

Senate Study Bill 3133 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
PUBLIC SAFETY BILL)

A BILL FOR

1 An Act relating to the requirements for a sex offender
2 to be granted a modification of sex offender registry
3 requirements.

4 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 to~~
11 ~~register occurred at least two years prior to the filing of~~
12 ~~the application for a tier I offender and five years prior to~~
13 ~~the filing of the application for a tier II or III offender.~~
14 A period of time has elapsed since the date of the offender's
15 initial registration as follows:

16 (1) (a) Except as otherwise provided in subparagraph
17 division (b), a tier I offender initially registered at least
18 ten years prior to the filing of the application.

19 (b) A tier I offender who was under twenty years of age at
20 the time the offender committed a violation of section 709.4,
21 subsection 1, paragraph "b", subparagraph (3), subparagraph
22 division (d), initially registered at least five years prior to
23 the filing of the application.

24 (2) A tier II or tier III offender initially registered at
25 least twenty-five years prior to the filing of the application.

26 b. The sex offender has successfully completed all sex
27 offender treatment programs that have been required.

28 ~~c. A risk assessment has been completed and the sex offender~~
29 ~~was classified as a low risk to reoffend. The risk assessment~~
30 ~~used to assess an offender as a low risk to reoffend shall~~
31 ~~be a validated risk assessment approved by the department of~~
32 ~~corrections. The sex offender has successfully completed~~
33 any period of probation, parole, special sentence, or other
34 supervised release for the offense requiring registration.

35 d. The sex offender is not incarcerated when the application

1 is filed.

2 ~~e. The director of the judicial district department~~
3 ~~of correctional services supervising the sex offender, or~~
4 ~~the director's designee, stipulates to the modification,~~
5 ~~and a certified copy of the stipulation is attached to the~~
6 ~~application.~~

7 (1) A tier I offender must not have been convicted of any
8 criminal offenses other than simple misdemeanor violations of
9 chapter 321 or local traffic ordinances for the ten-year period
10 immediately preceding the filing of the application.

11 (2) A tier II or tier III offender must meet all of the
12 following requirements:

13 (a) The offender must not have been convicted of any
14 criminal offenses other than simple misdemeanor violations
15 of chapter 321 or local traffic ordinances for the
16 twenty-five-year period immediately preceding the filing of the
17 application.

18 (b) The offender must have been initially required to
19 register as a result of an adjudication for a sex offense 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 where the
28 conviction occurred shall notify the victim of an application
29 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. The court may modify the registration requirements
33 under this chapter by reducing the registration period.

34 ~~6. A sex offender may be granted a modification if the~~
35 ~~offender is required to be on the sex offender registry as a~~

1 ~~result of an adjudication for a sex offense, the offender is~~
2 ~~not under the supervision of the juvenile court or a judicial~~
3 ~~district judicial department of correctional services, and the~~
4 ~~department of corrections agrees to perform a risk assessment~~
5 ~~on the sex offender. However, all other provisions of this~~
6 ~~section not in conflict with this subsection shall apply to the~~
7 ~~application prior to an application being granted except that~~
8 ~~the sex offender is not required to obtain a stipulation from~~
9 ~~the director of a judicial district department of correctional~~
10 ~~services, or the director's designee.~~

11 ~~7.~~ 6. If the court modifies the registration requirements
12 under this chapter, the court shall send a copy of the order to
13 the department, the sheriff of the county of the sex offender's
14 principal residence, any county attorney notified in subsection
15 4, and the victim, if the victim's address is known.

16 EXPLANATION

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

19 This bill changes the requirements for a sex offender
20 to be granted a modification of the sex offender registry
21 requirements. Under current law, a sex offender must be on
22 probation, parole, work release, special sentence, or any
23 other type of conditional release to file an application for a
24 modification. The bill allows any sex offender on the Iowa sex
25 offender registry to file an application for a modification.
26 Under current law, a sex offender will only be granted a
27 modification by a court if the date of the commencement of
28 the requirement to register occurred at least two years prior
29 to the filing of the application for a tier I offender and
30 five years prior to the filing of the application for a tier
31 II or III offender. The bill changes these requirements and
32 provides that a tier I offender must have initially registered
33 at least 10 years prior to the filing of the application,
34 except for a tier I offender who was under 20 years of age
35 at the time the offender committed sexual abuse in the third

1 degree under certain circumstances pursuant to Code section
2 709.4(1)(b)(3)(d), who must have initially registered at least
3 five years prior to the filing of the application. A tier II or
4 tier III offender must have initially registered at least 25
5 years prior to the filing of the application.

6 Under current law, a risk assessment approved by the
7 department of corrections must be completed and an offender
8 must be classified as a low risk to reoffend in order to be
9 granted a modification. The bill strikes this requirement and
10 allows a court to grant a modification if the offender has
11 successfully completed any period of probation, parole, special
12 sentence, or other supervised release for the offense requiring
13 registration.

14 The bill provides that a tier I offender must not have
15 been convicted of any criminal offenses other than simple
16 misdemeanor violations of Code chapter 321 or local traffic
17 ordinances for the 10-year period immediately preceding
18 the filing of the application in order to be granted a
19 modification. The bill provides that a tier II or tier III
20 offender must not have been convicted of any criminal offenses
21 other than simple misdemeanor violations of Code chapter 321
22 or local traffic ordinances for the 25-year period immediately
23 preceding the filing of the application and must have been
24 initially required to register as a result of an adjudication
25 for a sex offense in juvenile court in order to be granted a
26 modification.

27 The bill allows a court to reduce the period in which a sex
28 offender is required to register. The bill strikes current law
29 allowing a sex offender to be granted a modification if the
30 offender is required to be on the sex offender registry as a
31 result of an adjudication for a sex offense, the offender is
32 not under the supervision of the juvenile court or a judicial
33 district judicial department of correctional services, and the
34 department of corrections agrees to perform a risk assessment
35 on the sex offender.

S.F. _____ H.F. _____

1 Under current law, the director of the judicial district
2 department of correctional services supervising the sex
3 offender, or the director's designee, must stipulate to the
4 modification. The bill strikes this requirement.