

the decategorization; and a method for resolving disputes between the department and the board. The decategorization agreement shall require the department and the decategorization governance board to agree upon a budget ~~on or before June 15 of the fiscal year preceding the within sixty days of the date by which the regional group foster care budget targets are determined under section 232.143 for the fiscal year to which the budget applies.~~ The budget may later be modified to reflect new or changed circumstances.

Approved May 11, 1999

CHAPTER 112

SEX OFFENDER REGISTRATION — RISK ASSESSMENTS — DISSEMINATION OF INFORMATION

S.F. 294

AN ACT relating to lifetime registration for certain sex offenders, the performance of sex offender risk assessments, and the procedures for dissemination of registry information to agencies and the public.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 13.2, Code 1999, is amended by adding the following new subsection:
NEW SUBSECTION. 3A. Prosecute and defend all actions and proceedings brought by or against any employee of a judicial district department of correctional services in the performance of an assessment of risk pursuant to chapter 692A.

Sec. 2. Section 692A.1, Code 1999, is amended by adding the following new subsection:
NEW SUBSECTION. 1A. "Aggravated offense" means a conviction for any of the following offenses:

- a. Sexual abuse in the first degree in violation of section 709.2.
- b. Sexual abuse in the second degree in violation of section 709.3.
- c. Sexual abuse in the third degree in violation of section 709.4, subsection 1.
- d. Lascivious acts with a child in violation of section 709.8, subsection 1.
- e. Assault with intent to commit sexual abuse in violation of section 709.11.
- f. Burglary in the first degree in violation of section 713.3, subsection 1, paragraph "d".
- g. Kidnapping, if sexual abuse as defined in section 709.1 is committed during the offense.
- h. Murder, if sexual abuse as defined in section 709.1 is committed during the offense.

Sec. 3. Section 692A.1, subsection 9, Code 1999, is amended to read as follows:

9. "Sexually violent predator" means a person who has been convicted of an offense under the laws of this state or of another state which would qualify the person as a sexually violent predator under the federal Violent Crime Control and Law Enforcement Act of 1994, ~~Pub. L. No. 103-322, 108 Stat. 1798~~ 42 U.S.C. § 14071(a)(3)(B), (C), (D), and (E).

Sec. 4. Section 692A.2, subsection 1, unnumbered paragraph 1, Code 1999, is amended to read as follows:

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:

Sec. 5. Section 692A.2, subsection 3, Code 1999, is amended to read as follows:

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.

Sec. 6. Section 692A.2, subsection 5, Code 1999, is amended to read as follows:

5. A person who has been convicted of an offense under the laws of this state or of another state which would qualify the person as a sexually violent predator shall register as provided in this chapter ~~for an indeterminate period terminating only upon a determination by the sentencing court that registration is no longer required for life.~~

Sec. 7. Section 692A.3, subsection 1, Code 1999, is amended to read as follows:

1. A person required to register under this chapter shall register with the sheriff of the county of the person's residence within ten days of establishment of residence in this state or within ten days of any conviction for which the person is not incarcerated, a release from custody, or placement on probation, parole, or work release. A sheriff shall accept the registration of a nonresident of the county, if the person required to register is a full-time or part-time student or is employed on a full-time or part-time basis in the county.

Sec. 8. Section 692A.3, subsection 4, Code 1999, is amended to read as follows:

4. A person required to register under this chapter shall notify the sheriff of the county in which the person is registered, within ten days of changing residence to a location outside this state, of the new residence address and any changes in telephone number or name. The sheriff shall send a copy of the change to the department within three working days of receipt of notice of the change. The person must register with the registering agency of the other state within ten days of changing residency, if persons are required to register under the laws of the other state. The department ~~or the sheriff of the county in this state in which the person last resided may~~ shall notify the registering agency in the other state of the registrant's new address, telephone number, or name.

Sec. 9. Section 692A.5, Code 1999, is amended by adding the following new subsection*:

NEW SUBSECTION.* f. Inform the person that if the person is a nonresident of a state where the person is a full-time or part-time student or is employed on a full-time or part-time basis, the person must register with the sheriff of the county where the person is employed or attending school. Full-time or part-time means a period of time exceeding fourteen days or an aggregate period of time exceeding thirty days during any calendar year pursuant to 42 U.S.C. § 14071(a)(3)(F).

