

MAR 29 2004  
JUDICIARY

HOUSE FILE 2558  
BY GIPP

(COMPANION TO LSB 7008SS  
BY IVERSON)

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

**A BILL FOR**

1 An Act relating to crimes against members of the species homo  
2 sapiens at any stage of development and making penalties  
3 applicable.

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

5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

HF 2558

1 Section 1. NEW SECTION. 707.11A APPLICATION.

2 1. For the purposes of sections 707.1, 707.2, 707.3,  
3 707.4, and 707.11, as it pertains to the victim of a crime,  
4 "person" includes a member of the species homo sapiens, at any  
5 stage of development when carried in the womb or after birth.

6 2. Sections 707.1, 707.2, 707.3, 707.4, and 707.11 shall  
7 not apply to a legal abortion to which the pregnant woman or a  
8 person legally authorized to act on the pregnant woman's  
9 behalf consented, or for which consent is implied by law.

10

EXPLANATION

11 This bill provides that for the purposes of certain  
12 sections of the Code, as they pertain to victims of murder or  
13 manslaughter, "person" includes a member of the species homo  
14 sapiens, at any stage of development when carried in the womb  
15 or after birth. The sections of the Code are: section 707.1  
16 (murder); section 707.2 (murder in the first degree); section  
17 707.3 (murder in the second degree); section 707.4 (voluntary  
18 manslaughter); and section 707.11 (attempt to commit murder).

19 The bill also provides that those sections do not apply to  
20 a legal abortion to which the pregnant woman or a person  
21 legally authorized to act on the pregnant woman's behalf  
22 consented, or for which consent is implied by law.

23 Under the bill, the penalty for each crime is applicable to  
24 the perpetrator for each such victim.

25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35

## HOUSE FILE 2558

## H-8401

1 Amend House File 2558 as follows:

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

4 "Section 1. Section 707.1, Code 2003, is amended  
5 to read as follows:

6 707.1 MURDER DEFINED.

7 A person who kills another person or terminates a  
8 human pregnancy with malice aforethought either  
9 express or implied commits murder.

10 Sec. 2. Section 707.2, subsections 1, 2, 3, 4, and  
11 6, Code 2003, are amended to read as follows:

12 1. The person willfully, deliberately, and with  
13 premeditation kills another person or terminates a  
14 human pregnancy.

15 2. The person kills another person or terminates a  
16 human pregnancy while participating in a forcible  
17 felony.

18 3. The person kills another person or terminates a  
19 human pregnancy while escaping or attempting to escape  
20 from lawful custody.

21 4. The person intentionally kills a peace officer,  
22 correctional officer, public employee, or hostage or  
23 terminates a human pregnancy while the person is  
24 imprisoned in a correctional institution under the  
25 jurisdiction of the Iowa department of corrections, or  
26 in a city or county jail.

27 6. The person kills another person or terminates a  
28 human pregnancy while participating in an act of  
29 terrorism as defined in section 708A.1.

30 Sec. 3. Section 707.4, unnumbered paragraph 1,  
31 Code 2003, is amended to read as follows:

32 A person commits voluntary manslaughter when that  
33 person causes the death of another person or the  
34 termination of a human pregnancy, under circumstances  
35 which would otherwise be murder, if the person causing  
36 the death or terminating the human pregnancy acts  
37 solely as the result of sudden, violent, and  
38 irresistible passion resulting from serious  
39 provocation sufficient to excite such passion in a  
40 person and there is not an interval between the  
41 provocation and the killing in which a person of  
42 ordinary reason and temperament would regain control  
43 and suppress the impulse to kill.

44 Sec. 4. Section 707.11, Code 2003, is amended to  
45 read as follows:

46 707.11 ATTEMPT TO COMMIT MURDER.

47 A person commits a class "B" felony when, with the  
48 intent to cause the death of another person or the  
49 termination of a human pregnancy and not under  
50 circumstances which would justify the person's

H-8401

**H-8401**

Page 2

1 actions, the person does any act by which the person  
2 expects to set in motion a force or chain of events  
3 which will cause or result in the death of the other  
4 person or the termination of a human pregnancy.

