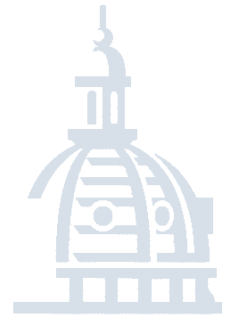




ISSUE REVIEW

Fiscal Services Division

December 18, 2008



Sex Offender Registry Restrictions

ISSUE

This *Issue Review* provides a description of Iowa's 2,000 foot residency restriction for sex offenders, and the impact on the corrections system.

AFFECTED AGENCIES

Department of Corrections

Department of Public Safety

County Sheriffs

Community Based Corrections District Departments

Board of Parole

Judicial Branch

CODE AUTHORITY

Chapters 232, 692A, 709, 726, 728, 901A, 904 and 905, Code of Iowa

BACKGROUND

Convicted sex offenders in Iowa are subject to enhanced penalties, extended community-based supervision, electronic monitoring, mandated treatment, residency restrictions, submission of DNA sample, and compliance with the Sex Offender Registry. This *Issue Review* focuses on the 2,000 foot residency restriction and its impact on the corrections system.

Nationally, state and local governments have enacted laws that restrict where sex offenders may live. Under Iowa law, sex offenders are prohibited from residing within 2,000 feet of a school or daycare facility. Sex offenders may live in a shelter or group home as long as that residence is not within 2,000 feet of a school or daycare facility. Local ordinances may be more restrictive than State law. The law was enacted to protect children from unknown sexual predators. However, according to the Bureau of Justice Statistics of the U.S. Department of Justice, nationally, approximately 93.0% of minor victims of sex crimes know the offender. In Iowa, FY 2008 data indicates approximately 98.0% of minor victims knew the offender.

The residency restriction is a lifetime requirement and also applies to sex offenders that are not required to be included on the Sex Offender Registry. Juveniles are exempt from this restriction until they are adults. Once juveniles become adults, the current practice is to enforce the 2,000 foot rule even if the offense was committed as a juvenile. Noncompliance is punishable as an aggravated misdemeanor.

Several cases related to residency restrictions have been appealed to the Iowa Supreme Court. To date, the law has withstood these constitutional challenges.

CURRENT SITUATION

Currently, residency requirements do not appear to be a factor in the length of stay in prison. Most of these offenders serve the full sentence in prison for a more serious conviction (felony rather than an aggravated misdemeanor). The table below shows the number of offenders whose most serious offense was a violation of the residency requirements. That is, they are under correctional supervision because they violated the residency requirements.

Offenders Whose Most Serious Offense is a Residency Violation

	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>
CBC	31	32	12
Prison	0	4	4
Total	31	36	16

Source: Department of Human Rights, Criminal and Juvenile Justice Planning Division (CJJPD)

NOTE: There are more sex offenders in the corrections system with more serious convictions. They are not included in the numbers above because they would be in the corrections system whether or not they violated residency requirements.

The number of offenders convicted of residency violations is relatively small, but there is an impact on the law enforcement and corrections systems, such as:

- More sex offenders are living in rural areas or unknown locations. Iowa law requires sex offenders to be treated and supervised for the offense; access to treatment in rural areas is limited.
- State and local law enforcement agencies may be expending a significant amount of resources enforcing the residency restriction by verifying addresses and searching for the offenders as a result of more offenders living in unknown locations.
- The DOC and CBC staff are spending more time assisting offenders in finding housing that is in compliance with the 2,000 foot rule. Therefore, there is less time to deal with interventions that may reduce recidivism.
- According to the DOC, offenders under psychological stress are more likely to return to prison. The restricted housing options for sex offenders may increase stress levels and isolation of these offenders.
- The residency requirement for sex offenders is impacting bed availability in CBC residential facilities. There are approximately 50 sex offenders housed in CBC residential facilities due to the 2,000 foot residency rule. Under current law, if they were not in a CBC residential facility, they may be revoked to prison for noncompliance with the 2,000 foot rule. Current capacity is 1,467 beds in 22 residential facilities operated by the eight CBC District Departments. During September 2008, there were 872 offenders waiting for a bed in these facilities because demand for CBC residential beds exceeds current capacity.

