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PUBLIC SAFETY

HOUSE FILE 2468  
BY HORBACH

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to the residency of and presence of a registered  
2 sex offender on or near a school or child care facility, and  
3 providing a penalty.

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

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HF 2468

1 Section 1. Section 692A.2A, Code 2005, is amended to read  
2 as follows:

3 692A.2A RESIDENCY RESTRICTIONS -- PRESENCE -- CHILD CARE  
4 FACILITIES AND SCHOOLS.

5 ~~1. For purposes of this section, "person" means a person~~  
6 ~~who has committed a criminal offense against a minor, or an~~  
7 ~~aggravated offense, sexually violent offense, or other~~  
8 ~~relevant offense that involved a minor.~~ As used in this  
9 section:

10 a. "Minor" means a person who is under eighteen years of  
11 age or who is enrolled in a secondary school.

12 b. "Person" means a person required to register under this  
13 chapter who has been convicted of a criminal offense against a  
14 minor, or an offense involving a minor that is an aggravated  
15 offense, sexually violent offense, or other relevant offense.

16 c. "School" means a public or nonpublic elementary or  
17 secondary school.

18 2. For purposes of measuring the distance from the real  
19 property comprising a school or a child care facility to a  
20 residence, the distance shall be measured from the real  
21 property comprising the school or child care facility to the  
22 real property comprising the residence where the person  
23 resides.

24 ~~2.~~ 3. A person shall not reside within two thousand feet  
25 of the real property comprising a ~~public or nonpublic~~  
26 ~~elementary or secondary~~ school or a child care facility.

27 ~~3.--A person who resides within two thousand feet of the~~  
28 ~~real property comprising a public or nonpublic elementary or~~  
29 ~~secondary school, or a child care facility, commits an~~  
30 ~~aggravated misdemeanor.~~

31 4. A person residing within two thousand feet of the real  
32 property comprising a ~~public or nonpublic elementary or~~  
33 ~~secondary~~ school or a child care facility does not commit a  
34 violation of this section if any of the following apply:

35 a. The person is required to serve a sentence at a jail,

1 prison, juvenile facility, or other correctional institution  
2 or facility.

3 b. The person is subject to an order of commitment under  
4 chapter 229A.

5 c. The person has established a residence prior to July 1,  
6 2002, ~~or a school or child care facility is newly located on~~  
7 ~~or after July 17, 2002.~~

8 d. The person has established a residence prior to any  
9 newly located school or child care facility being established.

10 ~~d.~~ e. The person is a minor or a ward under a  
11 guardianship.

12 f. The person is a ward in a guardianship.

13 5. A person subject to the residency restriction under  
14 this section may file an application with the court for an  
15 exemption from the residency restriction. The court, upon  
16 hearing, may authorize a person to reside within two thousand  
17 feet of the real property comprising a school or child care  
18 facility if the court finds that the person does not pose a  
19 danger to minors, and that if an exemption is granted, the  
20 likelihood that the person will reoffend is low.

21 6. An exemption shall not be granted under subsection 5 if  
22 any of the following apply:

23 a. The person refused sex offender treatment on or after  
24 the effective date of this Act.

25 b. The person is required to register under this chapter  
26 for the rest of the person's life.

27 c. The person caused bodily injury or serious injury to or  
28 the death of a minor.

29 7. a. A person, even if an exemption is granted under  
30 subsection 5, shall not knowingly be present on the real  
31 property comprising a school or a child care facility, unless  
32 paragraph "b" applies or any of the following apply:

33 (1) The person is transporting a minor who is a child of  
34 the person to or from the school or child care facility.

35 (2) The person is attending a parent teacher conference.

1 (3) The person has been summoned to discuss the academic  
2 or social progress of a minor who is a child of the person.

3 (4) The person is voting during the hours designated to  
4 vote.

