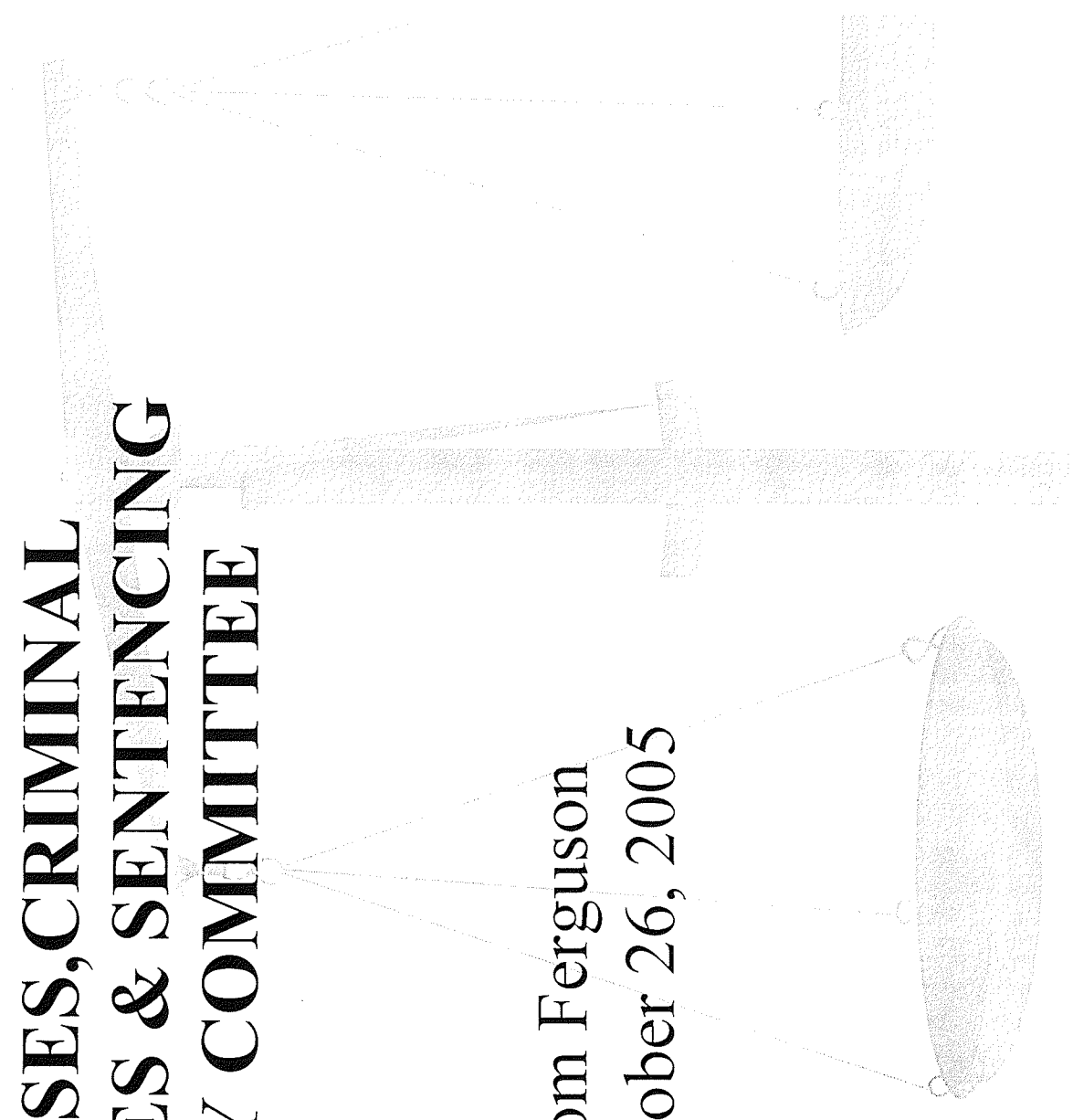


**SEXUAL & OTHER CRIMINAL
OFFENSES, CRIMINAL
PENALTIES & SENTENCING
STUDY COMMITTEE**

Tom Ferguson
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692A.2A Residency restrictions - child care facilities and schools.