ALTERNATIVES

There are several alternatives to consider for supervising sex offenders, which may or may not address public safety and victim concerns.

1. Maintain current law. This alternative may not address certain public safety issues, such as sex offenders residing in unknown locations, or in rural areas where supervision and treatment may be problematic.
2. Repeal current law. This alternative will permit sex offenders to live anywhere within the community. This may make it less staff-intensive for local law enforcement and CBC staff to supervise and enforce the probation and parole agreement. It may also provide more options for sex offenders to be involved in treatment.
3. Substitute exclusionary zones for the 2,000 foot rule. This alternative restricts where an offender travels, rather than where an offender resides. Requiring exclusionary zones may have a similar impact as repealing current law. It may enhance public safety by restricting access to certain locations.
4. Repeal current law and permit the DOC and CBC District Departments to determine movement and housing restrictions as a part of the probation or parole agreement. This alternative places the public safety burden on those agencies.

BUDGET IMPACT

The total budget impact on the State, cities, and counties cannot be estimated due to a lack of data. It is not known how many offenders are in county jails because they violated the 2,000 foot rule. All offenders released on parole or work release must have a parole plan that includes a verifiable address. It is not known how many extra days sex offenders serve in prison, searching for a community placement.

Given that there are 872 offenders on the waiting list, the CBC residential facilities will operate at full capacity whether or not the 2,000 foot rule exists. The 872 offenders are waiting in prison, county jail, CBC field services, or the federal prison system. Serving more offenders through the CBC residential facilities would have incremental savings throughout federal, State, and local governments.

During FY 2008, the average length of stay in a CBC residential bed for all offenders was 4.3 months. There are approximately 50 sex offenders housed in CBC residential facilities due to the 2,000 foot residency rule whose average length of stay is approximately seven months. If these offenders could live in the community, the CBC residential facilities could utilize 50 beds at least three times during a fiscal year, based on the average length of stay of 4.3 months. Approximately 150 offenders on the waiting list could be served by CBC residential facilities, and the number of offenders waiting for a CBC bed could be reduced.

Alternative One, maintaining current law, in the long term, may result in more offenders revoked to prison for not complying with the residency restriction. Operating costs for prisons are more expensive than CBC residential facilities. The marginal cost per day for prison in FY 2008 was \$18.72; the average length of stay in prison for offenders that violated the residency restriction was 11 months making the average marginal prison cost for these offenders \$6,200 (11 months x \$18.72). Current law also results in offenders residing in CBC facilities at a cost per offender of \$2,600 (7 months x \$11.98). Offenders partially offset this cost because they are required to pay rent to the CBC District Departments.

Alternative Two, repealing current law generates no cost savings. It may permit CBC staff to spend more time on evidence-based offender re-entry initiatives to reduce recidivism. It may also permit higher caseloads, thereby decreasing the need for additional staff.

Alternative Three, substituting exclusionary zones will require State and local law enforcement and DOC and CBC staff to expend resources on enforcement. However, time and effort may be reduced compared to current law because offenders should have a known address.

Alternative Four, repealing current law and permitting the DOC and CBC District Departments to determine movement and housing restrictions as a part of the probation or parole agreement, has no cost. Before the enactment of HF 619 (2005 Sex Offender Act) on July 1, 2005, the DOC and CBC District Departments placed restrictions and requirements on sex offender movement and housing.

The number of offenders subject to the 2,000 foot residency restriction is projected to grow in the future, due to the lifetime requirement, special sentence provisions for sex offenses, and juveniles being required to be in compliance once they become adults. It is likely more sex offenders will be housed in the CBC residential facilities in the future.

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