, by striking the words "the  
17 money in" and inserting the following: "ten percent  
18 of the moneys transmitted by the clerk into the court  
19 technology and modernization fund, for use for the  
20 purposes established in section 602.8108, subsection  
21 4, paragraph "a", and deposit the balance of the  
22 moneys transmitted by the clerk into".  
23 5. Page 2, by inserting after line 16 the  
24 following:  
25 "\_\_\_\_. Page 7, line 31, by striking the word  
26 "Failure" and inserting the following: "A willful  
27 failure".  
28 \_\_\_\_\_. Page 7, line 34, by striking the words "who  
29 fails" and inserting the following: "who willfully  
30 fails".  
31 \_\_\_\_\_. Page 8, line 5, by inserting after the word  
32 "The" the following: "willful".  
33 6. By numbering and renumbering as necessary.

By COON of Warren  
KREIMAN of Davis

H-3816 FILED APRIL 10, 1995

ADOPTED

(P. 1387)

## SENATE FILE 93

H-3824

1 Amend the amendment, H-3294, to Senate File 93, as  
2 amended, passed, and reprinted by the Senate, as  
3 follows:  
4 1. Page 1, line 8, by inserting after the word  
5 "chapter" the following: "if the reversal or setting  
6 aside of the conviction is based upon a finding that  
7 the person did not commit the offense".

By FALLON of Polk

H-3824 FILED APRIL 10, 1995

WITHDRAWN

(P. 1389)



HOUSE AMENDMENT TO  
SENATE FILE 93

S-3383

- 1 Amend Senate File 93, as amended, passed, and  
2 reprinted by the Senate, as follows:
- 3 1. Page 1, line 7, by inserting after the words  
4 "to, a" the following: "juvenile who has been  
5 adjudicated delinquent, but whose juvenile court  
6 records have been sealed under section 232.150, and  
7 a".
- 8 2. Page 1, by striking line 9 and inserting the  
9 following: "judgment."
- 10 3. Page 1, by inserting after line 12 the  
11 following:  
12 "\_\_\_\_. "Criminal justice agency" means an agency or  
13 department of any level of government or an entity  
14 wholly owned, financed, or controlled by one or more  
15 such agencies or departments which performs as its  
16 principal function the apprehension, prosecution,  
17 adjudication, incarceration, or rehabilitation of  
18 criminal offenders."
- 19 4. Page 1, by striking lines 15 through 18 and  
20 inserting the following:  
21 "(1) Kidnapping of a minor.  
22 (2) False imprisonment of a minor."
- 23 5. Page 2, by striking lines 1 through 4.  
24 6. Page 2, by striking lines 6 through 12.  
25 7. Page 4, line 16, by striking the word  
26 "sheriff" and inserting the following: "court".  
27 8. Page 4, line 19, by striking the word  
28 "sheriff" and inserting the following: "court".  
29 9. Page 5, line 18, by striking the words  
30 "sheriff, warden," and inserting the following:  
31 "warden".
- 32 10. Page 5, by striking lines 20 through 30 and  
33 inserting the following: "do the following prior to  
34 release or sentencing of the convicted person:"
- 35 11. Page 5, line 31, by inserting after the word  
36 "photograph" the following: "and the social security  
37 number".
- 38 12. Page 6, by striking line 24 and inserting the  
39 following: "incarcerated, the warden or  
40 superintendent, or in the case of conviction without  
41 incarceration, the court shall".
- 42 13. Page 6, by striking lines 26 through 28 and  
43 inserting the following: "forms, and accept the forms  
44 on behalf of the sheriff of the county of  
45 registration. The warden or".
- 46 14. Page 6, line 29, by striking the words  
47 "superintendent shall send a copy of" and inserting  
48 the following: "the court shall send".
- 49 15. Page 6, line 30, by striking the word "form"  
50 and inserting the following: "information".

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- 1 16. Page 7, line 1, by striking the word  
2 "sheriff" and inserting the following: "court".  
3 17. Page 7, by striking lines 2 through 5 and  
4 inserting the following: "the registration  
5 information to the department and to the".  
6 18. Page 7, line 8, by inserting after the word  
7 "FEES" the following: "AND CIVIL PENALTY".  
8 19. Page 7, by striking lines 20 through 28 and  
9 inserting the following:  
10 "2. In addition to any other penalty, at the time  
11 of conviction for a public offense committed on or  
12 after the effective date of this Act which requires a  
13 person to register under this chapter, the person  
14 shall be assessed a civil penalty of two hundred  
15 dollars, to be payable in the same manner as a fine.  
16 The clerk of the district court shall transmit money  
17 collected under this subsection each month to the  
18 treasurer of state, who shall deposit ten percent of  
19 the moneys transmitted by the clerk into the court  
20 technology and modernization fund, for use for the  
21 purposes established in section 602.8108, subsection  
22 4, paragraph "a", and deposit the balance of the  
23 moneys transmitted by the clerk into the sex offender  
24 registry fund established under section 692A.11."  
25 20. Page 7, line 31, by striking the word  
26 "Failure" and inserting the following: "A willful  
27 failure".  
28 21. Page 7, line 34, by striking the words "who  
29 fails" and inserting the following: "who willfully  
30 fails".  
31 22. Page 8, line 5, by inserting after the word  
32 "The" the following: "willful".  
33 23. Page 9, line 3, by inserting after the word  
34 "name," the following: "the registrant's social  
35 security number,".  
36 24. Page 9, line 7, by inserting after the word  
37 "photographs" the following: "but shall not include  
38 information identifying the victim of the crime of  
39 which the registrant was convicted".  
40 25. Page 9, line 35, by striking the words "law  
41 enforcement" and inserting the following: "criminal  
42 justice agencies".  
43 26. Page 10, line 7, by inserting after the word  
44 "officers." the following: "Rules adopted shall also  
45 include a procedure for removal of information from  
46 the registry upon the reversal or setting aside of a  
47 conviction of a person who is registered under this  
48 chapter."  
49 27. Page 10, line 32, by striking the words "law  
50 enforcement" and inserting the following: "criminal

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1 justice".

