

State of Iowa Department of Corrections

Policy and Procedures

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Chapter 5: OFFENDER PROGRAMS

Sub Chapter: SEX OFFENSE PROGRAM

Related DOC Policies: IO-RD-03, IS-CL-03, OP-SOP-08, OP-SOP-09

Administrative Code Reference: N/A

Subject: INCARCERATED INDIVIDUALS REQUIRED TO TAKE SOTP

ACA Standards: N/A

PREA Standard: N/A

Responsibility: Katrina Carter

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Authority:

1. PURPOSE

To describe the crimes and activities that require an incarcerated individual to take a sex offense treatment program (SOTP) established by the Director of the Iowa Department of Corrections (IDOC).

2. POLICY

- A. It is the policy of the IDOC to provide guidance to staff, incarcerated individuals, and the public regarding which incarcerated individuals must take SOTP.
- B. The Iowa Code indicates that an incarcerated individual who is required to participate in SOTP shall not be eligible to receive earned time credits unless the incarcerated individual "participates in and completes a sex [offense] treatment program established by the [IDOC] director." **Iowa Code 903A.2(1)(a)**. Creating specific guidance regarding which incarcerated individuals must take SOTP shall insure the proper application of that provision of the Iowa Code.

- C. The opportunity for an ALJ hearing regarding a requirement to take SOTP is only available if an incarcerated individual is eligible to receive earned time credits. If an incarcerated individual cannot receive earned time credits, such as when an incarcerated individual is in prison for a revocation of a lifetime special sentence or when an incarcerated individual has already lost eligibility to receive earned time credits after a prior ALJ hearing, then no further ALJ hearing need take place regarding whether the incarcerated individual must take SOTP.

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3. DEFINITIONS

As used in this policy:

- A. Administrative Law Judge (ALJ) - An Administrative Law Judge appointed by the IDOC Director to handle SOTP or disciplinary hearings.

- B. Earned Time - The term earned time shall refer to the reduction in time credits given to incarcerated individuals under the Iowa Code, as amended, and any other current or prior section of the Iowa Code that specifies the reduction in time credits that apply to a particular incarcerated individual's sentence.
- C. ALJ Hearing – A hearing conducted by an ALJ in accordance with the procedures in IDOC Policy **OP-SOP-09**, *SOTP Hearing and Appeal*.
- D. Sex Offense Treatment Program (SOTP) – A program established by the IDOC to for offenders who have been convicted of a sex crime or who have demonstrated some sort of sexually deviant behavior. For female offenders, the SOTP is located at the Iowa Correctional Institution for Women (ICIW). For male offenders, the main SOTP is located at the Newton Correctional Facility (NCF). The IDOC Director may establish additional SOTP locations to handle specific populations or situations. For purposes of **Iowa Code 903A.2(1)(a)**, no treatment program shall be considered to be a "sex offender treatment program established by the Director" unless the program is specifically designated as such a program by the Director. Treatment staff conducting an SOTP at a location other than ICIW or NCF should make a record of the Director's approval of the program as an SOTP in the ICON generic notes of each incarcerated individual assigned to the SOTP.
- E. See IDOC Policy **AD-GA-16** for additional Definitions.

4. PROCEDURES

A. Court Ordered SOTP

1. An incarcerated individual serving a sentence in an IDOC institution shall be required to take SOTP prior to the incarcerated individual's discharge from the institution if an Iowa Court ordered that the incarcerated individual take and complete some sort of sex offense treatment. Such an order shall usually appear as part of a sentencing order, but may appear in any other valid order that is binding on the incarcerated individual. This requirement shall apply if an incarcerated individual was originally placed on probation and the sentencing order refers to sex offense treatment through the Department of Correctional Services rather than the IDOC.

