

Senate Study Bill 2008

Bill Text

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1 1 Section 1. Section [692A.1](#), subsection 6, Code Supplement
1 2 1997, is amended to read as follows:
1 3 6. "Sexually violent offense" means any of the following
1 4 indictable offenses:
1 5 a. Sexual abuse as defined under section 709.1.
1 6 b. Assault with intent to commit sexual abuse in violation
1 7 of section 709.11.
1 8 c. Sexual misconduct with offenders in violation of
1 9 section 709.16.
1 10

~~1 11 d. Telephone dissemination of obscene materials in~~

~~1 12~~

~~1 13 violation of section 728.15.~~

~~1 14~~

~~1 15 e. Rental or sale of hard core pornography in violation of~~

~~1 16~~

~~1 17 section 728.4.~~

~~1 18~~

~~1 19 f. Indecent exposure in violation of section 709.9.~~

~~1 20~~

~~1 21~~

~~1 22~~
- d. Any of the following offenses, if the offense
1 16 involves sexual abuse or attempted sexual abuse: murder,
1 17 attempted murder, kidnapping, burglary, or manslaughter.
1 18

~~1 19~~

- e. A criminal offense committed in another jurisdiction
1 19 which would constitute an indictable offense under paragraphs
1 20 "a" through

~~1 21~~

- "g"
- "d" if committed in this state.

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

1 23 NEW SUBSECTION. 4A. "Other relevant offense" means any of
1 24 the following offenses:

1 25 a. Telephone dissemination of obscene materials in
1 26 violation of section 728.15.

1 27 b. Rental or sale of hard-core pornography in violation of
1 28 section 728.4.

1 29 c. Indecent exposure in violation of section 709.9.

1 30 d. A criminal offense committed in another jurisdiction
1 31 which would constitute an indictable offense under paragraphs
1 32 "a" through "c" if committed in this state.

1 33 NEW SUBSECTION. 8. "Sexually violent predator" means a
1 34 person who has been convicted of an offense under the laws of
1 35 this state or of another state which would qualify the person
2 1 as a sexually violent predator under the federal Violent Crime
2 2 Control and Law Enforcement Act of 1994, Pub. L. No. 103-322,
2 3 108 Stat. 1798.

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

2 6 692A.2 PERSONS REQUIRED TO REGISTER.

2 7 1. A person who has been convicted of

~~either~~

- a criminal

2 8 offense against a minor, sexual exploitation, an other
2 9 relevant offense, or a sexually violent offense in this state
2 10 or in another state, or in a federal, military, tribal, or
2 11 foreign court, or a person required to register in another
2 12 state under the state's sex offender registry, shall register
2 13 as provided in this chapter. A person required to register
2 14 under this chapter shall, upon a first conviction, register
2 15 for a period of ten years commencing

~~from~~

- as follows:

2 16 a. From the date of placement on probation

2 17 b. From the date of release on parole

- or work release

2 18 c. From the date of release as a juvenile from foster care
2 19 or residential treatment

~~or~~

2 20 d. From the date of any other release from custody.

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

2 29 3. A person who is required to register under this chapter
2 30 shall, upon a second or subsequent conviction, register for
2 31 the rest of the person's life.

2 32 4. A person is not required to register while
2 33 incarcerated, in foster care, or in a residential treatment
2 34 program. A person who is convicted, as defined in section
2 35 692A.1, of either a criminal offense against a minor

~~or~~

3 1 sexual exploitation, a sexually violent offense, or an other
3 2 relevant offense as a result of adjudication of delinquency in
3 3 juvenile court shall

~~not~~

- be required to register as required

3 4 in this chapter

~~if~~

- unless the juvenile court finds that the
3 5 person should not be required to register under this chapter.
3 6

~~If a person is placed on probation, parole, or work release~~

-
3 7

~~and the probation, parole, or work release is revoked, the ten~~

-
3 8

~~years shall commence anew upon release from custody.~~

- If a

3 9 juvenile is required to register and the court later modifies
3 10 the order regarding the requirement to register, the court
3 11 shall immediately notify the department. Convictions of more
3 12 than one offense which require registration under this chapter
3 13 but which are prosecuted within a single indictment shall be
3 14 considered as a single offense for purposes of registration.
3 15

~~2.~~

- 5. A person who has been convicted of an offense under
3 16 the laws of this state or of another state which would qualify
3 17 the person as a sexually violent predator

~~under the federal~~

-
3 18

~~Violent Crime Control and Law Enforcement Act of 1994, Pub. L.~~

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3 19

~~No. 103-322,~~

- shall register as provided in this chapter for an
3 20 indeterminate period terminating only upon a determination by
3 21 the sentencing court that registration is no longer required.

