

House File 2325 - Introduced

HOUSE FILE 2325

BY MOHR

A BILL FOR

1 An Act relating to the awareness and prevention of child
2 sexual abuse, harassment, and exploitation, and to criminal
3 penalties and civil penalties and remedies for human
4 trafficking, and facilitation of a workgroup study regarding
5 mandatory reporter training and certification requirements.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 256.9, subsection 46, paragraph a, Code
2 2018, is amended to read as follows:
3 a. Develop and make available to school districts,
4 examples of age-appropriate, developmentally appropriate, and
5 research-based materials and lists of resources which parents
6 may use to teach their children to recognize unwanted physical
7 and verbal sexual advances, to not make unwanted physical and
8 verbal sexual advances, to effectively reject unwanted sexual
9 advances, that it is wrong to take advantage of or exploit
10 another person, about the dangers of sexual exploitation by
11 means of the internet including specific strategies to help
12 students protect themselves and their personally identifiable
13 information from such exploitation, and about counseling,
14 medical, and legal resources available to survivors of
15 sexual abuse and sexual assault, including resources for
16 escaping violent relationships. The materials and resources
17 shall cover child exploitation, child sexual abuse, verbal,
18 physical, and visual child sexual harassment, including
19 nonconsensual sexual advances, and nonconsensual physical
20 sexual contact. In developing the materials and resource list,
21 the director shall consult with entities that shall include
22 but not be limited to the departments of human services,
23 public health, and public safety, education stakeholders,
24 and parent-teacher organizations. School districts shall
25 provide age-appropriate, developmentally appropriate, and
26 research-based materials and a list of available community and
27 internet-based resources to parents at registration and shall
28 also include the age-appropriate, developmentally appropriate,
29 and research-based materials and resource list in the student
30 handbook. School districts are encouraged to work with their
31 communities to provide voluntary parent education sessions to
32 provide parents with the skills and appropriate strategies
33 to teach their children as described in [this subsection](#).
34 School districts shall incorporate the age-appropriate and
35 research-based materials into relevant curricula and shall

1 reinforce the importance of preventive measures with parents
2 and students when reasonable ~~with parents and students~~.

3 Sec. 2. Section 272.2, subsection 14, paragraph b,
4 subparagraph (1), subparagraph division (d), Code 2018, is
5 amended to read as follows:

6 (d) Human trafficking under section 710A.2 or solicitation
7 of human trafficking under section 710A.2B.

8 Sec. 3. Section 272.2, Code 2018, is amended by adding the
9 following new subsection:

10 NEW SUBSECTION. 21. Adopt rules establishing that
11 continuing education requirements for issuance, renewal, or
12 upgrade of a license may include participating in or presenting
13 at in-service training programs on child sexual abuse,
14 child exploitation and child sexual harassment awareness and
15 prevention.

16 Sec. 4. Section 279.50, Code 2018, is amended by adding the
17 following new subsection:

18 NEW SUBSECTION. 2A. The human growth and development
19 curriculum shall include age-appropriate, developmentally
20 appropriate, and research-based instruction for students
21 on child sexual abuse, child exploitation, child sexual
22 harassment, and child sexual assault awareness and prevention,
23 including how to recognize child sexual abuse, child
24 exploitation, and child sexual assault and how to safely
25 report child sexual abuse, child exploitation, child sexual
26 harassment, and child sexual assault.

27 Sec. 5. Section 710A.2, Code 2018, is amended to read as
28 follows:

29 **710A.2 Human trafficking.**

30 1. A person who knowingly engages in human trafficking is
31 guilty of a class "D" felony, except that if the victim is
32 under the age of eighteen, the person is guilty of a class "e"
33 "B" felony.

34 2. A person who knowingly engages in human trafficking by
35 causing or threatening to cause serious physical injury to

1 another person is guilty of a class "C" felony, except that if
2 the victim is under the age of eighteen, the person is guilty
3 of a class "B" felony.

4 3. A person who knowingly engages in human trafficking by
5 physically restraining or threatening to physically restrain
6 another person is guilty of a class "D" felony, except that if
7 the victim is under the age of eighteen, the person is guilty
8 of a class "C" "B" felony.

9 4. A person who knowingly engages in human trafficking by
10 soliciting services or benefiting from the services of a victim
11 is guilty of a class "D" felony, except that if the victim is
12 under the age of eighteen, the person is guilty of a class "C"
13 "B" felony.

14 5. A person who knowingly engages in human trafficking by
15 abusing or threatening to abuse the law or legal process is
16 guilty of a class "D" felony, except that if the victim is
17 under the age of eighteen, the person is guilty of a class "C"
18 "B" felony.

19 6. A person who knowingly engages in human trafficking
20 by knowingly destroying, concealing, removing, confiscating,
21 or possessing any actual or purported passport or other
22 immigration document, or any other actual or purported
23 government identification document of a victim is guilty of a
24 class "D" felony, except that if that other person is under
25 the age of eighteen, the person is guilty of a class "C" "B"
26 felony.