2 28. Page 11, line 2, by striking the words "law  
3 enforcement" and inserting the following: "criminal  
4 justice".

5 29. Page 11, line 4, by striking the words "  
6 other than the identity of a victim of" and inserting  
7 the following: "from the registry regarding".

8 30. Page 11, lines 15 and 16, by striking the  
9 words "law enforcement" and inserting the following:  
10 "criminal justice".

11 31. Page 11, line 26, by inserting after the word  
12 "registry." the following: "The record of persons  
13 requesting information from the registry is a  
14 confidential record under section 22.7, subsection 9,  
15 unless the person requesting the information from the  
16 registry requests that the record of the information  
17 request be a public record."

18 32. Page 12, by striking line 9 and inserting the  
19 following:

20 "Criminal justice agencies, officials, and  
21 employees of criminal justice".

22 33. Page 12, line 11, by striking the words "good  
23 faith conduct under" and inserting the following:  
24 "acts or omissions arising from a good faith effort to  
25 comply with".

26 34. By renumbering, relettering, or redesignating  
27 and correcting internal references as necessary.

RECEIVED FROM THE HOUSE

S-3383 FILED APRIL 11, 1995

*Senate refused to concur 4/18/95 (p. 1257)*  
*House insists 4/19/95 (p. 1729)*

REPORT OF THE CONFERENCE COMMITTEE  
ON SENATE FILE 93

To the President of the Senate and the Speaker of the House of Representatives:

We, the undersigned members of the conference committee appointed to resolve the differences between the Senate and the House of Representatives on Senate File 93, a bill for An Act related to criminal offenses against minors and sexually violent offenses and offenders committing those offenses, by requiring registration by offenders, providing for the establishment of a sex offender registry, permitting the charging of fees, and providing penalties, respectfully make the following report:

1. That the House recedes from its amendment, S-3383.
2. That Senate File 93, as amended, passed, and reprinted, is amended as follows:
  1. Page 1, line 6, by striking the words "a public" and inserting the following: "an indictable".
  2. Page 1, line 7, by inserting after the words "to, a" the following: "juvenile who has been adjudicated delinquent, but whose juvenile court records have been sealed under section 232.150, and a".
  3. Page 1, by inserting after line 12 the following:

"\_\_\_\_. "Criminal justice agency" means an agency or department of any level of government or an entity wholly owned, financed, or controlled by one or more such agencies or departments which performs as its principal function the apprehension, prosecution, adjudication, incarceration, or rehabilitation of criminal offenders."
  4. Page 1, line 13, by striking the letter "a."
  5. Page 1, by striking lines 15 and 16 and inserting the following:

"a. Kidnapping of a minor, except for kidnapping of a minor in the third degree which is committed by a parent."
  6. Page 1, line 17, by striking the figure "(2)" and

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inserting the following: "b."

7. Page 1, line 19, by striking the figure and words "(3) Any public" and inserting the following: "c. Any indictable".

8. Page 1, line 21, by striking the figure "(4)" and inserting the following: "d."

9. Page 1, line 23, by striking the figure "(5)" and inserting the following: "e."

10. Page 1, line 24, by striking the figure "(6)" and inserting the following: "f."

11. Page 1, line 25, by striking the figure and words "(7) Any public" and inserting the following: "g. Any indictable".

12. Page 1, line 27, by striking the figure "(8)" and inserting the following: "h."

13. Page 1, line 29, by striking the figure "(9)" and inserting the following: "i."

14. Page 1, line 31, by striking the figure "(10)" and inserting the following: "j."

15. Page 1, line 33, by striking the figure and words "(11) A public" and inserting the following: "k. An indictable".

16. Page 1, line 34, by striking the words "a public" and inserting the following: "an indictable".

17. Page 1, lines 34 and 35, by striking the words and figures "subparagraphs (1) through (10)" and inserting the following: "paragraphs "a" through "j"".

18. Page 2, by striking lines 1 through 4.

19. Page 2, by striking lines 6 through 12.

20. Page 2, line 17, by striking the word "public" and inserting the following: "indictable".

21. Page 2, line 26, by striking the word "public" and inserting the following: "criminal".

22. Page 2, line 27, by striking the words "a public" and inserting the following: "an indictable".

23. Page 3, line 4, by inserting after the word

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"incarcerated." the following: "A person who is convicted, as defined in section 692A.1, of either a criminal offense against a minor or a sexually violent offense as a result of adjudication of delinquency in juvenile court shall not be required to register as required in this chapter if the juvenile court finds that the person should not be required to register under this chapter."

24. Page 3, line 9, by inserting after the words "laws of" the following: "this state or of"

25. Page 3, line 14, by striking the words "of the other state".

26. Page 4, line 16, by striking the word "sheriff" and inserting the following: "court".

27. Page 4, line 19, by striking the word "sheriff" and inserting the following: "court".

28. Page 5, line 5, by inserting after the words "laws of" the following: "this state or of".

29. Page 5, by striking lines 20 through 30 and inserting the following: "do the following prior to release or sentencing of the convicted person:"

30. Page 5, line 31, by inserting after the word "fingerprints" the following: ", the social security number,".

31. Page 5, line 32, by inserting after the word "photograph" the following: "and the social security number".

32. Page 6, by striking line 24 and inserting the following: "incarcerated, the sheriff, warden, or superintendent, or in the case of conviction without incarceration, the court shall".

33. Page 6, by striking lines 26 through 28 and inserting the following: "forms, and accept the forms on behalf of the sheriff of the county of registration. The sheriff, warden, superintendent, or".

34. Page 6, line 29, by striking the words "superintendent shall send a copy of" and inserting the following: "the court shall send".

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35. Page 6, line 30, by striking the word "form" and inserting the following: "information".

