

FILED FEB 20 '03

SENATE FILE 185
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1027)

Passed Senate, Date Passed 3-7-03 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.

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

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SF 185

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

3 692A.14 COOPERATION WITH REGISTRATION.

4 Each agency of state and local government which possesses
5 information relevant to requirements that a person register
6 under this chapter shall provide that information to the court
7 or the department upon request. Minutes of testimony shall
8 also be provided to the department of corrections, the
9 department of human services, or the department of public
10 safety upon request for the purpose of conducting an
11 assessment of risk. All other confidential records provided
12 under this section shall remain confidential, unless otherwise
13 ordered by a court, by the lawful custodian of the records, or
14 by another person duly authorized to release such information.

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

17 (2) Places a simulated explosive or simulated incendiary
18 device in or near ~~a-building, vehicle, airplane, railroad~~
19 ~~engine-or-railroad-car, or boat occupied by another person~~ an
20 occupied structure as defined in section 702.12.

21 Sec. 3. Section 712.1, Code 2003, is amended to read as
22 follows:

23 712.1 ARSON DEFINED.

24 Causing a fire or explosion, or placing any burning or
25 combustible material, or any incendiary or explosive device or
26 material, in or near any property with the intent to destroy
27 or damage such property, or with the knowledge that such
28 property will probably be destroyed or damaged, is arson,
29 whether or not any such property is actually destroyed or
30 damaged. Arson is also causing by manufacturing or attempting
31 to manufacture a controlled substance in violation of section
32 124.401, a fire or explosion that destroys property.

33 Provided, that where a person who owns said property which the
34 defendant intends to destroy or damage, or which the defendant
35 knowingly endangers, consented to the defendant's acts, and

1 where no insurer has been exposed fraudulently to any risk,
2 and where the act was done in such a way as not to
3 unreasonably endanger the life or property of any other person
4 the act shall not be arson.

5 Sec. 4. Section 712.2, Code 2003, is amended to read as
6 follows:

7 712.2 ARSON IN THE FIRST DEGREE.

8 Arson is arson in the first degree when ~~the property which~~
9 ~~the defendant intends to destroy or damage, or which the~~
10 ~~defendant knowingly endangers, is property in which~~ the
11 presence of one or more persons can be reasonably anticipated
12 in or near the property which is the subject of the arson, or
13 the arson results in the death of a fire fighter, whether paid
14 or volunteer.

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

16 Sec. 5. Section 712.3, Code 2003, is amended to read as
17 follows:

18 712.3 ARSON IN THE SECOND DEGREE.

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

27 Sec. 6. Section 804.20, Code 2003, is amended to read as
28 follows:

29 804.20 COMMUNICATIONS BY ARRESTED PERSONS.

30 Any peace officer or other person having custody of any
31 person arrested or restrained of the person's liberty for any
32 reason whatever, shall permit that person, without unnecessary
33 delay after arrival at the place of detention, to call,
34 consult, and see a member of the person's family or an
35 attorney of the person's choice, or both. Such person shall

1 be permitted to make a reasonable number of telephone calls as
2 may be required to secure an attorney. If a call is made, it
3 shall be made in the presence of the person having custody of
4 the one arrested or restrained. If such person is
5 intoxicated, or a person under eighteen years of age, the call
6 may be made by the person having custody. An attorney shall
7 be permitted to see and consult confidentially with such
8 person alone and in private at the jail or other place of
9 custody without unreasonable delay. ~~A violation of this~~
10 ~~section shall constitute a simple misdemeanor.~~

11 EXPLANATION

12 This bill relates to criminal law and procedure, including
13 the criminal offenses of arson and communications by an
14 arrested person, and harassment.

15 Code section 692A.14, relating to the sharing of
16 confidential information regarding a sex offender between
17 departments, is amended. The bill provides that the minutes
18 of testimony shall be provided to the department of
19 corrections, the department of human services, or the
20 department of public safety for the purpose of conducting a
21 risk assessment on a sex offender. Current law provides that
22 the minutes of testimony are to be provided upon court order.
23 The minutes of testimony are a summary of the facts which are
24 attached to a criminal indictment or trial information.

25 Code section 708.7, relating to the criminal offense of
26 harassment, is amended. The bill expands the definition of
27 harassment to include placing a simulated explosive or
28 simulated incendiary device in or near an occupied structure
29 as defined in Code section 702.12. The current definition
30 includes placing a simulated explosive or simulated incendiary
31 device in or near a building, vehicle, airplane, railroad
32 engine, or railroad car, or boat occupied by another person.