2. The requirement for taking SOTP under this section shall be imposed without the need for an ALJ Hearing.

B. Iowa Convictions Automatically Requiring an Incarcerated Individual to Take SOTP

1. An incarcerated individual serving a sentence in an IDOC institution for any of the crimes listed below shall be required to take SOTP prior to the incarcerated individual's discharge from the institution.
2. The requirement for taking SOTP under this section shall be imposed without the need for an ALJ Hearing.
3. Any violation of the requirements of the Iowa Sex Offender Registry under **Iowa Code 692A.111**, provided that the underlying crime was one of the crimes listed in this section and that underlying crime has not been discharged or was discharged less than ten years earlier.
4. Solicitation of a minor to engage in an illegal sex act in violation of **Iowa Code 705.1**.
5. Solicitation of a minor to engage in an illegal act under **Iowa Code 709.8(1)(d)**, in violation of **Iowa Code 705.1**.
6. Solicitation of a minor to engage in an illegal act under **Iowa Code 709.12**, in violation of **Iowa Code 705.1**.
7. Murder in violation of **Iowa Code 707.2 or 707.3** if the sentencing court found that sexual abuse as defined in **Iowa Code 709.1** was committed during the commission of the offense.
8. Murder in violation of **Iowa Code 707.2 or 707.3**, if the sentencing court made a determination pursuant to **Iowa Code 692A.126** that the offense was sexually motivated.
9. Voluntary manslaughter in violation of **Iowa Code 707.4**, if the sentencing court made a determination pursuant to **Iowa Code 692A.126** that the offense was sexually motivated.

10. Involuntary manslaughter in violation of **Iowa Code 707.5**, if the sentencing court made a determination pursuant to **Iowa Code 692A.126** that the offense was sexually motivated.
11. Attempt to commit murder in violation of **Iowa Code 707.11**, if the sentencing court made a determination pursuant to **Iowa Code 692A.126** that the offense was sexually motivated.
12. Assault involving penetration of the genitalia or anus with an object in violation of **Iowa Code 708.2(5)**.
13. Harassment in violation of **Iowa Code 708.7**, if the sentencing court made a determination pursuant to **Iowa Code 692A.126** that the offense was sexually motivated.
14. Stalking in violation of **Iowa Code 708.11**, if the sentencing court made a determination pursuant to **Iowa Code 692A.126** that the offense was sexually motivated.
15. Sexual abuse in the first degree in violation of **Iowa Code 709.2**.
16. Sexual abuse in the second degree in violation of **Iowa Code 709.3**.
17. Sexual abuse in the third degree in violation of **Iowa Code 709.4**.
18. Lascivious acts with a child in violation of **Iowa Code 709.8**.
19. Indecent exposure in violation of **Iowa Code 709.9**.
20. Assault with intent to commit sexual abuse in violation of **Iowa Code 709.11**.
21. Indecent contact with a child in violation of **Iowa Code 709.12**.
22. Lascivious conduct with a minor in violation of **Iowa Code 709.14**.
23. Sexual exploitation by a counselor, therapist, or school employee in violation of **Iowa Code 709.15**.
24. Sexual misconduct with incarcerated individuals and juveniles in violation of **Iowa Code 709.16**.
25. Sexual abuse of a corpse in violation of **Iowa Code 709.18**.

26. Invasion of privacy — nudity in violation of **Iowa Code 709.21**.
27. Kidnapping in violation of **Iowa Code 710.2** if the sentencing court determines that sexual abuse as defined in **Iowa Code 709.1** was committed during the commission of the offense.
28. Kidnapping of a minor in violation of **Iowa Code 710.2, 710.3, or 710.4**, if the sentencing court made a determination pursuant to **Iowa Code 692A.126** that the offense was sexually motivated.
29. Child stealing in violation of **Iowa Code 710.5**, if the sentencing court made a determination pursuant to **Iowa Code 692A.126** that the offense was sexually motivated.
30. False imprisonment of a minor in violation of **Iowa Code 710.7**, except if committed by a parent.
31. Enticing a minor in violation of **Iowa Code 710.10**, if the sentencing court finds that the violation included an intent to commit sexual abuse, sexual exploitation, sexual contact, or sexual conduct directed towards a minor.
32. Purchase or sale of an individual in violation of **Iowa Code 710.11**, if the sentencing court made a determination pursuant to **Iowa Code 692A.126** that the offense was sexually motivated.
33. Human trafficking in violation of **Iowa Code 710A.2** if the sentencing court finds that sexual abuse or assault with intent to commit sexual abuse was committed or sexual conduct or sexual contact was an element of the offense.
34. Solicitation of commercial sexual activity in violation of **Iowa Code 710A.2A**.
35. Burglary in the first degree in violation of **Iowa Code 713.3(1)(d)**.
36. Any other burglary in the first degree offense in violation of **Iowa Code 713.3**, if the sentencing court made a determination pursuant to **Iowa Code 692A.126** that the offense was sexually motivated.
37. Attempted burglary in the first degree in violation of **Iowa Code 713.4**, if the sentencing court made a determination pursuant to **Iowa Code 692A.126** that the offense was sexually motivated.