36. Page 6, line 35, by striking the words "warden or" and inserting the following: "sheriff, warden, or".

37. Page 7, line 1, by striking the word "sheriff" and inserting the following: "court".

38. Page 7, by striking lines 2 through 5 and inserting the following: "the registration information to the department and to the".

39. Page 7, line 8, by inserting after the word "FEES" the following: "AND CIVIL PENALTY".

40. Page 7, by striking lines 20 through 25 and inserting the following:

"2. In addition to any other penalty, at the time of conviction for a public offense committed on or after the effective date of this Act which requires a person to register under this chapter, the person shall be assessed a civil penalty of two hundred dollars, to be payable in the same manner as a fine. The clerk of the district court shall transmit money collected under this subsection each month to the treasurer of state, who shall deposit ten percent of the moneys transmitted by the clerk into the court technology and modernization fund, for use for the purposes established in section 602.8108, subsection 4, paragraph "a", and deposit the balance of the moneys transmitted by the clerk into the sex offender registry fund established under section 692A.11."

41. Page 7, line 31, by striking the word "Failure" and inserting the following: "A willful failure".

42. Page 7, line 34, by striking the words "who fails" and inserting the following: "who willfully fails".

43. Page 8, line 5, by inserting after the word "The" the following: "willful".

44. Page 9, line 3, by inserting after the word "name," the following: "the registrant's social security number,".

45. Page 9, line 7, by inserting after the word "photographs" the following: "but shall not include

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information identifying the victim of the crime of which the registrant was convicted".

46. Page 9, line 35, by striking the words "law enforcement" and inserting the following: "criminal justice agencies".

47. Page 10, line 7, by inserting after the word "officers." the following: "Rules adopted shall also include a procedure for removal of information from the registry upon the reversal or setting aside of a conviction of a person who is registered under this chapter."

48. Page 10, line 32, by striking the words "law enforcement" and inserting the following: "criminal justice".

49. Page 11, line 2, by striking the words "law enforcement" and inserting the following: "criminal justice".

50. Page 11, line 4, by striking the words ", other than the identity of a victim of" and inserting the following: "from the registry regarding".

51. Page 11, lines 15 and 16, by striking the words "law enforcement" and inserting the following: "criminal justice".

52. Page 11, line 26, by inserting after the word "registry." the following: "The record of persons requesting information from the registry is a confidential record under section 22.7, subsection 9, unless the person requesting the information from the registry requests that the record of the information request be a public record."

53. Page 12, by striking line 9 and inserting the following: "Criminal justice agencies, officials, and employees of criminal justice".

54. Page 12, line 11, by striking the words "good faith conduct under" and inserting the following: "acts or omissions arising from a good faith effort to comply with".

55. Page 12, by inserting after line 12, the following:

"Sec. \_\_\_\_ . STATE MANDATE. For purposes of section 25B.2, subsection 3, the moneys received from fees which are permitted to be charged under this Act shall constitute full funding of any state mandate which is not otherwise excluded



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from the requirements of that subsection and which is imposed upon a political subdivision under this Act.

Sec. \_\_\_\_ . APPLICABILITY OF ACT -- TRANSITION PROVISIONS.

1. The registration requirements of this Act shall apply to persons convicted of criminal offenses against a minor, sexual exploitation, or a sexually violent offense prior to the effective date of this Act but who are released on or after the effective date of this Act, are participating in a work release or institutional work release program on or after the effective date of this Act, or who are under parole or probation supervision by a judicial district department of correctional services on or after the effective date of this Act.

2. Persons required to register under subsection 1, shall register for a period of ten years commencing with the later of either the effective date of this Act, or the date of the person's release from confinement, release on work release or institutional work release, or release on parole or probation. For persons released from confinement, registration shall be initiated by the warden or superintendent in charge of the place of confinement in the same manner as provided in section 692A.5. For persons who are under parole or probation supervision, the person's parole or probation officer shall inform the person of the person's duty to register and shall obtain the registration information required under section 692A.5.

Sec. \_\_\_\_ . SEVERABILITY OF ACT. If any provision of this Act or the application of this Act to any person is held invalid, the invalidity shall not affect the provisions or application of this Act which can be given effect without the invalid provisions or application, and to this end the provisions of this Act are severable."

56. Title page, line 1, by inserting after the word "minors" the following: ", sexual exploitation,".

57. Title page, by striking line 5, and inserting the following: "charging of fees, providing penalties, and

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Page 7

providing for transition, applicability, and severability provisions."

58. By renumbering, relettering, or redesignating and correcting internal references as necessary.

## ON THE PART OF THE SENATE:

TONY BISIGNANO, Chairperson  
RANDAL J. GIANNETTO  
O. GENE MADDOX  
ANDY McKEAN  
TOM VILSACK

## ON THE PART OF THE HOUSE:

BRIAN COON, Chairperson  
DWIGHT DINKLA  
MINNETTE DODERER  
JEFFREY LAMBERTI  
MICHAEL MORELAND

CCS-93.3 FILED APRIL 25, 1995

ADOPTED (p. 1403)

*adopted (p. 1879)*

Disignano-eh

Fraise

Vilsack

Maddox

Boettger

SSB-43

Judiciary

**Succeeded By**

SENATE/HOUSE FILE 93

BY (PROPOSED ATTORNEY GENERAL BILL)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

**A BILL FOR**

1 An Act related to criminal offenses against minors and sexually  
2 violent offenses and offenders committing those offenses, by  
3 requiring registration by offenders, providing for the  
4 establishment of a sex offender registry, and providing  
5 penalties.

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

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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 and a person who has been found not guilty by reason  
10 of insanity. "Convicted" or "conviction" does not mean a  
11 plea, sentence, adjudication, deferral of sentence or judgment  
12 which has been reversed or otherwise set aside.

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

15 (1) Kidnapping of a minor, except when committed by a  
16 parent.

17 (2) False imprisonment of a minor, except when committed  
18 by a parent.

19 (3) Any public offense involving sexual conduct directed  
20 toward a minor.

21 (4) Solicitation of a minor to engage in an illegal sex  
22 act.