1. For purposes of this section, "person" means a person who has committed a criminal offense against a minor, or an aggravated offense, sexually violent offense, or other relevant offense that involved a minor.
2. A person shall not reside within two thousand feet of the real property comprising a public or nonpublic elementary or secondary school or a child care facility.
3. A person who resides within two thousand feet of the real property comprising a public or nonpublic elementary or secondary school, or a child care facility, commits an aggravated misdemeanor.
4. A person residing within two thousand feet of the real property comprising a public or nonpublic elementary or secondary school or a child care facility does not commit a violation of this section if any of the following apply:
 - a. The person is required to serve a sentence at a jail, prison, juvenile facility, or other correctional institution or facility.
 - b. The person is subject to an order of commitment under chapter 229A.
 - c. The person has established a residence prior to July 1, 2002, or a school or child care facility is newly located on or after July 1, 2002.
 - d. The person is a minor or a ward under a guardianship.

2002 Acts, ch 1157, §3

692A.2A Residency restrictions - child care facilities and schools.

1. For purposes of this section, "person" means a person who has committed a criminal offense against a minor, or an aggravated offense, sexually violent offense, or other relevant offense that involved a minor.

Potential Issues/Concerns – Intent vs. Language:

- Language implies residency restriction applies to individuals who are no longer required to be on the sex offender registry.
- Does the statute include those who committed a listed offense but were never on the SOR?

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1. For purposes of this section, "person" means a person who has committed a criminal offense against a minor, or an aggravated offense, sexually violent offense, or other relevant offense that involved a minor

Potential Issues/Concerns – Intent vs. Language:

- Different interpretations across the State
 - "Person" means anyone who has committed the statutorily defined offenses set forth in 692A.1 either against an adult or minor.
 - VS.
 - "Person" means anyone who has committed the statutorily defined offenses set forth in 692A.1 only against a minor.

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1. For purposes of this section, "person" means a person who has committed a criminal offense against a minor, or an aggravated offense, sexually violent offense, or other relevant offense that involved a minor.

Potential Issues/Concerns – Intent vs. Language:

- Language uses the word "committed" rather than the word "convicted".
- Application to juveniles?
- Solution: "convicted or adjudicated" of a ...

692A.2A Residency restrictions - child care facilities and schools.

2. A person shall not reside within two thousand feet of the real property comprising a public or nonpublic elementary or secondary school or a child care facility.

Potential Issues/Concerns – Intent vs. Language:

- Is the 2000 feet measured from the actual location of residency to real property line of “school/daycare”
or
- Is it real property line of subject to real property line of “school/daycare”?
- Solution: A person shall not reside on real property within 2000 feet of the real property...

692A.2A Residency restrictions - child care facilities and schools.

4. A person residing within two thousand feet of the real property comprising a public or nonpublic elementary or secondary school or a child care facility does not commit a violation of this section if any of the following apply:

- a. The person is required to serve a sentence at a jail, prison, juvenile facility, or other correctional institution or facility.

Potential Issues/Concerns – Intent vs. Language:

- Does subsection “a” provide an exemption for a person who has been “required to serve a sentence” in a facility, wherever he might live thereafter, not just while residing in the facility?
- The statute does not limit the exemption to while residing in the facility.
- Solution: Statute should limit to “while serving a period of confinement or while residing in a juvenile facility, or other correctional institution or facility...”

692A.2A Residency restrictions - child care facilities and schools.

4. A person residing within two thousand feet of the real property comprising a public or nonpublic elementary or secondary school or a child care facility does not commit a violation of this section if any of the following apply:

- c. The person has established a residence prior to July 1, 2002, or a school or child care facility is newly located on or after July 1, 2002.

Potential Issues/Concerns – Intent vs. Language:

- Intent: May have intended a “no bumping” provision.
- Language: May actually say that post 7-1-02 schools and daycares are not covered.
- Results:
 - Non-uniform interpretations and mapping from county to county. Offenders living within 2000 feet of schools/daycares!
 - Maps drawn in '02 vs. '05.

692A.2A Residency restrictions - child care facilities and schools.

4. A person residing within two thousand feet of the real property comprising a public or nonpublic elementary or secondary school or a child care facility does not commit a violation of this section if any of the following apply:
 - d. The person is a minor or a ward under a guardianship.