38. Burglary in the second degree in violation of **Iowa Code 713.5**, if the sentencing court made a determination pursuant to **Iowa Code 692A.126** that the offense was sexually motivated.
39. Attempted burglary in the second degree in violation of **Iowa Code 713.6**, if the sentencing court made a determination pursuant to **Iowa Code 692A.126** that the offense was sexually motivated.
40. Burglary in the third degree in violation of **Iowa Code 713.6A**, if the sentencing court made a determination pursuant to **Iowa Code 692A.126** that the offense was sexually motivated.
41. Attempted burglary in the third degree in violation of **Iowa Code 713.6B**, if the sentencing court made a determination pursuant to **Iowa Code 692A.126** that the offense was sexually motivated.
42. Bestiality in violation of **Iowa Code 717C.1**.
43. Pimping in violation of **Iowa Code 725.2** if the offense was committed against a minor or otherwise involves a minor and the sentencing court made a determination pursuant to **Iowa Code 692A.126** that the offense was sexually motivated.
44. Pandering in violation of **Iowa Code 725.3(2)**, if the sentencing court made a determination pursuant to **Iowa Code 692A.126** that the offense was sexually motivated.
45. Any indictable offense in violation of **Iowa Code 726** if the offense is committed against a minor or otherwise involves a minor and if the sentencing court made a determination pursuant to **Iowa Code 692A.126** that the offense was sexually motivated.
46. Dissemination or exhibition of obscene material to minors in violation of **Iowa Code 728.2**.
47. Admitting minors to premises where obscene material is exhibited in violation of **Iowa Code 728.3**.
48. Rental or sale of hard-core pornography, if the sentencing court finds that delivery was made to a minor, in violation of **Iowa Code 728.4**.
49. Sexual exploitation of a minor in violation of **Iowa Code 728.12**.

50. Telephone dissemination of obscene material to minors in violation of **Iowa Code 728.15.**
51. Any other Iowa crime requiring the incarcerated individual to register as a sex offender under **Iowa Code 692A.**
52. Any other Iowa crime that results in the sentencing court imposing a special sentence under **Iowa Code 903B.1 or 903B.2.**

C. Federal Convictions Automatically Requiring an Incarcerated Individual to Take SOTP

1. An incarcerated individual serving a sentence in an IDOC institution who has been convicted of any of the Federal crimes listed below and whose sentence has not been discharged or was discharged less than ten years earlier shall be required to take SOTP prior to the incarcerated individual's discharge from an Iowa institution.
2. The requirement for taking SOTP under this section shall be imposed without the need for an ALJ Hearing.
3. Sex trafficking of children in violation of **18 U.S.C. §1591.**
4. Video voyeurism of a minor in violation of **18 U.S.C. §1801.**
5. Aggravated sexual abuse in violation of **18 U.S.C. §2241.**
6. Sexual abuse in violation of **18 U.S.C. §2242.**
7. Sexual abuse of a minor or ward in violation of **18 U.S.C. §2243.**
8. Abusive sexual contact in violation of **18 U.S.C. §2244.**
9. Offenses resulting in death in violation of **18 U.S.C. §2245.**
10. Sexual exploitation of children in violation of **18 U.S.C. §2251.**
11. Selling or buying of children in violation of **18 U.S.C. §2251A.**
12. Receipt or possession of material involving sexual exploitation or child pornography in violation of **18 U.S.C. §2252.**

13. Material containing child pornography in violation of **18 U.S.C. §2252A.**
14. Misleading domain names on the internet in violation of **18 U.S.C. §2252B.**
15. Misleading words or digital images on the internet in violation of **18 U.S.C. §2252C.**
16. Production of sexually explicit depictions of a minor for import into the United States in violation of **18 U.S.C. §2260.**
17. Transportation of a minor for illegal sexual activity in violation of **18 U.S.C. §2421.**
18. Coercion and enticement of a minor for illegal sexual activity in violation of **18 U.S.C. §2422(a) or (b).**
19. Transportation of minors for illegal sexual activity in violation of **18 U.S.C. §2423(a).**
20. Travel with the intent to engage in illegal sexual conduct with a minor in violation of **18 U.S.C. §2423(b).**
21. Engaging in illicit sexual conduct in foreign places in violation of **18 U.S.C. §2423(c).**
22. Failure to file a factual statement about an alien individual in violation of **18 U.S.C. §2424.**
23. Transmitting information about a minor to further criminal sexual conduct in violation of **18 U.S.C. §2425.**
24. Any other Federal crime requiring the incarcerated individual to register as a sex offender under any Federal statute or under **Iowa Code 692A.**

D. Convictions in Other Jurisdictions Automatically Requiring an Incarcerated Individual to Take SOTP

1. An incarcerated individual serving a sentence in an IDOC institution who has been convicted of any crime under the laws of any other State, United States territory, or the District of Columbia that resulted in the incarcerated individual having to register on the sex offender registry of the convicting

State, United States territory, or the District of Columbia, and whose sentence for that crime has not been discharged or was discharged less than ten years earlier shall be required to take SOTP prior to the incarcerated individual's discharge from an Iowa institution.