5 It is not a defense to an indictment for attempt to  
6 commit murder that the acts proved could not have  
7 caused the death of any person or the termination of a  
8 human pregnancy, provided that the actor intended to  
9 cause the death of some person or the termination of a  
10 human pregnancy by so acting, and the actor's  
11 expectations were not unreasonable in the light of the  
12 facts known to the actor."

13 2. Page 1, by striking lines 2 through 5.

14 3. Page 1, line 6, by striking the figure "2".

15 4. Title page, lines 1 and 2, by striking the  
16 words "crimes against members of the species homo  
17 sapiens at any stage of development" and inserting the  
18 following: "termination of a human pregnancy".

19 5. By renumbering as necessary.

By LENSING of Johnson

**H-8401** FILED APRIL 6, 2004

LOST

**HOUSE FILE 2558**

**H-8402**

1 Amend House File 2558 as follows:

2 1. Page 1, by striking lines 1 through 9, and  
3 inserting the following:

4 "Section 1. Section 707.8, subsection 2, Code  
5 2003, is amended to read as follows:

6 2. A person who terminates a human pregnancy  
7 without the consent of the pregnant person during the  
8 commission of a felony or felonious assault is guilty  
9 of a class ~~"C"~~ "B" felony."

10 2. Title page, lines 1 through 3, by striking the  
11 words "crimes against members of the species homo  
12 sapiens at any stage of development and making  
13 penalties applicable" and inserting the following:  
14 "nonconsensual termination of a human pregnancy during  
15 the commission of a felony or a felonious assault and  
16 providing a penalty".

By HUNTER of Polk

**H-8402** FILED APRIL 6, 2004

LOST

**HOUSE FILE 2558**

**H-8400**

1 Amend House File 2558 as follows:

2 1. Page 1, line 5, by inserting after the word  
3 "womb" the following: "as certified by a health care  
4 professional licensed pursuant to chapter 148, 148C,  
5 150, 150A, or 152".

By SHOULTZ of Black Hawk

**H-8400** FILED APRIL 6, 2004

WITHDRAWN

**HOUSE FILE 2558****H-8403**

1 Amend House File 2558 as follows:

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

4 "Section 1. Section 91D.1, subsection 1,  
5 paragraphs a and d, Code 2003, are amended to read as  
6 follows:

7 a. The hourly wage stated in the federal minimum  
8 wage law, pursuant to 29 U.S.C. § 206, shall be  
9 increased to ~~-\$3.85~~ \$5.65 on January 1 ~~of 1990, 2005,~~  
10 ~~-\$4.25 on January 1 of 1991,~~ and ~~-\$4.65~~ to \$6.15 on  
11 January 1 ~~of 1992,~~ 2006.

12 d. An employer is not required to pay an employee  
13 the applicable minimum wage provided in paragraph "a"  
14 until the employee has completed ninety calendar days  
15 of employment with the employer. An employee who has  
16 completed ninety calendar days of employment with the  
17 employer prior to January 1 ~~of 1990, 1991, 2005, or~~  
18 ~~1992~~ January 1, 2006, shall earn the applicable hourly  
19 minimum wage. An employer shall pay an employee who  
20 has not completed ninety calendar days of employment  
21 with the employer an hourly wage of at least ~~-\$3.35~~  
22 \$5.15 as of January 1 ~~of 1990, 2005,~~ ~~-\$3.85~~ as of  
23 ~~January 1 of 1991,~~ and ~~-\$4.25~~ \$5.65 as of January 1 ~~of~~  
24 ~~1992,~~ 2006."

25 2. Title page, by striking lines 1 through 3 and  
26 inserting the following: "An Act to increase the  
27 state minimum hourly wage rate."

