

4/10/95 Referred to Judiciary

MAR 21 1995

Place On Calendar

HOUSE FILE 513

BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 292)

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 providing
2 penalties.

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

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HF 513

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 "c", or sexual
10 exploitation by a counselor or therapist in violation of
11 section 709.15, is 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.

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

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

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

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

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

32 c. The person is eighteen years of age or older and the
33 other participant is fourteen, fifteen, or sixteen years of
34 age.

35 Sec. 3. Section 709.4, subsection 2, unnumbered paragraph

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

2 Sexual abuse in the third degree in violation of subsection
3 1 or subsection 2, paragraph "a" or "b", is a class "C"
4 felony. Sexual abuse in the third degree in violation of
5 subsection 2, paragraph "c", is a class "D" felony.

6 EXPLANATION

7 This bill provides that an adult who commits a sex act with
8 a person who is 12 or 13 years of age commits third degree
9 sexual abuse, which is a class "C" felony. The bill also
10 provides that an adult who commits a sex act with a person who
11 is 14, 15, or 16 years of age commits a class "D" felony.

12 The bill also makes conforming changes to section 702.11
13 and to section 709.4 by striking language making it third
14 degree sexual abuse for a person to commit a sex act with a
15 person who is 12 or 13 or with a person who is 14 or 15, if
16 the person committing the act is a member of the same
17 household as the other person, related to the other person
18 within the fourth degree of blood or affinity, is in a
19 position of power over the other person, or five or more years
20 older.

21 The bill may contain a state mandate under chapter 25B.
22 Political subdivisions will not have to comply with a mandate
23 contained in the bill unless an appropriation is made in
24 accordance with section 25B.2, subsection 3, fully or
25 proportionately funding the costs of complying with the bill.

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**HOUSE FILE 513
FISCAL NOTE**

The estimate for House File 513 is hereby submitted as a fiscal note pursuant to Joint Rule 17 and as a correctional impact statement pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

House File 513 provides that an adult who performs a sex act with a 12 or 13 year old commits a Class C felony. An adult performing a sex act with a 14, 15, or 16 year old commits a Class D felony. Since forcible sex acts are already covered by current law, this Bill affects only non-forcible sex acts.

Assumptions:

1. Charge, conviction, and sentencing patterns will remain stable.
2. Prisoner length of stay, revocation rates, and other correctional policies will remain unchanged.
3. The budgeted cost for an additional prison inmate is \$10.

Correctional Impact:

Due to this Bill, one less person will be admitted to jail annually. One more person will be placed on probation in FY 1996 and FY 1997. Probation admissions will increase by five in FY 2000.

The prison population will increase by 3 inmates in FY 1996, by 6 inmates in FY 1997, and 12 inmates by FY 2000.

Fiscal Impact:

The costs for persons admitted to probation will not be significant.

The costs to the prisons will increase by \$11,000 in FY 1996, by \$22,000 in FY 1997, and \$44,000 in FY 2000.

Sources:

Criminal and Juvenile Justice Planning Division, Department of Human Rights
Department of Corrections (LSB 2108hv, MDF)

FILED MARCH 27, 1995

BY DENNIS PROUTY, FISCAL DIRECTOR