

**Senate File 2305 - Reprinted**

SENATE FILE 2305  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 3217)

(As Amended and Passed by the Senate February 24, 2010)

**A BILL FOR**

1 An Act modifying sex offender registry provisions, and  
2 providing penalties and including effective date provisions.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 692A.101, subsection 2, Code Supplement  
2 2009, is amended to read as follows:

3 2. a. "*Aggravated offense against a minor*" means a  
4 conviction for any of the following offenses, if such offense  
5 was committed against a minor, or otherwise involves a minor:

6 ~~a.~~ (1) Sexual abuse in the first degree in violation of  
7 section 709.2.

8 ~~b.~~ (2) Sexual abuse in the second degree in violation of  
9 section 709.3.

10 ~~c.~~ (3) Sexual abuse in the third degree in violation  
11 of section 709.4, except for a violation of section 709.4,  
12 subsection 2, paragraph "c", subparagraph (4).

13 b. Any offense specified in the laws of another jurisdiction  
14 or prosecuted in federal, military, or foreign court, that  
15 is comparable to an offense listed in paragraph "a" shall be  
16 considered an aggravated offense against a minor if such an  
17 offense was committed against a minor or otherwise involves a  
18 minor.

19 Sec. 2. Section 692A.101, subsection 27, Code Supplement  
20 2009, is amended to read as follows:

21 27. "*Sex offense*" means an indictable offense for which a  
22 conviction has been entered that ~~has an element involving a~~  
23 ~~sexual act, sexual contact, or sexual conduct, and which is~~  
24 enumerated in section 692A.102, and means any comparable  
25 offense for which a conviction has been entered under prior  
26 law, or any comparable offense for which a conviction has been  
27 entered in a federal, military, or foreign court, or another  
28 jurisdiction.

29 Sec. 3. Section 692A.101, Code Supplement 2009, is amended  
30 by adding the following new subsection:

31 NEW SUBSECTION. 28A. "*Sexually motivated*" means the same  
32 as defined in section 229A.2.

33 Sec. 4. Section 692A.102, subsection 1, paragraph a,  
34 subparagraphs (6) and (7), Code Supplement 2009, are amended  
35 to read as follows:

1 (6) (a) Harassment in violation of section 708.7,  
2 subsection 1, 2, or 3, if a determination is made that the  
3 offense was sexually motivated pursuant to section 692A.126.

4 ~~(7)~~ (b) Stalking in violation of section 708.11, except a  
5 violation of subsection 3, paragraph "b", subparagraph (3), if  
6 a determination is made that the offense was sexually motivated  
7 pursuant to section 692A.126.

8 (c) Any other indictable offense in violation of chapter  
9 708 if the offense is committed against a minor and if a  
10 determination is made that the offense was sexually motivated  
11 pursuant to section 692A.126.

12 Sec. 5. Section 692A.102, subsection 1, paragraph a,  
13 Code Supplement 2009, is amended by adding the following new  
14 subparagraphs:

15 NEW SUBPARAGRAPH. (08) Pimping in violation of section  
16 725.2 if the offense was committed against a minor or otherwise  
17 involves a minor and if a determination is made that the  
18 offense was sexually motivated pursuant to section 692A.126.

19 NEW SUBPARAGRAPH. (008) Pandering in violation of section  
20 725.3, subsection 2, if a determination is made that the  
21 offense was sexually motivated pursuant to section 692A.126.

22 NEW SUBPARAGRAPH. (0008) Any indictable offense in  
23 violation of chapter 726 if the offense is committed against  
24 a minor or otherwise involves a minor and if a determination  
25 is made that the offense was sexually motivated pursuant to  
26 section 692A.126.

27 Sec. 6. Section 692A.102, subsection 1, paragraph b,  
28 Code Supplement 2009, is amended by adding the following new  
29 subparagraph:

30 NEW SUBPARAGRAPH. (015) Pandering in violation of section  
31 725.3.

32 Sec. 7. Section 692A.102, subsection 1, paragraph c,  
33 Code Supplement 2009, is amended by adding the following new  
34 subparagraph:

35 NEW SUBPARAGRAPH. (06) Penetration of the genitalia or anus

1 with an object in violation of section 708.2, subsection 5.

2 Sec. 8. Section 692A.106, Code Supplement 2009, is amended  
3 by adding the following new subsection:

4 NEW SUBSECTION. 2A. If a sex offender is placed on  
5 probation, parole, or work release and the probation, parole,  
6 or work release is revoked, the period of registration shall  
7 commence anew upon release from custody.