By GREIMANN of Story

**H-8403** FILED APRIL 6, 2004

WITHDRAWN

**HOUSE FILE 2558****H-8404**

1 Amend House File 2558 as follows:

2 1. Page 1, by striking lines 1 through 9, and  
3 inserting the following:

4 "Section 1. Section 707.8, subsection 3, Code  
5 2003, is amended to read as follows:

6 3. A person who intentionally terminates a human  
7 pregnancy without the knowledge and voluntary consent  
8 of the pregnant person is guilty of a class ~~"C"~~ "B"  
9 felony."

10 2. Title page, lines 1 through 3, by striking the  
11 words "crimes against members of the species homo  
12 sapiens at any stage of development and making  
13 penalties applicable" and inserting the following:  
14 "intentional nonconsensual termination of a human  
15 pregnancy and providing a penalty".

By MASCHER of Johnson

**H-8404** FILED APRIL 6, 2004

LOST

**HOUSE FILE 2558****H-8405**

1 Amend House File 2558 as follows:  
2 1. Page 1, by inserting after line 9, the  
3 following:  
4 "3. Sections 707.1, 707.2, 707.3, 707.4, and  
5 707.11 shall not apply to any course of infertility  
6 treatment."

By MASCHER of Johnson

**H-8405** FILED APRIL 6, 2004  
LOST

**HOUSE FILE 2558****H-8406**

1 Amend House File 2558 as follows:  
2 1. Page 1, by striking lines 1 through 9 and  
3 inserting the following:  
4 "Sec. \_\_\_\_ . Section 707.8, subsection 6, Code 2003,  
5 is amended to read as follows:  
6 6. A person who unintentionally terminates a human  
7 pregnancy while drag racing in violation of section  
8 321.278 is guilty of a class ~~"D"~~ "C" felony."  
9 2. Title page, by striking lines 1 through 3, and  
10 inserting the following: "An Act relating to  
11 unintentional termination of a human pregnancy while  
12 drag racing and providing a penalty."

By HUNTER of Polk

**H-8406** FILED APRIL 6, 2004  
LOST

**HOUSE FILE 2558****H-8411**

1 Amend House File 2558 as follows:  
2 1. Page 1, by striking lines 1 through 9, and  
3 inserting the following:  
4 "Section 1. Section 707.8, subsection 4, Code  
5 2003, is amended to read as follows:  
6 4. A person who unintentionally terminates a human  
7 pregnancy by any of the means provided pursuant to  
8 section 707.6A, subsection 1, is guilty of a class ~~"C"~~  
9 "B" felony."  
10 2. Title page, lines 1 through 3, by striking the  
11 words "crimes against members of the species homo  
12 sapiens at any stage of development and making  
13 penalties applicable" and inserting the following:  
14 "the unintentional termination of a human pregnancy  
15 and providing a penalty".

By WINCKLER of Scott

**H-8411** FILED APRIL 6, 2004  
LOST

**HOUSE FILE 2558**

**H-8412**

1 Amend House File 2558 as follows:  
 2 1. Page 1, by striking lines 1 through 9 and  
 3 inserting the following:  
 4 "Section 1. Section 707.8, subsection 1, Code  
 5 2003, is amended to read as follows:  
 6 1. A person who terminates a human pregnancy  
 7 without the consent of the pregnant person during the  
 8 commission of a forcible felony is guilty of a class  
 9 ~~"B"~~ "A" felony."  
 10 2. Title page, lines 1 through 3, by striking the  
 11 words "crimes against members of the species homo  
 12 sapiens at any stage of development and making  
 13 penalties" and inserting the following:  
 14 "nonconsensual termination of a pregnancy during the  
 15 commission of a forcible felony and providing a  
 16 penalty".