33 Code sections 712.1, 712.2, and 712.3, relating to the
34 crime of arson, are amended. The amendment to Code section
35 712.1 changes the definition of arson to provide that a person

1 who manufactures or attempts to manufacture a controlled
2 substance in violation of Code section 124.401, which then
3 results in a fire or explosion that destroys property, commits
4 arson. Code sections 712.2 and 712.3 are amended to conform
5 with the definitional change in Code section 712.1.

6 Code section 804.20, relating to communications by a person
7 who has been arrested, is amended. The bill eliminates the
8 criminal penalty in Code section 804.20 if a peace officer
9 does not comply with the section, but does not eliminate the
10 requirement of a peace officer to permit an arrested person to
11 speak with a family member of the person or to an attorney
12 after an arrest.

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Description

Senate File 185 relates to criminal law and procedure, including criminal offenses for arson, communications by an arrested person, and harassment.

Assumptions

1. A six-month lag time will result from the law's effective date (July 1, 2003) to the date of first entry of affected offenders into the correctional system.
2. Section 2 of the Bill deals with harassment. In FY 2002, 1,290 persons were convicted of harassment; of which, most were simple misdemeanor offenses. The type of harassment was determined in 259 offenses. Based on the type of harassment in the 259 cases, simulated explosives or simulated incendiary devices make up approximately 1.5% of convictions or 19 per year.
3. Sections 3 through 5 of the Bill deal with the crime of arson. In FY 2002, there were over 900 meth labs and meth dumpsites found in Iowa. Approximately, 5.0% or 45 lab sites involved fires. Sections 3 through 5 of the Bill result in one new prison admission per year, which includes an average prison length of stay of 111 months at a cost of \$12 per day, an average length of probation and parole of 27 months at \$1.82 per day, \$3,500 for indigent defense costs, and court costs range from \$195 for a trial without a jury and \$2,200 with a jury.
4. Section 3 through 5 of the Bill will result in 6 additional convictions in FY 2004, 11 additional convictions in FY 2005, and 11 additional convictions in FY 2008 for Arson in the first, second, and third degree. These arson convictions will likely be for people already convicted of a Class B or Class C drug offense.
5. In FY 2008, one person will be admitted to community-based corrections.
6. Arson in the first degree is a forcible felony. The prison rate is assumed to be 100.0%. The imprisonment rates for a Class B drug offense is 79.0%. The imprisonment rate for a Class C drug offense is 32.0% and for a similar arson offense is 33.0%.
7. The average cost for one offender being sent to prison is \$47,000 over 11.5 years, which includes court costs, prison, and probation/parole.

Correctional Impact

- The correctional impact for harassment in Section 2 of the Bill is not anticipated to be significant.
- The correctional impact for arson in Sections 3 through 5 of the Bill is anticipated to be one additional prison admission per year for Arson in the first degree. Conviction rates under these Sections would increase by 6 offenders in FY 2004, 11 offenders in FY 2005, and 11 offenders in FY 2008. However, most of these convictions are already being charged under current drug offenses, therefore, only one new prison admission per year would result for Arson in the first degree. By FY 2008, the prison population would increase by four offenders. There would be one new parole/probation admission starting in FY 2008 for these offenders.

Fiscal Impact

The estimated General Fund fiscal impact for Sections 1, 2, and 6 of SF 185 is expected to be minimal. The estimated General Fund fiscal impact for Sections 3, 4, and 5 to send one new admission to prison each year would result in the following:

	<u>FY 2004</u>	<u>FY 2005</u>	<u>FY 2008</u>
Dept. Of Corrections - Prisons	\$ 2,000	\$ 8,000	\$ 16,000
Indigent Defense	4,000	4,000	4,000
Judicial Branch	2,000	2,000	2,000
Community-Based Corrections	0	0	1,000
Total	<u>\$ 8,000</u>	<u>\$ 14,000</u>	<u>\$ 23,000</u>

The cost for one new conviction under SF 185 is \$47,000 over 11.5 years. This Bill will add one new conviction per year.