27 7. A person who benefits financially or by receiving
28 anything of value from knowing participation in human
29 trafficking is guilty of a class "D" felony, except that if the
30 victim is under the age of eighteen, the person is guilty of a
31 class "C" "B" felony.

32 8. A person's ignorance of the age of the victim or a belief
33 that the victim was older is not a defense to a violation of
34 this section.

35 Sec. 6. NEW SECTION. 710A.2B Solicitation for human

1 **trafficking.**

2 1. A person shall not entice, coerce, or recruit, or attempt
3 to entice, coerce, or recruit a person to engage in human
4 trafficking. A person who violates this section commits a
5 class "C" felony.

6 2. A person shall not entice, coerce, or recruit, or attempt
7 to entice, coerce, or recruit, either a person who is under
8 the age of eighteen or a law enforcement officer or agent who
9 is representing that the officer or agent is under the age
10 of eighteen, to engage in human trafficking. A person who
11 violates this section commits a class "B" felony.

12 **Sec. 7. NEW SECTION. 710A.3A Victims under age eighteen —**
13 **child in need of assistance petition.**

14 A person who is under the age of eighteen at the time the
15 person commits a public offense pursuant to this chapter or
16 pursuant to section 725.1 shall not be criminally liable or
17 be subject to juvenile delinquency proceedings. The county
18 attorney shall refer such individual to the department of human
19 services for the possible filing of a petition alleging that
20 the person is a child in need of assistance.

21 **Sec. 8. NEW SECTION. 710A.4A Civil remedies for human**
22 **trafficking victims — statute of limitations.**

23 1. A victim, or a victim's parent or legal guardian, who
24 has suffered or continues to suffer personal or psychological
25 injury as a result of the human trafficking of the victim may
26 bring a civil action against any person who knowingly did any
27 of the following:

28 a. Engaged in human trafficking of such victim within this
29 state.

30 b. Aided or assisted with the human trafficking of such
31 victim within this state.

32 2. A plaintiff who prevails in a civil action brought
33 pursuant to this section may recover the plaintiff's actual
34 damages plus any and all attorney fees and costs reasonably
35 associated with the civil action. In addition to all other

1 remedies available under this section, the court may also award
2 temporary, preliminary, and permanent injunctive relief as the
3 court deems necessary and appropriate.

4 3. An action to recover damages under this section shall be
5 filed within ten years after the later of any of the following:

6 a. The conclusion of any related criminal prosecution
7 against the person or persons from whom recovery is sought.

8 b. The receipt of actual or constructive notice sent or
9 given to the victim or the victim's parent or legal guardian by
10 a member of a law enforcement entity informing the victim or
11 the victim's parent or legal guardian that the law enforcement
12 entity has identified the person who knowingly engaged in human
13 trafficking of such victim or aided or assisted with the human
14 trafficking of such victim.

15 c. The time at which the human trafficking of the victim
16 ended if the victim was eighteen years of age or older at the
17 time of the human trafficking.

18 d. The victim reaching the age of eighteen if the victim
19 was under eighteen years of age at the time of the human
20 trafficking.

21 4. In any action brought pursuant to this section, a
22 plaintiff may request to use a pseudonym instead of the
23 plaintiff's legal name in all court proceedings and records.
24 Upon finding that the use of a pseudonym is proper, the
25 court shall ensure that the pseudonym is used in all court
26 proceedings and records.

27 Sec. 9. Section 911.2A, subsection 1, Code 2018, is amended
28 to read as follows:

29 1. In addition to any other surcharge, the court or clerk
30 of the district court shall assess a human trafficking victim
31 surcharge of one thousand dollars if an adjudication of
32 guilt or a deferred judgment has been entered for a criminal
33 violation of [section 725.1, subsection 2](#), or [section 710A.2,](#)
34 [710A.2B, 725.2, or 725.3.](#)

35 Sec. 10. Section 911.2B, subsection 1, Code 2018, is amended

1 to read as follows:

2 1. In addition to any other surcharge, the court or clerk
3 of the district court shall assess a domestic abuse assault,
4 sexual abuse, stalking, and human trafficking victim surcharge
5 of one hundred dollars if an adjudication of guilt or a
6 deferred judgment has been entered for a violation of section
7 708.2A, 708.11, ~~or 710A.2~~, 710A.2B, or chapter 709.

8 Sec. 11. STATE MANDATE FUNDING SPECIFIED. In accordance
9 with section 25B.2, subsection 3, the state cost of requiring
10 compliance with any state mandate included in this Act shall
11 be paid by a school district from state school foundation aid
12 received by the school district under section 257.16. This
13 specification of the payment of the state cost shall be deemed
14 to meet all of the state funding-related requirements of
15 section 25B.2, subsection 3, and no additional state funding
16 shall be necessary for the full implementation of this Act
17 by and enforcement of this Act against all affected school
18 districts.

