

House Study Bill 137 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED GOVERNOR'S OFFICE
OF DRUG CONTROL POLICY
BILL)

A BILL FOR

1 An Act relating to the sex offender registry and including
2 retroactive and other applicability provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 232.54, subsection 1, paragraph i, Code
2 2011, is amended by striking the paragraph.

3 Sec. 2. Section 692A.101, subsection 23, paragraph a, Code
4 2011, is amended by adding the following new subparagraph:

5 NEW SUBPARAGRAPH. (22) Travel plans to other countries
6 including the name of each country and the dates when traveling
7 to each country.

8 Sec. 3. Section 692A.103, subsection 4, Code 2011, is
9 amended to read as follows:

10 4. Notwithstanding ~~subsections~~ subsection 3 and ~~5~~, a
11 juvenile fourteen years of age or older at the time the
12 offense was committed shall be required to register if the
13 adjudication was for ~~an~~ a sex offense committed by force
14 or the threat of serious violence, by rendering the victim
15 unconscious, or by involuntary drugging of the victim. At the
16 time of adjudication the judge shall make a determination as to
17 whether the sex offense was committed by force or the threat of
18 serious violence, by rendering the victim unconscious, or by
19 involuntary drugging of the victim.

20 Sec. 4. Section 692A.103, subsections 5 and 6, Code 2011,
21 are amended by striking the subsections.

22 Sec. 5. Section 692A.104, Code 2011, is amended to read as
23 follows:

24 **692A.104 Registration process.**

25 1. A sex offender shall appear in person to register with
26 the sheriff of each county where the offender has a residence,
27 maintains employment, or is in attendance as a student, within
28 ~~five~~ three business days of being required to register under
29 section 692A.103 by providing all relevant information to
30 the sheriff. A sheriff shall accept the registration of any
31 person who is required to register in the county pursuant to
32 the provisions of this chapter.

33 2. A sex offender shall, within ~~five~~ three business days of
34 changing a residence, employment, or attendance as a student,
35 appear in person to notify the sheriff of each county where a

1 change has occurred.

2 3. A sex offender shall, within ~~five~~ three business days
3 of a change in relevant information, other than relevant
4 information enumerated in subsection 2, notify the sheriff of
5 the county where the principal residence of the offender is
6 maintained about the change to the relevant information. The
7 department shall establish by rule what constitutes proper
8 notification under this subsection.

9 4. A sex offender who is required to verify information
10 pursuant to the provisions of section 692A.108 is only required
11 to appear in person in the county where the principal residence
12 of the offender is maintained to verify such information.

13 5. A sex offender shall, within ~~five~~ three business days of
14 the establishment of a residence, employment, or attendance as
15 a student in another jurisdiction, appear in person to notify
16 the sheriff of the county where the principal residence of the
17 offender is maintained, about the establishment of a residence,
18 employment, or attendance in another jurisdiction. A sex
19 offender shall, within ~~five~~ three business days of establishing
20 a new residence, employment, or attendance as a student in
21 another jurisdiction, register with the registering agency of
22 the other jurisdiction, if the offender is required to register
23 under the laws of the other jurisdiction. The department shall
24 notify the registering agency in the other jurisdiction of the
25 sex offender's new residence, employment, or attendance as a
26 student in the other jurisdiction.

27 6. A sex offender, who has multiple residences in this
28 state, shall appear in person to notify the sheriff of each
29 county where a residence is maintained, of the dates the
30 offender will reside at each residence including the date when
31 the offender will move from one residence to another residence.

32 7. Except as provided in subsection 8, the initial or
33 subsequent registration and any notifications required in
34 subsections 1, 2, 4, 5, and 6 shall be by appearance at the
35 sheriff's office and completion of the initial or subsequent

1 registration or notification shall be on a printed form, which
2 shall be signed and dated by the sex offender. If the sheriff
3 uses an electronic form to complete the initial registration
4 or notification, the electronic form shall be printed upon
5 completion and signed and dated by the sex offender. The
6 sheriff shall transmit the registration or notification form
7 completed by the sex offender within ~~five~~ three business days
8 by paper copy, or electronically, using procedures established
9 by the department by rule.

10 8. The collection of relevant information by a court or
11 releasing agency under section 692A.109 shall serve as the sex
12 offender's initial or subsequent registration for purposes of
13 this section. However, the sex offender shall register by
14 appearing in person in the county of residence to verify the
15 offender's arrival and relevant information. The court or
16 releasing agency shall forward a copy of the registration to
17 the department within ~~five~~ three business days of completion
18 of registration using procedures established by the department
19 by rule.