2. The requirement for taking SOTP under this section shall be imposed without the need for an ALJ Hearing.
3. An incarcerated individual shall not be required to take SOTP if the crime requiring registry as a sex offender under the laws of another State, United States territory, or the District of Columbia, would not have been a crime requiring the incarcerated individual to register as a sex offender under Iowa law had the actions been committed in Iowa. In addition, an incarcerated individual shall not be required to take SOTP based solely on a criminal conviction in another jurisdiction if the criminal conviction was reversed or expunged by a court so that the incarcerated individual no longer needs to register as a sex offender under the laws of that jurisdiction.
4. If a classification decision would require an incarcerated individual to take SOTP and the incarcerated individual believes that this provision applies, the incarcerated individual may request an ALJ Hearing under this provision by requesting such a hearing in a classification appeal.

E. Convictions that May Require an Incarcerated Individual to Take SOTP

1. An incarcerated individual may be required to take SOTP after being convicted of a violation of the Iowa Sex Offender Registry under **Iowa Code 692A.111** if the underlying conviction triggering the need for registration was from another jurisdiction or was discharged more than ten years earlier, provided that IDOC staff determine that the treatment is needed to rehabilitate the incarcerated individual or to protect the community from the incarcerated individual.
2. If a classification decision is made under this provision, the incarcerated individual shall be given the opportunity to request an ALJ Hearing prior to having to take SOTP.
3. An incarcerated individual may be required to take SOTP for any Federal, State, United States Territory, District of Columbia, crime that is older than ten years old if IDOC staff determine that the treatment is needed to

rehabilitate the incarcerated individual or to protect the community from the incarcerated individual.

4. If a classification decision is made under this provision, the incarcerated individual shall be given the opportunity to request an ALJ Hearing prior to having to take SOTP.
5. An incarcerated individual may be required to take SOTP for foreign crime that triggers the incarcerated individual to register on the sex offender registry and IDOC staff determines that the treatment is needed to rehabilitate the incarcerated individual or to protect the community from the incarcerated individual.

If a classification decision is made under this provision, the incarcerated individual shall be given the opportunity to request an ALJ Hearing prior to having to take SOTP.

6. An incarcerated individual may also be required to take SOTP after being convicted or adjudicated delinquent of a crime not listed elsewhere in this policy, provided that IDOC staff determine that SOTP is needed to rehabilitate the incarcerated individual or to protect the community from the incarcerated individual, or both.
 - a. When making the determination that an incarcerated individual needs SOTP, IDOC staff may review evidence related to crimes for which an incarcerated individual was charged, but not convicted, if there is credible evidence that the incarcerated individual did acts that would support the need for SOTP. The determination may be based on evidence that includes, but is not limited to, police reports, witness statements, depositions, minutes of testimony, statements made by the incarcerated individual, etc.
 - b. A dismissed charge or a court or jury finding that an incarcerated individual was "not guilty" of a sex crime does not preclude IDOC staff from considering the underlying evidence to determine if SOTP should be required for an incarcerated individual.
 - c. If a classification decision is made under this provision, the incarcerated individual shall be given the opportunity to request an ALJ Hearing prior to having to take SOTP.

F. Effect of an Adjudication of Delinquency as a Juvenile

1. The term “conviction” as used throughout this policy shall include the finding by the appropriate authority that a juvenile was “adjudicated delinquent” if all of the following conditions are met:
 - a. The individual was required to register as a sex offender due to the actions that led to the delinquency adjudication.
 - b. The period that the individual is required to register as a sex offender has not expired or the requirement has not been extinguished by a court or other authority.
 - c. If the individual has to register as a sex offender for life and less than 10 (ten) years has passed from the date on which the individual first had to register as a sex offender.
2. The requirement for taking SOTP due to an adjudication of delinquency under this provision shall be imposed without the need for an ALJ Hearing.
3. The term “adjudicated delinquent” includes any procedures under the laws of any other state or jurisdiction for dealing with criminal acts by minors regardless of the term used by the state or jurisdiction.

G. Special Sentence Revocations

1. An incarcerated individual who is in prison on a special sentence revocation under **Iowa Code 903B.1 or 903B.2** or who is in prison while serving a special sentence shall be required to take SOTP prior to the incarcerated individual’s completion of the revocation period.
2. The requirement for taking SOTP under this section shall be imposed without the need for an ALJ Hearing.