23 (5) Use of a minor in a sexual performance.

24 (6) Solicitation of a minor to practice prostitution.

25 (7) Any public offense against a minor involving sexual  
26 contact with the minor.

27 (8) An attempt to commit an offense enumerated in this  
28 subsection.

29 (9) A public offense committed in another jurisdiction  
30 which would constitute a public offense under subparagraphs  
31 (1) through (8).

32 b. "Criminal offense against a minor" does not mean  
33 conduct which is criminal only because of the age of the  
34 victim if the perpetrator is eighteen years of age or younger  
35 at the time of the conduct.

1 3. "Department" means the department of public safety.

2 4. "Law enforcement agency" means an agency or department  
3 of federal, state, or local government or an entity which is  
4 wholly owned, financed, or controlled by one or more agencies  
5 or departments of federal, state, or local government, which  
6 performs as its principal function the apprehension,  
7 prosecution, adjudication, incarceration, or rehabilitation of  
8 criminal offenders.

9 5. "Residence" means the place where a person sleeps,  
10 which may include more than one location, and may be mobile or  
11 transitory.

12 6. "Sexually violent offense" means any of the following  
13 public offenses:

14 a. Sexual abuse as defined under section 709.1.

15 b. Assault with intent to commit sexual abuse in violation  
16 of section 709.11.

17 c. Sexual exploitation by a counselor or therapist in  
18 violation of section 709.15.

19 d. Sexual misconduct with offenders in violation of  
20 section 709.16.

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

24 f. A public offense committed in another jurisdiction  
25 which would constitute a public offense under paragraphs "a"  
26 through "e" if committed in this state.

27 Sec. 2. NEW SECTION. 692A.2 PERSONS REQUIRED TO  
28 REGISTER.

29 1. A person who has been convicted of or acquitted by  
30 reason of insanity of either a criminal offense against a  
31 minor or a sexually violent offense shall register as provided  
32 in this chapter for a period of ten years commencing from the  
33 date of placement on probation, parole, work release, or other  
34 release from custody. A person is not required to register  
35 while incarcerated. If a person is placed on probation,

1 parole, or work release and the probation, parole, or work  
2 release is revoked, the ten years shall commence anew upon  
3 release from custody.

4 2. A person who has been convicted of an offense under the  
5 laws of another state which would qualify the person as a  
6 sexually violent predator under the federal Violent Crime  
7 Control and Law Enforcement Act of 1994, Pub. L. No. 103-322,  
8 shall register as provided in this chapter for an  
9 indeterminate period terminating only upon a determination by  
10 the sentencing court of the other state that registration is  
11 no longer required.

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

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

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

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

1 department within three working days of receipt of notice of  
2 the address change.

3 4. A person required to register under this chapter shall  
4 notify the sheriff of the county in which the person is  
5 registered, within ten days of changing residence to a  
6 location outside this state, of the new residence address and  
7 any changes in telephone number and shall register in the  
8 other state within the ten days, if persons are required to  
9 register under the laws of the other state. The sheriff shall  
10 send a copy of the change of address to the department within  
11 three working days of receipt of notice of the address change.

12 5. The collection of information by a court or releasing  
13 agency under section 692A.5 shall serve as the person's  
14 initial registration for purposes of this section. The court  
15 or releasing agency shall forward a copy of the registration  
16 to the department within three working days of completion of  
17 registration.

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

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

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

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

30 c. The verification form shall be signed by the person,  
31 and state the address at which the person resides. If the  
32 person is in the process of changing residences, the person  
33 shall state that fact as well as the old and new addresses or  
34 places of residence.

35 2. Verification of address for a person who has been

1 convicted of an offense under the laws of another state which  
2 would qualify the person as a sexually violent predator under  
3 the federal Violent Crime Control and Law Enforcement Act of  
4 1994, Pub. L. No. 103-322, shall be accomplished in the same  
5 manner as in subsection 1, except that the verification shall  
6 be done every three months at times established by the  
7 department.

8 Sec. 5. NEW SECTION. 692A.5 DUTY TO FACILITATE  
9 REGISTRATION.

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

18 a. Obtain fingerprints and a photograph of the person if  
19 fingerprints and a photograph have not already been obtained  
20 in connection with the offense that triggers registration. A  
21 current photograph may also be required.

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

23 c. Inform the person that, within ten days of changing  
24 residence, registration with the sheriff in the county in  
25 which residence is established is required, if the residence  
26 is within the state.

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

35 e. Require the person to read and sign a form stating that



1 the duty of the person to register under this chapter has been  
2 explained. If the person cannot read, is unable to write, or  
3 refuses to cooperate, the duty and the form shall be explained  
4 orally and a written record maintained by the person  
5 explaining the duty and the form.

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

20 3. The warden or superintendent, or in the case the person  
21 is placed on probation, the court, shall forward one copy of  
22 the registration to the department and one copy to the sheriff  
23 of the county in which the person is to reside within three  
24 days after completion of the registration.

25 Sec. 6. NEW SECTION. 692A.6 CIVIL PENALTY FOR SEX  
26 OFFENDERS.

27 1. In addition to any other penalty, at the time of  
28 conviction for a public offense committed on or after the  
29 effective date of this chapter which requires a person to  
30 register under this chapter, the person shall be assessed a  
31 civil penalty of one hundred dollars, to be payable in the  
32 same manner as a fine.

33 2. The clerk of the district court shall transmit money  
34 collected under this section each month to the treasurer of  
35 state, who shall deposit the money in the sex offender

1 registry fund established under section 692A.11.

2 Sec. 7. NEW SECTION. 692A.7 FAILURE TO COMPLY --  
3 PENALTY.

4 1. Failure to register as required under this chapter is a  
5 serious misdemeanor for a first offense, an aggravated  
6 misdemeanor for a second offense, and a class "D" felony for a  
7 third or subsequent offense. Any fine imposed for a second or  
8 subsequent offense shall not be suspended. The court shall  
9 not defer judgment or sentence for any violation of the  
10 registration requirements of this chapter. The failure of a  
11 person who is on probation, parole, or work release, or any  
12 other form of release to register as required under this  
13 chapter shall result in the automatic revocation of the  
14 person's probation, parole, or work release.