By SMITH of Marshall

**H-8412** FILED APRIL 6, 2004

LOST

**HOUSE FILE 2558**

**H-8416**

1 Amend House File 2558 as follows:  
 2 1. By striking everything after the enacting  
 3 clause and inserting the following:  
 4 "Section 1. DEPARTMENT OF JUSTICE -- VICTIM  
 5 ASSISTANCE GRANTS -- APPROPRIATION. There is  
 6 appropriated from the general fund of the state to the  
 7 department of justice for the fiscal year beginning  
 8 July 1, 2004, and ending June 30, 2005, the following  
 9 amount, or so much thereof as is necessary, to be used  
 10 for the purpose designated:  
 11 For victim assistance grants:  
 12 ..... \$ 2,250,000  
 13 The funds appropriated in this section shall be  
 14 used to provide grants to care providers providing  
 15 services to crime victims of domestic abuse or to  
 16 crime victims of rape and sexual assault."  
 17 2. Title page, line 1, by inserting after the  
 18 word "to" the following: "victims of".  
 19 3. Title page, lines 1 through 3, by striking the  
 20 words "against members of the species homo sapiens at  
 21 any stage of development and making penalties  
 22 applicable" and inserting the following: "and making  
 23 an appropriation".

By MASCHER of Johnson

**H-8416** FILED APRIL 6, 2004

NOT GERMANE

**HOUSE FILE 2558****H-8421**

- 1 Amend House File 2558 as follows:  
2 1. Page 1, by striking lines 2 through 5.  
3 2. Page 1, line 6, by striking the figure "2."  
4 3. Title page, lines 1 through 3, by striking the  
5 words "against members of the species homo sapiens at  
6 any stage of development and making penalties  
7 applicable" and inserting the following:  
8 "inapplicable to legal abortion".  
9 4. By renumbering as necessary.

**By** MASCHER of Johnson

**H-8421** FILED APRIL 6, 2004

LOST



## HOUSE FILE 2558

## H-8422

1 Amend House File 2558 as follows:

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

4 "Section 1. Section 256.9, Code Supplement 2003,  
5 is amended by adding the following new subsection:

6 NEW SUBSECTION. 53. Prepare and make available to  
7 school districts and accredited nonpublic schools  
8 courses of instruction that meet the requirements of  
9 section 256.11, subsection 15. The director shall  
10 develop a procedure for evaluating and measuring the  
11 effectiveness of human growth and development, health  
12 education, and family life curricula in each school  
13 district and accredited nonpublic school, including  
14 the setting of reasonable goals for reduced sexual  
15 activity, sexually transmitted diseases, and  
16 premarital pregnancy.

17 Sec. 2. Section 256.11, subsections 2, 3, and 4,  
18 Code 2003, are amended to read as follows:

19 2. The kindergarten program shall include  
20 experiences designed to develop healthy emotional and  
21 social habits and growth in the language arts and  
22 communication skills, as well as a capacity for the  
23 completion of individual tasks, and protect and  
24 increase physical well-being with attention given to  
25 experiences relating to the development of life skills  
26 and medically accurate and age appropriate human  
27 growth and development. A kindergarten teacher shall  
28 be licensed to teach in kindergarten. An accredited  
29 nonpublic school must meet the requirements of this  
30 subsection only if the nonpublic school offers a  
31 kindergarten program.

32 3. The following areas shall be taught in grades  
33 one through six: English-language arts, social  
34 studies, mathematics, science, health, medically  
35 accurate and age appropriate human growth and  
36 development, physical education, traffic safety,  
37 music, and visual art. The health curriculum shall  
38 include medically accurate and age appropriate  
39 information regarding the characteristics of  
40 communicable diseases including acquired immune  
41 deficiency syndrome. The state board as part of  
42 accreditation standards shall adopt curriculum  
43 definitions for implementing the elementary program.

44 4. The following shall be taught in grades seven  
45 and eight: English-language arts; social studies;  
46 mathematics; science; health; medically accurate and  
47 age appropriate human growth and development, family,  
48 consumer, career, and technology education; physical  
49 education; music; and visual art. The health  
50 curriculum shall include medically accurate and age

H-8422

-1-

**H-8422**

Page 2

1 appropriate information regarding the characteristics  
2 of sexually transmitted diseases and acquired immune  
3 deficiency syndrome. The state board as part of  
4 accreditation standards shall adopt curriculum  
5 definitions for implementing the program in grades  
6 seven and eight. However, this subsection shall not  
7 apply to the teaching of family, consumer, career, and  
8 technology education in nonpublic schools.

