SENATE FILE 2363
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 3025)

(As Amended and Passed by the Senate March 22, 2022)
ALL New Language by the Senate

A BILL FOR

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

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

Section 1. Section 692A.128, Code 2022, is amended to read as follows:

692A.128 Modification.

1. A sex offender ~~who is on probation, parole, work release, special sentence, or any other type of conditional release~~ may file an application in district court seeking to modify the registration requirements under this chapter.

2. ~~An~~ For an offender whose requirement to register as a sex offender commenced prior to July 1, 2022, an application shall not be granted unless all of the following apply:

a. The date of the commencement of the requirement to register occurred at least two years prior to the filing of the application for a tier I offender and five years prior to the filing of the application for a tier II or III offender.

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

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

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

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

3. For an offender whose requirement to register as a sex offender commenced on or after July 1, 2022, an application shall not be granted unless all of the following apply:

a. A period of time has elapsed since the offender's initial registration as follows:

(1) (a) Except as otherwise provided in subparagraph division (b), a tier I offender initially registered at least

ten years prior to the filing of the application.

(b) A tier I offender who was under twenty years of age at the time the offender committed a violation of section 709.4, subsection 1, paragraph "b", subparagraph (2), subparagraph division (d), initially registered at least five years prior to the filing of the application.

(2) A tier II or tier III offender initially registered at least fifteen years prior to the filing of the application.

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

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

d. The sex offender ~~is not incarcerated when the application is filed~~ has successfully completed any pretrial release, probation, parole, or work release for the offense requiring registration.

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

f. The sex offender is not incarcerated when the application is filed.

(1) A tier I offender must not have been convicted of any criminal offense other than a simple misdemeanor, or a simple or serious misdemeanor or traffic violation under chapter 321, for the ten-year period immediately preceding the filing of the application.

(2) A tier II or tier III offender shall not have been convicted of any criminal offense other than a simple misdemeanor, or a simple or serious misdemeanor or traffic violation under chapter 321, for the fifteen-year period

immediately preceding the filing of the application.

~~3.~~ 4. The application shall be filed in the sex offender's county of principal residence.

~~4.~~ 5. Notice of any application shall be provided to the county attorney of the county of the sex offender's principal residence, the county attorney of any county in this state where a conviction requiring the sex offender's registration occurred, and the department. The county attorney where the conviction occurred shall notify the victim of an application if the victim's address is known.

~~5.~~ 6. The court may, but is not required to, conduct a hearing on the application to hear any evidence deemed appropriate by the court. The court may modify the registration requirements under this chapter by reducing the registration period.

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

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