15 2. In determining if a violation is a second or subsequent  
16 offense, a conviction for a violation of this section which  
17 occurred more than ten years prior to the date of the  
18 violation charged shall not be considered in determining that  
19 the violation charged is a second, third, or subsequent  
20 offense. Violations in any other states under sex offenders  
21 registry provisions that are substantially similar to those  
22 contained in this section shall be counted as previous  
23 offenses. The court shall judicially notice the statutes of  
24 other states which are substantially equivalent to this  
25 section.

26 Sec. 8. NEW SECTION. 692A.8 DETERMINATION OF REQUIREMENT  
27 TO REGISTER.

28 1. A person who is registered under this chapter may  
29 request that the department determine whether the offense for  
30 which the person has been convicted requires the person to  
31 register under this chapter or whether the period of time  
32 during which the person is obligated to register under this  
33 chapter has expired.

34 2. Application for determination shall be made on forms  
35 provided by the department and accompanied by copies of

1 sentencing or adjudicatory orders with respect to each offense  
2 for which the person asks that a determination be made.

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

6 Sec. 9. NEW SECTION. 692A.9 REGISTRATION FORMS.

7 Registration forms shall be prepared by the department and  
8 shall include the registrant's name, the registrant's current  
9 address, and, if applicable, the registrant's telephone  
10 number. The forms may provide for the reporting of additional  
11 relevant information such as, but not limited to, fingerprints  
12 and photographs. Copies of blank forms shall be available  
13 upon request to any person from the sheriff.

14 Sec. 10. NEW SECTION. 692A.10 DEPARTMENT DUTIES --  
15 REGISTRY.

16 The department shall perform all of the following duties:

17 1. Develop and disseminate standard forms for use in  
18 registering of, verifying addresses of, and verifying  
19 understanding of registration requirements by persons required  
20 to register under this chapter. Forms used to verify  
21 addresses of persons required to register under this chapter  
22 shall contain a warning against forwarding of the forms and of  
23 the requirement to return the forms if the person to whom the  
24 form is directed no longer resides at the address listed on  
25 the form or the mailing.

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

29 3. In consultation with the attorney general, adopt rules  
30 under chapter 17A which list specific offenses under present  
31 and former law which constitute criminal offenses against a  
32 minor under this chapter.

33 4. Adopt rules under chapter 17A, as necessary, to ensure  
34 compliance with registration and verification requirements of  
35 this chapter, to provide guidelines for persons required to

1 assist in obtaining registry information, and to provide a  
2 procedure for the dissemination of information contained in  
3 the registry.

4 Sec. 11. NEW SECTION. 692A.11 SEX OFFENDER REGISTRY  
5 FUND.

6 A sex offender registry fund is established as a separate  
7 fund within the state treasury under the control of the  
8 department. The fund shall consist of moneys received as a  
9 result of the imposition of the penalty imposed under section  
10 692A.6 and other funds allocated for purposes of establishing  
11 and maintaining the sex offender registry, conducting research  
12 and analysis related to sex crimes and offenders, and to  
13 perform other duties required under this chapter.

14 Notwithstanding section 8.33, unencumbered or unobligated  
15 moneys and any interest remaining in the fund on June 30 of  
16 any fiscal year shall not revert to the general fund of the  
17 state, but shall remain available for expenditure in  
18 subsequent fiscal years.

19 Sec. 12. NEW SECTION. 692A.12 DUTIES OF THE SHERIFF.

20 The sheriff of each county shall comply with the  
21 requirements of this chapter and rules adopted by the  
22 department pursuant to this chapter.

23 Sec. 13. NEW SECTION. 692A.13 CONFIDENTIALITY OF  
24 RECORDS.

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

28 1. The department or a sheriff may disclose information to  
29 law enforcement agencies for law enforcement or prosecution  
30 purposes.

31 2. The department may disclose information to government  
32 agencies which are conducting confidential background  
33 investigations.

34 3. The department or a law enforcement agency with case-  
35 specific authorization from the department may release

1 relevant information, other than the identity of a victim of a  
2 criminal offense against a minor or a sexually violent  
3 offense, that is necessary to protect the public concerning a  
4 specific person who is required to register under this  
5 chapter.

6 4. The department may disseminate departmental analyses of  
7 information contained in the sex offender registry to persons  
8 conducting bona fide research, if the data does not contain  
9 individually identified information, as defined under section  
10 692.1.

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

15 Sec. 14. NEW SECTION. 692A.14 COOPERATION WITH  
16 REGISTRATION.

17 Each agency of state and local government which possesses  
18 information relevant to requirements that a person register  
19 under this chapter shall provide that information to the court  
20 or the department upon request. All confidential records  
21 provided under this section shall remain confidential, unless  
22 otherwise ordered by a court, by the lawful custodian of the  
23 records, or by another person duly authorized to release such  
24 information.

25 Sec. 15. NEW SECTION. 692A.15 IMMUNITY FOR GOOD FAITH  
26 CONDUCT.

27 Law enforcement agencies and employees of law enforcement  
28 agencies and state agencies and their employees shall be  
29 immune from liability for good faith conduct under this  
30 chapter.

31 Sec. 16. NEW SECTION. 692A.16 SUPREME COURT RULES.

32 The supreme court shall prescribe rules relating to the  
33 judicial department's administration of procedures required  
34 under this chapter.