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

3 24 2. A person required to register under this chapter shall,
3 25 within ten days of changing residence within a county in this
3 26 state or within ten days of a change in the person's name as a
3 27 result of marriage, dissolution of marriage, or a legal name
3 28 change, notify the sheriff of the county in which the person
3 29 is registered of the change of address, name, and any changes
3 30 in the person's telephone number in writing on a form provided
3 31 by the sheriff. The sheriff shall send a copy of the change
3 32 of

~~address~~

- information to the department within three working
3 33 days of receipt of notice of the

~~address~~

- change. The sex

3 34 offender registry shall maintain and make available
3 35 information from the registry cross-referenced by name at the
4 1 time of conviction and by name subsequent to any change.

4 2 3. A person required to register under this chapter shall
4 3 register with the sheriff of a county in which residence has
4 4 been newly established and notify the sheriff of the county in
4 5 which the person was registered, within ten days of changing
4 6 residence to a location outside the county in which the person
4 7 was registered. Registration shall be in writing on a form

4 8 provided by the sheriff and shall include the person's change
4 9 of address and any changes to the person's telephone number or
4 10 name. The sheriff shall send a copy of the change of

~~address~~

4 11 information to the department within three working days of
4 12 receipt of notice of the

~~address~~

~~change.~~

4 13 4. A person required to register under this chapter shall
4 14 notify the sheriff of the county in which the person is
4 15 registered, within ten days of changing residence to a
4 16 location outside this state, of the new residence address and
4 17 any changes in telephone number

~~and shall register in the~~

4 18

~~other state within the ten days, if persons are required to~~

4 19

~~register under the laws of the other state~~

~~or name. The~~

4 20 sheriff shall send a copy of the change

~~of address~~

~~to the~~

4 21 department within three working days of receipt of notice of
4 22 the

~~address~~

~~change. The person must register with the~~

4 23 registering agency of the other state within ten days of
4 24 changing residency, if persons are required to register under
4 25 the laws of the other state. The department or the sheriff of
4 26 the county in this state in which the person last resided may
4 27 notify the registering agency in the other state of the
4 28 registrant's new address, telephone number, or name.

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

4 31 2. Verification of address for a person who has been
4 32 convicted of an offense under the laws of this state or of
4 33 another state which would qualify the person as a sexually
4 34 violent predator

~~under the federal Violent Crime Control and~~

4 35

~~Law Enforcement Act of 1994, Pub. L. No. 103-322,~~

~~shall be~~

5 1 accomplished in the same manner as in subsection 1, except
5 2 that the verification shall be done every three months at
5 3 times established by the department.

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

5 6 a. Obtain fingerprints, the social security number, and a
5 7 photograph of the person if fingerprints and a photograph and
5 8 the social security number have not already been obtained in
5 9 connection with the offense that triggers registration. A
5 10 current photograph may also be required. Additional
5 11 information for a person required to register as a sexually
5 12 violent predator shall include, but not be limited to, other

5 13 identifying factors, anticipated future places of residence,
5 14 offense history, and documentation of any treatment received
5 15 by the person for a mental abnormality or personality
5 16 disorder.

5 17 Sec. 7. Section [692A.7](#), subsection 1, Code 1997, is
5 18 amended to read as follows:

5 19 1. A willful failure to register as required under this
5 20 chapter is an aggravated misdemeanor for a first offense and a
5 21 class "D" felony for a second or subsequent offense. However,
5 22 a person who willfully fails to register as required under
5 23 this chapter and who commits a criminal offense against a
5 24 minor, sexual exploitation, an other relevant offense, or a
5 25 sexually violent offense is guilty of a class "C" felony. Any
5 26 fine imposed for a second or subsequent offense shall not be
5 27 suspended. The court shall not defer judgment or sentence for
5 28 any violation of the registration requirements of this
5 29 chapter. The willful failure of a person who is on probation,
5 30 parole, or work release, or any other form of release to
5 31 register as required under this chapter shall result in the
5 32 automatic revocation of the person's probation, parole, or
5 33 work release.

