

Senate Study Bill 2032

Conference Committee Text

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1 1 Section 1. Section 692A.1, subsection 3, paragraph k, Code
1 2 Supplement 1995, is amended to read as follows:
1 3 k. Stalking, if it is directed toward a person under the
1 4 age of eighteen years.
1 5 l. Sexual exploitation of a minor in violation of section
1 6 728.12, subsection 2 or 3.
1 7 m. An indictable offense committed in another jurisdiction
1 8 which would constitute an indictable offense under paragraphs
1 9 "a" through

~~— "j"~~

~~— "l"~~

1 10 Sec. 2. Section 692A.1, subsection 6, Code Supplement
1 11 1995, is amended by adding the following new paragraphs after
1 12 paragraph c:
1 13 NEW PARAGRAPH. d. Telephone dissemination of obscene
1 14 materials in violation of section 728.15.
1 15 NEW PARAGRAPH. e. Rental or sale of hard-core pornography
1 16 in violation of section 728.4.
1 17 NEW PARAGRAPH. f. Indecent exposure in violation of
1 18 section 709.9.
1 19 Sec. 3. Section 692A.1, subsection 6, paragraph d, Code
1 20 Supplement 1995, is amended to read as follows:
1 21

~~— d.~~

~~— g.~~ Any of the following offenses, if the offense
1 22 involves sexual abuse or attempted sexual abuse: murder,
1 23 attempted murder, kidnapping,

~~— or~~

~~— burglary, or manslaughter.~~

1 24 Sec. 4. Section 692A.1, Code Supplement 1995, is amended
1 25 by adding the following new subsection:
1 26 NEW SUBSECTION. 3A. "Criminal offense requiring
1 27 registration" means a criminal offense which is not defined in
1 28 this section but which the court determines to require
1 29 registration pursuant to section 692A.2, subsection 3.
1 30 Sec. 5. Section 692A.2, Code Supplement 1995, is amended
1 31 by adding the following new subsection:
1 32 NEW SUBSECTION. 3. A prosecuting attorney may petition
1 33 the court at the time of sentencing to require that an
1 34 offender register as a sex offender where the offense is not
1 35 classified as a criminal offense against a minor, sexually
2 1 violent offense, or sexual exploitation. The court shall hold
2 2 a hearing on the petition and shall only require the person to
2 3 register if the prosecuting attorney proves by a preponderance
2 4 of the evidence that the offense for which an offender has
2 5 been convicted involved a sexual motivation.
2 6 Sec. 6. Section 692A.5, subsection 2, Code Supplement
2 7 1995, is amended by adding the following new unnumbered
2 8 paragraph:
2 9 NEW UNNUMBERED PARAGRAPH. If the offender refuses to
2 10 register, the sheriff, warden, or superintendent shall
2 11 immediately notify a prosecuting attorney of the refusal to
2 12 register. The prosecuting attorney may bring a contempt of

2 13 court action against the offender in the county in which the
2 14 offender was convicted. An offender who refuses to register
2 15 may be held in contempt and incarcerated following the entry
2 16 of judgment by the court on the contempt action until the
2 17 offender complies with the registration requirements.

2 18 Sec. 7. Section [692A.13](#), Code Supplement 1995, is amended
2 19 by adding the following new subsection:

2 20 NEW SUBSECTION. 8. Records regarding the persons
2 21 requesting registry information shall be maintained for ten
2 22 years.

2 23 EXPLANATION

2 24 This bill provides that criminal offenses against a minor
2 25 for the purposes of registration requirements for the sex
2 26 offender registry include stalking if the target is a person
2 27 age 17 or under and sexual exploitation of a minor which
2 28 involve knowingly promoting or possessing any material
2 29 visually depicting a live performance of a minor engaging in
2 30 prohibited sexual conduct. Sexual exploitation of a minor
2 31 involving inducing or knowingly permitting a minor to engage
2 32 in prohibited sexual conduct is currently considered a
2 33 criminal offense against a minor for the purposes of the
2 34 registry.

2 35 The bill also adds the following offenses to the definition
3 1 of sexually violent offenses: indecent exposure; telephone
3 2 dissemination of obscenity; rental or sale of hard-core
3 3 pornography; and attempted murder or manslaughter, if either
3 4 involves sexual abuse or attempted sexual abuse.

3 5 In addition, the bill authorizes a prosecuting attorney to
3 6 petition the court to require a person convicted of a crime
3 7 other than one of the crimes requiring registration to
3 8 register. The court must hold a hearing on the petition and
3 9 shall not require the person to register unless the
3 10 prosecuting attorney proves by a preponderance of the evidence
3 11 that the crime for which the offender was convicted had a
3 12 sexual motivation.

3 13 The bill further provides that a person who refuses to
3 14 register may be prosecuted for contempt of court and jailed
3 15 until the person registers. Also, records under the sex
3 16 offender registry are required to be kept for 10 years.

3 17 BACKGROUND STATEMENT

3 18 SUBMITTED BY THE AGENCY

3 19 The Iowa sex offender registry law was enacted in 1995
3 20 following a requirement in the federal crime bill directing
3 21 states to adopt such legislation or face loss of federal drug
3 22 funds. At this time, 47 states have enacted registry laws.
3 23 The Iowa law follows federal guidelines regarding which crimes
3 24 are covered, who has access to the information, and the
3 25 duration of the registration requirement, among other factors.
3 26 The Iowa sex offender registry is administered by the division
3 27 of criminal investigation within the department of public
3 28 safety.

3 29 The Iowa program has been in operation since July 1, 1995,
3 30 and has experienced a dramatic response from offenders, and
3 31 personnel in the state justice system. The total number of
3 32 registrants as of December 31, 1995, was 999.

3 33 The crimes that require registration include sex abuse,
3 34 lascivious acts with a child, indecent contact with a child,
3 35 assault with intent to commit sexual abuse, sexual
4 1 exploitation of a minor, among many others.

4 2 The proposed amendments address situations which the
4 3 program has experienced in its short time in existence, but
4 4 which have posed significant challenges. One of the
4 5 challenges that has arisen has resulted from the effect that
4 6 plea bargains have on the registration requirement. For
4 7 example, the crime that is committed may have clearly involved
4 8 sexual abuse on a child, but for various reasons the charge is
4 9 plea bargained to a simple assault. The plea bargain results

4 10 in a sex offender avoiding the registration requirement. This
4 11 amendment is proposed in order to not infringe on county
4 12 attorneys' authority to plea bargain, but also provides a
4 13 mechanism for requiring perpetrators of sexually motivated
4 14 crimes to register.

4 15 Another challenge that has arisen is that the crime of
4 16 indecent exposure requires registration only if the victim is
4 17 a minor. It is the opinion of the registry program that the
4 18 crime of indecent exposure if the victim is an adult should
4 19 also require registration.

4 20 The process for pursuing an action against an offender who
4 21 refuses to register is unclear in the current statute.
4 22 Establishing a clear procedure such as contained in the bill
4 23 would be beneficial.

4 24 The sheriffs' association requests that a deadline be
4 25 placed on the time that they are required to maintain written
4 26 records of requests for information.

4 27 LSB 3291DP 76

4 28 mk/sc/14.1