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FILED FEB 23 1998

SENATE FILE 2292
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 2008)

Passed Senate, Date 3/5/98 Passed House, Date 4-8-98 (p 141)
Vote: Ayes 49 Nays 0 Vote: Ayes 98 Nays 1
Approved May 6, 1998

A BILL FOR

1 An Act relating to the sex offender registry and providing for
2 the Act's applicability.

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

SENATE FILE 2292

S-5055

1 Amend Senate File 2292 as follows:

2 1. Page 8, line 5, by inserting after the word
3 "who" the following: "are convicted of a criminal
4 offense against a minor, sexual exploitation, an other
5 relevant offense, or a sexually violent offense on or
6 after the effective date of this Act and who".

7 2. Page 9, line 15, by inserting after the words
8 "human services;" the following: "juveniles who are
9 not incarcerated but who are placed under the
10 supervision of juvenile court services;".

11 *adopted 3/5/98 (p.588)* By JEFF ANGELO

12 S-5055 FILED FEBRUARY 23, 1998

S.F. 2292

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1 Section 1. Section 692A.1, subsection 6, Code Supplement
2 1997, is amended to read as follows:

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

5 a. Sexual abuse as defined under section 709.1.

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

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

10 ~~d. Telephone dissemination of obscene materials in~~
11 ~~violation of section 728.15.~~

12 ~~e. Rental or sale of hard-core pornography in violation of~~
13 ~~section 728.4.~~

14 ~~f. Indecent exposure in violation of section 709.9.~~

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

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

21 Sec. 2. Section 692A.1, Code Supplement 1997, is amended
22 by adding the following new subsections:

23 NEW SUBSECTION. 4A. "Other relevant offense" means any of
24 the following offenses:

25 a. Telephone dissemination of obscene materials in
26 violation of section 728.15.

27 b. Rental or sale of hard-core pornography in violation of
28 section 728.4.

29 c. Indecent exposure in violation of section 709.9.

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

33 NEW SUBSECTION. 8. "Sexually violent predator" means a
34 person who has been convicted of an offense under the laws of
35 this state or of another state which would qualify the person

1 as a sexually violent predator under the federal Violent Crime
2 Control and Law Enforcement Act of 1994, Pub. L. No. 103-322,
3 108 Stat. 1798.

4 Sec. 3. Section 692A.2, Code 1997, is amended to read as
5 follows:

6 692A.2 PERSONS REQUIRED TO REGISTER.

7 1. A person who has been convicted of ~~either~~ a criminal
8 offense against a minor, sexual exploitation, an other
9 relevant offense, or a sexually violent offense in this state
10 or in another state, or in a federal, military, tribal, or
11 foreign court, or a person required to register in another
12 state under the state's sex offender registry, shall register
13 as provided in this chapter. A person required to register
14 under this chapter shall, upon a first conviction, register
15 for a period of ten years commencing from as follows:

16 a. From the date of placement on probation;
17 b. From the date of release on parole, or work release;
18 c. From the date of release as a juvenile from foster care
19 or residential treatment;
20 d. From the date of any other release from custody.

21 2. If a person is placed on probation, parole, or work
22 release and the probation, parole, or work release is revoked,
23 the ten years shall commence anew upon release from custody.
24 If the person who is required to register under this chapter
25 is incarcerated for a crime which does not require
26 registration under this chapter, the period of registration is
27 tolled until the person is released from incarceration for
28 that crime.

29 3. A person who is required to register under this chapter
30 shall, upon a second or subsequent conviction, register for
31 the rest of the person's life.

32 4. A person is not required to register while
33 incarcerated, in foster care, or in a residential treatment
34 program. A person who is convicted, as defined in section
35 692A.1, of either a criminal offense against a minor or,

1 sexual exploitation, a sexually violent offense, or an other
2 relevant offense as a result of adjudication of delinquency in
3 juvenile court shall not be required to register as required
4 in this chapter if unless the juvenile court finds that the
5 person should not be required to register under this chapter.
6 ~~If a person is placed on probation, parole, or work release~~
7 ~~and the probation, parole, or work release is revoked, the ten~~
8 ~~years shall commence anew upon release from custody. If a~~
9 juvenile is required to register and the court later modifies
10 the order regarding the requirement to register, the court
11 shall immediately notify the department. Convictions of more
12 than one offense which require registration under this chapter
13 but which are prosecuted within a single indictment shall be
14 considered as a single offense for purposes of registration.

15 2- 5. A person who has been convicted of an offense under
16 the laws of this state or of another state which would qualify
17 the person as a sexually violent predator ~~under the federal~~
18 ~~Violent Crime Control and Law Enforcement Act of 1994, Pub. L.~~
19 ~~No. 103-322,~~ shall register as provided in this chapter for an
20 indeterminate period terminating only upon a determination by
21 the sentencing court that registration is no longer required.

22 Sec. 4. Section 692A.3, subsections 2, 3, and 4, Code
23 1997, are amended to read as follows:

24 2. A person required to register under this chapter shall,
25 within ten days of changing residence within a county in this
26 state or within ten days of a change in the person's name as a
27 result of marriage, dissolution of marriage, or a legal name
28 change, notify the sheriff of the county in which the person
29 is registered of the change of address, name, and any changes
30 in the person's telephone number in writing on a form provided
31 by the sheriff. The sheriff shall send a copy of the change
32 of address information to the department within three working
33 days of receipt of notice of the address change. The sex
34 offender registry shall maintain and make available
35 information from the registry cross-referenced by name at the

1 time of conviction and by name subsequent to any change.

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

13 4. A person required to register under this chapter shall
14 notify the sheriff of the county in which the person is
15 registered, within ten days of changing residence to a
16 location outside this state, of the new residence address and
17 any changes in telephone number ~~and shall register in the~~
18 ~~other state within the ten days, if persons are required to~~
19 ~~register under the laws of the other state~~ or name. The
20 sheriff shall send a copy of the change ~~of address~~ to the
21 department within three working days of receipt of notice of
22 the address change. The person must register with the
23 registering agency of the other state within ten days of
24 changing residency, if persons are required to register under
25 the laws of the other state. The department or the sheriff of
26 the county in this state in which the person last resided may
27 notify the registering agency in the other state of the
28 registrant's new address, telephone number, or name.

29 Sec. 5. Section 692A.4, subsection 2, Code 1997, is
30 amended to read as follows:

31 2. Verification of address for a person who has been
32 convicted of an offense under the laws of this state or of
33 another state which would qualify the person as a sexually
34 violent predator ~~under the federal Violent Crime Control and~~
35 ~~law Enforcement Act of 1994, Pub. L. No. 103-322,~~ shall be

1 accomplished in the same manner as in subsection 1, except
2 that the verification shall be done every three months at
3 times established by the department.

4 Sec. 6. Section 692A.5, subsection 1, paragraph a, Code
5 Supplement 1997, is amended to read as follows:

6 a. Obtain fingerprints, the social security number, and a
7 photograph of the person if fingerprints and a photograph and
8 the social security number have not already been obtained in
9 connection with the offense that triggers registration. A
10 current photograph may shall also be required. Additional
11 information for a person required to register as a sexually
12 violent predator shall include, but not be limited to, other
13 identifying factors, anticipated future places of residence,
14 offense history, and documentation of any treatment received
15 by the person for a mental abnormality or personality
16 disorder.

17 Sec. 7. Section 692A.5, subsection 2, unnumbered paragraph
18 2, Code Supplement 1997, is amended to read as follows:

19 If the offender refuses to register, the sheriff, warden,
20 or superintendent shall immediately notify a prosecuting
21 attorney in the county in which the offender was convicted or,
22 if the offender no longer resides in that county, in the
23 county in which the offender resides of the refusal to
24 register. The prosecuting attorney may shall bring a contempt
25 of court action against the offender in the county in which
26 the offender was convicted or, if the offender no longer
27 resides in that county, in the county in which the offender
28 resides. An offender who refuses to register may shall be
29 held in contempt and may be incarcerated following the entry
30 of judgment by the court on the contempt action until the
31 offender complies with the registration requirements.

32 Sec. 8. Section 692A.7, subsection 1, Code 1997, is
33 amended to read as follows:

34 1. A willful failure to register as required under this
35 chapter is an aggravated misdemeanor for a first offense and a

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

14 Sec. 9. Section 692A.9, Code 1997, is amended to read as
15 follows:

16 692A.9 REGISTRATION FORMS.

17 Registration forms shall be prepared by the department and
18 shall include the registrant's name at the time of conviction
19 and any change of name as a result of marriage, dissolution of
20 marriage, or legal name change, the registrant's social
21 security number, date of birth, the registrant's current
22 address, and, if applicable, the registrant's telephone
23 number. The forms may provide for the reporting of additional
24 relevant information such as, but not limited to, fingerprints
25 and photographs but shall not include information identifying
26 the victim of the crime of which the registrant was convicted.
27 Additional information for persons required to register as a
28 sexually violent predator shall include, but not be limited
29 to, other identifying factors, anticipated future places of
30 residence, offense history, and documentation of any treatment
31 received by the person for mental abnormality or personality
32 disorder. Copies of blank forms shall be available upon
33 request to any person from the sheriff.

34 Sec. 10. Section 692A.13, subsection 3, Code 1997, is
35 amended to read as follows:

1 3. The department or a criminal or juvenile justice agency
2 ~~with case-specific authorization from the department~~ may
3 release relevant information from the registry regarding a
4 ~~criminal offense against a minor, sexual exploitation, or a~~
5 ~~sexually violent offense, that is necessary to protect the~~ to
6 members of the general public concerning a specific person who
7 is required to register under this chapter as follows:

8 a. Any person may contact a sheriff's office or a police
9 department in writing to request information regarding any
10 person required to register. A request for information shall
11 include the name and one or more of the following identifiers
12 pertaining to the person about whom information is sought:

- 13 (1) The person's date of birth.
14 (2) The person's social security number.
15 (3) The person's address.