8 Sec. 9. Section 692A.111, Code Supplement 2009, is amended  
9 by adding the following new subsection:

10 NEW SUBSECTION. 2A. Any violation of this chapter prior  
11 to July 1, 2009, shall be considered a previous offense for  
12 purposes of enhancing any penalty or period of registration  
13 under this chapter.

14 Sec. 10. Section 692A.113, subsection 1, unnumbered  
15 paragraph 1, Code Supplement 2009, is amended to read as  
16 follows:

17 A sex offender who has been convicted of a sex offense  
18 against a minor or a person required to register as a sex  
19 offender in another jurisdiction for an offense involving a  
20 minor shall not do any of the following:

21 Sec. 11. Section 692A.123, Code Supplement 2009, is amended  
22 to read as follows:

23 **692A.123 Immunity for good faith conduct.**

24 Criminal or juvenile justice agencies, ~~and employees of~~  
25 ~~criminal or juvenile justice agencies and state agencies,~~  
26 schools as defined in section 692A.114, public libraries, and  
27 child care facilities, and their employees shall be immune  
28 from liability for acts or omissions arising from a good faith  
29 effort to comply with this chapter.

30 Sec. 12. Section 692A.125, subsection 2, paragraph c, Code  
31 Supplement 2009, is amended to read as follows:

32 c. Any sex offender who is serving a special sentence  
33 pursuant to section 903B.1 or 903B.2 prior to July 1, 2009, or  
34 any other person who is sentenced for a criminal offense prior  
35 to July 1, 2009, that requires serving a special sentence.

1     Sec. 13. Section 692A.125, Code Supplement 2009, is amended  
2 by adding the following new subsection:

3     NEW SUBSECTION. 2A. For an offense requiring registration  
4 due to sexual motivation, the registration requirements of  
5 section 692A.126 shall apply to a person convicted of an  
6 offense if the department makes the determination that the  
7 offense was sexually motivated as provided in section 692A.126,  
8 subsection 2.

9     Sec. 14. Section 692A.126, Code Supplement 2009, is amended  
10 to read as follows:

11     **692A.126 Sexually motivated offense — determination.**

12     1. If a judge or jury makes a determination, beyond a  
13 reasonable doubt, that any of the following offenses for which  
14 a conviction has been entered on or after July 1, 2009, are  
15 sexually motivated, the person shall be required to register as  
16 provided in this chapter:

17     *a.* Murder in the first degree in violation of section 707.2.

18     *b.* Murder in the second degree in violation of section  
19 707.3.

20     *c.* Voluntary manslaughter in violation of section 707.4.

21     *d.* Involuntary manslaughter in violation of section 707.5.

22     *e.* Attempt to commit murder in violation of section 707.11.

23     *f.* Harassment in violation of section 708.7, subsection 1,  
24 2, or 3.

25     *g.* Stalking in violation of section 708.11, subsection 3,  
26 paragraph "b", subparagraph (3).

27     *h.* Any other indictable offense in violation of chapter  
28 708 if the offense was committed against a minor or otherwise  
29 involves a minor.

30     ~~*h.*~~ *i.* Kidnapping in the first degree in violation of  
31 section 710.2.

32     ~~*i.*~~ *j.* Kidnapping in the second degree in violation of  
33 section 710.3.

34     ~~*j.*~~ *k.* Kidnapping in the third degree in violation of  
35 section 710.4.

- 1     ~~k.~~ l. Child stealing in violation of section 710.5.
- 2     ~~l.~~ m. Purchase or sale or attempted purchase or sale of an  
3 individual in violation of section 710.11.
- 4     ~~m.~~ n. Burglary in the first degree in violation of section  
5 713.3, subsection 1, paragraph "a", "b", or "c".
- 6     ~~n.~~ o. Attempted burglary in the first degree in violation  
7 of section 713.4.
- 8     ~~o.~~ p. Burglary in the second degree in violation of section  
9 713.5.
- 10    ~~p.~~ q. Attempted burglary in the second degree in violation  
11 of section 713.6.
- 12    ~~q.~~ r. Burglary in the third degree in violation of section  
13 713.6A.
- 14    ~~r.~~ s. Attempted burglary in the third degree in violation  
15 of section 713.6B.
- 16    t. Pimping in violation of section 725.2 if the offense was  
17 committed against a minor or otherwise involves a minor.
- 18    u. Pandering in violation of section 725.3, subsection 2.
- 19    v. Any indictable offense in violation of chapter 726 if the  
20 offense was committed against a minor or otherwise involves a  
21 minor.
- 22    2. a. ~~If a~~ The following persons shall be required to  
23 register as provided in this chapter if the department makes a  
24 determination that the offense was sexually motivated:
- 25       (1) A person convicted of an offense in this state specified  
26 under subsection 1 prior to July 1, 2009.
- 27       (2) A person is convicted of an offense in another  
28 jurisdiction, or convicted of an offense that was prosecuted  
29 in a federal, military, or foreign court, prior to, on,  
30 or after July 1, 2009, that is comparable to an offense  
31 specified in subsection 1, the person shall be required to  
32 register as provided in this chapter if the department makes a  
33 determination that the offense was sexually motivated.
- 34    3. (3) If a A juvenile is convicted of an offense in  
35 another jurisdiction, or convicted of an offense as a juvenile

