

CHAPTER 17

ENTICING AWAY AND SEXUAL EXPLOITATION OF A MINOR

H.F. 327

AN ACT relating to the criminal offenses of enticing a minor away and sexual exploitation of a minor and providing a penalty.

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

Section 1. Section 692A.1, subsection 4, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. mm. Enticing away a minor in violation of section 710.10, subsection 1.

Sec. 2. Section 692A.1, subsection 4, paragraph n, Code 2001, is amended to read as follows:

n. An indictable offense committed in another jurisdiction which would constitute an indictable offense under paragraphs "a" through "~~m~~" "mm".

Sec. 3. Section 710.10, Code 2001, is amended to read as follows:

710.10 ENTICING AWAY A ~~CHILD~~ MINOR.

1. A person commits a class "~~D~~" "C" felony when, without authority and with the intent to commit ~~an illegal act~~ sexual abuse or sexual exploitation upon ~~the child~~ a minor under the age of thirteen, the person entices away ~~a child~~ the minor under the age of thirteen, or entices away a person reasonably believed to be under the age of thirteen.

2. A person commits ~~an aggravated misdemeanor~~ a class "D" felony when, without authority and with the intent to commit an illegal act upon ~~the child~~ a minor under the age of sixteen, the person ~~attempts to entice~~ entices away a ~~child~~ minor under the age of sixteen, or entices away a person reasonably believed to be under the age of sixteen.

3. A person commits an aggravated misdemeanor when, without authority and with the intent to commit an illegal act upon a minor under the age of sixteen, the person attempts to entice away a minor under the age of sixteen, or attempts to entice away a person reasonably believed to be under the age of sixteen.

~~3. 4.~~ A person's intent to commit ~~an illegal act upon the child~~ a violation of this section may be inferred when the ~~individual person~~ is not known to the ~~child~~ person being enticed away and the ~~individual person~~ does not have the permission of the ~~child's~~ parent, guardian, or custodian to contact the ~~child~~ person being enticed away.

5. For purposes of determining jurisdiction under section 803.1, an offense is considered committed in this state if the communication to entice away a minor or a person believed to be a minor who is present in this state originates from another state, or the communication to entice away a minor or a person believed to be a minor is sent from this state.

Sec. 4. Section 728.12, Code 2001, is amended to read as follows:

728.12 SEXUAL EXPLOITATION OF A MINOR.

1. ~~A person commits a class "C" felony when the person employs, uses, persuades, induces, entices, coerces, knowingly permits, It shall be unlawful to employ, use, persuade, induce, entice, coerce, knowingly permit, or otherwise causes cause~~ a minor to engage in a prohibited sexual act or in the simulation of a prohibited sexual act ~~if the person knows, has, A person must know, or have reason to know, or intends intend~~ that the act or simulated act may be photographed, filmed, or otherwise preserved in a negative, slide, book, magazine, computer, computer disk, or other print or visual medium, ~~or be preserved in an electronic, magnetic, or optical storage system, or in any other type of storage system.~~ A person who commits a violation of this subsection commits a class "C" felony. Notwithstanding section 902.9, the court may assess a fine of not more than fifty thousand dollars for each offense under this subsection in addition to imposing any other authorized sentence.

2. ~~A person commits a class "D" felony when the person knowingly promotes~~ It shall be unlawful to knowingly promote any material visually depicting a live performance of a minor or what appears to be a minor engaging in a prohibited sexual act or in the simulation of a prohibited sexual act. A person who commits a violation of this subsection commits a class "D" felony. Notwithstanding section 902.9, the court may assess a fine of not more than twenty-five thousand dollars for each offense under this subsection in addition to imposing any other authorized sentence.

3. ~~A person who~~ It shall be unlawful to knowingly purchases or possesses purchase or possess a negative, slide, book, magazine, ~~computer, computer disk,~~ or other print or visual medium ~~depicting, or an electronic, magnetic, or optical storage system, or any other type of storage system which depicts~~ a minor or what appears to be a minor engaging in a prohibited sexual act or the simulation of a prohibited sexual act ~~commits a serious misdemeanor.~~ A person who commits a violation of this subsection commits an aggravated misdemeanor for a first offense and a class "D" felony for a second or subsequent offense. For purposes of this subsection, an offense is considered a second or subsequent offense if, prior to the person's having been convicted under this subsection, any of the following apply:

a. The person has a prior conviction or deferred judgment under this subsection.

b. The person has a prior conviction, deferred judgment, or the equivalent of a deferred judgment in another jurisdiction for an offense substantially similar to the offense defined in this subsection. The court shall judicially notice the statutes of other states that define offenses substantially similar to the offense defined in this subsection and that therefore can be considered corresponding statutes.

4. ~~However, this~~ This section does not apply to law enforcement officers, court personnel, licensed physicians, licensed psychologists, or attorneys in the performance of their official duties.

Sec. 5. Section 901A.1, subsection 1, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. bb. Enticing a minor away in violation of section 710.10, subsection 1.

Approved March 28, 2001

CHAPTER 18

TOBACCO SETTLEMENT AGREEMENT MODIFICATIONS

S.F. 146

AN ACT relating to the tobacco master settlement agreement and providing an effective date.

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

Section 1. Section 453C.1, subsection 4, paragraph c, unnumbered paragraph 2, Code 2001, is amended to read as follows:

The term "cigarette" includes "roll-your-own" tobacco, meaning tobacco which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes. For purposes of this definition of "cigarette", 0.09 ounces of "roll-your-own" tobacco shall constitute one individual "cigarette".