19 Sec. 12. DEPARTMENT OF HUMAN SERVICES — MANDATORY REPORTER
20 TRAINING AND CERTIFICATION REQUIREMENTS WORKGROUP. The
21 department of human services, in cooperation with the
22 departments of education and public health, shall facilitate a
23 study by a workgroup of stakeholders to make recommendations
24 relating to mandatory reporter training and certification
25 requirements. The workgroup shall consist of representatives
26 from the department of human services, the department of
27 education, the department of public health, the board of
28 medicine, the board of nursing, the board of social work,
29 the board of psychology, the Iowa law enforcement academy,
30 and other representatives the department of human services
31 deems necessary. The workgroup shall submit a report on
32 the study to the general assembly on or before December 14,
33 2018, with recommendations on the appropriate content of
34 mandatory training, the appropriate frequency of training for
35 mandatory reporters, the appropriate delivery methodology for

1 training, the appropriate metrics for measuring that training
2 objectives have been met, the appropriate requirements to
3 obtain and maintain mandatory reporter certification, and other
4 recommendations the workgroup deems relevant.

5 EXPLANATION

6 The inclusion of this explanation does not constitute agreement with
7 the explanation's substance by the members of the general assembly.

8 This bill relates to the awareness and prevention of
9 child sexual abuse, harassment, and exploitation, and to
10 criminal penalties and civil remedies and penalties for human
11 trafficking, and directs the department of human services to
12 facilitate a workgroup study relating to mandatory reporter
13 training and certification requirements.

14 The bill requires the director of the department of
15 education to include materials and resources on child abuse
16 and child exploitation in the age-appropriate, developmentally
17 appropriate, and research-based materials the director is
18 currently required to develop and make available to school
19 districts. The bill requires the board of educational
20 examiners to disqualify an applicant for a license or remove
21 the license of a person who has been found guilty or pled
22 guilty to solicitation of human trafficking pursuant to Code
23 section 710A.2B. This a new requirement. Each school board
24 must include age-appropriate, developmentally appropriate,
25 and research-based instruction on child sexual abuse, child
26 exploitation, and child sexual harassment as part of its human
27 growth and development curriculum for grades one through
28 twelve. The bill requires the board of educational examiners
29 to adopt rules establishing licensing requirements that include
30 training on child sexual abuse, child exploitation, and child
31 sexual harassment.

32 The bill increases the criminal penalty for a person who
33 engages in any form of human trafficking with a victim who
34 is younger than 18 years of age from a class "C" felony to
35 a class "B" felony, which is punishable by confinement for

1 no more than 25 years. The bill provides that a person who
2 engages in solicitation for human trafficking is guilty of
3 a class "C" felony and guilty of a class "B" felony if the
4 victim is younger than 18 years of age. A class "C" felony
5 is punishable by confinement for no more than 10 years and a
6 fine of at least \$1,000 but not more than \$10,000. A class "B"
7 felony is punishable by confinement for no more than 25 years.
8 Solicitation for human trafficking is not currently a criminal
9 offense. A person who is found guilty of or given a deferred
10 judgment for solicitation shall pay the human trafficking
11 victim surcharge in Code sections 911.2A and 911.2B.

12 The bill provides that a human trafficking victim may seek
13 civil remedies as outlined in the bill. Current law does not
14 provide for a civil remedy for victims of human trafficking.

15 The bill provides for immunity from prosecution for a
16 person under the age of 18 who commits a public offense
17 under Code chapter 710A (human trafficking) or Code section
18 725.1 (prostitution). Such person shall not be criminally
19 liable or subject to juvenile delinquency proceedings and the
20 county attorney shall refer such person to the department of
21 human services for the possible filing of a child in need of
22 assistance petition.

23 The bill directs the department of human services to
24 facilitate a study by a workgroup of stakeholders to make
25 recommendations relating to mandatory reporter training
26 and certification requirements. The composition of the
27 stakeholders for the workgroup is detailed in the bill. The
28 workgroup shall submit a report to the general assembly on
29 or before December 14, 2018, with recommendations on the
30 appropriate content of mandatory training, the appropriate
31 frequency of training for mandatory reporters, the appropriate
32 delivery methodology for training, the appropriate metrics
33 for measuring that training objectives have been met, and the
34 appropriate requirements to obtain and maintain mandatory
35 reporter certification.

1 The bill may include a state mandate as defined in Code
2 section 25B.3. The bill requires that the state cost of
3 any state mandate included in the bill be paid by a school
4 district from state school foundation aid received by the
5 school district under Code section 257.16. The specification
6 is deemed to constitute state compliance with any state mandate
7 funding-related requirements of Code section 25B.2. The
8 inclusion of this specification is intended to reinstate the
9 requirement of political subdivisions to comply with any state
10 mandates included in the bill.