Sec. 10. Section 692A.10, subsection 4, Code 1999, is amended to read as follows:

4. Adopt rules under chapter 17A, as necessary, to ensure compliance with registration and verification requirements of this chapter, to provide guidelines for persons required to assist in obtaining registry information, and to provide a procedure for the dissemination of information contained in the registry. The procedure for the dissemination of information shall include, but not be limited to, practical guidelines for use by criminal or juvenile justice agencies in determining when public release of information contained in the registry is appropriate and a requirement that if a member of the general public requests information regarding a specific individual in the manner provided in section 692A.13, ~~subsection 6,~~ the information shall be released. The department, in developing the procedure, shall consult with associations which represent the interests of law enforcement officers. Rules adopted shall also include a procedure for removal of information from the registry upon the reversal or setting aside of a conviction of a person who is registered under this chapter.

* New paragraph probably intended

Sec. 11. Section 692A.10, Code 1999, is amended by adding the following new subsection: NEW SUBSECTION. 5. Submit sex offender registry data to the federal bureau of investigation for entry of the data into the national sex offender registry.

Sec. 12. Section 692A.13, unnumbered paragraph 1, Code 1999, is amended to read as follows:

Information contained in the sex offender registry is a confidential record under section 22.7, subsection 9, and shall only be disseminated or redisseminated as provided in section 692A.13A or as follows:

Sec. 13. Section 692A.13, subsections 1 and 2, Code 1999, are amended to read as follows:

1. The department, ~~or a sheriff, or a police department~~ may disclose information to criminal or juvenile justice agencies for law enforcement or prosecution purposes.

2. ~~The A~~ department listed under section 692A.13A or a juvenile court officer conducting a risk assessment may disclose information to government agencies which are conducting confidential background investigations.

Sec. 14. Section 692A.13, subsection 3, unnumbered paragraph 1, Code 1999, is amended to read as follows:

The department or a criminal or juvenile justice agency may release relevant information from the registry except as otherwise provided in section 692A.13A, subsection 3, to members of the general public concerning a specific person who is required to register under this chapter as follows:

Sec. 15. Section 692A.13, subsection 3, paragraph b, Code 1999, is amended to read as follows:

b. A county sheriff or a police department shall also provide to any person upon request a, access to the list of all registrants in that county who have been classified as "at-risk" in this state, however, records of persons protected under 18 U.S.C. § 3521 shall not be disclosed.

Sec. 16. Section 692A.13, subsection 3, paragraph c, Code 1999, is amended by striking the paragraph.

Sec. 17. Section 692A.13, subsection 3, paragraph d, Code 1999, is amended to read as follows:

~~d. c. The~~ Upon the appropriation of sufficient funds, the department shall provide electronic access to relevant information from the registry ~~pertaining to offenders who are convicted of a criminal offense against a minor, sexual exploitation, an other relevant offense, or a sexually violent offense on or after the effective date of this Act and who have been classified as "at-risk" for the following:~~

(1) Persons who commit a criminal offense against a minor, an aggravated offense, sexual exploitation, a sexually violent offense, or an other relevant offense on or after the effective date of this Act and who have been assessed to be a "moderate-risk" or "high-risk".

(2) Persons who committed an offense prior to July 1, 1999, and who have been assessed to be a "moderate-risk" or "high-risk" and whose opportunity to request a hearing regarding the assessment of risk has lapsed.

Sec. 18. Section 692A.13, subsections 6 and 7, Code 1999, are amended by striking the subsections.

Sec. 19. NEW SECTION. 692A.13A RISK ASSESSMENT AND PUBLIC NOTIFICATION.

1. The department of corrections, the department of human services, and the department of public safety shall, in consultation with one another, develop methods and procedures for the assessment of the risk that persons required to register under this chapter pose of

reoffending. The department of corrections, in consultation with the department of human services, the department of public safety, and the attorney general, shall adopt rules relating to assessment procedures. The assessment procedures shall include procedures for the sharing of information between the department of corrections, department of human services, the juvenile court, and the division of criminal investigation of the department of public safety, as well as the communication of the results of the risk assessment to criminal and juvenile justice agencies. The assignment of responsibility for the assessment of risk shall be as follows:

a. The department of corrections or a judicial district department of correctional services shall perform the assessment of risk for persons who are incarcerated in institutions under the control of the director of the department of corrections, persons who are under the supervision of the department of corrections or a judicial district department of correctional services, and persons who are under the supervision or control of the department of corrections or a judicial district department of correctional services through an interstate compact.

