

HSB 189

JUDICIARY

Succ  
SE/HF

HOUSE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
JUDICIARY BILL BY CHAIR-  
PERSON LARSON)

*Bany, Chair*  
*Thomson*  
*Dodder*

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

**A BILL FOR**

1 An Act establishing the crime of sexual exploitation by an  
2 educational practitioner and providing a penalty.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION. 709.15A SEXUAL EXPLOITATION BY  
2 AN EDUCATIONAL PRACTITIONER.

3 1. For purposes of this section, unless the context  
4 otherwise requires:

5 a. "Sexually exploits" means engaging in conduct that is  
6 for the purpose of arousing or satisfying the sexual desires  
7 of an educational practitioner or student and includes but is  
8 not limited to kissing; touching of the clothed or unclothed  
9 inner thigh, breast, groin, buttock, anus, pubes, or genitals;  
10 or committing a sex act as defined in section 702.17.

11 b. "Student" means a person who is sixteen or seventeen  
12 years of age and who attends or who formerly attended a public  
13 or nonpublic school, or a person who is more than seventeen  
14 years of age and is attending a secondary education program.

15 2. A practitioner who has been issued a license,  
16 certificate, or authorization by the board of education  
17 examiners under chapter 272 who sexually exploits a student  
18 commits an aggravated misdemeanor.

19 EXPLANATION

20 This bill establishes the crime of sexual exploitation of a  
21 student by an educational practitioner who is licensed or who  
22 has been issued a certificate or authorization under the state  
23 licensing provisions in Code chapter 272.

24 The bill's provisions would be codified as new Code section  
25 709.15A in the sexual abuse Code chapter. The crime of sexual  
26 exploitation of a student by an educational practitioner is  
27 punishable as an aggravated misdemeanor (maximum penalty of a  
28 prison sentence of not more than two years and fine of \$500 to  
29 \$5,000).

30 A student is defined as a person who is 16 or 17 years of  
31 age and is attending or formerly attended a public or  
32 nonpublic school, or a person who is more than 17 years of age  
33 and is attending a secondary education program.

34 Sexual exploitation is defined as engaging in conduct that  
35 is for the purpose of arousing or satisfying the sexual

1 desires of an educational practitioner or student and includes  
2 but is not limited to kissing; touching of the clothed or  
3 unclothed inner thigh, breast, groin, buttock, anus, pubes, or  
4 genitals; or committing a sex act as defined in Code section  
5 702.17.

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4/6/99 Returned to Judiciary

MAR 15 1999

Place On Calendar

HOUSE FILE 682

BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 189)

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

**A BILL FOR**

1 An Act establishing the crime of sexual exploitation by a person  
2 in authority and providing a penalty.

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

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HF 682

1 Section 1. NEW SECTION. 709.15A SEXUAL EXPLOITATION BY A  
2 PERSON IN AUTHORITY.

3 1. For purposes of this section, unless the context  
4 otherwise requires:

5 a. "Person in authority" means a person who is twenty-one  
6 years of age or older and has supervisory or other authority  
7 over a person who is sixteen or seventeen years of age. A  
8 person in authority includes but is not limited to an  
9 educational practitioner issued a license, certificate, or  
10 authorization under chapter 272, a peace officer, a member of  
11 the clergy, or an employer or job supervisor.

12 b. "Sexually exploits" means engaging in conduct that is  
13 for the purpose of arousing or satisfying the sexual desires  
14 of a person in authority or a person sixteen or seventeen  
15 years of age and includes but is not limited to kissing;  
16 touching of the clothed or unclothed inner thigh, breast,  
17 groin, buttock, anus, pubes, or genitals; or committing a sex  
18 act as defined in section 702.17.

19 2. A person in authority who sexually exploits a person  
20 sixteen or seventeen years of age commits an aggravated  
21 misdemeanor.

#### 22 EXPLANATION

23 This bill establishes the crime of sexual exploitation of a  
24 minor who is age 16 or 17 by a person who is age 21 or older  
25 and has supervisory or other authority over the minor. A  
26 person in authority includes an educational practitioner who  
27 is licensed or who has been issued a certificate or  
28 authorization under the state licensing provisions in Code  
29 chapter 272, a peace officer, a member of the clergy, or an  
30 employer or job supervisor.

