

House Study Bill 87

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 criminal law and procedure, including the
2 criminal offenses of arson, communications by an arrested
3 person, and harassment, and the sex offender registry.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 1037DP 80
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1 1 Section 1. Section 692A.1, subsection 1, paragraph d, Code
2 2003, is amended to read as follows:

1 3 d. Lascivious acts with a child in violation of section
1 4 709.8, ~~subsection 1.~~

1 5 Sec. 2. Section 692A.14, Code 2003, is amended to read as
1 6 follows:

1 7 692A.14 COOPERATION WITH REGISTRATION.

1 8 Each agency of state and local government which possesses
1 9 information relevant to requirements that a person register
1 10 under this chapter shall provide that information to the court
1 11 or the department upon request. Minutes of testimony shall

1 12 also be provided to the department of corrections, the
1 13 department of human services, or the department of public

1 14 safety upon request for the purpose of conducting an
1 15 assessment of risk. All other confidential records provided
1 16 under this section shall remain confidential, unless otherwise
1 17 ordered by a court, by the lawful custodian of the records, or
1 18 by another person duly authorized to release such information.

1 19 Sec. 3. Section 708.7, subsection 1, paragraph a,
1 20 subparagraph (2), Code 2003, is amended to read as follows:

1 21 (2) Places a simulated explosive or simulated incendiary
1 22 device in ~~or near a building, vehicle, airplane, railroad~~
~~1 23 engine or railroad car, or boat occupied by another person a~~
1 24 ~~manner which would endanger a person or property.~~

1 25 Sec. 4. Section 712.1, Code 2003, is amended to read as
1 26 follows:

1 27 712.1 ARSON DEFINED.

1 28 Causing a fire or explosion, or placing any burning or
1 29 combustible material, or any incendiary or explosive device or
1 30 material, in or near any property with the intent to destroy
1 31 or damage such property, or with the knowledge that such
1 32 property will probably be destroyed or damaged, is arson,
1 33 whether or not any such property is actually destroyed or
1 34 damaged. Arson is also causing by manufacturing or attempting

1 35 to manufacture a controlled substance in violation of section
2 1 124.401, a fire or explosion that destroys property.

2 2 Provided, that where a person who owns said property which the
2 3 defendant intends to destroy or damage, or which the defendant
2 4 knowingly endangers, consented to the defendant's acts, and
2 5 where no insurer has been exposed fraudulently to any risk,
2 6 and where the act was done in such a way as not to
2 7 unreasonably endanger the life or property of any other person
2 8 the act shall not be arson.

2 9 Sec. 5. Section 712.2, Code 2003, is amended to read as
2 10 follows:

2 11 712.2 ARSON IN THE FIRST DEGREE.

~~2 12 Arson is arson in the first degree when the property which~~
~~2 13 the defendant intends to destroy or damage, or which the~~

~~2 14 defendant knowingly endangers, is property in which the~~
2 15 presence of one or more persons can be reasonably anticipated
2 16 in or near the property which is the subject of the arson, or
2 17 the arson results in the death of a fire fighter, whether paid
2 18 or volunteer.

2 19 Arson in the first degree is a class "B" felony.

2 20 Sec. 6. Section 712.3, Code 2003, is amended to read as
2 21 follows:

2 22 712.3 ARSON IN THE SECOND DEGREE.

2 23 Arson which is not arson in the first degree is arson in
2 24 the second degree when the property ~~which the defendant~~
~~2 25 intends to destroy or damage, or which the defendant knowingly~~
~~2 26 endangers, which is the subject of the arson,~~ is a building or
2 27 a structure, or real property of any kind, or standing crops,
2 28 or is personal property the value of which exceeds five
2 29 hundred dollars. Arson in the second degree is a class "C"
2 30 felony.

2 31 Sec. 7. Section 804.20, Code 2003, is amended to read as
2 32 follows:

2 33 804.20 COMMUNICATIONS BY ARRESTED PERSONS.

2 34 Any peace officer or other person having custody of any
2 35 person arrested or restrained of the person's liberty for any
3 1 reason whatever, shall permit that person, without unnecessary
3 2 delay after arrival at the place of detention, to call,
3 3 consult, and see a member of the person's family or an
3 4 attorney of the person's choice, or both. Such person shall
3 5 be permitted to make a reasonable number of telephone calls as
3 6 may be required to secure an attorney. If a call is made, it
3 7 shall be made in the presence of the person having custody of
3 8 the one arrested or restrained. If such person is
3 9 intoxicated, or a person under eighteen years of age, the call
3 10 may be made by the person having custody. An attorney shall
3 11 be permitted to see and consult confidentially with such
3 12 person alone and in private at the jail or other place of
3 13 custody without unreasonable delay. ~~A violation of this~~
~~3 14 section shall constitute a simple misdemeanor.~~

3 15 EXPLANATION

3 16 This bill relates to criminal law and procedure, including
3 17 the criminal offenses of arson and communications by an
3 18 arrested person, and the sex offender registry.

3 19 Code section 692A.1, relating to the definition of an
3 20 "aggravated offense" in the sex offender registry Code
3 21 chapter, is amended. The bill provides that a person who
3 22 commits any act of lascivious acts with a child commits an
3 23 aggravated offense. Current law provides that a person who
3 24 commits lascivious acts with a child in violation of Code
3 25 section 709.8, subsection 1, commits an aggravated offense. A
3 26 person who commits an aggravated offense is required to
3 27 register as a sex offender for life.

3 28 Code section 692A.14, relating to the sharing of
3 29 confidential information regarding a sex offender between
3 30 departments, is amended. The bill provides that the minutes
3 31 of testimony shall be provided to the department of
3 32 corrections, the department of human services, or the
3 33 department of public safety for the purpose of conducting a
3 34 risk assessment on a sex offender. Current law provides that
3 35 the minutes of testimony are to be provided upon court order.
4 1 The minutes of testimony are a summary of the facts which are
4 2 attached to a criminal indictment or trial information.

4 3 Code section 708.7, relating to the criminal offense of
4 4 harassment, is amended. The bill expands the definition of
4 5 harassment to include placing a simulated explosive or
4 6 simulated incendiary device in a manner which would endanger a
4 7 person or any property. The current definition includes
4 8 placing a simulated explosive or simulated incendiary device
4 9 in or near a building, vehicle, airplane, railroad engine, or
4 10 railroad car, or boat occupied by another person.

4 11 Code sections 712.1, 712.2, and 712.3, relating to the
4 12 crime of arson, are amended. The amendment to Code section
4 13 712.1 changes the definition of arson to provide that a person
4 14 who manufactures or attempts to manufacture a controlled
4 15 substance in violation of Code section 124.401, which then
4 16 results in a fire or explosion that destroys property, commits
4 17 arson. Code sections 712.2 and 712.3 are amended to conform
4 18 with the definitional change in Code section 712.1.

4 19 Code section 804.20, relating to communications by a person
4 20 who has been arrested, is amended. The bill eliminates the
4 21 criminal penalty in Code section 804.20 if a peace officer
4 22 does not comply with the section, but does not eliminate the
4 23 requirement of a peace officer to permit an arrested person to
4 24 speak with a family member of the person or to an attorney
4 25 after an arrest.

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