35

EXPLANATION

1 This bill establishes a central registry within the  
2 department of public safety for persons who commit criminal  
3 offenses against a minor and persons who commit sexually  
4 violent offenses. Criminal offenses against a minor are  
5 defined to include kidnapping of a minor, false imprisonment  
6 of a minor, public offenses involving sexual conduct which is  
7 directed toward a minor, solicitation of a minor to commit an  
8 illegal sex act, use of a minor in a sexual performance,  
9 solicitation of a minor to practice prostitution, public  
10 offenses involving sexual contact with a minor, public  
11 offenses under prior law which would be criminal offenses  
12 against a minor if they were current law, and offenses  
13 committed in another jurisdiction which would be criminal  
14 offenses against a minor if committed in this state. Sexually  
15 violent offenses include sexual abuse, assault with intent to  
16 commit sexual abuse, sexual exploitation by a counselor or  
17 therapist, sexual misconduct with offenders, and murder,  
18 kidnapping, or burglary involving sexual abuse or attempted  
19 sexual abuse. Persons who subject to the registration  
20 requirement are required to be registered for 10 years from  
21 the date that the person is placed on probation, parole, work  
22 release, or otherwise released from custody with the sheriff  
23 of the county of the person's residence. When the person is  
24 initially released either the court or the agency or person  
25 releasing the person will collect the initial registration  
26 information, which will be forwarded to the department of  
27 public safety and the sheriff of the county in which the  
28 person is to reside. Each year the department will verify the  
29 address of any persons convicted of committing criminal  
30 offenses against minors. The addresses of persons convicted  
31 of committing sexually violent offenses will be verified every  
32 three months by the department. Persons who are required to  
33 register under the bill are also required to reregister in the  
34 event that the person moves and notify the sheriffs in both  
35 locations of the address change. Penalties are established

1 for a failure to register. A first offense is a serious  
2 misdemeanor; a second offense is an aggravated misdemeanor;  
3 and a third or subsequent offense is a class "D" felony. Any  
4 fines imposed for a second or subsequent violation are not to  
5 be suspended. Persons who violate the registration  
6 requirement are not eligible for a deferred judgment or  
7 sentence. Persons who are required to register are, at the  
8 time of conviction, also to be assessed a \$100 civil penalty,  
9 which is to be deposited in a sex offender registry fund. The  
10 fund is used to pay for the costs of maintaining the registry  
11 by the department and to pay for research and analysis of the  
12 data collected through the registry. Persons who are not sure  
13 whether they are subject to the registration requirement may  
14 ask the department to issue an opinion on the issue of whether  
15 they are required to register. Registry information is  
16 considered to be a confidential law enforcement record and its  
17 dissemination and redissemination is generally limited to law  
18 enforcement agencies, although further dissemination is  
19 permitted under certain limited circumstances. State and  
20 local government entities are to cooperate with the court and  
21 the department in the provision of information relevant to  
22 implementation of the registry. Law enforcement agencies and  
23 employees of law enforcement agencies, as well as state  
24 agencies and their employees, are immune from liability for  
25 good faith conduct under the new chapter established in the  
26 bill. The department of public safety and the supreme court  
27 are to adopt rules to implement the provisions of the bill.

28 This bill may create a state mandate under chapter 25B.  
29 However, pursuant to section 25B.2, subsection 3, unnumbered  
30 paragraph 2, any requirement imposed under the bill is not a  
31 state mandate which requires full state funding.

32 BACKGROUND STATEMENT

33 SUBMITTED BY THE AGENCY

34 Research suggests that sex offenders are rarely, if ever  
35 rehabilitated and they tend to have high recidivism rates.

1 Law enforcement has found that many sex offenders become more  
2 sophisticated in their offending: choosing their victims more  
3 carefully, limiting evidence that would be available to prove  
4 the offense, and moving around so that they become anonymous  
5 to law enforcement personnel and community members. A fiscal  
6 impact note on a piece of similar legislation from 1991 noted  
7 that an estimated 210 sex offenders are released from Iowa  
8 correctional institutions annually.

9 At the present time, 40 states have enacted sex offender  
10 registry statutes. Sex offender registries help law  
11 enforcement track sex offenders as they move about within the  
12 state, or from state to state. In addition, the registry  
13 requirements may serve as a deterrent to keep offenders from  
14 repeating their crimes. A sex offender registry established  
15 in the state of Iowa would be a useful tool for law  
16 enforcement. In addition, the recently enacted federal crime  
17 bill requires that states enact sex offender registries.  
18 Failure to comply will result in a loss of federal funds.

19 There is a fiscal impact with this proposal. The  
20 department of public safety would need to add the appropriate  
21 staff in order to conduct data entry and to analyze crime  
22 information in order to solve criminal cases and monitor  
23 trends in sex crimes. Additional laboratory equipment may  
24 also be necessary. The costs associated with this proposal  
25 are outweighed by the safety issues involved. A civil penalty  
26 assessed against all sex offenders should be considered to  
27 help fund the cost associated with this proposal.

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SENATE FILE 93

AN ACT

RELATED TO CRIMINAL OFFENSES AGAINST MINORS, SEXUAL  
EXPLOITATION, AND SEXUALLY VIOLENT OFFENSES AND OFFENDERS  
COMMITTING THOSE OFFENSES, BY REQUIRING REGISTRATION BY  
OFFENDERS, PROVIDING FOR THE ESTABLISHMENT OF A SEX  
OFFENDER REGISTRY, PERMITTING THE CHARGING OF FEES,  
PROVIDING PENALTIES, AND PROVIDING FOR TRANSITION,  
APPLICABILITY, AND SEVERABILITY PROVISIONS.

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

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

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

1. "Convicted" or "conviction" means a person who is found  
guilty of, pleads guilty to, or is sentenced or adjudicated  
delinquent for an act which is an indictable offense in this  
state or in another jurisdiction, including, but not limited  
to, a juvenile who has been adjudicated delinquent, but whose  
juvenile court records have been sealed under section 232.150,  
and a person who has received a deferred sentence or a  
deferred judgment or has been acquitted by reason of insanity.  
"Convicted" or "conviction" does not mean a plea, sentence,  
adjudication, deferral of sentence or judgment which has been  
reversed or otherwise set aside.

2. "Criminal justice agency" means an agency or department  
of any level of government or an entity wholly owned,  
financed, or controlled by one or more such agencies or  
departments which performs as its principal function the  
apprehension, prosecution, adjudication, incarceration, or  
rehabilitation of criminal offenders.