Sources

Judicial Branch
Department of Public Safety
Department of Human Rights, Criminal and Juvenile Justice Planning
Attorney General
Department of Inspections and Appeals

/s/ Dennis C Prouty

March 3, 2003

S-3025

1 Amend Senate File 185 as follows:
2 1. Page 1, line 24, by inserting before the word
3 "Causing" the following: "1."
4 2. Page 1, lines 30 through 32, by striking the
5 words "Arson is also causing by manufacturing or
6 attempting to manufacture a controlled substance in
7 violation of section 124.401, a fire or explosion that
8 destroys property."
9 3. Page 2, by inserting after line 4 the
10 following:
11 "2. Causing by manufacturing or attempting to
12 manufacture a controlled substance in violation of
13 section 124.401, a fire or explosion that destroys
14 property is arson. Even if a person who owns property
15 which the defendant intends to destroy or damage, or
16 which the defendant knowingly endangers, consents to
17 the defendant's act, and if an insurer has not been
18 exposed fraudulently to any risk, and even if the act
19 was done in such a way as not to unreasonably endanger
20 the life or property of any person, the act
21 constitutes arson."
22 4. Page 3, line 10, by inserting after the word
23 "~~misdemeanor.~~" the following: "A law enforcement
24 agency shall develop personnel policies to ensure the
25 implementation of this section."

By JOHN PUTNEY
KEITH A. KREIMAN

S-3025 FILED MARCH 5, 2003
ADOPTED ✓

SENATE FILE 185

H-1186

1 Amend Senate File 185, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 1, by inserting after line 14 the
4 following:

5 "Sec. ____ . Section 708.2, Code 2003, is amended by
6 adding the following new subsection:

7 NEW SUBSECTION. 4A. A person who commits an
8 assault, as defined in section 708.1, and who uses any
9 object to penetrate the genitalia or anus of another
10 person, is guilty of a class "C" felony."

11 2. Title page, by striking line 3 and inserting
12 the following: "person, assault, and harassment, and
13 providing a penalty."

14 3. By renumbering as necessary.

By COMMITTEE ON PUBLIC SAFETY
BAUDLER of Adair, Chairperson

H-1186 FILED MARCH 27, 2003

SENATE FILE 185 *

H-1217

1 Amend the amendment, H-1186, to Senate File 185, as
2 amended, passed, and reprinted by the Senate, as
3 follows:

4 1. Page 1, line 8, by inserting after the word
5 "who" the following: "intentionally".

By HOGG of Linn

H-1217 FILED APRIL 1, 2003

SENATE FILE 185
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1027)

(AS AMENDED AND PASSED BY THE SENATE MARCH 5, 2003)

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

Passed Senate, Date Passed 3/5/03 Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

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2 criminal offenses of arson, communications by an arrested
3 person, and harassment.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 185

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

3 692A.14 COOPERATION WITH REGISTRATION.

4 Each agency of state and local government which possesses
5 information relevant to requirements that a person register
6 under this chapter shall provide that information to the court
7 or the department upon request. Minutes of testimony shall
8 also be provided to the department of corrections, the
9 department of human services, or the department of public
10 safety upon request for the purpose of conducting an

11 assessment of risk. All other confidential records provided
12 under this section shall remain confidential, unless otherwise
13 ordered by a court, by the lawful custodian of the records, or
14 by another person duly authorized to release such information.

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

17 (2) Places a simulated explosive or simulated incendiary
18 device in or near ~~a-building,-vehicle,-airplane,-railroad~~
19 ~~engine-or-railroad-car,-or-boat-occupied-by-another-person~~ an
20 occupied structure as defined in section 702.12.

21 Sec. 3. Section 712.1, Code 2003, is amended to read as
22 follows:

23 712.1 ARSON DEFINED.

24 1. Causing a fire or explosion, or placing any burning or
25 combustible material, or any incendiary or explosive device or
26 material, in or near any property with the intent to destroy
27 or damage such property, or with the knowledge that such
28 property will probably be destroyed or damaged, is arson,
29 whether or not any such property is actually destroyed or
* 30 damaged. Provided, that where a person who owns said property
31 which the defendant intends to destroy or damage, or which the
32 defendant knowingly endangers, consented to the defendant's
33 acts, and where no insurer has been exposed fraudulently to
34 any risk, and where the act was done in such a way as not to
35 unreasonably endanger the life or property of any other person

1 the act shall not be arson.

2 2. Causing by manufacturing or attempting to manufacture a
3 controlled substance in violation of section 124.401, a fire
4 or explosion that destroys property is arson. Even if a
5 person who owns property which the defendant intends to
6 destroy or damage, or which the defendant knowingly endangers,
7 consents to the defendant's act, and if an insurer has not
8 been exposed fraudulently to any risk, and even if the act was
9 done in such a way as not to unreasonably endanger the life or
10 property of any person, the act constitutes arson.

11 Sec. 4. Section 712.2, Code 2003, is amended to read as
12 follows:

13 712.2 ARSON IN THE FIRST DEGREE.