9 Sec. 3. Section 256.11, subsection 5, paragraph j,  
10 unnumbered paragraph 1, Code 2003, is amended to read  
11 as follows:

12 One unit of health education which shall include  
13 personal health; food and nutrition; environmental  
14 health; safety and survival skills; consumer health;  
15 family life; medically accurate and age appropriate  
16 human growth and development; substance abuse and  
17 nonuse; emotional and social health; health resources;  
18 and prevention and control of disease, including  
19 medically accurate and age appropriate information  
20 regarding sexually transmitted diseases and acquired  
21 immune deficiency syndrome.

22 Sec. 4. Section 256.11, Code 2003, is amended by  
23 adding the following new subsection:

24 NEW SUBSECTION. 15. All human growth and  
25 development, health education, and family life courses  
26 of instruction offered at grade levels six through  
27 twelve that discuss sexual activity or behavior shall  
28 satisfy the following conditions:

29 a. Information presented in course material and  
30 instruction shall be medically accurate and objective.

31 b. All course materials and instruction shall be  
32 age and developmentally appropriate.

33 c. Course materials and instruction shall include  
34 the following:

35 (1) Parameters for a discussion of sexual  
36 abstinence as a method to prevent unintended pregnancy  
37 and sexually transmitted diseases such as HIV.

38 (2) Presentation of the latest medically factual  
39 information regarding both the possible side effects  
40 and health benefits of all forms of contraception.

41 (3) Discussion of the possible consequences of  
42 unintended pregnancy and sexually transmitted diseases  
43 such as HIV. The materials and instruction shall  
44 stress the potentially serious hazards of sexual  
45 activity or behavior.

46 (4) Statistics based on the latest medical  
47 information citing the failure and success rates of  
48 all contraceptive methods for the prevention of  
49 pregnancy and sexually transmitted diseases such as  
50 HIV.

**H-8422**

-2-

**H-8422**

Page 3

1 (5) Provision for the development of positive  
2 communication skills that support and maintain healthy  
3 relationships and reject unwanted sexual activity.

4 (6) Emphasize a student's power to control  
5 personal behavior. Students shall be encouraged to  
6 base their actions on reasoning, self-discipline,  
7 sense of responsibility, self-control, and ethical  
8 considerations, such as respect for oneself and  
9 others.

10 (7) Methods that teach students not to make  
11 unwanted physical and verbal sexual advances and how  
12 to reject unwanted sexual advances. The materials and  
13 instruction shall cover verbal, physical, and visual  
14 sexual harassment, including nonconsensual sexual  
15 advances, nonconsensual physical sexual contact, and  
16 rape by an acquaintance. The course materials and  
17 instruction shall emphasize personal accountability  
18 and respect for others and shall also encourage youth  
19 to resist peer pressure.

20 (8) Shall teach that it is wrong to take advantage  
21 of or exploit another person.

22 (9) Instruction in the potential legal  
23 consequences of sexual assault under the Iowa criminal  
24 code.

25 (10) Shall be free of racial, ethnic, and gender  
26 biases.

27 (11) Shall teach students about counseling,  
28 medical and legal resources available to survivors of  
29 sexual abuse and sexual assault, including resources  
30 for escaping violent relationships.

31 d. For purposes of this subsection, "HIV" means  
32 the same as defined in section 141A.1.

33 e. "Medically accurate", as used in this section,  
34 means supported by research conducted in compliance  
35 with accepted scientific methods; recognized as  
36 accurate and objective by leading professional  
37 organizations and agencies with relevant expertise in  
38 the field, which may include but shall not be limited  
39 to the American college of obstetricians and  
40 gynecologists and the centers for disease control and  
41 prevention of the United States department of health  
42 and human services; and published in peer-reviewed  
43 publications where appropriate."

44 2. Title page, line 1, by striking the words  
45 "crimes against" and inserting the following:  
46 "providing human growth and development, health  
47 education, and family life instruction to".

48 3. Title page, lines 2 and 3, by striking the  
49 words "at any stage of development and making  
50 penalties applicable".