5 34 Sec. 8. Section [692A.9](#), Code 1997, is amended to read as
5 35 follows:

6 1 692A.9 REGISTRATION FORMS.

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

6 19 Sec. 9. Section [692A.13](#), subsection 3, Code 1997, is
6 20 amended to read as follows:

6 21 3. The department or a criminal or juvenile justice agency
6 22 with case-specific authorization from the department may
6 23 release relevant information from the registry

~~6 24 regarding a~~

6 24

~~6 25 criminal offense against a minor, sexual exploitation, or a~~

6 25

~~6 26 sexually violent offense,~~

~~6 27 that is necessary to protect the~~

6 26 public concerning a specific person who is required to
6 27 register under this chapter.

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

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

7 1 a. The person's date of birth.
7 2 b. The person's social security number.
7 3 c. The person's address.
7 4 A county sheriff or a police department shall provide, in
7 5 accordance with rules adopted by the department, a list of all
7 6 registrants in that county who are classified as at-risk for
7 7 reoffending.

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

7 18 a. The department of corrections shall perform the
7 19 assessment of risk for persons who are incarcerated in
7 20 institutions under the control of the director of the
7 21 department of corrections, persons who are under the
7 22 supervision of the department of corrections or a judicial
7 23 district department of correctional services, and persons who
7 24 are under the supervision or control of the department of
7 25 corrections or a judicial district department of correctional
7 26 services through an interstate compact.

7 27 b. The department of human services shall perform the
7 28 assessment of risk for persons who are confined in
7 29 institutions under the control of the director of human
7 30 services, persons who are under the supervision of the
7 31 department of human services, and persons who are under the
7 32 supervision or control of the department of human services
7 33 through an interstate compact.

7 34 c. The division of criminal investigation of the
7 35 department of public safety shall perform the assessment of
8 1 risk for persons who have moved to Iowa but are not under the
8 2 supervision of the department of corrections, a judicial
8 3 district department of correctional services, or the
8 4 department of human services; federal parolees or
8 5 probationers; persons who have been released from a county
8 6 jail but are not under the supervision of the department of
8 7 corrections, a judicial district department of correctional
8 8 services, or the department of human services; and persons who
8 9 are convicted and released by the courts and are not
8 10 incarcerated or placed under supervision pursuant to the
8 11 court's sentencing order.

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

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

8 20 Sec. 12. NEW SECTION. 692A.16 APPLICABILITY OF CHAPTER.

8 21 1. The registration requirements of this chapter shall
8 22 apply to persons convicted of a criminal offense against a
8 23 minor, sexual exploitation, an other relevant offense, or a
8 24 sexually violent offense prior to July 1, 1995, are released
8 25 on or after July 1, 1995, who are participating in a work
8 26 release or institutional work release program on or after July
8 27 1, 1995, or who are under parole or probation supervision by a
8 28 judicial district department of correctional services on or
8 29 after July 1, 1995.

8 30 2. Persons required to register under subsection 1 shall
8 31 register for a period of ten years commencing with the later
8 32 of either July 1, 1995, or the date of the person's release

8 33 from confinement, release on work release or institutional
8 34 work release, or release on parole or probation. For persons
8 35 released from confinement, registration shall be initiated by
9 1 the warden, sheriff, or superintendent in charge of the place
9 2 of confinement in the same manner as provided in section
9 3 692A.5. For persons who are under parole or probation
9 4 supervision, the person's parole or probation officer shall
9 5 inform the person of the person's duty to register and shall
9 6 obtain the registration information from the person as
9 7 required under section 692A.5.

9 8 Sec. 13. Section [901.4](#), Code 1997, is amended to read as
9 9 follows:

9 10 901.4 PRESENTENCE INVESTIGATION REPORT CONFIDENTIAL.