20 Sec. 6. Section 692A.105, Code 2011, is amended to read as
21 follows:

22 **692A.105 Additional registration requirements — temporary**
23 **lodging — international travel.**

24 In addition to the registration provisions specified in
25 section 692A.104, a sex offender, ~~within five business days of~~
26 ~~a change, shall also~~ shall do the following:

27 1. Within three business days of a change, appear in person
28 to notify the sheriff of the county of principal residence, of
29 any location in which the offender is staying when away from
30 the principal residence of the offender for more than five
31 days, by identifying the location and the period of time the
32 offender is staying in such location.

33 2. Within twenty-one days prior to traveling to another
34 country, appear in person to notify the sheriff of the county
35 of principal residence, of the name of each country that will

1 be visited during the travel.

2 Sec. 7. Section 692A.106, subsection 1, Code 2011, is
3 amended to read as follows:

4 1. ~~Except as otherwise provided in section 232.54,~~
5 ~~692A.103, or 692A.128, or this section, the duration of~~
6 ~~registration required under this chapter shall be for a period~~
7 ~~of ten years.~~ The registration period shall begin as provided
8 in section 692A.103. Except as otherwise provided in section
9 692A.128, the duration of registration required under this
10 chapter shall be as follows:

11 a. For a tier I offender, a period of fifteen years.

12 b. For a tier II offender, a period of twenty-five years.

13 c. For a tier III offender, the period shall be for the rest
14 of the offender's life.

15 Sec. 8. Section 692A.108, subsection 4, Code 2011, is
16 amended to read as follows:

17 4. A photograph of the sex offender shall be updated,
18 at a minimum, annually. The sheriff shall send the updated
19 photograph to the department using procedures established by
20 the department by rule within ~~five~~ three business days of
21 the photograph being taken and the department shall post the
22 updated photograph on the sex offender registry's internet
23 site. The sheriff may require the sex offender to submit to
24 being photographed, fingerprinted, or palm printed, more than
25 once per year during any required appearance to verify relevant
26 information.

27 Sec. 9. Section 692A.109, subsection 1, paragraphs c, d, and
28 e, Code 2011, are amended to read as follows:

29 c. Inform the sex offender that, within ~~five~~ three business
30 days of changing a residence, employment, or attendance as a
31 student, an appearance is required before the sheriff in the
32 county where the change occurred.

33 d. Inform the sex offender that, within ~~five~~ three business
34 days of a change in relevant information other than a change
35 of residence, employment, or attendance as a student, the sex

1 offender shall notify, in a manner prescribed by rule, the
2 sheriff of the county of principal residence of the change.

3 e. Inform the sex offender that if the offender establishes
4 residence in another jurisdiction, or becomes employed, or
5 becomes a student in another jurisdiction, the offender must
6 report the offender's new residence, employment, or attendance
7 as a student, to the sheriff's office in the county of the
8 offender's principal residence within ~~five~~ three business
9 days, and that, if the other jurisdiction has a registration
10 requirement, the offender shall also be required to register in
11 such jurisdiction.

12 Sec. 10. Section 692A.109, subsections 2 and 3, Code 2011,
13 are amended to read as follows:

14 2. a. When a sex offender is released from incarceration
15 from a jail, prison, juvenile facility, or other correctional
16 institution or facility, or when the offender is convicted but
17 not incarcerated, the sheriff, warden, superintendent of a
18 facility, or court shall verify that the person has completed
19 initial or subsequent registration forms, and accept the forms
20 on behalf of the sheriff of the county of registration. The
21 sheriff, warden, superintendent of a facility, or the court
22 shall send the initial or subsequent registration information
23 to the department within ~~five~~ three business days of completion
24 of the registration. Probation, parole, work release, or any
25 other form of release after conviction shall not be granted
26 unless the offender has registered as required under this
27 chapter.

28 b. If the sex offender refuses to register, the sheriff,
29 warden, superintendent of a facility, or court shall notify
30 within ~~five~~ three business days the county attorney in the
31 county in which the offender was convicted or, if the offender
32 no longer resides in that county, in the county in which
33 the offender resides of the refusal to register. The county
34 attorney shall bring a contempt of court action against the sex
35 offender in the county in which the offender was convicted or,

1 if the offender no longer resides in that county, in the county
2 in which the offender resides. A sex offender who refuses to
3 register shall be held in contempt and may be incarcerated
4 pursuant to the provisions of chapter 665 following the entry
5 of judgment by the court on the contempt action until the
6 offender complies with the registration requirements.

7 3. The sheriff, warden, or superintendent of a facility,
8 or if the sex offender is placed on probation, the court
9 shall forward one copy of the registration information to
10 the department and to the sheriff of the county in which the
11 principal residence is established within ~~five~~ three business
12 days after completion of the registration.

