

FILED MAR 18 1983

Reprinted 4/5/83

SENATE FILE 496

BY COMMITTEE ON JUDICIARY

(FORMERLY SSB 220)

Approved 3/18/83 (p. 848)

Passed Senate, Date 3-27-83 (p. 924) Passed House, Date 4-14-83 (p. 1301)

Vote: Ayes 45 Nays 0 Vote: Ayes 98 Nays 0

Approved June 1, 1983

*Motion to reconsider (p. 924)  
Reconsidered & passed 3-31-83 (p. 1053)  
48-0*

### A BILL FOR

1 An Act relating to the promotion of the sexual exploitation  
2 of children and providing penalties.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

SENATE FILE 496

S-3278

1 Amend Senate File 496 as follows:

2 1. Page 1, by striking line 28 and inserting in  
3 lieu thereof the following: "sexual act if the person  
4 knows ~~or has reason to know~~ ~~or intends~~".

5 2. Page 2, line 4, by striking the words "or  
6 intended to be furnished" and inserting in lieu thereof  
7 the words "~~or intended to be furnished~~".

8 3. Page 2, line 8, by striking the words "or  
9 intended to be used" and inserting in lieu thereof  
10 the words "~~or intended to be used~~".

S-3278 FILED

BY TOM MANN, JR.

MARCH 21, 1983

*B - Adopted; A w/d 3/23/83 (p. 923)*

SENATE FILE 496

S-3279

1 Amend Senate File 496 as follows:

2 1. Page 1, line 5, by striking the word "transmute"  
3 and inserting in lieu thereof the word "transmit".

S-3279 FILED

BY TOM MANN, JR.

MARCH 21, 1983

*A/D 3/23/83 (p. 922)*

SENATE FILE 496

S-3405

1 Amend Senate File 496 as follows:

2 1. Page 2, line 9, by inserting after the word  
3 "sections," the words "and all assets traceable to  
4 the violation of those sections,".

S-3405 FILED

BY RAY TAYLOR

MARCH 30, 1983

TOM MANN, JR.

*Adopted 3/31/83 (p. 1052)*

1 Section 1. Section 728.1, Code 1983, is amended by adding  
2 the following new subsection:

3 NEW SUBSECTION. 9. "Promote" means to procure,  
4 manufacture, issue, sell, give, provide, lend, mail, deliver,  
5 transfer, transmute, publish, distribute, circulate,  
6 disseminate, present, exhibit, or advertise, or to offer or  
7 agree to do any of these acts.

8 Sec. 2. Section 728.4, Code 1983, is amended to read as  
9 follows:

10 728.4 SALE OF HARD CORE PORNOGRAPHY. Any A person who  
11 knowingly sells or offers for sale material depicting a sex  
12 act involving sadomasochistic abuse, excretory functions,  
13 ~~a-child~~; or bestiality, which the average adult taking the  
14 material as a whole in applying contemporary community  
15 standards would find appeals to the prurient interest and  
16 is patently offensive; and which material, taken as a whole,  
17 lacks serious literary, scientific, political, or artistic  
18 value ~~shall~~, upon conviction be is guilty of an aggravated  
19 misdemeanor. Charges under this section may only be brought  
20 by a county attorney or by the attorney general.

21 Sec. 3. Section 728.12, Code 1983, is amended to read  
22 as follows:

23 728.12 SEXUAL EXPLOITATION OF CHILDREN.

24 1. A person commits a class "C" felony when ~~he-or-she~~  
25 the person employs, uses, persuades, induces, entices, coerces,  
26 knowingly permits, or otherwise causes a child to engage in  
27 a prohibited sexual act or in the simulation of a prohibited  
28 sexual act if the person knows, has reason to know, or intends  
29 that the act or simulated act may be photographed, filmed,  
30 or otherwise preserved in a negative, slide, book, magazine,  
31 or other print or visual medium.