5 b. If the person intends to be present for any other  
6 reason not enumerated in paragraph "a", the person shall first  
7 notify the administrative offices of the school or child care  
8 facility that the person intends to be present on the real  
9 property comprising the school or child care facility, and the  
10 person shall receive written permission from the school or  
11 child care facility prior to entering onto the real property  
12 comprising the school or child care facility.

13 8. A person who commits a violation of this section  
14 commits an aggravated misdemeanor.

15 Sec. 2. Section 692A.4A, Code Supplement 2005, is amended  
16 by striking the section and inserting in lieu thereof the  
17 following:

18 692A.4A ELECTRONIC MONITORING.

19 The department of corrections shall adopt by rule pursuant  
20 to chapter 17A a program establishing an electronic monitoring  
21 system to monitor the location and movements of a person  
22 required to register under this chapter. Public safety shall  
23 be the overriding criterion of any electronic monitoring  
24 program established pursuant to this section.

25 EXPLANATION

26 This bill relates to the residency of and presence of a  
27 registered sex offender on or near the real property  
28 comprising a school or child care facility.

29 The bill specifies the 2,000-foot residency restriction is  
30 applicable to a sex offender required to register under Code  
31 chapter 692A. The bill specifies the offenses which subject a  
32 convicted sex offender to the residency restrictions.

33 The bill provides that for purposes of measuring the  
34 distance from the real property comprising a public or  
35 nonpublic elementary or secondary school or a child care

1 facility to a residence, the distance shall be measured from  
2 the real property comprising the school or child care  
3 facility to the real property comprising the residence of the  
4 offender.

5 The bill amends current language to provide that the 2,000-  
6 foot residency restriction generally applies to residences  
7 within 2,000 feet of a newly located school or child care  
8 facility. However, under the bill, the restriction does not  
9 apply to a sex offender who has an established residence prior  
10 to the establishment of a newly located school or child care  
11 facility.

12 The bill provides that the residency restriction does not  
13 apply to a sex offender who is enrolled in a secondary school  
14 by defining the term "minor" to include such a student.

15 The bill creates an exemption for a sex offender subject to  
16 the residency restriction. The bill provides that a sex  
17 offender may apply to the court for an exemption to reside  
18 within 2,000 feet of the real property comprising a school or  
19 child care facility. The court may grant such an exemption if  
20 the court finds that the person does not pose a danger to  
21 minors and that if an exemption is granted, the likelihood  
22 that the person will reoffend is low.

23 The bill provides that an exemption shall not be granted if  
24 the person has refused sex offender treatment after the  
25 effective date of the bill, the person is required to register  
26 for life, or the offense committed by the person involved  
27 bodily injury or serious injury to or the death of a minor.

28 The bill provides that a sex offender, even if granted an  
29 exemption to reside within 2,000 feet of a school or child  
30 care facility, shall not be present on the real property  
31 comprising a school or child care facility. However, the bill  
32 provides two exceptions: (1) a sex offender may be present  
33 on school or child care facility property if the sex offender  
34 is transporting the offender's child to or from school or a  
35 child care facility, the offender is attending a parent

1 teacher conference, the sex offender is summoned to discuss  
2 the academic or social progress of the offender's child, or  
3 the sex offender is voting in an election during the  
4 designated hours to vote; (2) if a sex offender is to be  
5 present on the real property of a school or child care  
6 facility for any other reason, the sex offender must first  
7 receive written permission from the administration of the  
8 school or child care facility prior to entering onto the  
9 property.

10 Under current law and the expanded bill, a person who  
11 violates the provisions of Code section 692A.2A commits an  
12 aggravated misdemeanor. An aggravated misdemeanor is  
13 punishable by confinement for no more than two years and a  
14 fine of at least \$500 but not more than \$5,000.

15 The bill requires the department of corrections to adopt  
16 rules to establish a program for an electronic monitoring  
17 system to monitor the location and movements of a registered  
18 sex offender. The bill requires that public safety be the  
19 overriding factor when establishing such a program.

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