1 in a similar juvenile court proceeding in a federal, military,  
2 or foreign court, prior to, on, or after July 1, 2009, that is  
3 comparable to an offense specified in subsection 1, ~~the person~~  
4 ~~shall be required to register as provided in this chapter if~~  
5 ~~the department makes a determination that the offense was~~  
6 ~~sexually motivated.~~

7 b. A determination made pursuant to this subsection shall  
8 be issued in writing and shall include a summary of the  
9 information and evidence considered in making the determination  
10 that the offense was sexually motivated.

11 c. The determination made by the department shall be subject  
12 to judicial review in accordance with chapter 17A.

13 Sec. 15. NEW SECTION. 708.14 Sexual motivation.

14 A person convicted of any indictable offense under this  
15 chapter shall be required to register as a sex offender  
16 pursuant to the provisions of chapter 692A, if the offense  
17 was committed against a minor and the fact finder makes a  
18 determination that the offense was sexually motivated pursuant  
19 to section 692A.126.

20 Sec. 16. Section 713.3, Code 2009, is amended by adding the  
21 following new subsection:

22 NEW SUBSECTION. 3. For purposes of determining whether  
23 the person should register as a sex offender pursuant to the  
24 provisions of chapter 692A for violations of subsection 1,  
25 paragraphs "a", "b", or "c", the fact finder shall make a  
26 determination as provided in section 692A.126.

27 Sec. 17. Section 713.4, Code 2009, is amended by adding the  
28 following new unnumbered paragraph after unnumbered paragraph  
29 1:

30 NEW UNNUMBERED PARAGRAPH. For purposes of determining  
31 whether the person should register as a sex offender pursuant  
32 to the provisions of chapter 692A, the fact finder shall make a  
33 determination as provided in section 692A.126.

34 Sec. 18. Section 713.5, Code 2009, is amended by adding the  
35 following new unnumbered paragraph after unnumbered paragraph

1 2:

2 NEW UNNUMBERED PARAGRAPH. For purposes of determining  
3 whether the person should register as a sex offender pursuant  
4 to the provisions of chapter 692A, the fact finder shall make a  
5 determination as provided in section 692A.126.

6 Sec. 19. Section 713.6, Code 2009, is amended by adding the  
7 following new unnumbered paragraph after unnumbered paragraph

8 2:

9 NEW UNNUMBERED PARAGRAPH. For purposes of determining  
10 whether the person should register as a sex offender pursuant  
11 to the provisions of chapter 692A, the fact finder shall make a  
12 determination as provided in section 692A.126.

13 Sec. 20. Section 713.6A, Code 2009, is amended by adding the  
14 following new subsection:

15 NEW SUBSECTION. 3. For purposes of determining whether  
16 the person should register as a sex offender pursuant to the  
17 provisions of chapter 692A, the fact finder shall make a  
18 determination as provided in section 692A.126.

19 Sec. 21. Section 713.6B, Code 2009, is amended by adding the  
20 following new subsection:

21 NEW SUBSECTION. 3. For purposes of determining whether  
22 the person should register as a sex offender pursuant to the  
23 provisions of chapter 692A, the fact finder shall make a  
24 determination as provided in section 692A.126.

25 Sec. 22. NEW SECTION. **726.10 Sexual motivation.**

26 A person convicted of any indictable offense under this  
27 subchapter shall be required to register as a sex offender  
28 pursuant to the provisions of chapter 692A, if the offense  
29 was committed against a minor and the fact finder makes a  
30 determination that the offense was sexually motivated pursuant  
31 to section 692A.126.

32 Sec. 23. **EFFECTIVE UPON ENACTMENT.** This Act, being deemed  
33 of immediate importance, takes effect upon enactment.