16 b. A county sheriff or a police department shall also
17 provide to any person upon request a list of all registrants
18 in that county who have been classified as "at-risk" in this
19 state.

20 c. For offenders who have been classified as "at-risk" in
21 this state pursuant to an assessment conducted as provided in
22 subsection 5, the department or a criminal or juvenile justice
23 agency may also release the offender's name, a photograph,
24 locations frequented by the offender, and relevant Iowa
25 criminal history information from the registry to public and
26 private schools, child day care centers, family day care
27 providers, businesses, and organizations that serve primarily
28 children, women, or vulnerable adults, and neighbors and
29 community groups, or to the public at large. The extent of
30 public disclosure of the information shall be rationally
31 related to the following:

- 32 (1) The level of risk posed by the offender to the
33 community.
34 (2) The locations where the offender resides, expects to
35 reside, or is regularly found.

1 (3) The needs of the affected community members for
2 information to enhance their individual and collective safety.

3 d. The department shall provide electronic access to
4 relevant information from the registry pertaining to offenders
5 who have been classified as "at-risk".

6 Sec. 11. Section 692A.13, subsections 6 and 7, Code 1997,
7 are amended by striking the subsections and inserting in lieu
8 thereof the following:

9 6. The department of corrections, the department of human
10 services, and the department of public safety shall, in
11 consultation with one another, develop methods and procedures
12 for the assessment of the risk that persons required to
13 register under this chapter pose of reoffending. The
14 department of corrections, in consultation with the department
15 of human services, the department of public safety, and the
16 attorney general, shall adopt rules relating to assessment
17 procedures. The assessment procedures shall include
18 procedures for the sharing of information between the
19 department of corrections, department of human services, and
20 the division of criminal investigation of the department of
21 public safety, as well as the communication of the results of
22 the risk assessment to criminal and juvenile justice agencies.
23 The assignment of responsibility for the assessment of risk
24 shall be as follows:

25 a. The department of corrections shall perform the
26 assessment of risk for persons who are incarcerated in
27 institutions under the control of the director of the
28 department of corrections, persons who are under the
29 supervision of the department of corrections or a judicial
30 district department of correctional services, and persons who
31 are under the supervision or control of the department of
32 corrections or a judicial district department of correctional
33 services through an interstate compact.

34 b. The department of human services shall perform the
35 assessment of risk for persons who are confined in

1 institutions under the control of the director of human
2 services, persons who are under the supervision of the
3 department of human services, and persons who are under the
4 supervision or control of the department of human services
5 through an interstate compact.

6 c. The division of criminal investigation of the
7 department of public safety shall perform the assessment of
8 risk for persons who have moved to Iowa but are not under the
9 supervision of the department of corrections, a judicial
10 district department of correctional services, or the
11 department of human services; federal parolees or
12 probationers; persons who have been released from a county
13 jail but are not under the supervision of the department of
14 corrections, a judicial district department of correctional
15 services, or the department of human services; and persons who
16 are convicted and released by the courts and are not
17 incarcerated or placed under supervision pursuant to the
18 court's sentencing order. Assessments of persons who have
19 moved to Iowa and persons on federal parole or probation shall
20 be performed on an expedited basis if the person was
21 classified as a person with a high degree of likelihood of
22 reoffending by the other jurisdiction or the federal
23 government.

24 7. By January 1, 1999, the department of corrections, the
25 department of human services, and the division of criminal
26 investigation of the department of public safety shall, in
27 consultation with one another and associations which represent
28 criminal and juvenile justice agencies, develop a model policy
29 for disclosure of information about persons required to
30 register under this chapter to members of the general public.
31 The model policy shall be designed to further the objectives
32 of providing adequate and timely notice to the community
33 concerning sex offenders who are or will be residing in the
34 community and of assisting community members in developing
35 constructive plans to prepare themselves.

1 Sec. 12. Section 692A.13, subsection 8, Code 1997, is
2 amended to read as follows:

3 8. Notwithstanding sections 232.147 through 232.151,
4 records concerning convictions for criminal offenses against a
5 minor, sexual exploitation, other relevant offenses, or
6 sexually violent offenses which are committed by a minor may
7 be released in the same manner as records of convictions of
8 adults.

9 Sec. 13. NEW SECTION. 692A.16 APPLICABILITY OF CHAPTER.

10 1. The registration requirements of this chapter shall
11 apply to persons convicted of a criminal offense against a
12 minor, sexual exploitation, an other relevant offense, or a
13 sexually violent offense prior to July 1, 1995, are released
14 on or after July 1, 1995, who are participating in a work
15 release or institutional work release program on or after July
16 1, 1995, or who are under parole or probation supervision by a
17 judicial district department of correctional services on or
18 after July 1, 1995.

19 2. Persons required to register under subsection 1 shall
20 register for a period of ten years commencing with the later
21 of either July 1, 1995, or the date of the person's release
22 from confinement, release on work release or institutional
23 work release, or release on parole or probation. For persons
24 released from confinement, registration shall be initiated by
25 the warden, sheriff, or superintendent in charge of the place
26 of confinement in the same manner as provided in section
27 692A.5. For persons who are under parole or probation
28 supervision, the person's parole or probation officer shall
29 inform the person of the person's duty to register and shall
30 obtain the registration information from the person as
31 required under section 692A.5.

32 Sec. 14. Section 901.4, Code 1997, is amended to read as
33 follows:

34 901.4 PRESENTENCE INVESTIGATION REPORT CONFIDENTIAL.

35 The presentence investigation report is confidential and

1 the court shall provide safeguards to ensure its
2 confidentiality, including but not limited to sealing the
3 report, which may be opened only by further court order. At
4 least three days prior to the date set for sentencing, the
5 court shall serve all of the presentence investigation report
6 upon the defendant's attorney and the attorney for the state,
7 and the report shall remain confidential except upon court
8 order. However, the court may conceal the identity of the
9 person who provided confidential information. The report of a
10 medical examination or psychological or psychiatric evaluation
11 shall be made available to the attorney for the state and to
12 the defendant upon request. The reports are part of the
13 record but shall be sealed and opened only on order of the
14 court. If the defendant is committed to the custody of the
15 Iowa department of corrections and is not a class "A" felon, a
16 copy of the presentence investigation report shall be
17 forwarded to the director with the order of commitment by the
18 clerk of the district court and to the board of parole at the
19 time of commitment. The defendant or the defendant's attorney
20 may file with the presentence investigation report, a denial
21 or refutation of the allegations, or both, contained in the
22 report. The denial or refutation shall be included in the
23 report. If the person is sentenced for an offense which
24 requires registration under chapter 692A, the court shall
25 release the report to the department which is responsible
26 under section 692A.13 for performing the assessment of risk.

27 EXPLANATION

28 This bill amends the sex offender registry chapter by
29 making changes to definitions, providing for lifetime
30 registration for repeat offenders, providing for registration
31 of offenders who are required to register in another state but
32 whose crimes do not trigger the registration requirements in
33 this state, making changes in the notification and offender
34 reporting requirements, providing for offender risk
35 assessment, and codifying language regarding the applicability

1 of registration requirements.

2 The definition of the term "sexually violent offense" is
3 amended in Code section 692A.1 by striking three offenses,
4 telephone dissemination of obscene materials, rental or sale
5 of hard-core pornography, and indecent exposure, from the
6 definition. The same offenses are contained in the new
7 definition of "other relevant offense", which is incorporated
8 into the registration requirements. A definition of the term
9 "sexually violent predator" is created and defines the term as
10 meaning the same as under the federal definition of sexually
11 violent predator under the Violent Crime Control and Law
12 Enforcement Act of 1994. Language which referenced the
13 federal definition in other provisions of Code chapter 692A is
14 stricken to utilize the new definition.

15 The provisions in Code section 692A.2 which establish an
16 individual's duty to register as a sex offender are amended to
17 require registration in Iowa by persons who are convicted of
18 an offense in a court in another state, a federal court, a
19 military court, a tribal court, or a foreign court, which
20 would require registration if committed in this state, as well
21 as persons who are required to register in another state.
22 Language is added to provide for the tolling of the period of
23 registration during the time that a registrant is incarcerated
24 for an offense which does not require registration. A
25 requirement is added that provides that if a person is
26 convicted more than once of a crime which requires
27 registration, that person must register for the rest of the
28 person's life. If the juvenile court modifies an order which
29 had required the registration of a juvenile, the court must
30 notify the department of the modification. Convictions of
31 more than one offense which require registration and which are
32 prosecuted in a single indictment are to be considered as a
33 single offense for purposes of registration.

34 Language is added to the provisions in Code section 692A.3
35 relating to changes in information pertaining to a registrant

1 to require that the person provide information relating to
2 certain new legal name changes and to provide that the
3 registry be cross-referenced by name at the time of conviction
4 and by name subsequent to any change. The bill also requires
5 that persons who move to another state must register with the
6 registering agency of the other state within 10 days of
7 changing residency, if sex offenders are required to register
8 under the laws of that state. The department or the sheriff
9 of the county in this state may notify the registering agency
10 in the other state of the registrant's new address, telephone
11 number, or name.

12 The contempt procedures applicable to an offender refusing
13 to register are changed to require the sheriff, warden, or
14 superintendent of the institution from which the offender is
15 to be or was released to notify a prosecuting attorney in the
16 county in which the offender was convicted, or, if the
17 offender no longer resides in that county, in the county in
18 which the offender resides. The prosecutor is required to
19 bring a contempt of court action in the county in which the
20 conviction for the sex offense was obtained or, if the
21 offender no longer resides in that county, in the county in
22 which the offender resides.