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

a. Kidnapping of a minor, except for kidnapping of a minor  
in the third degree which is committed by a parent.

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

c. Any indictable offense involving sexual conduct  
directed toward a minor.

d. Solicitation of a minor to engage in an illegal sex  
act.

e. Use of a minor in a sexual performance.

f. Solicitation of a minor to practice prostitution.

g. Any indictable offense against a minor involving sexual  
contact with the minor.

h. An attempt to commit an offense enumerated in this  
subsection.

i. Dissemination and exhibition of obscene material to  
minors in violation of section 728.2.

j. Admitting minors to premises where obscene material is  
exhibited in violation of section 728.3.

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

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

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

6. "Sexually violent offense" means any of the following  
indictable offenses:

a. Sexual abuse as defined under section 709.1.

b. Assault with intent to commit sexual abuse in violation  
of section 709.11.

c. Sexual misconduct with offenders in violation of  
section 709.16.

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

e. A criminal offense committed in another jurisdiction  
which would constitute an indictable offense under paragraphs  
"a" through "d" if committed in this state.

7. "Sexual exploitation" means sexual exploitation by a counselor or therapist under section 709.15.

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

1. A person who has been convicted of either a criminal offense against a minor, sexual exploitation, or a sexually violent offense shall register as provided in this chapter for a period of ten years commencing from the date of placement on probation, parole, work release, or other release from custody. A person is not required to register while incarcerated. A person who is convicted, as defined in section 692A.1, of either a criminal offense against a minor or a sexually violent offense as a result of adjudication of delinquency in juvenile court shall not be required to register as required in this chapter if the juvenile court finds that the person should not be required to register under this chapter. If a person is placed on probation, parole, or work release and the probation, parole, or work release is revoked, the ten years shall commence anew upon release from custody.

2. A person who has been convicted of an offense under the laws of this state or of another state which would qualify the person as a sexually violent predator under the federal Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103-322, shall register as provided in this chapter for an indeterminate period terminating only upon a determination by the sentencing court that registration is no longer required.

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

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

2. A person required to register under this chapter shall, within ten days of changing residence within a county in this state, notify the sheriff of the county in which the person is

registered of the change of address and any changes in the person's telephone number in writing on a form provided by the sheriff. The sheriff shall send a copy of the change of address to the department within three working days of receipt of notice of the address change.

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

4. A person required to register under this chapter shall notify the sheriff of the county in which the person is registered, within ten days of changing residence to a location outside this state, of the new residence address and any changes in telephone number and shall register in the other state within the ten days, if persons are required to register under the laws of the other state. The sheriff shall send a copy of the change of address to the department within three working days of receipt of notice of the address change.

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

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

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

a. On a date which falls within the month in which the person was initially required to register, the department shall mail a verification form to the last reported address of

the person. Verification forms shall not be forwarded to the person who is required to register under this chapter if the person no longer resides at the address, but shall be returned to the department.

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

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

2. Verification of address for a person who has been convicted of an offense under the laws of this state or of another state which would qualify the person as a sexually violent predator under the federal Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103-322, shall be accomplished in the same manner as in subsection 1, except that the verification shall be done every three months at times established by the department.

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

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

a. Obtain fingerprints, the social security number, and a photograph of the person if fingerprints and a photograph and the social security number have not already been obtained in connection with the offense that triggers registration. A current photograph may also be required.

b. Inform the person of the duty to register.

c. Inform the person that, within ten days of changing residence, registration with the sheriff in the county in

which residence is established is required, if the residence is within the state.

d. Inform the person that if the person moves their residence to another state, the person must give the person's new address to the sheriff's department in the county of the person's old residence within ten days of changing addresses, and that, if the other state has a registration requirement, the person is also required to register in the new state of residence, not later than ten days after establishing residence in the other state and to verify the address at least annually.

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

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

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

Sec. 6. NEW SECTION. 692A.6 REGISTRATION FEES AND CIVIL PENALTY FOR OFFENDERS.

1. At the time of filing a registration statement, or a change of registration, with the sheriff of the county of residence, a person who is required to register under this chapter shall pay a fee of ten dollars to the sheriff. If, at the time of registration, the person who is required to register is unable to pay the fee, the sheriff may allow the person time to pay the fee, permit the payment of the fee in installments, or may waive payment of the fee. Fees paid to the sheriff shall be used to defray the costs of duties related to the registration of persons under this chapter.

2. In addition to any other penalty, at the time of conviction for a public offense committed on or after the effective date of this Act which requires a person to register under this chapter, the person shall be assessed a civil penalty of two hundred dollars, to be payable in the same manner as a fine. The clerk of the district court shall transmit money collected under this subsection each month to the treasurer of state, who shall deposit ten percent of the moneys transmitted by the clerk into the court technology and modernization fund, for use for the purposes established in section 602.8108, subsection 4, paragraph "a", and deposit the balance of the moneys transmitted by the clerk into the sex offender registry fund established under section 692A.11.

3. The fees required by this section shall not be assessed against a person who has been acquitted by reason of insanity of the offense which requires registration under this chapter.

Sec. 7. NEW SECTION. 692A.7 FAILURE TO COMPLY -- PENALTY.

1. A willful failure to register as required under this chapter is an aggravated misdemeanor for a first offense and a class "D" felony for a second or subsequent offense. However, a person who willfully fails to register as required under this chapter and who commits a criminal offense against a minor, sexual exploitation, or a sexually violent offense is guilty of a class "C" felony. Any fine imposed for a second

or subsequent offense shall not be suspended. The court shall not defer judgment or sentence for any violation of the registration requirements of this chapter. The willful failure of a person who is on probation, parole, or work release, or any other form of release to register as required under this chapter shall result in the automatic revocation of the person's probation, parole, or work release.

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

Sec. 8. NEW SECTION. 692A.8 DETERMINATION OF REQUIREMENT TO REGISTER.