13 Sec. 11. Section 692A.109, Code 2011, is amended by adding
14 the following new subsection:

15 NEW SUBSECTION. 5. For a sex offender who will not be
16 informed of the registration requirements pursuant to this
17 section as a result of section 692A.125, subsection 3, the
18 department shall notify the sex offender of the registration
19 requirements of this chapter within the following time period
20 beginning on July 1, 2011:

- 21 a. For a tier I offender, within one year.
- 22 b. For a tier II offender, within six months.
- 23 c. For a tier III offender, within three months.

24 Sec. 12. Section 692A.121, subsection 2, unnumbered
25 paragraph 1, Code 2011, is amended to read as follows:

26 The department shall provide updated or corrected relevant
27 information within ~~five~~ three business days of the information
28 being updated or corrected, from the sex offender registry to
29 the following:

30 Sec. 13. Section 692A.121, subsection 2, paragraph a, Code
31 2011, is amended to read as follows:

- 32 a. A criminal or juvenile justice agency, an agency of the
33 state, a sex offender registry of another jurisdiction, or the
34 federal government, including the United States marshal service
35 if the sex offender provides notification about traveling to

1 another country pursuant to section 692A.105.

2 Sec. 14. Section 692A.121, subsection 2, paragraph b,
3 subparagraph (1), Code 2011, is amended by adding the following
4 new subparagraph divisions:

5 NEW SUBPARAGRAPH DIVISION. (0f) Previous sex offenses.

6 NEW SUBPARAGRAPH DIVISION. (i) Vehicle information.

7 Sec. 15. Section 692A.121, subsection 5, paragraph b,
8 subparagraph (4), Code 2011, is amended by striking the
9 subparagraph.

10 Sec. 16. Section 692A.121, subsection 5, paragraph b, Code
11 2011, is amended by adding the following new subparagraph:

12 NEW SUBPARAGRAPH. (5) Travel plans to other countries
13 including the name of each country and the dates when traveling
14 to each country.

15 Sec. 17. Section 692A.121, subsection 12, Code 2011, is
16 amended to read as follows:

17 12. When the department receives and approves registration
18 data, such data shall be made available on the sex offender
19 registry internet site within five ~~three~~ business days.

20 Sec. 18. Section 692A.125, Code 2011, is amended to read as
21 follows:

22 **692A.125 Applicability of chapter and retroactivity.**

23 1. The registration requirements of this chapter shall
24 apply to sex offenders convicted on or after July 1, ~~2009~~ 2011,
25 of a sex offense classified under section 692A.102.

26 2. The registration requirements of this chapter shall
27 apply to a sex offender convicted of a sex offense or a
28 comparable offense under prior law prior to July 1, ~~2009~~ 2011,
29 under the following circumstances:

30 a. Any sex offender including a juvenile offender who is
31 required to be on the sex offender registry as of June 30, ~~2009~~
32 2011, shall remain on the registry.

33 b. Any sex offender who is incarcerated on or after July 1,
34 ~~2009~~ 2011, for conviction of a sex offense committed prior to
35 July 1, ~~2009~~ 2011.

1 c. Any sex offender who is serving a special sentence
2 pursuant to section 903B.1 or 903B.2 prior to July 1, ~~2009~~
3 2011, or any other person who is sentenced for a criminal
4 offense prior to July 1, ~~2009~~ 2011, that requires serving a
5 special sentence.

6 3. a. The registration requirements of this chapter shall
7 apply to a sex offender who received a conviction for any
8 felony offense on or after July 1, 2009, if the sex offender
9 has a previous felony conviction for a sex offense or a
10 comparable offense under prior law.

11 b. The department may search criminal records using normal
12 methods and procedures to identify sex offenders who are
13 required to register pursuant to this subsection.

14 ~~3.~~ 4. For an offense requiring registration due to
15 sexual motivation, the registration requirements of section
16 692A.126 shall apply to a person convicted of an offense if
17 the department makes the determination that the offense was
18 sexually motivated as provided in section 692A.126, subsection
19 2.

20 ~~4.~~ 5. For a sex offender required to register pursuant to
21 subsection 1, ~~or 2~~ or 3, each conviction or adjudication for
22 a sex offense requiring registration, regardless of whether
23 such conviction or adjudication occurred prior to, on, or after
24 July 1, ~~2009~~ 2011, shall be included in determining the tier
25 requirements pursuant to this chapter.

26 ~~5.~~ 6. An offender on the sex offender registry as of June
27 30, ~~2009~~ 2011, and who is required to be on the registry on or
28 after July 1, ~~2009~~ 2011, shall be credited for any time on the
29 registry prior to July 1, ~~2009~~ 2011.