23 Sexually violent predators are required by the amendments
24 to Code sections 692A.5 and 692A.9 to provide the registry
25 with additional information, beyond that which is required for
26 other sex offenders, including other identifying factors,
27 anticipated future residence, offense history, and
28 documentation of any treatment received by the person for
29 mental abnormality or personality disorder.

30 The public notification provisions in Code section 692A.13
31 are modified to provide that any person may contact a
32 sheriff's office or police department in writing to request
33 information regarding any person who is required to register.
34 The request must include the registrant's name and at least
35 one of the following additional identifiers: the registrant's

1 date of birth, social security number, or address.

2 Additionally, the county sheriff or a police department is to
3 provide to any person upon request a list of all registrants
4 in that county who are classified as at-risk of reoffending.

5 For offenders who have been classified as at-risk of
6 reoffending in this state, the department of public safety or
7 a criminal or juvenile justice agency may release the
8 offender's name, a photograph, locations frequented by the
9 offender, and relevant Iowa criminal history information from
10 the registry to public and private schools, child day care
11 centers, family day care providers, businesses and
12 organizations that serve primarily children, women, or
13 vulnerable adults, and neighbors and community groups, or to
14 the public at large. Releases of information are to be
15 rationally related to the level of risk posed by the offender,
16 the locations where the offender resides or may be found, and
17 the needs of the affected community members. The department
18 is also to provide electronic access to relevant information
19 from the registry which pertains to offenders who have been
20 classified as at-risk. The department of corrections, the
21 department of human services, and the department of public
22 safety, in consultation with one another, are required to
23 develop methods and procedures for the assessment of persons
24 required to register as sex offenders and sexually violent
25 predators and are to perform assessments of offenders who are
26 under their respective jurisdictions. The departments are
27 also to include as part of the assessment procedures,
28 procedures for the sharing of information between the
29 departments and communication of the risk assessment results
30 to criminal and juvenile justice agencies. The provision
31 restricting the release of presentence reports is amended to
32 provide for release of the report to the department which is
33 responsible for performing the offender assessment of risk.

34 The department of corrections, the department of human
35 services, and the division of criminal investigation of the

1 department of public safety, in consultation with each other
2 and the associations which represent criminal and juvenile
3 justice agencies, are to develop, by January 1, 1999, a model
4 policy for disclosure of information to members of the public
5 about persons required to register as sex offenders.

6 Language in Code section 692A.13 relating to the release of
7 information is changed to include information regarding
8 convictions for the crimes of sexual exploitation and those
9 offenses classified as other relevant offenses.

10 The registration provisions of Code chapter 692A are made
11 applicable by new Code section 692A.16 for a period of 10
12 years to persons convicted of criminal offenses against a
13 minor, sexual exploitation, other relevant offenses, and
14 sexually violent offenses prior to July 1, 1995, but who are
15 released after that date. The bill takes effect July 1 after
16 enactment since no other effective date is specified.

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SENATE FILE 2292
FISCAL NOTE

REQ. BY SENATOR MADDOX

A fiscal note for Senate File 2292 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 2292 amends the Sex Offender Registry chapter by making changes to definitions, providing for lifetime registration for repeat offenders, providing for registration of offenders who are required to register in another state, making changes in the notification and offender reporting requirements, and providing for offender risk assessment.

ASSUMPTIONS

1. A technical support position would be required to manage the website (1.0 FTE Informational Technical Specialist III at \$43,000 annually).
2. An Administrative Assistant would be required to manage the assessments (1.0 FTE Administrative Assistant at \$30,000 annually).
3. One time purchase of computer hardware/software and programming (\$10,000).

FISCAL IMPACT

Senate File 2292 would increase expenditures for the Department of Public Safety by approximately \$83,000 for FY 1999.

SOURCE

Department of Public Safety

(LSB 3143SV, DHK)

FILED MARCH 2, 1998

BY DENNIS PROUTY, FISCAL DIRECTOR

H. 3/10/98 Judiciary
H. 3/19/98 Do Pass
H. 3/28/98 FINISHED BUSINESS CALENDAR

SENATE FILE 2292
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 2008)

(AS AMENDED AND PASSED BY THE SENATE MARCH 5, 1998)

~~_____~~ - New Language by the Senate

Passed Senate (P. 1274) Date 4-15-98 Passed House (P. 1411) Date 4-8-98
Vote: Ayes 47 Nays 0 Vote: Ayes 98 Nays 1
Approved May 6, 1998

A BILL FOR

1 An Act relating to the sex offender registry and providing for
2 the Act's applicability.

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

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S.F. 2292

1 Section 1. Section 692A.1, subsection 6, Code Supplement
2 1997, is amended to read as follows:

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

5 a. Sexual abuse as defined under section 709.1.

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

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

10 ~~d. Telephone dissemination of obscene materials in~~
11 ~~violation of section 728.15.~~

12 ~~e. Rental or sale of hard-core pornography in violation of~~
13 ~~section 728.4.~~

14 ~~f. Indecent exposure in violation of section 709.9.~~

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

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

21 Sec. 2. Section 692A.1, Code Supplement 1997, is amended
22 by adding the following new subsections:

23 NEW SUBSECTION. 4A. "Other relevant offense" means any of
24 the following offenses:

25 a. Telephone dissemination of obscene materials in
26 violation of section 728.15.

27 b. Rental or sale of hard-core pornography in violation of
28 section 728.4.

29 c. Indecent exposure in violation of section 709.9.

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

33 NEW SUBSECTION. 8. "Sexually violent predator" means a
34 person who has been convicted of an offense under the laws of
35 this state or of another state which would qualify the person

1 as a sexually violent predator under the federal Violent Crime
2 Control and Law Enforcement Act of 1994, Pub. L. No. 103-322,
3 108 Stat. 1798.

4 Sec. 3. Section 692A.2, Code 1997, is amended to read as
5 follows:

6 692A.2 PERSONS REQUIRED TO REGISTER.

7 1. A person who has been convicted of either a criminal
8 offense against a minor, sexual exploitation, an other
9 relevant offense, or a sexually violent offense in this state
10 or in another state, or in a federal, military, tribal, or
11 foreign court, or a person required to register in another
12 state under the state's sex offender registry, shall register
13 as provided in this chapter. A person required to register
14 under this chapter shall, upon a first conviction, register
15 for a period of ten years commencing from as follows:

- 16 a. From the date of placement on probation.
17 b. From the date of release on parole, or work release.
18 c. From the date of release as a juvenile from foster care
19 or residential treatment, or.

20 d. From the date of any other release from custody.

21 2. If a person is placed on probation, parole, or work
22 release and the probation, parole, or work release is revoked,
23 the ten years shall commence anew upon release from custody.
24 If the person who is required to register under this chapter
25 is incarcerated for a crime which does not require
26 registration under this chapter, the period of registration is
27 tolled until the person is released from incarceration for
28 that crime.

29 3. A person who is required to register under this chapter
30 shall, upon a second or subsequent conviction, register for
31 the rest of the person's life.

32 4. A person is not required to register while
33 incarcerated, in foster care, or in a residential treatment
34 program. A person who is convicted, as defined in section
35 692A.1, of either a criminal offense against a minor or,

1 sexual exploitation, a sexually violent offense, or an other
2 relevant offense as a result of adjudication of delinquency in
3 juvenile court shall not be required to register as required
4 in this chapter if unless the juvenile court finds that the
5 person should not be required to register under this chapter.
6 ~~If a person is placed on probation, parole, or work release~~
7 ~~and the probation, parole, or work release is revoked, the ten~~
8 ~~years shall commence anew upon release from custody. If a~~
9 juvenile is required to register and the court later modifies
10 the order regarding the requirement to register, the court
11 shall immediately notify the department. Convictions of more
12 than one offense which require registration under this chapter
13 but which are prosecuted within a single indictment shall be
14 considered as a single offense for purposes of registration.

15 2- 5. A person who has been convicted of an offense under
16 the laws of this state or of another state which would qualify
17 the person as a sexually violent predator ~~under the federal~~
18 ~~Violent Crime Control and Law Enforcement Act of 1994, Pub. L.~~
19 ~~No. 103-322,~~ shall register as provided in this chapter for an
20 indeterminate period terminating only upon a determination by
21 the sentencing court that registration is no longer required.

22 Sec. 4. Section 692A.3, subsections 2, 3, and 4, Code
23 1997, are amended to read as follows:

24 2. A person required to register under this chapter shall,
25 within ten days of changing residence within a county in this
26 state or within ten days of a change in the person's name as a
27 result of marriage, dissolution of marriage, or a legal name
28 change, notify the sheriff of the county in which the person
29 is registered of the change of address, name, and any changes
30 in the person's telephone number in writing on a form provided
31 by the sheriff. The sheriff shall send a copy of the change
32 of address information to the department within three working
33 days of receipt of notice of the address change. The sex
34 offender registry shall maintain and make available
35 information from the registry cross-referenced by name at the

1 time of conviction and by name subsequent to any change.

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

13 4. A person required to register under this chapter shall
14 notify the sheriff of the county in which the person is
15 registered, within ten days of changing residence to a
16 location outside this state, of the new residence address and
17 any changes in telephone number ~~and shall register in the~~
18 ~~other state within the ten days, if persons are required to~~
19 ~~register under the laws of the other state~~ or name. The
20 sheriff shall send a copy of the change ~~of address~~ to the
21 department within three working days of receipt of notice of
22 the address change. The person must register with the
23 registering agency of the other state within ten days of
24 changing residency, if persons are required to register under
25 the laws of the other state. The department or the sheriff of
26 the county in this state in which the person last resided may
27 notify the registering agency in the other state of the
28 registrant's new address, telephone number, or name.

