House Study Bill 711 - Introduced

A BILL FOR

1 An Act modifying sex offender registry provisions, providing
2   penalties, and including effective date provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1   Section 1.   Section 692A.101, subsection 2, Code Supplement
2 2009, is amended to read as follows:
3   2. *a.* *"Aggravated offense against a minor"* means a
4 conviction for any of the following offenses, if such offense
5 was committed against a minor, or otherwise involves a minor:
6   ~~a.~~ (1) Sexual abuse in the first degree in violation of
7 section 709.2.
8   ~~b.~~ (2) Sexual abuse in the second degree in violation of
9 section 709.3.
10   ~~c.~~ (3) Sexual abuse in the third degree in violation
11 of section 709.4, except for a violation of section 709.4,
12 subsection 2, paragraph *"c"*, subparagraph (4).
13   *b.* Any offense specified in the laws of another jurisdiction
14 or prosecuted in federal, military, or foreign court, that
15 is comparable to an offense listed in paragraph *"a"* shall be
16 considered an aggravated offense against a minor if such an
17 offense was committed against a minor or otherwise involves a
18 minor.
19   Sec. 2.   Section 692A.101, subsection 28, Code Supplement
20 2009, is amended to read as follows:
21   28. *a.* *"Sex offense against a minor"* means an offense
22 for which a conviction has been entered for a sex offense
23 classified as a tier I, tier II, or tier III offense under
24 this chapter if such offense was committed against a minor, or
25 otherwise involves a minor.
26   *b.* Any conviction for an offense specified in the laws
27 of another jurisdiction or any conviction for an offense
28 prosecuted in federal, military, or foreign court, that is
29 comparable to an offense under paragraph *"a"* shall be considered
30 a sex offense against a minor if such an offense was committed
31 against a minor or otherwise involves a minor.
32   Sec. 3.   Section 692A.102, subsection 1, paragraph c,
33 Code Supplement 2009, is amended by adding the following new
34 subparagraph:
35   NEW SUBPARAGRAPH.   (5A).   Penetration of the genitalia or

1 anus with an object in violation of section 708.2, subsection
2 5.
3   Sec. 4. Section 692A.106, Code Supplement 2009, is amended
4 by adding the following new subsection:
5   NEW SUBSECTION. 2A. If a sex offender is placed on
6 probation, parole, or work release and the probation, parole,
7 or work release is revoked, the period of registration shall
8 commence anew upon release from custody.
9   Sec. 5. Section 692A.111, Code Supplement 2009, is amended
10 by adding the following new subsection:
11   NEW SUBSECTION. 2A. Any violation of this chapter prior
12 to July 1, 2009, shall be considered a previous offense for
13 purposes of enhancing any penalty or period of registration
14 under this chapter.
15   Sec. 6. Section 692A.123, Code Supplement 2009, is amended
16 to read as follows:
17   **692A.123 Immunity for good faith conduct.**
18   Criminal or juvenile justice agencies<u>,</u> ~~and employees of~~
19 ~~criminal or juvenile justice agencies and~~ state agencies<u>,</u>
20 <u>schools as defined in section 692A.114, public libraries, and</u>
21 <u>child care facilities,</u> and their employees shall be immune
22 from liability for acts or omissions arising from a good faith
23 effort to comply with this chapter.
24   Sec. 7. Section 692A.125, subsection 2, paragraph c, Code
25 Supplement 2009, is amended to read as follows:
26   *c.* Any sex offender who is serving a special sentence
27 pursuant to section 903B.1 or 903B.2 prior to July 1, 2009<u>, or</u>
28 <u>any other person who is sentenced for a criminal offense prior</u>
29 <u>to July 1, 2009, that requires serving a special sentence</u>.
30   Sec. 8. Section 713.3, Code 2009, is amended by adding the
31 following new subsection:
32   NEW SUBSECTION. 3. For purposes of determining whether
33 the person should register as a sex offender pursuant to the
34 provisions of chapter 692A for violations of subsection 1,
35 paragraphs `a", `b", or `c", the fact finder shall make a

1 determination as provided in section 692A.126.

2   Sec. 9. Section 713.4, Code 2009, is amended by adding the

3 following new unnumbered paragraph after unnumbered paragraph

4 1:

5   NEW UNNUMBERED PARAGRAPH. For purposes of determining

6 whether the person should register as a sex offender pursuant

7 to the provisions of chapter 692A, the fact finder shall make a

8 determination as provided in section 692A.126.