b. The department of human services shall perform the assessment of risk for persons who are confined in institutions under the control of the director of human services, persons who are under the supervision of the department of human services, and persons who are under the supervision or control of the department of human services through an interstate compact.

c. The division of criminal investigation of the department of public safety shall perform the assessment of risk for persons who have moved to Iowa but are not under the supervision of the department of corrections, a judicial district department of correctional services, or the department of human services; federal parolees or probationers; persons who have been released from a county jail but are not under the supervision of the department of corrections, a judicial district department of correctional services, a juvenile court officer of the judicial branch, or the department of human services; and persons who are convicted and released by the courts and are not incarcerated or placed under supervision pursuant to the court's sentencing order. Assessments of persons who have moved to Iowa and persons on federal parole or probation shall be performed on an expedited basis if the person was classified as a person with a high degree of likelihood of reoffending by the other jurisdiction or the federal government.

d. A juvenile court officer shall perform the assessment of risk for a juvenile who is adjudicated delinquent for a criminal offense listed in section 692A.1 and who is under the juvenile court officer's supervision.

2. Each department under subsection 1 or each juvenile court officer conducting the assessment of risk shall notify the offender as to the determination of the assessment conducted by that department or officer. An appeal of an assessment of risk determination performed by a department shall be made in accordance with chapter 17A. An appeal of an assessment of risk determination performed by a juvenile court officer shall be made in accordance with rules adopted by the department of public safety in consultation with the judicial branch.

3. The department of public safety shall be responsible for disclosing the assessment of risk information to a criminal or juvenile justice agency for law enforcement, prosecution, or for public notification purposes. A department, or a criminal or juvenile justice agency, may release the offender's name, address, a photograph, locations frequented by the offender, and relevant criminal history information from the registry and other relevant information. The degree of public notification utilized by a criminal or juvenile justice agency shall be determined as follows:

a. For offenders classified as "low-risk", registry information may be distributed to a criminal or juvenile justice agency or to members of the public upon requests made through a criminal or juvenile justice agency or by electronic access as provided in section 692A.13, subsection 3.

b. For offenders classified as “at-risk”, including “moderate-risk” or “high-risk”, registry information may be provided to any criminal or juvenile justice agency and to the public which includes public and private agencies, organizations, public places, public and private schools, child care facilities, religious and youth organizations, neighbors, and employers. However, if an offender is classified as “high-risk”, information may also be provided to neighborhood associations or at community meetings. Registry information may be distributed to the public by printed materials, visual or audio press releases, and by a criminal or juvenile justice agency’s web page. The scope of notification may include where the registrant resides, works, attends school, or frequents.

Sec. 20. Section 901.4, Code 1999, is amended to read as follows:

901.4 PRESENTENCE INVESTIGATION REPORT CONFIDENTIAL — DISTRIBUTION.

The presentence investigation report is confidential and the court shall provide safeguards to ensure its confidentiality, including but not limited to sealing the report, which may be opened only by further court order. At least three days prior to the date set for sentencing, the court shall serve all of the presentence investigation report upon the defendant’s attorney and the attorney for the state, and the report shall remain confidential except upon court order. However, the court may conceal the identity of the person who provided confidential information. The report of a medical examination or psychological or psychiatric evaluation shall be made available to the attorney for the state and to the defendant upon request. The reports are part of the record but shall be sealed and opened only on order of the court. If the defendant is committed to the custody of the Iowa department of corrections and is not a class “A” felon, a copy of the presentence investigation report shall be forwarded to the director with the order of commitment by the clerk of the district court and to the board of parole at the time of commitment. The presentence investigation report may also be released by the department of corrections or a judicial district department of correctional services pursuant to section 904.602 to another jurisdiction for the purpose of providing interstate probation and parole compact services or evaluations. The defendant or the defendant’s attorney may file with the presentence investigation report, a denial or refutation of the allegations, or both, contained in the report. The denial or refutation shall be included in the report. If the person is sentenced for an offense which requires registration under chapter 692A, the court shall release the report to the department which is responsible under section ~~692A.13~~ 692A.13A for performing the assessment of risk.

Approved May 11, 1999

CHAPTER 113

REGISTRATION AND TITLING OF ALL-TERRAIN VEHICLES AND SNOWMOBILES

S.F. 407

AN ACT relating to title certificates for and registration of all-terrain vehicles and snowmobiles and providing for and applying penalties.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 321G.1, subsection 1, Code 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Two-wheeled off-road motorcycles shall be considered all-terrain vehicles only for the purpose of titling and registration and not for purposes of regulation.