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



MAY 13, 1983

REPORT OF THE CONFERENCE COMMITTEE  
ON SENATE FILE 496

To the President of the Senate and the Speaker of the House of Representatives:

We, the undersigned members of the first conference committee appointed to resolve the differences between the Senate and the House of Representatives on Senate File 496, a bill for an Act relating to the promotion of the sexual exploitation of children and providing penalties, respectfully make the following report:

1. That the House recedes from its amendment, S-3587, to Senate File 496, as amended, passed and reprinted by the Senate.

2. That Senate File 496 as amended, passed and reprinted by the Senate, is amended to read as follows:

1. Page 1, line 5, by inserting after the word "transmute" the word ", transmit".

2. Page 1, by inserting after line 7 the following:

"Sec. \_\_\_\_ Section 728.3, Code 1983, is amended to read as follows:

728.3 ADMITTING MINORS TO PREMISES WHERE OBSCENE MATERIAL IS EXHIBITED.

1. Any A person who knowingly sells, gives, delivers, or provides a minor who is not a child with a pass or admits a the minor to premises where obscene material is exhibited is guilty of a public offense and shall upon conviction be is guilty of a serious misdemeanor.

2. A person who knowingly sells, gives, delivers, or provides a child with a pass or admits a child to a premise where obscene material is exhibited is guilty of a public offense and upon conviction is guilty of an aggravated misdemeanor."

3. Page 1, by inserting after line 35 the following:

"However, this section does not apply to law enforcement officers, court personnel, licensed physicians, licensed

SENATE 12  
MAY 13, 1983

CONFERENCE COMMITTEE REPORT ON SENATE FILE 496  
psychologists, or attorneys in the performance of their  
official duties."

4. By renumbering to conform to this amendment.

ON THE PART OF THE SENATE:

THOMAS MANN, CHAIR  
ROBERT CARR  
DONALD V. DOYLE  
RAY TAYLOR

ON THE PART OF THE HOUSE:

DAVID TABOR, CHAIR  
B. J. CLARK  
VIRGIL COREY  
LEO MILLER  
RALPH ROSENBERG

FILED: MAY 12, 1983

*House adopted 5/12/83 (p. 2085)*  
*Senate adopted 5/12 (p. 1698)*

HOUSE AMENDMENT TO SENATE FILE 496

S-3587

1 Amend Senate File 496 as amended, passed, and  
2 reprinted by the Senate, as follows:

3 1. Page 1, line 5, by striking the word "transmute"  
4 and inserting in lieu thereof the word "transmit".

5 2. Page 1, by inserting after line 7 the follow-  
6 ing:

7 "Sec. \_\_\_\_\_. Section 728.2, Code 1983, is amended  
8 to read as follows:

9 728.2 DISSEMINATION AND EXHIBITION OF OBSCENE  
10 MATERIAL TO MINORS. Any A person, other than the  
11 parent or guardian of the minor, who knowingly  
12 disseminates or exhibits obscene material to a minor,  
13 including the exhibition of obscene material so that  
14 it can be observed by a minor on or off the premises  
15 where it is displayed, is guilty of a public offense  
16 and shall upon conviction be is guilty of a-serious  
17 an aggravated misdemeanor.

18 Sec. \_\_\_\_\_. Section 728.3, Code 1983, is amended  
19 to read as follows:

20 728.3 ADMITTING MINORS TO PREMISES WHERE OBSCENE  
21 MATERIAL IS EXHIBITED. Any A person who knowingly  
22 sells, gives, delivers, or provides a minor with a  
23 pass or admits a minor to premises where obscene  
24 material is exhibited is guilty of a public offense  
25 and shall upon conviction be is guilty of a-serious  
26 an aggravated misdemeanor."

27 3. Page 1, by inserting after line 35 the follow-  
28 ing:

29 "However, this section does not apply to law  
30 enforcement officers, court personnel, licensed  
31 physicians, licensed psychologists, or attorneys in  
32 the performance of their official duties."