29 Sec. 5. Section 692A.4, subsection 2, Code 1997, is
30 amended to read as follows:

31 2. Verification of address for a person who has been
32 convicted of an offense under the laws of this state or of
33 another state which would qualify the person as a sexually
34 violent predator ~~under the federal Violent Crime Control and~~
35 ~~Law Enforcement Act of 1994, Pub. L. No. 103-322~~, shall be

1 accomplished in the same manner as in subsection 1, except
2 that the verification shall be done every three months at
3 times established by the department.

4 Sec. 6. Section 692A.5, subsection 1, paragraph a, Code
5 Supplement 1997, is amended to read as follows:

6 a. Obtain fingerprints, the social security number, and a
7 photograph of the person if fingerprints and a photograph and
8 the social security number have not already been obtained in
9 connection with the offense that triggers registration. A
10 current photograph may shall also be required. Additional
11 information for a person required to register as a sexually
12 violent predator shall include, but not be limited to, other
13 identifying factors, anticipated future places of residence,
14 offense history, and documentation of any treatment received
15 by the person for a mental abnormality or personality
16 disorder.

17 Sec. 7. Section 692A.5, subsection 2, unnumbered paragraph
18 2, Code Supplement 1997, is amended to read as follows:

19 If the offender refuses to register, the sheriff, warden,
20 or superintendent shall immediately notify a prosecuting
21 attorney in the county in which the offender was convicted or,
22 if the offender no longer resides in that county, in the
23 county in which the offender resides of the refusal to
24 register. The prosecuting attorney may shall bring a contempt
25 of court action against the offender in the county in which
26 the offender was convicted or, if the offender no longer
27 resides in that county, in the county in which the offender
28 resides. An offender who refuses to register may shall be
29 held in contempt and may be incarcerated following the entry
30 of judgment by the court on the contempt action until the
31 offender complies with the registration requirements.

32 Sec. 8. Section 692A.7, subsection 1, Code 1997, is
33 amended to read as follows:

34 1. A willful failure to register as required under this
35 chapter is an aggravated misdemeanor for a first offense and a

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

14 Sec. 9. Section 692A.9, Code 1997, is amended to read as
15 follows:

16 692A.9 REGISTRATION FORMS.

17 Registration forms shall be prepared by the department and
18 shall include the registrant's name at the time of conviction
19 and any change of name as a result of marriage, dissolution of
20 marriage, or legal name change, the registrant's social
21 security number, date of birth, the registrant's current
22 address, and, if applicable, the registrant's telephone
23 number. The forms may provide for the reporting of additional
24 relevant information such as, but not limited to, fingerprints
25 and photographs but shall not include information identifying
26 the victim of the crime of which the registrant was convicted.
27 Additional information for persons required to register as a
28 sexually violent predator shall include, but not be limited
29 to, other identifying factors, anticipated future places of
30 residence, offense history, and documentation of any treatment
31 received by the person for mental abnormality or personality
32 disorder. Copies of blank forms shall be available upon
33 request to any person from the sheriff.

34 Sec. 10. Section 692A.13, subsection 3, Code 1997, is
35 amended to read as follows:

1 3. The department or a criminal or juvenile justice agency
2 ~~with case-specific authorization from the department~~ may
3 release relevant information from the registry regarding a
4 ~~criminal offense against a minor, sexual exploitation, or a~~
5 ~~sexually violent offense, that is necessary to protect the~~ to
6 members of the general public concerning a specific person who
7 is required to register under this chapter as follows:

8 a. Any person may contact a sheriff's office or a police
9 department in writing to request information regarding any
10 person required to register. A request for information shall
11 include the name and one or more of the following identifiers
12 pertaining to the person about whom information is sought:

- 13 (1) The person's date of birth.
14 (2) The person's social security number.
15 (3) The person's address.

16 b. A county sheriff or a police department shall also
17 provide to any person upon request a list of all registrants
18 in that county who have been classified as "at-risk" in this
19 state.

20 c. For offenders who have been classified as "at-risk" in
21 this state pursuant to an assessment conducted as provided in
22 subsection 6, the department or a criminal or juvenile justice
23 agency may also release the offender's name, a photograph,
24 locations frequented by the offender, and relevant Iowa
25 criminal history information from the registry to public and
26 private schools, child day care centers, family day care
27 providers, businesses, and organizations that serve primarily
28 children, women, or vulnerable adults, and neighbors and
29 community groups, or to the public at large. The extent of
30 public disclosure of the information shall be rationally
31 related to the following:

- 32 (1) The level of risk posed by the offender to the
33 community.
34 (2) The locations where the offender resides, expects to
35 reside, or is regularly found.

1 (3) The needs of the affected community members for
2 information to enhance their individual and collective safety.

3 d. The department shall provide electronic access to
4 relevant information from the registry pertaining to offenders
5 who are convicted of a criminal offense against a minor,
6 sexual exploitation, an other relevant offense, or a sexually
7 violent offense on or after the effective date of this Act and
8 who have been classified as "at-risk".

9 Sec. 11. Section 692A.13, subsections 6 and 7, Code 1997,
10 are amended by striking the subsections and inserting in lieu
11 thereof the following:

12 6. The department of corrections, the department of human
13 services, and the department of public safety shall, in
14 consultation with one another, develop methods and procedures
15 for the assessment of the risk that persons required to
16 register under this chapter pose of reoffending. The
17 department of corrections, in consultation with the department
18 of human services, the department of public safety, and the
19 attorney general, shall adopt rules relating to assessment
20 procedures. The assessment procedures shall include
21 procedures for the sharing of information between the
22 department of corrections, department of human services, and
23 the division of criminal investigation of the department of
24 public safety, as well as the communication of the results of
25 the risk assessment to criminal and juvenile justice agencies.
26 The assignment of responsibility for the assessment of risk
27 shall be as follows:

28 a. The department of corrections shall perform the
29 assessment of risk for persons who are incarcerated in
30 institutions under the control of the director of the
31 department of corrections, persons who are under the
32 supervision of the department of corrections or a judicial
33 district department of correctional services, and persons who
34 are under the supervision or control of the department of
35 corrections or a judicial district department of correctional

1 services through an interstate compact.

2 b. The department of human services shall perform the
3 assessment of risk for persons who are confined in
4 institutions under the control of the director of human
5 services, persons who are under the supervision of the
6 department of human services, and persons who are under the
7 supervision or control of the department of human services
8 through an interstate compact.

9 c. The division of criminal investigation of the
10 department of public safety shall perform the assessment of
11 risk for persons who have moved to Iowa but are not under the
12 supervision of the department of corrections, a judicial
13 district department of correctional services, or the
14 department of human services; federal parolees or
15 probationers; persons who have been released from a county
16 jail but are not under the supervision of the department of
17 corrections, a judicial district department of correctional
18 services, or the department of human services; juveniles who
19 are not incarcerated but who are placed under the supervision
20 of juvenile court services; and persons who are convicted and
21 released by the courts and are not incarcerated or placed
22 under supervision pursuant to the court's sentencing order.
23 Assessments of persons who have moved to Iowa and persons on
24 federal parole or probation shall be performed on an expedited
25 basis if the person was classified as a person with a high
26 degree of likelihood of reoffending by the other jurisdiction
27 or the federal government.

28 7. By January 1, 1999, the department of corrections, the
29 department of human services, and the division of criminal
30 investigation of the department of public safety shall, in
31 consultation with one another and associations which represent
32 criminal and juvenile justice agencies, develop a model policy
33 for disclosure of information about persons required to
34 register under this chapter to members of the general public.
35 The model policy shall be designed to further the objectives

1 of providing adequate and timely notice to the community
2 concerning sex offenders who are or will be residing in the
3 community and of assisting community members in developing
4 constructive plans to prepare themselves.

5 Sec. 12. Section 692A.13, subsection 8, Code 1997, is
6 amended to read as follows:

7 8. Notwithstanding sections 232.147 through 232.151,
8 records concerning convictions for criminal offenses against a
9 minor, sexual exploitation, other relevant offenses, or
10 sexually violent offenses which are committed by a minor may
11 be released in the same manner as records of convictions of
12 adults.

13 Sec. 13. NEW SECTION. 692A.16 APPLICABILITY OF CHAPTER.

14 1. The registration requirements of this chapter shall
15 apply to persons convicted of a criminal offense against a
16 minor, sexual exploitation, an other relevant offense, or a
17 sexually violent offense prior to July 1, 1995, are released
18 on or after July 1, 1995, who are participating in a work
19 release or institutional work release program on or after July
20 1, 1995, or who are under parole or probation supervision by a
21 judicial district department of correctional services on or
22 after July 1, 1995.

23 2. Persons required to register under subsection 1 shall
24 register for a period of ten years commencing with the later
25 of either July 1, 1995, or the date of the person's release
26 from confinement, release on work release or institutional
27 work release, or release on parole or probation. For persons
28 released from confinement, registration shall be initiated by
29 the warden, sheriff, or superintendent in charge of the place
30 of confinement in the same manner as provided in section
31 692A.5. For persons who are under parole or probation
32 supervision, the person's parole or probation officer shall
33 inform the person of the person's duty to register and shall
34 obtain the registration information from the person as
35 required under section 692A.5.

1 Sec. 14. Section 901.4, Code 1997, is amended to read as
2 follows:

3 901.4 PRESENTENCE INVESTIGATION REPORT CONFIDENTIAL.

