

FILED FEB 11 1987

SENATE FILE 169

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Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to obscene material, and providing penalties.  
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 169

1 Section 1. Section 728.1, subsection 1, Code 1987, is  
2 amended by striking the subsection and inserting the  
3 following:

4 1. "Obscene material" is any material that the average  
5 person, taking the material as a whole and applying  
6 contemporary community standards, would find appeals to the  
7 prurient interest in sex or lacks serious literary, artistic,  
8 political, or scientific value, and which depicts or  
9 describes:

10 a. Patently offensive representations or descriptions of  
11 ultimate sexual acts, normal or abnormal, actual or simulated,  
12 including sexual intercourse, sodomy, and sexual bestiality.

13 b. Patently offensive representations or descriptions of  
14 masturbation, excretory functions, sadism, masochism, lewd  
15 exhibitions of the genitals, covered male genitals in a  
16 discernibly turgid state, or a device designed and marketed as  
17 primarily useful only for stimulation of the human sexual  
18 organs.

19 Sec. 2. Section 728.1, Code 1987, is amended by adding the  
20 following new subsection:

21 NEW SUBSECTION. 10. "Child" means any person under the  
22 age of sixteen.

23 Sec. 3. Section 728.4, Code 1987, is amended by striking  
24 the section and inserting the following:

25 728.4 SALE OF OBSCENE MATERIAL.

26 A person who knowingly sells or offers for sale obscene  
27 material commits a class "D" felony. Charges under this  
28 section may only be brought by a county attorney or the  
29 attorney general.

30 Sec. 4. Section 728.12, subsections 2 and 3, Code 1987,  
31 are amended to read as follows:

32 2. A person commits a class "B" "C" felony when the person  
33 knowingly promotes any material visually depicting a live  
34 performance of a child engaging in a prohibited sexual act or  
35 in the simulation of a prohibited sexual act. Notwithstanding

1 section 902.9, the court may assess a fine of not more than  
2 twenty-five thousand dollars for each offense under this  
3 subsection in addition to imposing any other authorized  
4 sentence.

5 3. A person who knowingly purchases possesses any  
6 negative, slide, book, magazine or other print or visual  
7 medium depicting a child engaging in a prohibited sexual act  
8 or the simulation of a prohibited sexual act commits a serious  
9 misdemeanor class "D" felony.

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EXPLANATION

11 This bill makes several modifications to the present  
12 statutes on obscene material and child pornography, including:

13 1. Section 1 modifies the definition of the term "obscene  
14 material".

15 2. Section 2 provides that the definition of child for  
16 purposes of the obscenity chapter is any person under the age  
17 of sixteen.

18 3. Section 3 replaces the present section prohibiting the  
19 sale of hard core pornography (aggravated misdemeanor) with  
20 the prohibition of the sale of obscene material (class "D"  
21 felony).

22 4. Section 4 modifies the present section relating to  
23 sexual exploitation of children to provide a class "C" felony  
24 penalty for the promotion of child pornography and a class "D"  
25 felony penalty for the possession of child pornography.

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