H. Prison Disciplinary Matters that May Require an Incarcerated Individual to Take SOTP

1. An incarcerated individual who did not commit any crime described in this policy may be required to take SOTP if the incarcerated individual is found guilty by an ALJ of violating any rule under IDOC Policy **IO-RD-03**, *Major*

Discipline Report Procedures that IDOC staff finds should require the incarcerated individual to take SOTP (e.g., serious sexual misconduct, serious inappropriate sexual conduct, or sexual violence).

2. If a classification decision is made under this provision, the incarcerated individual shall be given the opportunity to request an ALJ Hearing prior to having to take SOTP. The ALJ who conducted the disciplinary hearing that supported the classification to require SOTP under this provision shall not conduct that ALJ Hearing. Instead, another ALJ shall be assigned to conduct the Hearing.

I. Effect of a Prior Sex Offense Treatment

1. If an incarcerated individual had successfully completed an IDOC SOTP or a comparable form of sex offense treatment given or authorized by another governmental jurisdiction or governmental entity prior to the incarcerated individual's current incarceration, then the IDOC staff may, but need not, require the retaking of SOTP due to the current incarceration of the incarcerated individual if IDOC staff determine that retaking SOTP is needed to rehabilitate the incarcerated individual or to protect the community from the incarcerated individual. If any of the following conditions exist, then the IDOC staff shall require that the incarcerated individual retake SOTP:
 - a. The incarcerated individual committed a new crime after completing the prior IDOC SOTP or comparable program that automatically requires the taking of SOTP under this policy.
 - b. While in prison after completing IDOC SOTP or a comparable program, the incarcerated individual committed a serious disciplinary act of a sexual nature of a type that would trigger the requirement for SOTP under section "G" of this policy.
 - c. The incarcerated individual refuses to take or fails a maintenance polygraph test or voice stress analysis.
 - d. The incarcerated individual refuses to take part in or has one or more unexcused absences from any required aftercare group session that IDOC or judicial district staff assigns the individual to attend.
2. The requirement for taking SOTP due to a crime that falls under subsection "a" shall be imposed without the need for an ALJ Hearing. If a classification decision is made under any other part of Section I, then the incarcerated

individual shall be given the opportunity to request an ALJ Hearing prior to having to retake SOTP.

3. For purposes of this policy, a comparable form of sex offense treatment given or authorized by a non-IDOC governmental jurisdiction or governmental entity must include all of the following:
 - a. A requirement that the incarcerated individual complete a written document detailing the incarcerated individual's complete sexual history.
 - b. A requirement that the incarcerated individual takes and passes one or more polygraph or voice stress analysis tests related to the incarcerated individual's sex offense(s) and the incarcerated individual's sexually deviant behavior.
 - c. A requirement that the program use written materials and oral discussions covering the same topics as used by a current or former IDOC SOTP.
 - d. The program may use different descriptions for those topics, but should cover content similar to the current SOTP used by the IDOC.
 - e. In order to consider a claim that an incarcerated individual completed a comparable SOTP not given through an Iowa governmental entity, IDOC staff must receive documents from the applicable governmental jurisdiction or governmental entity showing that the incarcerated individual has completed the requirements described in subsections "a," "b," and "c" of this section.
 - f. If a sex offense treatment program does not include all of the items covered by a current or former SOTP, then an incarcerated individual may be required to take SOTP. If the sex offense treatment program contains most, but not all, of the items, IDOC staff need not require an incarcerated individual to undertake a full SOTP, but may require a less detailed program to cover the areas not covered by the other jurisdictions sex offense treatment program.
 - g. If an incarcerated individual is considered to be a special needs incarcerated individual, then the IDOC staff may adjust the above requirements to take into account an incarcerated individual's mental abilities. For purposes of this subsection, the term "special needs" relates to the ability of an incarcerated individual to learn and comprehend materials in a classroom and group setting, as well as the ability to read materials and write answers and disclosures.

- h. If a classification decision would require an incarcerated individual to take SOTP and the incarcerated individual believes that the incarcerated individual has completed a comparable sex offense treatment given or authorized by another governmental jurisdiction or governmental entity, the incarcerated individual may request an ALJ Hearing under this provision by requesting such a hearing in a classification appeal.
- i. The terms "governmental jurisdiction" and "governmental entity" include the federal government and its agencies and departments, as well as foreign, state, and local governments, and their authorized agencies or departments. Any private prisons chartered or authorized by the federal government or any foreign, state, or local government shall be considered agencies of such government and are thus covered by this definition.