31 The bill's provisions would be codified as new Code section  
32 709.15A in the sexual abuse Code chapter. The crime of sexual  
33 exploitation by a person in authority is punishable as an  
34 aggravated misdemeanor (maximum penalty of a prison sentence  
35 of not more than two years and fine of \$500 to \$5,000).

1 Sexual exploitation is defined as engaging in conduct that  
2 is for the purpose of arousing or satisfying the sexual  
3 desires of the person in authority or the minor and includes  
4 but is not limited to kissing; touching of the clothed or  
5 unclothed inner thigh, breast, groin, buttock, anus, pubes, or  
6 genitals; or committing a sex act as defined in Code section  
7 702.17.

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**HOUSE FILE 682  
FISCAL NOTE**

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The estimate for House File 682 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.

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**SUMMARY**

House File 682 creates the crime of sexual exploitation of a minor who is age 16 or 17 by a person who is 21 or older and has supervisory or other authority over the minor. A person in violation of this Bill would commit an aggravated misdemeanor.

**ASSUMPTIONS**

1. The Bill defines acts as offenses, some of which are currently not against the law. Therefore, data is not available to estimate how many incidents may occur as a result of the bill.
2. The crime of sexual exploitation by a person in authority is punishable as an aggravated misdemeanor with a maximum penalty of a prison sentence of not more than two years and fine of \$500 to \$5,000.
3. Charge, conviction, and sentencing patterns will not change over the projection period.
4. Prisoner length of stay, revocation rates, and other corrections policies and practices will not change over the projection period.
5. The law will become effective July 1, 1999. A lag effect of six months is assumed, from the law's effective date to the date of first entry of affected offenders into the correctional system.
6. The marginal cost for adding one inmate to the prison system is \$12 per day.
7. The marginal cost of adding one offender to a residential facility is \$14 per day. Offenders will spend four months in a residential facility.
8. The marginal cost for one offender on probation or parole is \$1.53 per day. The cost of probation for six months for one offender is \$275.
9. The cost per inmate (including overhead) in a county jail is approximately \$50 to \$55 a day. The marginal cost per day to house an inmate in a county jail is \$14 a day.
10. Data is not available to determine the average length of stay in county

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jails to estimate the cost to counties. The maximum length of time any one person can stay in jail is 365 days. The marginal cost to house one inmate in jail for a year is approximately \$5,100.

CORRECTIONAL IMPACT

The correctional impact of House File 682 is not expected to be significant.

FISCAL IMPACT

The fiscal impact of House File 682 is not expected to be significant.

SOURCES

Department of Corrections

Department of Human Rights, Division of Criminal and Juvenile Justice Planning  
Office of the State Public Defender

(LSB 2398hv, CRS)

FILED MARCH 23, 1999

BY DENNIS PROUTY, FISCAL DIRECTOR

H-1291

1 Amend House File 682 as follows:

2 1. Page 1, by inserting before line 1 the  
3 following:

4 "Sec. \_\_\_\_ . NEW SECTION. 280.27 REPORTING  
5 VIOLENCE -- IMMUNITY.

6 An employee of a school district, an accredited  
7 nonpublic school, or an area education agency who  
8 participates in good faith in the making of a report  
9 to, or investigation by, an appropriate person or  
10 agency regarding violence, threats of violence, or  
11 other inappropriate activity against a school employee  
12 or student in a school building, on school grounds, or  
13 at a school-sponsored function shall be immune from  
14 civil or criminal liability relating to such action,  
15 as well as for participating in any administrative or  
16 judicial proceeding resulting from or relating to the  
17 report or investigation.

18 Sec. \_\_\_\_ . NEW SECTION. 613.20 IMMUNITY FROM  
19 CIVIL SUIT.

20 An employee of an accredited public school  
21 district, accredited nonpublic school, or area  
22 education agency shall be immune from civil suit for  
23 acts relating to participation in the making of a  
24 report and any resulting investigation or  
25 administrative or judicial proceeding regarding  
26 violence, threats of violence, or other inappropriate  
27 activity against a school employee or student,  
28 pursuant to the provisions of section 280.27."