4 The presentence investigation report is confidential and
5 the court shall provide safeguards to ensure its
6 confidentiality, including but not limited to sealing the
7 report, which may be opened only by further court order. At
8 least three days prior to the date set for sentencing, the
9 court shall serve all of the presentence investigation report
10 upon the defendant's attorney and the attorney for the state,
11 and the report shall remain confidential except upon court
12 order. However, the court may conceal the identity of the
13 person who provided confidential information. The report of a
14 medical examination or psychological or psychiatric evaluation
15 shall be made available to the attorney for the state and to
16 the defendant upon request. The reports are part of the
17 record but shall be sealed and opened only on order of the
18 court. If the defendant is committed to the custody of the
19 Iowa department of corrections and is not a class "A" felon, a
20 copy of the presentence investigation report shall be
21 forwarded to the director with the order of commitment by the
22 clerk of the district court and to the board of parole at the
23 time of commitment. The defendant or the defendant's attorney
24 may file with the presentence investigation report, a denial
25 or refutation of the allegations, or both, contained in the
26 report. The denial or refutation shall be included in the
27 report. If the person is sentenced for an offense which
28 requires registration under chapter 692A, the court shall
29 release the report to the department which is responsible
30 under section 692A.13 for performing the assessment of risk.

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SENATE FILE 2292

H-8614

1 Amend Senate File 2292, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 8, line 24, by striking the words "as
4 well as".

5 2. Page 8, line 25, by inserting after the word
6 "agencies" the following: ", and a requirement that
7 the persons performing each risk assessment include an
8 individual who at least meets the clinical standards
9 for professional competence adopted in the third
10 international congress on the treatment of sex
11 offenders and is experienced in working with the
12 assessment of sex offenders".

By JOCHUM of Dubuque
MURPHY of Dubuque

H-8614 FILED MARCH 24, 1998

Adopted 4-8-98 (p. 1410)

SENATE FILE 2292

H-8553

1 Amend Senate File 2292, as amended, passed, and
2 reprinted by the Senate, as follows:

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

5 "Section 1. Section 692A.1, subsection 3,
6 paragraphs a and b, Code Supplement 1997, are amended
7 by striking the paragraphs."

8 2. Page 1, line 17, by inserting after the word
9 "kidnapping," the following: "false imprisonment".

By LAMBERTI of Polk
DODERER of Johnson

H-8553 FILED MARCH 23, 1998

Adopted 4-8-98 (p. 1409)

SENATE FILE 2292

H-8705

1 Amend Senate File 2292, as amended, passed, and
2 reprinted by the Senate, as follows:

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

5 "Section 1. Section 692A.1, subsection 3, Code
6 Supplement 1997, is amended by adding the following
7 new paragraph after paragraph h and by relettering
8 current paragraphs i through l as paragraphs j through
9 m:

10 NEW PARAGRAPH. i. Incest committed against a minor.
11 Sec. ____ . Section 692A.1, subsection 3, paragraph
12 m, Code Supplement 1997, is amended to read as
13 follows:

14 m= n. An indictable offense committed in another
15 jurisdiction which would constitute an indictable
16 offense under paragraphs "a" through "l" "m".

17 2. By renumbering as necessary.

By SUKUP of Franklin

H-8705 FILED MARCH 25, 1998

*Adopted 7-8-98
(p. 1410)*

SENATE FILE 2292

H-9011

1 Amend the amendment, H-8553, to Senate File 2292,
2 as amended, passed, and reprinted by the Senate, as
3 follows:

4 1. Page 1, by inserting after line 9, the
5 following:

6 "____. Page 11, by inserting after line 30, the
7 following:

8 "Sec. ____ . MEGAN'S LAW COMPLIANCE DETERMINATION.

9 The department of public safety shall submit a request
10 to the United States department of justice for a
11 determination of whether the failure of a state to
12 include as criminal offenses against a minor the
13 offenses of kidnapping or false imprisonment of a
14 minor, committed by someone other than a parent and
15 which do not involve sexual abuse or attempted sexual
16 abuse, will result in a state being found not to be in
17 compliance with the federal Megan's Law amendment to
18 the Jacob Wetterling Crimes Against Children and
19 Sexually Violent Offender Registration Act specified
20 in section 170101(f) of Pub. L. No. 104-145, 110 Stat.
21 1345 (codified at 42 U.S.C. § 14071(f)). If the
22 department of public safety receives, as a result of
23 the request, an opinion that the failure to include
24 those offenses as criminal offenses against a minor
25 will cause a state to not be in compliance with the
26 federal Megan's Law amendment, the department shall
27 seek an exception to the requirement for inclusion of
28 those offenses and shall report the information
29 regarding the contents of the United States department
30 of justice opinion and any results of the exception
31 request at the commencement of the session of the
32 general assembly which convenes in January of 1999."

33 2. By numbering and renumbering as necessary.

By LAMBERTI of Polk

H-9011 FILED APRIL 8, 1998

4-8-98

(P. 1409)

HOUSE AMENDMENT TO
SENATE FILE 2292

S-5594

1 Amend Senate File 2292, as amended, passed, and
2 reprinted by the Senate, as follows:

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

5 "Section 1. Section 692A.1, subsection 3,
6 paragraphs a and b, Code Supplement 1997, are amended
7 by striking the paragraphs."

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

10 "Sec. _____. Section 692A.1, subsection 3, Code
11 Supplement 1997, is amended by adding the following
12 new paragraph after paragraph h and by relettering
13 current paragraphs i through l as paragraphs j through
14 m:

15 NEW PARAGRAPH. i. Incest committed against a minor.

16 Sec. _____. Section 692A.1, subsection 3, paragraph
17 m, Code Supplement 1997, is amended to read as
18 follows:

19 m= n. An indictable offense committed in another
20 jurisdiction which would constitute an indictable
21 offense under paragraphs "a" through "~~l~~" "m".

22 3. Page 1, line 17, by inserting after the word
23 "kidnapping," the following: "false imprisonment,".

24 4. Page 11, by inserting after line 30, the
25 following:

26 "Sec. _____. MEGAN'S LAW COMPLIANCE DETERMINATION.
27 The department of public safety shall submit a request
28 to the United States department of justice for a
29 determination of whether the failure of a state to
30 include as criminal offenses against a minor the
31 offenses of kidnapping or false imprisonment of a
32 minor, committed by someone other than a parent and
33 which do not involve sexual abuse or attempted sexual
34 abuse, will result in a state being found not to be in
35 compliance with the federal Megan's Law amendment to
36 the Jacob Wetterling Crimes Against Children and
37 Sexually Violent Offender Registration Act specified
38 in section 170101(f) of Pub. L. No. 104-145, 110 Stat.
39 1345 (codified at 42 U.S.C. § 14071(f)). If the
40 department of public safety receives, as a result of
41 the request, an opinion that the failure to include
42 those offenses as criminal offenses against a minor
43 will cause a state to not be in compliance with the
44 federal Megan's Law amendment, the department shall
45 seek an exception to the requirement for inclusion of
46 those offenses and shall report the information
47 regarding the contents of the United States department
48 of justice opinion and any results of the exception
49 request at the commencement of the session of the
50 general assembly which convenes in January of 1999."

S-5594

-1-

S-5594

Page 2

1 5. By renumbering, relettering, or redesignating
2 and correcting internal references as necessary.

Senate Concurred 4/15/98 RECEIVED FROM THE HOUSE
S-5594 FILED APRIL 8, 1998 (P. 1274)

Angelo
King
Halvorsen

SSB 2008
Judiciary
Succeeded By
SF/HF 2292

SENATE/HOUSE FILE
BY (PROPOSED DEPARTMENT OF
PUBLIC SAFETY BILL)

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

A BILL FOR

1 An Act relating to the sex offender registry and providing for
2 the Act's applicability.

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

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1 Section 1. Section 692A.1, subsection 6, Code Supplement
2 1997, is amended to read as follows:

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

5 a. Sexual abuse as defined under section 709.1.

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

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

10 ~~d. Telephone dissemination of obscene materials in~~
11 ~~violation of section 728.15.~~

12 ~~e. Rental or sale of hard-core pornography in violation of~~
13 ~~section 728.4.~~

14 ~~f. Indecent exposure in violation of section 709.9.~~

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

18 ~~h.~~ e. A criminal offense committed in another jurisdiction
19 which would constitute an indictable offense under paragraphs
20 "a" through "g" "d" if committed in this state.

21 Sec. 2. Section 692A.1, Code Supplement 1997, is amended
22 by adding the following new subsections:

23 NEW SUBSECTION. 4A. "Other relevant offense" means any of
24 the following offenses:

25 a. Telephone dissemination of obscene materials in
26 violation of section 728.15.

27 b. Rental or sale of hard-core pornography in violation of
28 section 728.4.

29 c. Indecent exposure in violation of section 709.9.

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

33 NEW SUBSECTION. 8. "Sexually violent predator" means a
34 person who has been convicted of an offense under the laws of
35 this state or of another state which would qualify the person

1 as a sexually violent predator under the federal Violent Crime
2 Control and Law Enforcement Act of 1994, Pub. L. No. 103-322,
3 108 Stat. 1798.

4 Sec. 3. Section 692A.2, Code 1997, is amended to read as
5 follows:

6 692A.2 PERSONS REQUIRED TO REGISTER.

7 1. A person who has been convicted of either a criminal
8 offense against a minor, sexual exploitation, an other
9 relevant offense, or a sexually violent offense in this state
10 or in another state, or in a federal, military, tribal, or
11 foreign court, or a person required to register in another
12 state under the state's sex offender registry, shall register
13 as provided in this chapter. A person required to register
14 under this chapter shall, upon a first conviction, register
15 for a period of ten years commencing from as follows:

- 16 a. From the date of placement on probation.
- 17 b. From the date of release on parole, or work release.
- 18 c. From the date of release as a juvenile from foster care
19 or residential treatment.
- 20 d. From the date of any other release from custody.

21 2. If a person is placed on probation, parole, or work
22 release and the probation, parole, or work release is revoked,
23 the ten years shall commence anew upon release from custody.
24 If the person who is required to register under this chapter
25 is incarcerated for a crime which does not require
26 registration under this chapter, the period of registration is
27 tolled until the person is released from incarceration for
28 that crime.