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

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

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

Sec. 9. NEW SECTION. 692A.9 REGISTRATION FORMS.

Registration forms shall be prepared by the department and shall include the registrant's name, the registrant's social security number, the registrant's current address, and, if

applicable, the registrant's telephone number. The forms may provide for the reporting of additional relevant information such as, but not limited to, fingerprints and photographs but shall not include information identifying the victim of the crime of which the registrant was convicted. Copies of blank forms shall be available upon request to any person from the sheriff.

Sec. 10. NEW SECTION. 692A.10 DEPARTMENT DUTIES -- REGISTRY.

The department shall perform all of the following duties:

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

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

3. In consultation with the attorney general, adopt rules under chapter 17A which list specific offenses under present and former law which constitute criminal offenses against a minor under this chapter.

4. Adopt rules under chapter 17A, as necessary, to ensure compliance with registration and verification requirements of this chapter, to provide guidelines for persons required to assist in obtaining registry information, and to provide a procedure for the dissemination of information contained in the registry. The procedure for the dissemination of information shall include, but not be limited to, practical guidelines for use by criminal justice agencies in determining when public release of information contained in the registry is appropriate and a requirement that if a member of the general public requests information regarding a specific

individual in the manner provided in section 692A.13, subsection 6, the information shall be released. The department, in developing the procedure, shall consult with associations which represent the interests of law enforcement officers. Rules adopted shall also include a procedure for removal of information from the registry upon the reversal or setting aside of a conviction of a person who is registered under this chapter.

Sec. 11. NEW SECTION. 692A.11 SEX OFFENDER REGISTRY FUND.

A sex offender registry fund is established as a separate fund within the state treasury under the control of the department. The fund shall consist of moneys received as a result of the imposition of the penalty imposed under section 692A.6 and other funds allocated for purposes of establishing and maintaining the sex offender registry, conducting research and analysis related to sex crimes and offenders, and to perform other duties required under this chapter. Notwithstanding section 8.33, unencumbered or unobligated moneys and any interest remaining in the fund on June 30 of any fiscal year shall not revert to the general fund of the state, but shall remain available for expenditure in subsequent fiscal years.

Sec. 12. NEW SECTION. 692A.12 DUTIES OF THE SHERIFF.

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

Sec. 13. NEW SECTION. 692A.13 AVAILABILITY OF RECORDS.

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

1. The department or a sheriff may disclose information to criminal justice agencies for law enforcement or prosecution purposes.

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

3. The department or a criminal justice agency with case-specific authorization from the department may release relevant information from the registry regarding a criminal offense against a minor, sexual exploitation, or a sexually violent offense, that is necessary to protect the public concerning a specific person who is required to register under this chapter.

4. The department may disseminate departmental analyses of information contained in the sex offender registry to persons conducting bona fide research, if the data does not contain individually identified information, as defined under section 692.1.

5. Criminal history information contained in the registry may be released as provided in chapter 692 or used by criminal justice agencies as an index for purposes of locating a relevant conviction record.

6. A sheriff shall release information regarding a specific person who is required to register under this chapter to a member of the general public if the person requesting the information gives the person's name and address in writing, states the person's reason for requesting the information, and provides the sheriff with the name and address of the person about whom the information is sought. The sheriff shall maintain a record of persons requesting information from the registry. The record of persons requesting information from the registry is a confidential record under section 22.7, subsection 9, unless the person requesting the information from the registry requests that the record of the information request be a public record.

7. Notwithstanding sections 232.147 through 232.151, records concerning convictions for criminal offenses against a minor or sexually violent offenses which are committed by a minor may be released in the same manner as records of convictions of adults.

Sec. 14. NEW SECTION. 692A.14 COOPERATION WITH REGISTRATION.

Each agency of state and local government which possesses information relevant to requirements that a person register under this chapter shall provide that information to the court or the department upon request. All confidential records provided under this section shall remain confidential, unless otherwise ordered by a court, by the lawful custodian of the records, or by another person duly authorized to release such information.

Sec. 15. NEW SECTION. 692A.15 IMMUNITY FOR GOOD FAITH CONDUCT.

Criminal justice agencies, officials, and employees of criminal justice agencies and state agencies and their employees shall be immune from liability for acts or omissions arising from a good faith effort to comply with this chapter.

Sec. 16. STATE MANDATE. For purposes of section 25B.2, subsection 3, the moneys received from fees which are permitted to be charged under this Act shall constitute full funding of any state mandate which is not otherwise excluded from the requirements of that subsection and which is imposed upon a political subdivision under this Act.

Sec. 17. APPLICABILITY OF ACT -- TRANSITION PROVISIONS.

1. The registration requirements of this Act shall apply to persons convicted of criminal offenses against a minor, sexual exploitation, or a sexually violent offense prior to the effective date of this Act but who are released on or after the effective date of this Act, are participating in a work release or institutional work release program on or after the effective date of this Act, or who are under parole or probation supervision by a judicial district department of correctional services on or after the effective date of this Act.

2. Persons required to register under subsection 1, shall register for a period of ten years commencing with the later of either the effective date of this Act, or the date of the person's release from confinement, release on work release or institutional work release, or release on parole or probation. For persons released from confinement, registration shall be

initiated by the warden or superintendent in charge of the place of confinement in the same manner as provided in section 692A.5. For persons who are under parole or probation supervision, the person's parole or probation officer shall inform the person of the person's duty to register and shall obtain the registration information required under section 692A.5.

Sec. 18. SEVERABILITY OF ACT. If any provision of this Act or the application of this Act to any person is held invalid, the invalidity shall not affect the provisions or application of this Act which can be given effect without the invalid provisions or application, and to this end the provisions of this Act are severable.

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LEONARD L. BOSWELL  
President of the Senate

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RON J. CORBETT  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 93, Seventy-sixth General Assembly.

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JOHN F. DWYER  
Secretary of the Senate

Approved May 3, 1995

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TERRY E. BRANSTAD  
Governor