29 2. By renumbering as necessary.

By KREIMAN of Davis

H-1291 FILED MARCH 29, 1999

HOUSE FILE 682

H-1233

1 Amend House File 682 as follows:

2 1. By striking everything after the enacting  
3 clause and inserting the following:

4 "Section 1. NEW SECTION. 709.15A SEXUAL  
5 EXPLOITATION BY AN EDUCATIONAL PRACTITIONER.

6 1. For purposes of this section, unless the  
7 context otherwise requires:

8 a. "Sexually exploits" means engaging in conduct  
9 that is for the purpose of arousing or satisfying the  
10 sexual desires of an educational practitioner or  
11 student and includes but is not limited to kissing;  
12 touching of the clothed or unclothed inner thigh,  
13 breast, groin, buttock, anus, pubes, or genitals; or  
14 committing a sex act as defined in section 702.17.

15 b. "Student" means a person who is sixteen or  
16 seventeen years of age and who attends or who formerly  
17 attended a public or nonpublic school, or a person who  
18 is more than seventeen years of age and is attending a  
19 secondary education program.

20 2. A practitioner who has been issued a license,  
21 certificate, or authorization by the board of  
22 education examiners under chapter 272 who sexually  
23 exploits a student commits an aggravated misdemeanor.

24 Sec. \_\_\_\_ . STUDY OF SEXUAL ABUSE LAW. The  
25 legislative council is requested to authorize an  
26 interim study of Code chapter 709, relating to sexual  
27 abuse, including but not limited to issues regarding  
28 the age of consent and sexual relations between young  
29 adults in positions of authority and older minors.  
30 The committee performing the study should be directed  
31 to make findings and recommendations to address the  
32 issues."

33 2. Title page, by striking lines 1 and 2 and  
34 inserting the following: "An Act establishing the  
35 crime of sexual exploitation by an educational  
36 practitioner and providing a penalty."

By BARRY of Harrison  
KREIMAN of Davis

H-1233 FILED MARCH 24, 1999

## HOUSE FILE 682

H-1299

1 Amend House File 682 as follows:

2 1. By striking everything after the enacting  
3 clause and inserting the following:

4 "Section 1. NEW SECTION. 709.15A SEXUAL  
5 MISCONDUCT BY AN EDUCATIONAL PRACTITIONER.

6 1. For purposes of this section, unless the  
7 context otherwise requires, "student" means a person  
8 who is sixteen or seventeen years of age and who  
9 attends or who formerly attended a public or nonpublic  
10 school, or a person who is more than seventeen years  
11 of age and is attending a secondary education program.

12 2. A practitioner who has been issued a license,  
13 certificate, or authorization by the board of  
14 educational examiners under chapter 272 who engages in  
15 a sex act as defined in section 702.17 with a student  
16 commits an aggravated misdemeanor.

17 Sec. \_\_\_\_ . STUDY OF SEXUAL ABUSE LAW. The  
18 legislative council is requested to authorize an  
19 interim study of Code chapter 709, relating to sexual  
20 abuse, including but not limited to issues regarding  
21 the age of consent and sexual relations between young  
22 adults in positions of authority and older minors.  
23 The committee performing the study should be directed  
24 to make findings and recommendations to address the  
25 issues."

26 2. Title page, by striking lines 1 and 2 and  
27 inserting the following: "An Act establishing the  
28 crime of sexual misconduct by an educational  
29 practitioner and providing a penalty."

By BARRY of Harrison

H-1299 FILED MARCH 30, 1999

## HOUSE FILE 682

H-1346

1 Amend the amendment, H-1291, to House File 682, as  
2 follows:

3 1. Page 1, line 23, by inserting before the word  
4 "participation" the following: "the employee's good  
5 faith".

By KREIMAN of Davis

H-1346 FILED MARCH 31, 1999