29 3. A person who is required to register under this chapter
30 shall, upon a second or subsequent conviction, register for
31 the rest of the person's life.

32 4. A person is not required to register while
33 incarcerated, in foster care, or in a residential treatment
34 program. A person who is convicted, as defined in section
35 692A.1, of either a criminal offense against a minor or,

1 sexual exploitation, a sexually violent offense, or an other
2 relevant offense as a result of adjudication of delinquency in
3 juvenile court shall not be required to register as required
4 in this chapter if unless the juvenile court finds that the
5 person should not be required to register under this chapter.
6 ~~If a person is placed on probation, parole, or work release~~
7 ~~and the probation, parole, or work release is revoked, the ten~~
8 ~~years shall commence anew upon release from custody.~~ If a
9 juvenile is required to register and the court later modifies
10 the order regarding the requirement to register, the court
11 shall immediately notify the department. Convictions of more
12 than one offense which require registration under this chapter
13 but which are prosecuted within a single indictment shall be
14 considered as a single offense for purposes of registration.

15 2- 5. A person who has been convicted of an offense under
16 the laws of this state or of another state which would qualify
17 the person as a sexually violent predator ~~under the federal~~
18 ~~Violent Crime Control and Law Enforcement Act of 1994, Pub. L.~~
19 ~~No. 103-322,~~ shall register as provided in this chapter for an
20 indeterminate period terminating only upon a determination by
21 the sentencing court that registration is no longer required.

22 Sec. 4. Section 692A.3, subsections 2, 3, and 4, Code
23 1997, are amended to read as follows:

24 2. A person required to register under this chapter shall,
25 within ten days of changing residence within a county in this
26 state or within ten days of a change in the person's name as a
27 result of marriage, dissolution of marriage, or a legal name
28 change, notify the sheriff of the county in which the person
29 is registered of the change of address, name, and any changes
30 in the person's telephone number in writing on a form provided
31 by the sheriff. The sheriff shall send a copy of the change
32 of address information to the department within three working
33 days of receipt of notice of the address change. The sex
34 offender registry shall maintain and make available
35 information from the registry cross-referenced by name at the

1 time of conviction and by name subsequent to any change.

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

13 4. A person required to register under this chapter shall
14 notify the sheriff of the county in which the person is
15 registered, within ten days of changing residence to a
16 location outside this state, of the new residence address and
17 any changes in telephone number ~~and shall register in the~~
18 ~~other state within the ten days, if persons are required to~~
19 ~~register under the laws of the other state~~ or name. The
20 sheriff shall send a copy of the change of address to the
21 department within three working days of receipt of notice of
22 the address change. The person must register with the
23 registering agency of the other state within ten days of
24 changing residency, if persons are required to register under
25 the laws of the other state. The department or the sheriff of
26 the county in this state in which the person last resided may
27 notify the registering agency in the other state of the
28 registrant's new address, telephone number, or name.

29 Sec. 5. Section 692A.4, subsection 2, Code 1997, is
30 amended to read as follows:

31 2. Verification of address for a person who has been
32 convicted of an offense under the laws of this state or of
33 another state which would qualify the person as a sexually
34 violent predator ~~under the federal Violent Crime Control and~~
35 ~~Law Enforcement Act of 1994, Pub. L. No. 103-322,~~ shall be

1 accomplished in the same manner as in subsection 1, except
2 that the verification shall be done every three months at
3 times established by the department.

4 Sec. 6. Section 692A.5, subsection 1, paragraph a, Code
5 Supplement 1997, is amended to read as follows:

6 a. Obtain fingerprints, the social security number, and a
7 photograph of the person if fingerprints and a photograph and
8 the social security number have not already been obtained in
9 connection with the offense that triggers registration. A
10 current photograph may also be required. Additional
11 information for a person required to register as a sexually
12 violent predator shall include, but not be limited to, other
13 identifying factors, anticipated future places of residence,
14 offense history, and documentation of any treatment received
15 by the person for a mental abnormality or personality
16 disorder.

17 Sec. 7. Section 692A.7, subsection 1, Code 1997, is
18 amended to read as follows:

19 1. A willful failure to register as required under this
20 chapter is an aggravated misdemeanor for a first offense and a
21 class "D" felony for a second or subsequent offense. However,
22 a person who willfully fails to register as required under
23 this chapter and who commits a criminal offense against a
24 minor, sexual exploitation, an other relevant offense, or a
25 sexually violent offense is guilty of a class "C" felony. Any
26 fine imposed for a second or subsequent offense shall not be
27 suspended. The court shall not defer judgment or sentence for
28 any violation of the registration requirements of this
29 chapter. The willful failure of a person who is on probation,
30 parole, or work release, or any other form of release to
31 register as required under this chapter shall result in the
32 automatic revocation of the person's probation, parole, or
33 work release.

34 Sec. 8. Section 692A.9, Code 1997, is amended to read as
35 follows:

1 692A.9 REGISTRATION FORMS.

2 Registration forms shall be prepared by the department and
 3 shall include the registrant's name at the time of conviction
 4 and any change of name as a result of marriage, dissolution of
 5 marriage, or legal name change, the registrant's social
 6 security number, date of birth, the registrant's current
 7 address, and, if applicable, the registrant's telephone
 8 number. The forms may provide for the reporting of additional
 9 relevant information such as, but not limited to, fingerprints
 10 and photographs but shall not include information identifying
 11 the victim of the crime of which the registrant was convicted.
 12 Additional information for persons required to register as a
 13 sexually violent predator shall include, but not be limited
 14 to, other identifying factors, anticipated future places of
 15 residence, offense history, and documentation of any treatment
 16 received by the person for mental abnormality or personality
 17 disorder. Copies of blank forms shall be available upon
 18 request to any person from the sheriff.

19 Sec. 9. Section 692A.13, subsection 3, Code 1997, is
 20 amended to read as follows:

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

28 Sec. 10. Section 692A.13, subsections 6 and 7, Code 1997,
 29 are amended by striking the subsections and inserting in lieu
 30 thereof the following:

31 6. Any person may contact a sheriff's office or a police
 32 department in writing to request information regarding any
 33 person required to register. A request for information shall
 34 include the name and one or more of the following identifiers
 35 pertaining to the person about whom information is sought:

- 1 a. The person's date of birth.
- 2 b. The person's social security number.
- 3 c. The person's address.

4 A county sheriff or a police department shall provide, in
5 accordance with rules adopted by the department, a list of all
6 registrants in that county who are classified as at-risk for
7 reoffending.

8 7. The department of corrections, the department of human
9 services, and the department of public safety shall, in
10 consultation with one another, develop methods and procedures
11 for the assessment of the risk that persons required to
12 register under this chapter pose of reoffending. The
13 department of corrections, in consultation with the department
14 of human services, the department of public safety, and the
15 attorney general, shall adopt rules relating to assessment
16 procedures. The assignment of responsibility for the
17 assessment of risk shall be as follows:

18 a. The department of corrections shall perform the
19 assessment of risk for persons who are incarcerated in
20 institutions under the control of the director of the
21 department of corrections, persons who are under the
22 supervision of the department of corrections or a judicial
23 district department of correctional services, and persons who
24 are under the supervision or control of the department of
25 corrections or a judicial district department of correctional
26 services through an interstate compact.

27 b. The department of human services shall perform the
28 assessment of risk for persons who are confined in
29 institutions under the control of the director of human
30 services, persons who are under the supervision of the
31 department of human services, and persons who are under the
32 supervision or control of the department of human services
33 through an interstate compact.

34 c. The division of criminal investigation of the
35 department of public safety shall perform the assessment of

1 risk for persons who have moved to Iowa but are not under the
 2 supervision of the department of corrections, a judicial
 3 district department of correctional services, or the
 4 department of human services; federal parolees or
 5 probationers; persons who have been released from a county
 6 jail but are not under the supervision of the department of
 7 corrections, a judicial district department of correctional
 8 services, or the department of human services; and persons who
 9 are convicted and released by the courts and are not
 10 incarcerated or placed under supervision pursuant to the
 11 court's sentencing order.

12 Sec. 11. Section 692A.13, subsection 8, Code 1997, is
 13 amended to read as follows:

14 8. Notwithstanding sections 232.147 through 232.151,
 15 records concerning convictions for criminal offenses against a
 16 minor, sexual exploitation, other relevant offenses, or
 17 sexually violent offenses which are committed by a minor may
 18 be released in the same manner as records of convictions of
 19 adults.

20 Sec. 12. NEW SECTION. 692A.16 APPLICABILITY OF CHAPTER.

21 1. The registration requirements of this chapter shall
 22 apply to persons convicted of a criminal offense against a
 23 minor, sexual exploitation, an other relevant offense, or a
 24 sexually violent offense prior to July 1, 1995, are released
 25 on or after July 1, 1995, who are participating in a work
 26 release or institutional work release program on or after July
 27 1, 1995, or who are under parole or probation supervision by a
 28 judicial district department of correctional services on or
 29 after July 1, 1995.

30 2. Persons required to register under subsection 1 shall
 31 register for a period of ten years commencing with the later
 32 of either July 1, 1995, or the date of the person's release
 33 from confinement, release on work release or institutional
 34 work release, or release on parole or probation. For persons
 35 released from confinement, registration shall be initiated by

1 the warden, sheriff, or superintendent in charge of the place
2 of confinement in the same manner as provided in section
3 692A.5. For persons who are under parole or probation
4 supervision, the person's parole or probation officer shall
5 inform the person of the person's duty to register and shall
6 obtain the registration information from the person as
7 required under section 692A.5.

