

MAR 8 1995

JUDICIARY

HOUSE FILE 292

BY DODERER, HURLEY, BODDICKER,  
and CONNORS

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to sexual abuse of a minor and making an existing  
2 penalty effective.

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

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HF 292

1 Section 1. Section 702.11, Code 1995, is amended to read  
2 as follows:

3 702.11 FORCIBLE FELONY.

4 A "forcible felony" is any felonious child endangerment,  
5 assault, murder, sexual abuse, kidnapping, robbery, arson in  
6 the first degree, or burglary in the first degree. However,  
7 sexual abuse in the third degree committed between spouses,  
8 sexual abuse in violation of section 709.4, subsection 2,  
9 paragraph "c", ~~subparagraph (4)~~ "b", or sexual exploitation by  
10 a counselor or therapist in violation of section 709.15, is  
11 not a "forcible felony".

12 Sec. 2. Section 709.4, subsection 2, Code 1995, is amended  
13 to read as follows:

14 2. The act is between persons who are not at the time  
15 cohabiting as husband and wife and if any of the following are  
16 true:

17 a. The other participant is suffering from a mental defect  
18 or incapacity which precludes giving consent.

19 b. The person is eighteen years of age or older and the  
20 other participant is twelve-or-thirteen-years-of-age seventeen  
21 years of age or younger.

22 ~~c.--The other participant is fourteen or fifteen years of~~  
23 ~~age and any of the following are true:~~

24 ~~(1)--The person is a member of the same household as the~~  
25 ~~other participant.~~

26 ~~(2)--The person is related to the other participant by~~  
27 ~~blood or affinity to the fourth degree.~~

28 ~~(3)--The person is in a position of authority over the~~  
29 ~~other participant and uses that authority to coerce the other~~  
30 ~~participant to submit.~~

31 ~~(4)--The person is five or more years older than the other~~  
32 ~~participant.~~

33 EXPLANATION

34 This bill provides that an adult who commits a sex act with  
35 a person who is 17 years of age or younger commits third

1 degree sexual abuse, which is a class "C" felony. The bill  
2 also makes conforming changes to section 702.11 regarding  
3 sexual abuse by a counselor or therapist and to section 709.4  
4 by striking language making it third degree sexual abuse for a  
5 person to commit a sex act with a person who is 12 or 13 or  
6 with a person who is 14 or 15, if the person committing the  
7 act is a member of the same household as the other person,  
8 related to the other person within the fourth degree of blood  
9 or affinity, is in a position of power over the other person,  
10 or five or more years older.

11 The bill may contain a state mandate under chapter 25B.  
12 Political subdivisions will not have to comply with the  
13 provisions of the bill unless an appropriation is made in  
14 accordance with section 25B.2, subsection 3, fully or  
15 proportionately funding the costs of complying with the bill.

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