

Senate File 356 - Introduced

SENATE FILE 356

BY DANIELSON

A BILL FOR

1 An Act establishing new residency restrictions for sex
2 offenders, and providing penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 692A.107, subsection 2, Code 2011, is
2 amended to read as follows:

3 2. If a sex offender violates any requirements of section
4 692A.104, 692A.105, 692A.108, 692A.112, 692A.113, 692A.114,
5 692A.114A, or 692A.115, in addition to any criminal penalty
6 prescribed for such violation, the period of registration
7 is tolled until the offender complies with the registration
8 provisions of this chapter.

9 Sec. 2. Section 692A.109, subsection 1, Code 2011, is
10 amended by adding the following new paragraph:

11 NEW PARAGRAPH. *0i.* Inform the sex offender who was
12 convicted of a sex offense against a minor of the prohibitions
13 established under section 692A.114A by providing the offender
14 with a written copy of section 692A.114A and relevant
15 definitions of section 692A.101.

16 Sec. 3. Section 692A.111, subsection 1, Code 2011, is
17 amended to read as follows:

18 1. A sex offender who violates any requirements of section
19 692A.104, 692A.105, 692A.108, 692A.112, 692A.113, 692A.114,
20 692A.114A, or 692A.115 commits an aggravated misdemeanor for a
21 first offense and a class "D" felony for a second or subsequent
22 offense. However, a sex offender convicted of an aggravated
23 offense against a minor, a sex offense against a minor, or a
24 sexually violent offense committed while in violation of any
25 of the requirements specified in section 692A.104, 692A.105,
26 692A.108, 692A.112, 692A.113, 692A.114, 692A.114A, or 692A.115
27 is guilty of a class "C" felony, in addition to any other
28 penalty provided by law. Any fine imposed for a second or
29 subsequent violation shall not be suspended. Notwithstanding
30 section 907.3, the court shall not defer judgment or sentence
31 for any violation of any requirements specified in this
32 chapter. For purposes of this subsection, a violation occurs
33 when a sex offender knows or reasonably should know of the
34 duty to fulfill a requirement specified in this chapter as
35 referenced in the offense charged.

1 Sec. 4. Section 692A.114, subsection 1, paragraph b, Code
2 2011, is amended by striking the paragraph.

3 Sec. 5. Section 692A.114, subsection 2, Code 2011, is
4 amended to read as follows:

5 2. A sex offender shall not reside within two thousand
6 feet of the real property comprising a ~~school~~ or a child care
7 facility.

8 Sec. 6. Section 692A.114, subsection 3, unnumbered
9 paragraph 1, Code 2011, is amended to read as follows:

10 A sex offender residing within two thousand feet of the real
11 property comprising a ~~school~~ or a child care facility does not
12 commit a violation of this section if any of the following
13 apply:

14 Sec. 7. Section 692A.114, subsection 3, paragraph d, Code
15 2011, is amended to read as follows:

16 *d.* The sex offender has established a residence prior to any
17 newly located ~~school~~ or child care facility being established.

18 Sec. 8. NEW SECTION. **692A.114A Residency restrictions —**
19 **schools.**

20 1. As used in this section:

21 *a.* "*Minor*" means a person who is under eighteen years of age
22 or who is enrolled in a secondary school.

23 *b.* "*School*" means a public or nonpublic elementary or
24 secondary school.

25 *c.* "*Sex offender*" means a person required to be registered
26 under this chapter who has been convicted of a sex offense
27 against a minor.

28 2. A sex offender shall not reside within two thousand feet
29 of the real property comprising a school.

30 3. A sex offender residing within two thousand feet of the
31 real property comprising a school does not commit a violation
32 of this section if any of the following apply:

33 *a.* The sex offender is required to serve a sentence at
34 a jail, prison, juvenile facility, or other correctional
35 institution or facility.

1 *b.* The sex offender is subject to an order of commitment
2 under chapter 229A.