8 Sec. 13. Section 901.4, Code 1997, is amended to read as
9 follows:

10 901.4 PRESENTENCE INVESTIGATION REPORT CONFIDENTIAL.

11 The presentence investigation report is confidential and
12 the court shall provide safeguards to ensure its
13 confidentiality, including but not limited to sealing the
14 report, which may be opened only by further court order. At
15 least three days prior to the date set for sentencing, the
16 court shall serve all of the presentence investigation report
17 upon the defendant's attorney and the attorney for the state,
18 and the report shall remain confidential except upon court
19 order. However, the court may conceal the identity of the
20 person who provided confidential information. The report of a
21 medical examination or psychological or psychiatric evaluation
22 shall be made available to the attorney for the state and to
23 the defendant upon request. The reports are part of the
24 record but shall be sealed and opened only on order of the
25 court. If the defendant is committed to the custody of the
26 Iowa department of corrections and is not a class "A" felon, a
27 copy of the presentence investigation report shall be
28 forwarded to the director with the order of commitment by the
29 clerk of the district court and to the board of parole at the
30 time of commitment. The defendant or the defendant's attorney
31 may file with the presentence investigation report, a denial
32 or refutation of the allegations, or both, contained in the
33 report. The denial or refutation shall be included in the
34 report. If the person is sentenced for an offense which
35 requires registration under chapter 692A, the court shall

1 release the report to the department which is responsible
2 under section 692A.13 for performing the assessment of risk.

3 EXPLANATION

4 This bill amends the sex offender registry chapter by
5 making changes to definitions, providing for lifetime
6 registration for repeat offenders, providing for registration
7 of offenders who are required to register in another state but
8 whose crimes do not trigger the registration requirements in
9 this state, making changes in the notification and offender
10 reporting requirements, providing for offender risk
11 assessment, and codifying language regarding the applicability
12 of registration requirements.

13 The definition of the term "sexually violent offense" is
14 amended in Code section 692A.1 by striking three offenses,
15 telephone dissemination of obscene materials, rental or sale
16 of hard-core pornography, and indecent exposure, from the
17 definition. The same offenses are contained in the new
18 definition of "other relevant offense", which is incorporated
19 into the registration requirements. A definition of the term
20 "sexually violent predator" is created and defines the term as
21 meaning the same as under the federal definition of sexually
22 violent predator under the Violent Crime Control and Law
23 Enforcement Act of 1994. Language which referenced the
24 federal definition in other provisions of Code chapter 692A is
25 stricken to utilize the new definition.

26 The provisions in Code section 692A.2 which establish an
27 individual's duty to register as a sex offender are amended to
28 require registration in Iowa by persons who are convicted of
29 an offense in a court in another state, a federal court, a
30 military court, a tribal court, or a foreign court, which
31 would require registration if committed in this state, as well
32 as persons who are required to register in another state.
33 Language is added to provide for the tolling of the period of
34 registration during the time that a registrant is incarcerated
35 for an offense which does not require registration. A

1 requirement is added that provides that if a person is
2 convicted more than once of a crime which requires
3 registration, that person must register for the rest of the
4 person's life. If the juvenile court modifies an order which
5 had required the registration of a juvenile, the court must
6 notify the department of the modification. Convictions of
7 more than one offense which require registration and which are
8 prosecuted in a single indictment are to be considered as a
9 single offense for purposes of registration.

10 Language is added to the provisions in Code section 692A.3
11 relating to changes in information pertaining to a registrant
12 to require that the person provide information relating to
13 certain new legal name changes and to provide that the
14 registry be cross-referenced by name at the time of conviction
15 and by name subsequent to any change. The bill also requires
16 that persons who move to another state must register with the
17 registering agency of the other state within 10 days of
18 changing residency, if sex offenders are required to register
19 under the laws of that state. The department or the sheriff
20 of the county in this state may notify the registering agency
21 in the other state of the registrant's new address, telephone
22 number, or name.

23 Sexually violent predators are required by the amendments
24 to Code sections 692A.5 and 692A.9 to provide the registry
25 with additional information, beyond that which is required for
26 other sex offenders, including other identifying factors,
27 anticipated future residence, offense history, and
28 documentation of any treatment received by the person for
29 mental abnormality or personality disorder.

30 The public notification provisions in Code section 692A.13
31 are modified to provide that any person may contact a
32 sheriff's office or police department in writing to request
33 information regarding any person who is required to register.
34 The request must include the registrant's name and at least
35 one of the following additional identifiers: the registrant's

1 date of birth, social security number, or address.
 2 Additionally, the county sheriff or a police department is to
 3 provide, in accordance with rules adopted by the department of
 4 public safety, a list of all registrants in that county who
 5 are classified as at-risk of reoffending. The department of
 6 corrections, the department of human services, and the
 7 department of public safety, in consultation with one another,
 8 shall develop methods and procedures for the assessment of
 9 persons required to register as sex offenders and sexually
 10 violent predators and are to perform assessments of offenders
 11 who are under their respective jurisdictions. The provision
 12 restricting the release of presentence reports is amended to
 13 provide for release of the report to the department which is
 14 responsible for performing the offender assessment of risk.

15 Language in Code section 692A.13 relating to the release of
 16 information is changed to include information regarding
 17 convictions for the crimes of sexual exploitation and those
 18 offenses classified as other relevant offenses.

19 The registration provisions of Code chapter 692A are made
 20 applicable by new Code section 692A.16 for a period of 10
 21 years to persons convicted of criminal offenses against a
 22 minor, sexual exploitation, other relevant offenses, and
 23 sexually violent offenses prior to July 1, 1995, but who are
 24 released after that date. The bill takes effect July 1 after
 25 enactment since no other effective date is specified.

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TERRY E. BRANSTAD, GOVERNOR

DEPARTMENT OF PUBLIC SAFETY
PAUL H. WIECK II, COMMISSIONER

TO: Members of the General Assembly

FROM: Paul Wieck II, Commissioner *AWI*

DATE: November 3, 1997

RE: Sex Offender Registry

The Department of Public Safety proposed study bill on the Sex Offender Registry, Chapter 692A, includes modifications to the chapter that reflect requirements of the final federal guidelines on Megan's Law (issued July 1997) and modifications that reflect the experience of the department. Key areas that have been addressed include:

- ◊ Requiring registration for convictions in federal, military, tribal or foreign courts, or convictions requiring registration in a previous state of residence when a sex offender moves into the state.
- ◊ Requiring lifetime registration for second and subsequent convictions under chapter 692A.
- ◊ Requiring notification when a person required to register changes name as a result of divorce, marriage or other legal name change.
- ◊ Expanding the "personal identifiers" that may be used to request the name of an individual who may be on the registry to include name and one of the following: date of birth, social security number or address. Currently the request must include name and address.
- ◊ Providing that a county-wide list of "at risk" offenders will be available for review at sheriffs' offices and police departments to any individual.

SENATE FILE 2292

AN ACT

RELATING TO THE SEX OFFENDER REGISTRY AND PROVIDING FOR THE ACT'S APPLICABILITY.

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

Section 1. Section 692A.1, subsection 3, paragraphs a and b, Code Supplement 1997, are amended by striking the paragraphs.

Sec. 2. Section 692A.1, subsection 3, paragraph m, Code Supplement 1997, is amended to read as follows:

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

Sec. 3. Section 692A.1, subsection 3, Code Supplement 1997, is amended by adding the following new paragraph after paragraph h and by relettering current paragraphs i through l as paragraphs j through m:

NEW PARAGRAPH. 1. Incest committed against a minor.

Sec. 4. Section 692A.1, subsection 6, Code Supplement 1997, is amended to read as follows:

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. Telephone dissemination of obscene materials in violation of section 728.15.~~

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

~~f. Indecent exposure in violation of section 709.9.~~
g. d. Any of the following offenses, if the offense involves sexual abuse or attempted sexual abuse: murder, attempted murder, kidnapping, false imprisonment, burglary, or manslaughter.

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

Sec. 5. Section 692A.1, Code Supplement 1997, is amended by adding the following new subsections:

NEW SUBSECTION. 4A. "Other relevant offense" means any of the following offenses:

- a. Telephone dissemination of obscene materials in violation of section 728.15.
- b. Rental or sale of hard-core pornography in violation of section 728.4.
- c. Indecent exposure in violation of section 709.9.
- d. A criminal offense committed in another jurisdiction which would constitute an indictable offense under paragraphs "a" through "c" if committed in this state.

NEW SUBSECTION. 8. "Sexually violent predator" means 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, 108 Stat. 1798.

Sec. 6. Section 692A.2, Code 1997, is amended to read as follows:

692A.2 PERSONS REQUIRED TO REGISTER.

1. A person who has been convicted of either a criminal offense against a minor, sexual exploitation, an other relevant offense, or a sexually violent offense in this state or in another state, or in a federal, military, tribal, or foreign court, or a person required to register in another state under the state's sex offender registry, shall register

as provided in this chapter. A person required to register under this chapter shall, upon a first conviction, register for a period of ten years commencing from as follows:

- a. From the date of placement on probation,
- b. From the date of release on parole, or work release,
- c. From the date of release as a juvenile from foster care or residential treatment, or,
- d. From the date of any other release from custody.

2. 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.

If the person who is required to register under this chapter is incarcerated for a crime which does not require registration under this chapter, the period of registration is tolled until the person is released from incarceration for that crime.

3. A person who is required to register under this chapter shall, upon a second or subsequent conviction, register for the rest of the person's life.

4. A person is not required to register while incarcerated, in foster care, or in a residential treatment program. A person who is convicted, as defined in section 692A.1, of either a criminal offense against a minor or, sexual exploitation, a sexually violent offense, or an other relevant offense as a result of adjudication of delinquency in juvenile court shall not be required to register as required in this chapter if unless 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. If a juvenile is required to register and the court later modifies the order regarding the requirement to register, the court shall immediately notify the department. Convictions of more than one offense which require registration under this chapter

but which are prosecuted within a single indictment shall be considered as a single offense for purposes of registration.