30 Sec. 19. Section 692A.128, Code 2011, is amended by striking
31 the section and inserting in lieu thereof the following:

32 **692A.128 Modification.**

33 1. A sex offender who is on the registry may file
34 an application in district court seeking to modify the
35 registration requirements under this chapter.

1 2. An application for modification shall not be granted
2 unless all of the following apply:

3 *a.* The date of the commencement of the requirement to
4 register occurred at least ten years prior to the filing of the
5 application for a tier I offender or twenty-five years for a
6 tier III offender.

7 *b.* The applicant has successfully completed all sex offender
8 treatment programs that have been required.

9 *c.* The applicant is not incarcerated when the application is
10 filed.

11 *d.* (1) For a tier I offender, the applicant has had no
12 other criminal convictions other than simple misdemeanor
13 violations of chapter 321 or similar local violations for a
14 ten-year period prior to the application.

15 (2) For a tier III offender, the applicant has had
16 no criminal convictions other than simple misdemeanor
17 violations of chapter 321 or similar local violations for a
18 twenty-five-year period prior to the application, and the
19 requirement to register is based upon an adjudication in
20 juvenile court.

21 3. The application shall be filed in the sex offender's
22 county of principal residence.

23 4. Notice of any application shall be provided to the
24 county attorney of the county of the sex offender's principal
25 residence, the county attorney of any county in this state
26 where a conviction requiring the sex offender's registration
27 occurred, and the department. The county attorney in the
28 county where the conviction occurred shall notify the victim of
29 an application if the victim's address is known.

30 5. The court may, but is not required to, conduct a hearing
31 on the application to hear any evidence deemed appropriate by
32 the court.

33 6. *a.* If the court grants an application for a tier I
34 offender, the court may modify the registration period by
35 reducing the period of registration by up to five years.

1 transmit sex offender information to the department of public
2 safety or to notify the county attorney a sex offender refuses
3 to register, from five business days to three business days.

4 The bill also changes the time period granted the court or
5 any other releasing agency to transmit sex offender information
6 to the department of public safety or to the sheriff of the
7 county where the sex offender will reside, from five business
8 days to three business days.

9 The bill requires a sex offender to notify the county sheriff
10 of the county of principal residence within 21 days prior to
11 traveling internationally. The bill requires the sex offender
12 to provide the county sheriff with the name of each country and
13 the dates when traveling to each country. The bill requires
14 the department of public safety to notify the United States
15 marshal service about the international travel plans of a sex
16 offender.

17 The bill also makes changes to the authority of a judge to
18 modify registration requirements for a sex offender. Under
19 the bill, the court may modify the registry requirements for
20 a tier I offender, if the offender meets certain criteria
21 including but not limited to the offender having had no other
22 criminal convictions other than simple misdemeanor violations
23 of Code chapter 321 or similar local violations for a 10-year
24 period prior to applying for modification. If the court
25 grants a modification, the court may reduce the duration of
26 registration by up to five years. For a tier III offender,
27 the court may only modify the registry requirements if the
28 offender meets certain criteria including but not limited to
29 the offender having had no criminal convictions other than
30 simple misdemeanor violations of Code chapter 321 or similar
31 local violations for a 25-year period prior to the application,
32 and the requirement to register is based upon an adjudication
33 in juvenile court. If the court grants the modification, the
34 court may change the period of registration for a tier III
35 offender from the rest of the offender's life to a term of

1 years. The bill does not permit a modification for a tier II
2 offender.

3 The amendments to the Code in the bill apply to a sex
4 offender including a juvenile offender on the registry on or
5 after June 30, 2011, or who has committed a sex offense prior
6 to July 1, 2011, that requires registration but who has not
7 registered, or all persons, except certain juveniles, who
8 commit a sex offense on or after July 1, 2011.

9 The bill also requires the department of public safety to
10 identify and then notify a person required to register as a
11 sex offender if the person has received a felony conviction
12 for any offense on or after July 1, 2009, and the person has a
13 previous felony conviction for a sex offense or a comparable
14 offense under prior law. The department is required to notify
15 these offenders within one year of July 1, 2011, for tier I
16 offenders, within six months of July 1, 2011, for tier II
17 offenders, and within three months of July 1, 2011, for tier
18 III offenders.

19 The bill specifies the department of public safety to
20 search criminal records using normal methods and procedures to
21 identify persons who are subject to the registry requirements
22 because of a felony conviction for any offense on or after July
23 1, 2009, and who have a previous felony conviction for a sex
24 offense or a comparable offense under prior law.