3 *c.* The sex offender has established a residence prior to
4 July 1, 2011.

5 *d.* The sex offender has established a residence prior to any
6 newly located school being established.

7 *e.* The sex offender is a minor.

8 *f.* The sex offender is a ward in a guardianship, and a
9 district judge or associate probate judge grants an exemption
10 from the residency restriction.

11 *g.* The sex offender is a patient or resident at a health
12 care facility as defined in section 135C.1 or a patient in
13 a hospice program, and a district judge or associate probate
14 judge grants an exemption from the residency restriction.

15 Sec. 9. Section 692A.121, subsection 2, paragraph b,
16 subparagraph (1), Code 2011, is amended by adding the following
17 new subparagraph division:

18 NEW SUBPARAGRAPH DIVISION. (0h) A specific reference
19 indicating whether a particular sex offender is subject to
20 residency restrictions pursuant to section 692A.114A.

21 Sec. 10. Section 692A.123, Code 2011, is amended to read as
22 follows:

23 **692A.123 Immunity for good faith conduct.**

24 Criminal or juvenile justice agencies, state agencies,
25 schools as defined in section ~~692A.114~~ 692A.114A, public
26 libraries, and child care facilities, and their employees shall
27 be immune from liability for acts or omissions arising from a
28 good faith effort to comply with this chapter.

29 Sec. 11. Section 692A.129, Code 2011, is amended to read as
30 follows:

31 **692A.129 Probation and parole officers.**

32 A probation or parole officer supervising a sex offender
33 is not precluded from imposing more restrictive exclusion
34 zone requirements, employment prohibitions, and residency
35 restrictions than under sections 692A.113 ~~and~~, 692A.114, and

1 692A.114A.

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EXPLANATION

3 This bill establishes new residency restrictions for sex
4 offenders.

5 The bill prohibits a sex offender who commits a sex offense
6 against a minor from establishing a residency within 2,000
7 feet of a school. A "sex offense against a minor" means a sex
8 offense enumerated in Code section 692A.102 committed against a
9 minor, or otherwise involves a minor. Current law prohibits a
10 sex offender who commits an aggravated offense against a minor
11 from establishing a residency within 2,000 feet of a school.

12 An "aggravated offense" is defined in Code section 692A.101(1).

13 The new residency restrictions prohibiting the establishment
14 of a residency within 2,000 feet of a school do not apply
15 to a sex offender who commits a sex offense against a minor
16 under the following circumstances: the offender is required
17 to serve a sentence at a jail, prison, juvenile facility, or
18 other correctional institution or facility; the offender is
19 subject to an order of commitment under Code chapter 229A; the
20 offender has established a residence prior to July 1, 2011;
21 the offender has established a residence prior to any newly
22 located school being established; the offender is a minor;
23 the offender is a ward in a guardianship, and a district
24 judge or associate probate judge grants an exemption from the
25 residency restriction; or the offender is a patient or resident
26 at a health care facility as defined in Code section 135C.1
27 or a patient in a hospice program, and a district judge or
28 associate probate judge grants an exemption from the residency
29 restriction.

30 A sex offender who violates the new residency restrictions
31 by establishing a residency within 2,000 feet of a school
32 commits an aggravated misdemeanor for a first offense and a
33 class "D" felony for a second or subsequent offense. A sex
34 offender convicted of a sex offense against a minor while in
35 violation of certain requirements of Code chapter 692A commits

1 a class "C" felony.

2 The bill does not affect exclusion zones or the residency
3 restrictions established for child care facilities.

4 An aggravated misdemeanor is punishable by confinement for
5 no more than two years and a fine of at least \$625 but not more
6 than \$6,250. A class "D" felony is punishable by confinement
7 for no more than five years and a fine of at least \$750 but
8 not more than \$7,500. A class "C" felony is punishable by
9 confinement for no more than 10 years and a fine of at least
10 \$1,000 but not more than \$10,000.