9   Sec. 10. Section 713.5, Code 2009, is amended by adding the

10 following new unnumbered paragraph after unnumbered paragraph

11 2:

12   NEW UNNUMBERED PARAGRAPH. For purposes of determining

13 whether the person should register as a sex offender pursuant

14 to the provisions of chapter 692A, the fact finder shall make a

15 determination as provided in section 692A.126.

16   Sec. 11. Section 713.6, Code 2009, is amended by adding the

17 following new unnumbered paragraph after unnumbered paragraph

18 2:

19   NEW UNNUMBERED PARAGRAPH. For purposes of determining

20 whether the person should register as a sex offender pursuant

21 to the provisions of chapter 692A, the fact finder shall make a

22 determination as provided in section 692A.126.

23   Sec. 12. Section 713.6A, Code 2009, is amended by adding the

24 following new subsection:

25   NEW SUBSECTION. 3. For purposes of determining whether

26 the person should register as a sex offender pursuant to the

27 provisions of chapter 692A, the fact finder shall make a

28 determination as provided in section 692A.126.

29   Sec. 13. Section 713.6B, Code 2009, is amended by adding the

30 following new subsection:

31   NEW SUBSECTION. 3. For purposes of determining whether

32 the person should register as a sex offender pursuant to the

33 provisions of chapter 692A, the fact finder shall make a

34 determination as provided in section 692A.126.

35   Sec. 14. EFFECTIVE UPON ENACTMENT. This Act, being deemed

1 of immediate importance, takes effect upon enactment.

2   EXPLANATION

3   This bill modifies sex offender registry provisions.

4   Current law in Code section 692A.101(2) specifies that

5 the residency restrictions under Code section 692A.114 apply

6 to a person convicted of sexual abuse in the first degree in

7 violation of Code section 709.2, sexual abuse in the second

8 degree in violation of Code section 709.3, and sexual abuse in

9 the third degree in violation of Code section 709.4, except for

10 a violation of Code section 709.4(2)(c)(4).

11   The bill provides that any conviction for an offense

12 specified in the laws of another jurisdiction or any conviction

13 for an offense prosecuted in federal, military, or foreign

14 court, that is comparable to any offense listed in current law

15 in Code section 692A.101(2) shall be considered an aggravated

16 offense against a minor if the offense was against a minor or

17 otherwise involved a minor, making the offender subject to

18 the sex offender residency restrictions under Code section

19 692A.114.

20   Current law specifies that the exclusionary zones and

21 prohibited employment provisions apply to a sex offender who

22 commits a sex offense against a minor. The bill provides that

23 any conviction for an offense specified in the laws of another

24 jurisdiction or any conviction for an offense prosecuted in

25 federal, military, or foreign court, that is comparable to a

26 conviction for a sex offense against a minor in this state

27 shall be considered a sex offense against a minor in this

28 state.

29   A person who violates the residency restrictions exclusions

30 zones, or prohibited employment provisions commits an

31 aggravated misdemeanor for a first offense and a class "D"

32 felony for a second or subsequent offense. A person who

33 commits additional criminal offenses while in violation of

34 Code chapter 692A commits a class "C" felony under certain

35 circumstances.

1   The bill makes the criminal offense of penetration of the
2 genitalia or anus with an object under Code section 708.2(5) an
3 offense that requires registration as a sex offender. The bill
4 makes the offense a tier III offense. An offense classified as
5 a tier III offense is considered the most serious of offenses.
6 A tier III offender must report to the county sheriff every
7 three months and is prohibited from applying for modification
8 of the sex offender registry requirements for five years from
9 the date of the commencement of the requirement to register.
10   The bill provides that if a sex offender is placed on
11 probation, parole, or work release and such status is
12 subsequently revoked, the registration period for the sex
13 offender shall commence anew upon release from custody.
14   The bill specifies that any violation of Code chapter 692A
15 prior to July 1, 2009, shall be considered a previous offense
16 for purposes of enhancing any penalty or period of registration
17 in Code chapter 692A.
18   The bill provides immunity to schools, public libraries,
19 and child care facilities and the employees of such entities,
20 from liability for acts or omissions arising from a good faith
21 effort to comply with the Code chapter 692A. Current law
22 provides immunity to criminal and juvenile justice agencies and
23 state agencies and their employees.
24   The bill provides that any person who is sentenced for a
25 criminal offense prior to July 1, 2009, that requires serving a
26 special sentence shall register as a sex offender.
27   The bill specifies in certain burglary related provisions
28 that if a judge or jury makes a determination beyond a
29 reasonable doubt, that the offense is sexually motivated, the
30 offender shall be required to register. Current law specifies
31 this determination in Code section 692A.126 but not in the
32 existing burglary provisions.
33   The bill takes effect upon enactment.