2. 5. 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. 7. Section 692A.3, subsections 2, 3, and 4, Code 1997, are amended to read as follows:

2. A person required to register under this chapter shall, within ten days of changing residence within a county in this state or within ten days of a change in the person's name as a result of marriage, dissolution of marriage, or a legal name change, notify the sheriff of the county in which the person is registered of the change of address, name, 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 information to the department within three working days of receipt of notice of the address change. The sex offender registry shall maintain and make available information from the registry cross-referenced by name at the time of conviction and by name subsequent to any 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 or name. The sheriff shall send a copy of the change of address information 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 or name.~~ 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. The person must register with the registering agency of the other state within ten days of changing residency, if persons are required to register under the laws of the other state. The department or the sheriff of the county in this state in which the person last resided may notify the registering agency in the other state of the registrant's new address, telephone number, or name.

Sec. 8. Section 692A.4, subsection 2, Code 1997, is amended to read as follows:

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. 9. Section 692A.5, subsection 1, paragraph a, Code Supplement 1997, is amended to read as follows:

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 shall also be required. Additional information for a person required to register as a sexually violent predator shall include, but not be limited to, other

identifying factors, anticipated future places of residence, offense history, and documentation of any treatment received by the person for a mental abnormality or personality disorder.

Sec. 10. Section 692A.5, subsection 2, unnumbered paragraph 2, Code Supplement 1997, is amended to read as follows:

If the offender refuses to register, the sheriff, warden, or superintendent shall immediately notify a prosecuting attorney in the county in which the offender was convicted or, if the offender no longer resides in that county, in the county in which the offender resides of the refusal to register. The prosecuting attorney may shall bring a contempt of court action against the offender in the county in which the offender was convicted or, if the offender no longer resides in that county, in the county in which the offender resides. An offender who refuses to register may shall be held in contempt and may be incarcerated following the entry of judgment by the court on the contempt action until the offender complies with the registration requirements.

Sec. 11. Section 692A.7, subsection 1, Code 1997, is amended to read as follows:

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, an other relevant offense, 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.

Sec. 12. Section 692A.9, Code 1997, is amended to read as follows:

692A.9 REGISTRATION FORMS.

Registration forms shall be prepared by the department and shall include the registrant's name at the time of conviction and any change of name as a result of marriage, dissolution of marriage, or legal name change, the registrant's social security number, date of birth, 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. Additional information for persons required to register as a sexually violent predator shall include, but not be limited to, other identifying factors, anticipated future places of residence, offense history, and documentation of any treatment received by the person for mental abnormality or personality disorder. Copies of blank forms shall be available upon request to any person from the sheriff.

Sec. 13. Section 692A.13, subsection 3, Code 1997, is amended to read as follows:

3. The department or a criminal or juvenile 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~~ members of the general public concerning a specific person who is required to register under this chapter as follows:

a. Any person may contact a sheriff's office or a police department in writing to request information regarding any person required to register. A request for information shall include the name and one or more of the following identifiers pertaining to the person about whom information is sought:

- (1) The person's date of birth.
- (2) The person's social security number.
- (3) The person's address.

b. A county sheriff or a police department shall also provide to any person upon request a list of all registrants in that county who have been classified as "at-risk" in this state.

c. For offenders who have been classified as "at-risk" in this state pursuant to an assessment conducted as provided in subsection 6, the department or a criminal or juvenile justice agency may also release the offender's name, a photograph, locations frequented by the offender, and relevant Iowa criminal history information from the registry to public and private schools, child day care centers, family day care providers, businesses, and organizations that serve primarily children, women, or vulnerable adults, and neighbors and community groups, or to the public at large. The extent of public disclosure of the information shall be rationally related to the following:

- (1) The level of risk posed by the offender to the community.
- (2) The locations where the offender resides, expects to reside, or is regularly found.
- (3) The needs of the affected community members for information to enhance their individual and collective safety.

d. The department shall provide electronic access to relevant information from the registry pertaining to offenders who are convicted of a criminal offense against a minor, sexual exploitation, an other relevant offense, or a sexually violent offense on or after the effective date of this Act and who have been classified as "at-risk".

Sec. 14. Section 692A.13, subsections 6 and 7, Code 1997, are amended by striking the subsections and inserting in lieu thereof the following:

6. The department of corrections, the department of human services, and the department of public safety shall, in consultation with one another, develop methods and procedures for the assessment of the risk that persons required to register under this chapter pose of reoffending. The department of corrections, in consultation with the department of human services, the department of public safety, and the attorney general, shall adopt rules relating to assessment procedures. The assessment procedures shall include procedures for the sharing of information between the department of corrections, department of human services, and the division of criminal investigation of the department of public safety, as well as the communication of the results of the risk assessment to criminal and juvenile justice agencies. The assignment of responsibility for the assessment of risk shall be as follows:

a. The department of corrections shall perform the assessment of risk for persons who are incarcerated in institutions under the control of the director of the department of corrections, persons who are under the supervision of the department of corrections or a judicial district department of correctional services, and persons who are under the supervision or control of the department of corrections or a judicial district department of correctional services through an interstate compact.

b. The department of human services shall perform the assessment of risk for persons who are confined in institutions under the control of the director of human services, persons who are under the supervision of the department of human services, and persons who are under the supervision or control of the department of human services through an interstate compact.

c. The division of criminal investigation of the department of public safety shall perform the assessment of risk for persons who have moved to Iowa but are not under the

supervision of the department of corrections, a judicial district department of correctional services, or the department of human services; federal parolees or probationers; persons who have been released from a county jail but are not under the supervision of the department of corrections, a judicial district department of correctional services, or the department of human services; juveniles who are not incarcerated but who are placed under the supervision of juvenile court services; and persons who are convicted and released by the courts and are not incarcerated or placed under supervision pursuant to the court's sentencing order. Assessments of persons who have moved to Iowa and persons on federal parole or probation shall be performed on an expedited basis if the person was classified as a person with a high degree of likelihood of reoffending by the other jurisdiction or the federal government.

7. By January 1, 1999, the department of corrections, the department of human services, and the division of criminal investigation of the department of public safety shall, in consultation with one another and associations which represent criminal and juvenile justice agencies, develop a model policy for disclosure of information about persons required to register under this chapter to members of the general public. The model policy shall be designed to further the objectives of providing adequate and timely notice to the community concerning sex offenders who are or will be residing in the community and of assisting community members in developing constructive plans to prepare themselves.

Sec. 15. Section 692A.13, subsection 8, Code 1997, is amended to read as follows:

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

Sec. 16. NEW SECTION. 692A.16 APPLICABILITY OF CHAPTER.

1. The registration requirements of this chapter shall apply to persons convicted of a criminal offense against a minor, sexual exploitation, an other relevant offense, or a sexually violent offense prior to July 1, 1995, are released on or after July 1, 1995, who are participating in a work release or institutional work release program on or after July 1, 1995, or who are under parole or probation supervision by a judicial district department of correctional services on or after July 1, 1995.

2. Persons required to register under subsection 1 shall register for a period of ten years commencing with the later of either July 1, 1995, 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, sheriff, 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 from the person as required under section 692A.5.

Sec. 17. Section 901.4, Code 1997, is amended to read as follows:

901.4 PRESENTENCE INVESTIGATION REPORT CONFIDENTIAL.

The presentence investigation report is confidential and the court shall provide safeguards to ensure its confidentiality, including but not limited to sealing the report, which may be opened only by further court order. At least three days prior to the date set for sentencing, the court shall serve all of the presentence investigation report upon the defendant's attorney and the attorney for the state, and the report shall remain confidential except upon court order. However, the court may conceal the identity of the

person who provided confidential information. The report of a medical examination or psychological or psychiatric evaluation shall be made available to the attorney for the state and to the defendant upon request. The reports are part of the record but shall be sealed and opened only on order of the court. If the defendant is committed to the custody of the Iowa department of corrections and is not a class "A" felon, a copy of the presentence investigation report shall be forwarded to the director with the order of commitment by the clerk of the district court and to the board of parole at the time of commitment. The defendant or the defendant's attorney may file with the presentence investigation report, a denial or refutation of the allegations, or both, contained in the report. The denial or refutation shall be included in the report. If the person is sentenced for an offense which requires registration under chapter 692A, the court shall release the report to the department which is responsible under section 692A.13 for performing the assessment of risk.

Sec. 18. MEGAN'S LAW COMPLIANCE DETERMINATION. The department of public safety shall submit a request to the United States department of justice for a determination of whether the failure of a state to include as criminal offenses against a minor the offenses of kidnapping or false imprisonment of a minor, committed by someone other than a parent and which do not involve sexual abuse or attempted sexual abuse, will result in a state being found not to be in compliance with the federal Megan's Law amendment to the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act specified in section 170101(f) of Pub. L. No. 104-145, 110 Stat. 1345 (codified at 42 U.S.C. § 14071(f)). If the department of public safety receives, as a result of the request, an opinion that the failure to include those offenses as criminal offenses against a minor will cause a state to not be in compliance with the federal Megan's Law amendment, the department shall seek an exception to the

requirement for inclusion of those offenses and shall report the information regarding the contents of the United States department of justice opinion and any results of the exception request at the commencement of the session of the general assembly which convenes in January of 1999.

MARY E. KRAMER
President of the Senate

RON J. CORBETT
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2292, Seventy-seventh General Assembly.

MARY PAT GUNDERSON
Secretary of the Senate

Approved May 6, 1998

TERRY E. BRANSTAD
Governor

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