Potential Issues/Concerns – Intent vs. Language:

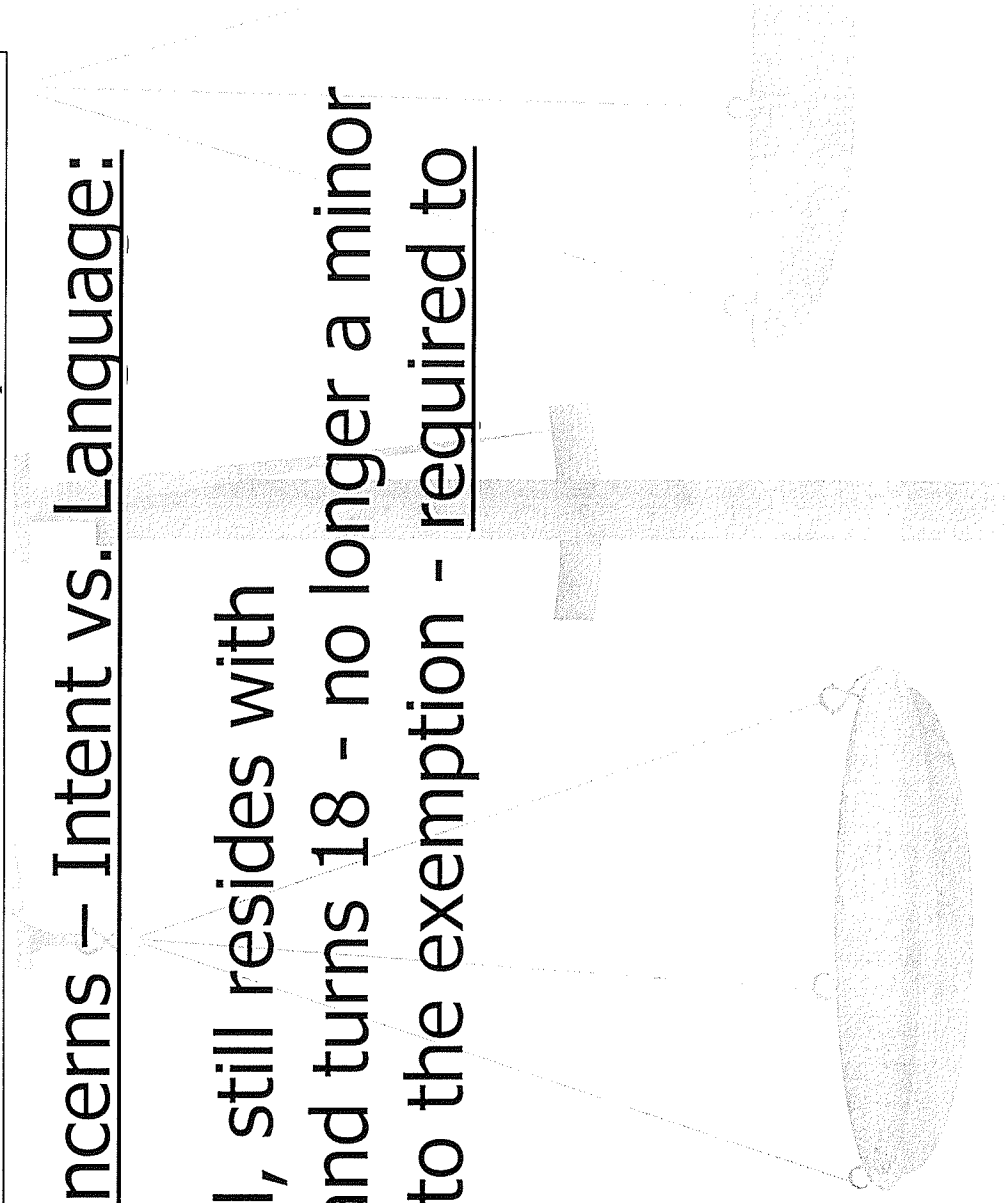
- Implies that a minor (person under the age of 18) has an exemption regardless of where he/she lives.
- Language does not limit minors residence to that of parent or guardian.

692A.2A Residency restrictions - child care facilities and schools.