9 11 The presentence investigation report is confidential and
9 12 the court shall provide safeguards to ensure its
9 13 confidentiality, including but not limited to sealing the
9 14 report, which may be opened only by further court order. At
9 15 least three days prior to the date set for sentencing, the
9 16 court shall serve all of the presentence investigation report
9 17 upon the defendant's attorney and the attorney for the state,
9 18 and the report shall remain confidential except upon court
9 19 order. However, the court may conceal the identity of the
9 20 person who provided confidential information. The report of a
9 21 medical examination or psychological or psychiatric evaluation
9 22 shall be made available to the attorney for the state and to
9 23 the defendant upon request. The reports are part of the
9 24 record but shall be sealed and opened only on order of the
9 25 court. If the defendant is committed to the custody of the
9 26 Iowa department of corrections and is not a class "A" felon, a
9 27 copy of the presentence investigation report shall be
9 28 forwarded to the director with the order of commitment by the
9 29 clerk of the district court and to the board of parole at the
9 30 time of commitment. The defendant or the defendant's attorney
9 31 may file with the presentence investigation report, a denial
9 32 or refutation of the allegations, or both, contained in the
9 33 report. The denial or refutation shall be included in the
9 34 report. If the person is sentenced for an offense which
9 35 requires registration under chapter 692A, the court shall
10 1 release the report to the department which is responsible
10 2 under section 692A.13 for performing the assessment of risk.

10 3 EXPLANATION

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

10 13 The definition of the term "sexually violent offense" is
10 14 amended in Code section 692A.1 by striking three offenses,
10 15 telephone dissemination of obscene materials, rental or sale
10 16 of hard-core pornography, and indecent exposure, from the
10 17 definition. The same offenses are contained in the new
10 18 definition of "other relevant offense", which is incorporated
10 19 into the registration requirements. A definition of the term
10 20 "sexually violent predator" is created and defines the term as
10 21 meaning the same as under the federal definition of sexually
10 22 violent predator under the Violent Crime Control and Law
10 23 Enforcement Act of 1994. Language which referenced the
10 24 federal definition in other provisions of Code chapter 692A is
10 25 stricken to utilize the new definition.

10 26 The provisions in Code section 692A.2 which establish an
10 27 individual's duty to register as a sex offender are amended to
10 28 require registration in Iowa by persons who are convicted of
10 29 an offense in a court in another state, a federal court, a

10 30 military court, a tribal court, or a foreign court, which
10 31 would require registration if committed in this state, as well
10 32 as persons who are required to register in another state.
10 33 Language is added to provide for the tolling of the period of
10 34 registration during the time that a registrant is incarcerated
10 35 for an offense which does not require registration. A
11 1 requirement is added that provides that if a person is
11 2 convicted more than once of a crime which requires
11 3 registration, that person must register for the rest of the
11 4 person's life. If the juvenile court modifies an order which
11 5 had required the registration of a juvenile, the court must
11 6 notify the department of the modification. Convictions of
11 7 more than one offense which require registration and which are
11 8 prosecuted in a single indictment are to be considered as a
11 9 single offense for purposes of registration.

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

11 23 Sexually violent predators are required by the amendments
11 24 to Code sections 692A.5 and 692A.9 to provide the registry
11 25 with additional information, beyond that which is required for
11 26 other sex offenders, including other identifying factors,
11 27 anticipated future residence, offense history, and
11 28 documentation of any treatment received by the person for
11 29 mental abnormality or personality disorder.

11 30 The public notification provisions in Code section 692A.13
11 31 are modified to provide that any person may contact a
11 32 sheriff's office or police department in writing to request
11 33 information regarding any person who is required to register.
11 34 The request must include the registrant's name and at least
11 35 one of the following additional identifiers: the registrant's
12 1 date of birth, social security number, or address.
12 2 Additionally, the county sheriff or a police department is to
12 3 provide, in accordance with rules adopted by the department of
12 4 public safety, a list of all registrants in that county who
12 5 are classified as at-risk of reoffending. The department of
12 6 corrections, the department of human services, and the
12 7 department of public safety, in consultation with one another,
12 8 shall develop methods and procedures for the assessment of
12 9 persons required to register as sex offenders and sexually
12 10 violent predators and are to perform assessments of offenders
12 11 who are under their respective jurisdictions. The provision
12 12 restricting the release of presentence reports is amended to
12 13 provide for release of the report to the department which is
12 14 responsible for performing the offender assessment of risk.

12 15 Language in Code section 692A.13 relating to the release of
12 16 information is changed to include information regarding
12 17 convictions for the crimes of sexual exploitation and those
12 18 offenses classified as other relevant offenses.

12 19 The registration provisions of Code chapter 692A are made
12 20 applicable by new Code section 692A.16 for a period of 10
12 21 years to persons convicted of criminal offenses against a
12 22 minor, sexual exploitation, other relevant offenses, and
12 23 sexually violent offenses prior to July 1, 1995, but who are
12 24 released after that date. The bill takes effect July 1 after
12 25 enactment since no other effective date is specified.

