

# Senate Study Bill 1027

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  
1 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.

4 26 LSB 1037DP 80

4 27 jm/cls/14