4. A person residing within two thousand feet of the real property comprising a public or nonpublic elementary or secondary school or a child care facility does not commit a violation of this section if any of the following apply:
 - d. The person is a minor or a ward under a guardianship.

Potential Issues/Concerns – Intent vs. Language:

- If a minor, in school, still resides with parents/guardians and turns 18 - no longer a minor - no longer subject to the exemption - required to move.



692A.7 Failure to comply - penalty.

1. A person required to register under this chapter who violates any requirements specified under sections 692A.2, 692A.3, and 692A.4 commits an aggravated misdemeanor for a first offense and a class "D" felony for a second or subsequent offense. A person required to register under this chapter who violates any requirements specified under section 692A.3A commits a serious misdemeanor for a first offense and a class "D" felony for a second or subsequent offense. However, a person required to register under this chapter who violates any of the requirements specified under section 692A.2, 692A.3, 692A.3A, or 692A.4 and who commits a criminal offense against a minor, sexual exploitation, an other relevant offense, or a sexually violent offense is guilty of a class "C" felony. Any fine imposed for a second or subsequent violation shall not be suspended. The court shall not defer judgment or sentence for any violation of any requirements specified under section 692A.2, 692A.3, 692A.3A, or 692A.4. A violation by a person, who is on probation, parole, work release, or any other form of release, of any requirements specified under section 692A.2, 692A.3, 692A.3A, or 692A.4 shall result in the automatic revocation of the person's probation, parole, or work release. For purposes of this subsection, a violation occurs when a person knows or reasonably should know of the duty to fulfill a requirement specified in the offense charged.
- **692A.2A is omitted and fails to provide for enhanced penalties for 2nd or subsequent offense.**

692A.7 Failure to comply - penalty.

1. A person required to register under this chapter who violates any requirements specified under sections 692A.2, 692A.3, and 692A.4 commits an aggravated misdemeanor for a first offense and a class "D" felony for a second or subsequent offense. A person required to register under this chapter who violates any requirements specified under section 692A.3A commits a serious misdemeanor for a first offense and a class "D" felony for a second or subsequent offense. However, a person required to register under this chapter who violates any of the requirements specified under section 692A.2, 692A.3, 692A.3A, or 692A.4 and who commits a criminal offense against a minor, sexual exploitation, an other relevant offense, or a sexually violent offense is guilty of a class "C" felony. Any fine imposed for a second or subsequent violation shall not be suspended. The court shall not defer judgment or sentence for any violation of any requirements specified under section 692A.2, 692A.3, 692A.3A, or 692A.4. A violation by a person, who is on probation, parole, work release, or any other form of release, of any requirements specified under section 692A.2, 692A.3, 692A.3A, or 692A.4 shall result in the automatic revocation of the person's probation, parole, or work release. For purposes of this subsection, a violation occurs when a person knows or reasonably should know of the duty to fulfill a requirement specified in the offense charged.
- 692A.2A is omitted and fails to provide additional penalties for a violation of the residency restriction while committing an offense against a minor... or sexually violent offense.

692A.1 Failure to comply - penalty.

1. A person required to register under this chapter who violates any requirements specified under sections 692A.2, 692A.3, and 692A.4 commits an aggravated misdemeanor for a first offense and a class "D" felony for a second or subsequent offense. A person required to register under this chapter who violates any requirements specified under section 692A.3A commits a serious misdemeanor for a first offense and a class "D" felony for a second or subsequent offense. However, a person required to register under this chapter who violates any of the requirements specified under section 692A.2, 692A.3, 692A.3A, or 692A.4 and who commits a criminal offense against a minor, sexual exploitation, an other relevant offense, or a sexually violent offense is guilty of a class "C" felony. Any fine imposed for a second or subsequent violation shall not be suspended. The court shall not defer judgment or sentence for any violation of any requirements specified under section 692A.2, 692A.3, 692A.3A, or 692A.4. A violation by a person, who is on probation, parole, work release, or any other form of release, of any requirements specified under section 692A.2, 692A.3, 692A.3A, or 692A.4 shall result in the automatic revocation of the person's probation, parole, or work release. For purposes of this subsection, a violation occurs when a person knows or reasonably should know of the duty to fulfill a requirement specified in the offense charged.