33 4. Page 2, line 4, by striking the words "~~er~~  
34 ~~intended-to-be-furnished~~" and inserting in lieu thereof  
35 the words "or intended to be furnished".

36 5. Page 2, line 8, by striking the words "~~er~~  
37 ~~intended-to-be-used~~" and inserting in lieu thereof  
38 the words "or intended to be used".

39 6. Renumber as necessary.

S-3587 FILED  
APRIL 18, 1983

RECEIVED FROM THE HOUSE

*Senate refused to concur 4/22/83 (p. 1372)  
House concurred 4/29/83 (p. 1670)*

SENATE FILE 496

S-3641

- 1 Amend the amendment S-3587 to Senate File 496 as  
2 amended, passed and reprinted by the Senate as follows:  
3 1. Page 1, by striking lines 3 and 4.  
4 2. Page 1, by striking lines 27 through 32.  
5 3. Page 1, by striking lines 33 through 38.

S-3641 FILED

BY RAY TAYLOR

APRIL 21, 1983

*A. Loss; B w/d 4/22 (p.1372)*

1 Amend Senate File 496 as amended, passed, and  
2 reprinted by the Senate as follows:

3 1. Page 1, by inserting after line 7 the follow-  
4 ing:

5 "Sec. \_\_\_\_\_. Section 728.2, Code 1983, is amended  
6 to read as follows:

7 728.2 DISSEMINATION AND EXHIBITION OF OBSCENE  
8 MATERIAL TO MINORS. Any A person, other than the  
9 parent or guardian of the minor, who knowingly  
10 disseminates or exhibits obscene material to a minor,  
11 including the exhibition of obscene material so that  
12 it can be observed by a minor on or off the premises  
13 where it is displayed, is guilty of a public offense  
14 and ~~shall~~ upon conviction be is guilty of a ~~serious~~  
15 an aggravated misdemeanor.

16 Sec. \_\_\_\_\_. Section 728.3, Code 1983, is amended  
17 to read as follows:

18 728.3 ADMITTING MINORS TO PREMISES WHERE OBSCENE  
19 MATERIAL IS EXHIBITED. Any A person who knowingly  
20 sells, gives, delivers, or provides a minor with a  
21 pass or admits a minor to premises where obscene  
22 material is exhibited is guilty of a public offense  
23 and ~~shall~~ upon conviction be is guilty of a ~~serious~~  
24 an aggravated misdemeanor."

25 2. Page 1, by inserting after line 35 the follow-  
26 ing:

27 "However, this section does not apply to law  
28 enforcement officers, court personnel, licensed  
29 physicians, licensed psychologists, or attorneys in  
30 the performance of their official duties."

31 3. Page 2, line 4, by striking the words "~~ex~~  
32 ~~intended-to-be-furnished~~" and inserting in lieu thereof  
33 the words "or intended to be furnished".

34 4. Page 2, line 8, by striking the words "~~ex~~  
35 ~~intended-to-be-used~~" and inserting in lieu thereof  
36 the words "or intended to be used".

37 5. Renumber as necessary.

1 Amend Senate File 496 as amended, passed, and  
2 reprinted by the Senate, as follows:

3 1. Page 1, line 5, by striking the word "transmute"  
4 and inserting in lieu thereof the word "transmit".

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10 MATERIAL TO MINORS. Any A person, other than the  
11 parent or guardian of the minor, who knowingly  
12 disseminates or exhibits obscene material to a minor,  
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14 it can be observed by a minor on or off the premises  
15 where it is displayed, is guilty of a public offense  
16 and ~~shall~~ upon conviction be is guilty of a ~~serious~~  
17 aggravated misdemeanor.

