

Senate File 2305 - Introduced

SENATE FILE 2305
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 3217)

A BILL FOR

1 An Act modifying sex offender registry provisions, and
2 providing 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 anus

1 with an object in violation of section 708.2, subsection 5.

2 Sec. 4. Section 692A.106, Code Supplement 2009, is amended
3 by adding the following new subsection:

4 NEW SUBSECTION. 2A. If a sex offender is placed on
5 probation, parole, or work release and the probation, parole,
6 or work release is revoked, the period of registration shall
7 commence anew upon release from custody.

8 Sec. 5. Section 692A.111, Code Supplement 2009, is amended
9 by adding the following new subsection:

10 NEW SUBSECTION. 2A. Any violation of this chapter prior
11 to July 1, 2009, shall be considered a previous offense for
12 purposes of enhancing any penalty or period of registration
13 under this chapter.

14 Sec. 6. Section 692A.123, Code Supplement 2009, is amended
15 to read as follows:

16 **692A.123 Immunity for good faith conduct.**

17 Criminal or juvenile justice agencies, ~~and employees of~~
18 ~~criminal or juvenile justice agencies and state agencies,~~
19 schools as defined in section 692A.114, public libraries, and
20 child care facilities, and their employees shall be immune
21 from liability for acts or omissions arising from a good faith
22 effort to comply with this chapter.

23 Sec. 7. Section 692A.125, subsection 2, paragraph c, Code
24 Supplement 2009, is amended to read as follows:

25 *c.* Any sex offender who is serving a special sentence
26 pursuant to section 903B.1 or 903B.2 prior to July 1, 2009, or
27 any other person who is sentenced for a criminal offense prior
28 to July 1, 2009, that requires serving a special sentence.

29 Sec. 8. Section 713.3, 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 for violations of subsection 1,
34 paragraphs "a", "b", or "c", the fact finder shall make a
35 determination as provided in section 692A.126.

1 Sec. 9. Section 713.4, Code 2009, is amended by adding the
2 following new unnumbered paragraph after unnumbered paragraph
3 1:

4 NEW UNNUMBERED PARAGRAPH. For purposes of determining
5 whether the person should register as a sex offender pursuant
6 to the provisions of chapter 692A, the fact finder shall make a
7 determination as provided in section 692A.126.

8 Sec. 10. Section 713.5, Code 2009, is amended by adding the
9 following new unnumbered paragraph after unnumbered paragraph
10 2:

11 NEW UNNUMBERED PARAGRAPH. For purposes of determining
12 whether the person should register as a sex offender pursuant
13 to the provisions of chapter 692A, the fact finder shall make a
14 determination as provided in section 692A.126.

15 Sec. 11. Section 713.6, Code 2009, is amended by adding the
16 following new unnumbered paragraph after unnumbered paragraph
17 2:

18 NEW UNNUMBERED PARAGRAPH. For purposes of determining
19 whether the person should register as a sex offender pursuant
20 to the provisions of chapter 692A, the fact finder shall make a
21 determination as provided in section 692A.126.

22 Sec. 12. Section 713.6A, Code 2009, is amended by adding the
23 following new subsection:

24 NEW SUBSECTION. 3. For purposes of determining whether
25 the person should register as a sex offender pursuant to the
26 provisions of chapter 692A, the fact finder shall make a
27 determination as provided in section 692A.126.

28 Sec. 13. Section 713.6B, Code 2009, is amended by adding the
29 following new subsection:

30 NEW SUBSECTION. 3. For purposes of determining whether
31 the person should register as a sex offender pursuant to the
32 provisions of chapter 692A, the fact finder shall make a
33 determination as provided in section 692A.126.

34 Sec. 14. EFFECTIVE UPON ENACTMENT. This Act, being deemed
35 of immediate importance, takes effect upon enactment.

EXPLANATION

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This bill modifies sex offender registry provisions.

Current law in Code section 692A.101(2) specifies that the residency restrictions under Code section 692A.114 apply to a person convicted of sexual abuse in the first degree in violation of Code section 709.2, sexual abuse in the second degree in violation of Code section 709.3, and sexual abuse in the third degree in violation of Code section 709.4, except for a violation of Code section 709.4(2)(c)(4).

The bill provides that any conviction for an offense specified in the laws of another jurisdiction or any conviction for an offense prosecuted in federal, military, or foreign court, that is comparable to any offense listed in current law in Code section 692A.101(2) shall be considered an aggravated offense against a minor if the offense was against a minor or otherwise involved a minor, making the offender subject to the sex offender residency restrictions under Code section 692A.114.

Current law specifies that the exclusionary zones and prohibited employment provisions apply to a sex offender who commits a sex offense against a minor. The bill provides that any conviction for an offense specified in the laws of another jurisdiction or any conviction for an offense prosecuted in federal, military, or foreign court, that is comparable to a conviction for a sex offense against a minor in this state shall be considered a sex offense against a minor in this state.

A person who violates the residency restrictions exclusions zones, or prohibited employment provisions commits an aggravated misdemeanor for a first offense and a class "D" felony for a second or subsequent offense. A person who commits additional criminal offenses while in violation of Code chapter 692A commits a class "C" felony under certain circumstances.

The bill makes the criminal offense of penetration of the

1 genitalia or anus with an object under Code section 708.2(5) an
2 offense that requires registration as a sex offender. The bill
3 makes the offense a tier III offense. An offense classified as
4 a tier III offense is considered the most serious of offenses.
5 A tier III offender must report to the county sheriff every
6 three months and is prohibited from applying for modification
7 of the sex offender registry requirements for five years from
8 the date of the commencement of the requirement to register.

9 The bill provides that if a sex offender is placed on
10 probation, parole, or work release and such status is
11 subsequently revoked, the registration period for the sex
12 offender shall commence anew upon release from custody.

13 The bill specifies that any violation of Code chapter 692A
14 prior to July 1, 2009, shall be considered a previous offense
15 for purposes of enhancing any penalty or period of registration
16 in Code chapter 692A.

17 The bill provides immunity to schools, public libraries,
18 and child care facilities and the employees of such entities,
19 from liability for acts or omissions arising from a good faith
20 effort to comply with the Code chapter 692A. Current law
21 provides immunity to criminal and juvenile justice agencies and
22 state agencies and their employees.

23 The bill provides that any person who is sentenced for a
24 criminal offense prior to July 1, 2009, that requires serving a
25 special sentence shall register as a sex offender.

26 The bill specifies in certain burglary related provisions
27 that if a judge or jury makes a determination beyond a
28 reasonable doubt, that the offense is sexually motivated, the
29 offender shall be required to register. Current law specifies
30 this determination in Code section 692A.126 but not in the
31 existing burglary provisions.

32 The bill takes effect upon enactment.