- **692A.2A is omitted and fails to include all of the definitions included in 692A.1.**

692A.7 Failure to comply - penalty.

1. A person required to register under this chapter who violates any requirements specified under sections 692A.2, 692A.3, and 692A.4 commits an aggravated misdemeanor for a first offense and a class "D" felony for a second or subsequent offense. A person required to register under this chapter who violates any requirements specified under section 692A.3A commits a serious misdemeanor for a first offense and a class "D" felony for a second or subsequent offense. However, a person required to register under this chapter who violates any of the requirements specified under section 692A.2, 692A.3, 692A.3A, or 692A.4 and who commits a criminal offense against a minor, sexual exploitation, an other relevant offense, or a sexually violent offense is guilty of a class "C" felony. Any fine imposed for a second or subsequent violation shall not be suspended. The court shall not defer judgment or sentence for any violation of any requirements specified under section 692A.2, 692A.3, 692A.3A, or 692A.4. A violation by a person, who is on probation, parole, work release, or any other form of release, of any requirements specified under section 692A.2, 692A.3, 692A.3A, or 692A.4 shall result in the automatic revocation of the person's probation, parole, or work release. For purposes of this subsection, a violation occurs when a person knows or reasonably should know of the duty to fulfill a requirement specified in the offense charged.

- 692A.2A is omitted and therefore allows for a deferred judgment for a residency restriction offense, but does not allow for a deferred for any other violation of SOR.

692A.1 Failure to comply - penalty.

1. A person required to register under this chapter who violates any requirements specified under sections 692A.2, 692A.3, and 692A.4 commits an aggravated misdemeanor for a first offense and a class "D" felony for a second or subsequent offense. A person required to register under this chapter who violates any requirements specified under section 692A.3A commits a serious misdemeanor for a first offense and a class "D" felony for a second or subsequent offense. However, a person required to register under this chapter who violates any of the requirements specified under section 692A.2, 692A.3, 692A.3A, or 692A.4 and who commits a criminal offense against a minor, sexual exploitation, an other relevant offense, or a sexually violent offense is guilty of a class "C" felony. Any fine imposed for a second or subsequent violation shall not be suspended. The court shall not defer judgment or sentence for any violation of any requirements specified under section 692A.2, 692A.3, 692A.3A, or 692A.4. A violation by a person, who is on probation, parole, work release, or any other form of release, of any requirements specified under section 692A.2, 692A.3, 692A.3A, or 692A.4 shall result in the automatic revocation of the person's probation, parole, or work release. For purposes of this subsection, a violation occurs when a person knows or reasonably should know of the duty to fulfill a requirement specified in the offense charged.

- 692A.2A is omitted and therefore does not require automatic revocation for a 692A.2A offense where automatic revocation is required for other violations of 692A.

692A.2(1) & (3)

Potential Issues/Concerns

- Language: Ambiguous as to whether an “Aggravated Offense” requires lifetime or a 10 year registration requirement.

692A.2 Persons required to register.

1. A person who has been convicted of a criminal offense against a minor, an aggravated offense, sexual exploitation, an other relevant offense, or a sexually violent offense in this state or in another state, or in a federal, military, tribal, or foreign court, or a person required to register in another state under the state's sex offender registry, shall register as provided in this chapter. A person required to register under this chapter shall, upon a first conviction, register for a period of ten years commencing as follows:
 - a. From the date of placement on probation.
 - b. From the date of release on parole or work release.
 - c. From the date of release as a juvenile from foster care or residential treatment.
 - d. From the date of any other release from custody.

VS.

3. A person who is required to register under this chapter shall, upon a second or subsequent conviction that requires a second registration, or upon conviction of an aggravated offense, or who has previously been convicted of one or more offenses that would have required registration under this chapter, register for the rest of the person's life.

Sex Offender Statutes

- Problem: The current laws of Iowa do not prevent or prohibit sex offenders from being present in or around locations where children frequent (i.e. schools and parks).
- Potential Solution: Statutes have been enacted in other jurisdictions (i.e. Illinois) that make it unlawful for child sex offenders to be present in any school building or public park real property unless certain requirements or exceptions are met.

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