*Keep for  
the purpose  
of business*

18 Sec. \_\_\_\_ . Section 728.3, Code 1983, is amended  
19 to read as follows:

20 728.3 ADMITTING MINORS TO PREMISES WHERE OBSCENE  
21 MATERIAL IS EXHIBITED. Any A person who knowingly  
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31 physicians, licensed psychologists, or attorneys in  
32 the performance of their official duties."

33 4. Page 2, line 4, by striking the words "~~or~~  
34 ~~intended-to-be-furnished~~" and inserting in lieu thereof  
35 the words "or intended to be furnished".

36 5. Page 2, line 8, by striking the words "~~or~~  
37 ~~intended-to-be-used~~" and inserting in lieu thereof  
38 the words "or intended to be used".

39 6. Renumber as necessary.

*See Judiciary 4/6/83*

Senate File 496

**496**

Judiciary and Law Enforcement: Tabor, Chair; Corey and Miller.

SENATE FILE

BY COMMITTEE ON JUDICIARY

*Amend for 35887 Do Pass 4/7/83*

(AS AMENDED AND PASSED BY THE SENATE MARCH 31, 1983)

Passed Senate, Date *See Below* Passed House, Date *4-14-83 (p. 1301)*

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes *98* Nays *0*

Approved *June 1, 1983*

# A BILL FOR

1 An Act relating to the promotion of the sexual exploitation  
2 of children and providing penalties.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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*Conference Committee Appointed*  
*Representatives Tabor (Chair), Miller (Ranking), Brumbaugh, Corey & Clark 4/24/83 (p. 1670)*  
*Senators Mann (Chair), Carr, Dafe, Gentlemen, Taylor 5/2/83 (p. 1485)*

*Passed per Conference Committee Report*  
*Senate 5-12-83 (p. 1699) 47-0*      *House 5-12-83 (p. 2086) 96-0*

\_\_\_\_\_ = New Language  
by the Senate

1 Section 1. Section 728.1, Code 1983, is amended by adding  
2 the following new subsection:

3 NEW SUBSECTION. 9. "Promote" means to procure,  
4 manufacture, issue, sell, give, provide, lend, mail, deliver,  
5 transfer, transmute, publish, distribute, circulate,  
6 disseminate, present, exhibit, or advertise, or to offer or  
7 agree to do any of these acts.

8 Sec. 2. Section 728.4, Code 1983, is amended to read as  
9 follows:

10 728.4 SALE OF HARD CORE PORNOGRAPHY. ~~Any~~ A person who  
11 knowingly sells or offers for sale material depicting a sex  
12 act involving sadomasochistic abuse, excretory functions,  
13 ~~a-child,~~ or bestiality, which the average adult taking the  
14 material as a whole in applying contemporary community  
15 standards would find appeals to the prurient interest and  
16 is patently offensive; and which material, taken as a whole,  
17 lacks serious literary, scientific, political, or artistic  
18 value ~~shall,~~ upon conviction ~~be~~ is guilty of an aggravated  
19 misdemeanor. Charges under this section may only be brought  
20 by a county attorney or by the attorney general.

21 Sec. 3. Section 728.12, Code 1983, is amended to read  
22 as follows:

23 728.12 SEXUAL EXPLOITATION OF CHILDREN.

24 1. A person commits a class "C" felony when ~~he-or-she~~  
25 the person employs, uses, persuades, induces, entices, coerces,  
26 knowingly permits, or otherwise causes a child to engage in  
27 a prohibited sexual act or in the simulation of a prohibited  
28 sexual act if the person knows, has reason to know, or intends  
29 that the act or simulated act may be photographed, filmed,  
30 or otherwise preserved in a negative, slide, book, magazine,  
31 or other print or visual medium.