14 Arson is arson in the first degree when ~~the property which~~
15 ~~the defendant intends to destroy or damage, or which the~~
16 ~~defendant knowingly endangers, is property in which the~~
17 presence of one or more persons can be reasonably anticipated
18 in or near the property which is the subject of the arson, or
19 the arson results in the death of a fire fighter, whether paid
20 or volunteer.

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

22 Sec. 5. Section 712.3, Code 2003, is amended to read as
23 follows:

24 712.3 ARSON IN THE SECOND DEGREE.

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

33 Sec. 6. Section 804.20, Code 2003, is amended to read as
34 follows:

35 804.20 COMMUNICATIONS BY ARRESTED PERSONS.

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

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Putney
Tinsman
Holveck

Succeeded By
(SF) HF 185

SSB 1027

SENATE/HOUSE FILE Judiciary
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
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4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 692A.1, subsection 1, paragraph d, Code
2 2003, is amended to read as follows:

3 d. Lascivious acts with a child in violation of section
4 709.87-subsection-1.

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

7 692A.14 COOPERATION WITH REGISTRATION.

8 Each agency of state and local government which possesses
9 information relevant to requirements that a person register
10 under this chapter shall provide that information to the court
11 or the department upon request. Minutes of testimony shall
12 also be provided to the department of corrections, the
13 department of human services, or the department of public
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15 assessment of risk. All other confidential records provided
16 under this section shall remain confidential, unless otherwise
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18 by another person duly authorized to release such information.

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

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

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

27 712.1 ARSON DEFINED.

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

1 124.401, a fire or explosion that destroys property.

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

9 Sec. 5. Section 712.2, Code 2003, is amended to read as
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11 712.2 ARSON IN THE FIRST DEGREE.

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

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

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

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24 the second degree when the property ~~which the defendant~~
25 ~~intends to destroy or damage, or which the defendant knowingly~~
26 ~~endangers, which is the subject of the arson,~~ is a building or
27 a structure, or real property of any kind, or standing crops,
28 or is personal property the value of which exceeds five
29 hundred dollars. Arson in the second degree is a class "C"
30 felony.

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

33 804.20 COMMUNICATIONS BY ARRESTED PERSONS.

34 Any peace officer or other person having custody of any
35 person arrested or restrained of the person's liberty for any

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

15 EXPLANATION

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

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

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

1 The minutes of testimony are a summary of the facts which are
2 attached to a criminal indictment or trial information.

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

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

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

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Thomas J. Vilsack
Governor
Sally J. Pederson
Lt. Governor



Kevin W. Techau
Commissioner

TO: Members of the General Assembly
FROM: Betsy Dittmore, Legislative Liaison
DATE: January 13, 2003
RE: Amending various sections of the criminal code

Sections 1 and 2. 692A.1 - Sex Offender registration-Lascivious Acts with a Child. Currently only subsection 1 of 709.8 is included as an "aggravated offense" requiring lifetime registration. This proposal includes the 3 additional elements of this section, (2) permit or cause a child to fondle or touch the person's genitals or pubes (3) solicit a child to engage in a sex act or solicit a person to arrange a sex act with a child (4) inflict pain or discomfort upon a child or permit a child to inflict pain or discomfort on the person. These additional elements are considered to be as serious as subsection 1 (fondle or touch the pubes or genitals of a child).

692A.14 - Minutes of Testimony. In order to conduct a thorough and accurate risk assessment of a sex offender's potential to re-offend, it is critical to have access to all pertinent information. Currently minutes of testimony are sealed and may only be obtained by requesting the county attorney to obtain a court order. Departments conducting risk assessments have been authorized access through these means, however, removing the current restriction would save the time and effort involved in obtaining this information.

Sections 3-6. Harassment - Simulated explosives 708.7 - For purposes of charging a violation for placing a simulated explosive or incendiary, current language in this section requires that a person actually be occupying a facility. This proposal expands the definition to include placing a simulated explosive in a manner that would endanger a person or any property. The actual fear and disruption caused, whether a device is real or later found to be simulated, and the response by emergency personnel, is the same whether a person is actually present or appears at a later time.

Arson 712.1 - The current arson definition would not allow charges of arson to be filed if a fire or explosion resulted from the manufacture of a controlled substance. There have been several fires and explosions resulting from the manufacture of methamphetamine, for example. This proposal incorporates this additional element into the definition of arson in 712.1 and provides an alternative option for charging a violation of 712.1.

Section 7. Communications by arrested persons - 804.20 On occasion there is dispute as to whether proper procedures were followed in making an arrest. Courts routinely deal with and rule on these procedural matters. Current section 804.20 is the only area in the code where a criminal penalty may be imposed for a procedural matter. We propose that it is unnecessary and should be struck.