

House File 2278 - Introduced

HOUSE FILE 2278
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 2068)

A BILL FOR

1 An Act relating to the modification of sex offender registry
2 requirements.

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

1 Section 1. Section 692A.128, Code 2020, is amended to read
2 as follows:

3 **692A.128 Modification.**

4 1. A sex offender who is on probation, parole, work release,
5 special sentence, or any other type of conditional release may
6 file an application in district court seeking to modify the
7 registration requirements under [this chapter](#).

8 2. An application shall not be granted unless all of the
9 following apply:

10 a. The date of the commencement of the requirement
11 to register, or the date of the offender's last registry
12 violation, occurred at least two years prior to the filing of
13 the application for ~~a tier I offender~~ an offender required
14 to register for ten years and five years prior to the filing
15 of the application for ~~a tier II or III offender~~ an offender
16 required to register for life.

17 b. The sex offender has successfully completed all sex
18 offender treatment programs that have been required.

19 c. A risk assessment has been completed and the sex offender
20 was classified as a low risk to reoffend. The risk assessment
21 used to assess an offender as a low risk to reoffend shall
22 be a validated risk assessment approved by the department of
23 corrections.

24 d. The sex offender is not incarcerated when the application
25 is filed.

26 e. The director of the judicial district department
27 of correctional services supervising the sex offender, or
28 the director's designee, stipulates to the modification,
29 and a certified copy of the stipulation is attached to the
30 application.

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

33 4. Notice of any application shall be provided to the
34 county attorney of the county of the sex offender's principal
35 residence, the county attorney of any county in this state

1 where a conviction requiring the sex offender's registration
2 occurred, and the department. The county attorney where the
3 conviction occurred shall notify the victim of an application
4 if the victim's address is known.

5 5. The court ~~may, but is not required to, conduct a hearing~~
6 ~~on the application to hear any evidence deemed appropriate by~~
7 ~~the court. The court may modify the registration requirements~~
8 ~~under this chapter that imposed the sentence in the underlying~~
9 ~~criminal case shall conduct a hearing on the application. The~~
10 ~~court shall provide all parties including the victim and all~~
11 ~~other parties receiving notice under subsection 4 with the~~
12 ~~opportunity to be heard.~~

13 a. The victim may appear at the hearing and may provide the
14 court with verbal or written testimony.

15 b. At the hearing, the sex offender must establish by
16 clear and convincing evidence the offender is not a current
17 or potential threat to public safety and it is in the best
18 interest of justice to grant the offender's application.

19 c. In determining whether to grant or deny an application
20 for a modification, the court may consider, in addition to the
21 factors specified in subsection 2, any other evidence the court
22 deems appropriate, including but not limited to all of the
23 following:

24 (1) The sex offender's age and level of maturity at the time
25 of the offense.

26 (2) The sex offender's age and level of maturity at the time
27 of the application and hearing.

28 (3) Whether the sex offender has accepted responsibility
29 for the offender's actions.

30 (4) The victim's age and level of maturity at the time of
31 the offense.

32 (5) The nature of the offense.

33 (6) The severity of the offense.

34 (7) Any mitigating or aggravating factors surrounding the
35 offense.

1 (8) The sex offender's criminal history prior to the
2 offense.

3 (9) The sex offender's criminal history subsequent to the
4 offense.

5 (10) Any statements offered by the victim.

6 (11) Whether the sex offender has maintained a stable
7 residence.

8 (12) Whether the sex offender has maintained stable
9 employment.

10 (13) Whether the sex offender has satisfied financial
11 obligations, including but not limited to spousal support,
12 child support, tax obligations, and court-ordered financial
13 obligations.

14 (14) Whether the sex offender has adequately addressed any
15 drug or alcohol abuse or addiction.

16 (15) Whether the sex offender has adequately addressed any
17 mental health concerns.

18 (16) Any statements or letters of support.

19 (17) Any evidence of the sex offender's community service or
20 community involvement.

21 d. After the hearing, the court may grant or deny the
22 application.

23 6. A sex offender may be granted a modification if the
24 offender is required to be on the sex offender registry as a
25 result of an adjudication for a sex offense, the offender is
26 not under the supervision of the juvenile court or a judicial
27 district judicial department of correctional services, and the
28 department of corrections agrees to perform a risk assessment
29 on the sex offender. However, all other provisions of this
30 section not in conflict with **this subsection** shall apply to the
31 application prior to an application being granted except that
32 the sex offender is not required to obtain a stipulation from
33 the director of a judicial district department of correctional
34 services, or the director's designee.

35 7. If the court modifies the registration requirements

1 under this chapter, the court shall send a copy of the order to
2 the department, the sheriff of the county of the sex offender's
3 principal residence, any county attorney notified in subsection
4 4, and the victim, if the victim's address is known.

5 8. A sex offender may file an application under this section
6 not more than once every two years.

7 EXPLANATION

8 The inclusion of this explanation does not constitute agreement with
9 the explanation's substance by the members of the general assembly.

10 This bill relates to the modification of sex offender
11 registry requirements.

12 Under current law, a tier I sex offender must wait two
13 years after the date of the commencement of the requirement
14 to register before filing an application for a modification
15 of the sex offender registry requirements, and a tier II or
16 III offender must wait five years. Under the bill, any sex
17 offender required to register for 10 years must wait two
18 years after the date of the commencement of the requirement
19 to register, or the date of the offender's last registry
20 violation, to file an application for a modification, and an
21 offender required to register for life must wait five years to
22 file an application for a modification.

23 Under current law, the court receiving an application from a
24 sex offender for a modification of the sex offender registry
25 requirements is not required to conduct a hearing on the
26 application. The bill requires the court that imposed the
27 sentence in the underlying criminal case to conduct a hearing
28 and to allow all parties receiving notice of the application to
29 be heard at the hearing. The bill requires the sex offender to
30 prove by clear and convincing evidence the offender is not a
31 current or potential threat to public safety and it is in the
32 best interest of justice to grant the offender's application.
33 The bill allows the court to consider any evidence deemed
34 appropriate and includes certain factors the court may consider
35 in determining whether to grant or deny a sex offender's

H.F. 2278

1 application for modification. The bill prohibits an offender
2 from filing an application for a modification more than once
3 every two years.