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

1 Sec. 4. Section 728.13, Code 1983, is amended to read  
2 as follows:

3 728.13 FORFEITURE. Everything of value that is furnished  
4 or-intended-to-be-furnished in exchange for material in  
5 violation of section 728.2, ~~or~~ 728.4, or 728.12, subsection  
6 2, all proceeds traceable to such an exchange, and all  
7 property, moneys, negotiable instruments, and securities used  
8 or-intended-to-be-used to facilitate a violation of those  
9 sections, and all assets traceable to the violation of those  
10 sections, is subject to forfeiture. However, property shall  
11 not be forfeited under this paragraph, to the extent of the  
12 interest of an owner, if the owner did not have knowledge  
13 of or did not consent to the violation of the chapter. The  
14 burden of proof is upon claimants of the property to rebut  
15 this presumption.

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SF 496a  
rn/slc/26c

SENATE FILE 496

AN ACT

RELATING TO THE PROMOTION OF THE SEXUAL EXPLOITATION OF  
CHILDREN AND PROVIDING PENALTIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 728.1, Code 1983, is amended by adding the following new subsection:

NEW SUBSECTION. 9. "Promote" means to procure, manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmute, transmit, publish, distribute, circulate, disseminate, present, exhibit, or advertise, or to offer or agree to do any of these acts.

Sec. 2. Section 728.3, Code 1983, is amended to read as follows:

728.3 ADMITTING MINORS TO PREMISES WHERE OBSCENE MATERIAL IS EXHIBITED.

1. Any A person who knowingly sells, gives, delivers, or provides a minor who is not a child with a pass or admits a the minor to premises where obscene material is exhibited is guilty of a public offense and shall upon conviction be is guilty of a serious misdemeanor.

2. A person who knowingly sells, gives, delivers, or provides a child with a pass or admits a child to a premise where obscene material is exhibited is guilty of a public offense and upon conviction is guilty of an aggravated misdemeanor.

Sec. 3. Section 728.4, Code 1983, is amended to read as follows:

728.4 SALE OF HARD CORE PORNOGRAPHY. Any A person who knowingly sells or offers for sale material depicting a sex act involving sadomasochistic abuse, excretory functions, a-child; or bestiality, which the average adult taking the

material as a whole in applying contemporary community standards would find appeals to the prurient interest and is patently offensive; and which material, taken as a whole, lacks serious literary, scientific, political, or artistic value shall, upon conviction be is guilty of an aggravated misdemeanor. Charges under this section may only be brought by a county attorney or by the attorney general.

Sec. 4. Section 728.12, Code 1983, is amended to read as follows:

728.12 SEXUAL EXPLOITATION OF CHILDREN.

1. A person commits a class "C" felony when he-ex-she the person employs, uses, persuades, induces, entices, coerces, knowingly permits, or otherwise causes a child to engage in a prohibited sexual act or in the simulation of a prohibited sexual act if the person knows, has reason to know, or intends that the act or simulated act may be photographed, filmed, or otherwise preserved in a negative, slide, book, magazine, or other print or visual medium.

2. A person commits a class "D" felony when the person knowingly promotes any material visually depicting a live performance of a child engaging in a prohibited sexual act or in the simulation of a prohibited sexual act.

However, 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 728.13, Code 1983, is amended to read as follows:

728.13 FORFEITURE. Everything of value that is furnished or-intended-to-be-furnished in exchange for material in violation of section 728.2, or 728.4, or 728.12, subsection 2, all proceeds traceable to such an exchange, and all property, moneys, negotiable instruments, and securities used or-intended-to-be-used to facilitate a violation of those sections, and all assets traceable to the violation of those

sections, is subject to forfeiture. However, property shall not be forfeited under this paragraph, to the extent of the interest of an owner, if the owner did not have knowledge of or did not consent to the violation of the chapter. The burden of proof is upon claimants of the property to rebut this presumption.

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ROBERT T. ANDERSON  
President of the Senate

---

DONALD D. AVENSON  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 496, Seventieth General Assembly.

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K. MARIE THAYER  
Secretary of the Senate

Approved *June 1*, 1983

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TERRY E. BRANSTAD  
Governor