By MASCHER of Johnson

**H-8422** FILED APRIL 6, 2004

WITHDRAWN

## HOUSE FILE 2558

## H-8423

1 Amend House File 2558 as follows:

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

4 "Section 1. NEW SECTION. 514C.21 MANDATED  
5 COVERAGE FOR MENTAL HEALTH CONDITIONS.

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

8 a. "Mental health condition" means a condition or  
9 disorder involving mental illness or alcohol or  
10 substance abuse that falls under any of the diagnostic  
11 categories listed in the mental disorders section of  
12 the international classification of disease, as  
13 periodically revised.

14 b. "Rates, terms, and conditions" means any  
15 lifetime payment limits, deductibles, copayments,  
16 coinsurance, and any other cost-sharing requirements,  
17 out-of-pocket limits, visit limitations, and any other  
18 financial component of benefits coverage that affects  
19 the covered individual.

20 2. a. Notwithstanding section 514C.6, a policy or  
21 contract providing for third-party payment or  
22 prepayment of health or medical expenses shall provide  
23 coverage benefits for mental health conditions based  
24 on rates, terms, and conditions which are no more  
25 restrictive than the rates, terms, and conditions for  
26 coverage benefits provided for other health or medical  
27 conditions under the policy or contract.

28 Additionally, any rates, terms, and conditions  
29 involving deductibles, copayments, coinsurance, and  
30 any other cost-sharing requirements shall be  
31 cumulative for coverage of both mental health  
32 conditions and other health or medical conditions  
33 under the policy or contract.

34 b. Coverage required under this subsection shall  
35 be as follows:

36 (1) For the treatment of mental illness, coverage  
37 shall be for services provided by a licensed mental  
38 health professional, or services provided in a  
39 licensed hospital or health facility.

40 (2) For the treatment of alcohol or substance  
41 abuse, coverage shall be for services provided by a  
42 substance abuse counselor, as approved by the  
43 department of human services, a licensed health  
44 facility providing a program for the treatment of  
45 alcohol or substance abuse approved by the department  
46 of human services, or a substance abuse treatment and  
47 rehabilitation facility, as licensed by the department  
48 of public health pursuant to chapter 125.

49 3. This section applies to the following classes  
50 of third-party payment provider contracts or policies

H-8423

**H-8423**

Page 2

1 delivered, issued for delivery, continued, or renewed  
2 in this state on or after January 1, 2005:

3 a. Individual or group accident and sickness  
4 insurance providing coverage on an expense-incurred  
5 basis.

6 b. An individual or group hospital or medical  
7 service contract issued pursuant to chapter 509, 514,  
8 or 514A.

9 c. A plan established pursuant to chapter 509A for  
10 public employees.

11 d. An individual or group health maintenance  
12 organization contract regulated under chapter 514B.

13 e. An individual or group Medicare supplemental  
14 policy, unless coverage pursuant to such policy is  
15 preempted by federal law.

16 f. Any other entity engaged in the business of  
17 insurance, risk transfer, or risk retention, which is  
18 subject to the jurisdiction of the commissioner.

19 g. An organized delivery system licensed by the  
20 director of public health.

21 4. The commissioner shall adopt rules to  
22 administer this section after consultation with the  
23 mental health insurance advisory committee.

24 a. The commissioner shall appoint members to a  
25 mental health insurance advisory committee. Members  
26 shall include all sectors of society impacted by  
27 issues associated with coverage of mental health  
28 treatment by third-party payors including, but not  
29 limited to, representatives of the insurance industry,  
30 small and large employers, employee representatives  
31 including labor, individual consumers, health care  
32 providers, and other groups and individuals that may  
33 be identified by the insurance division of the  
34 department of commerce.

35 b. The committee shall meet upon the request of  
36 the commissioner to review rules proposed under this  
37 section by the commissioner, and to make suggestions  
38 as appropriate."

39 2. Title page, line 1, by striking the words  
40 "crimes against" and inserting the following:  
41 "provision of health care coverage to".

42 3. Title page, lines 2 and 3, by striking the  
43 words "at any stage of development and making  
44 penalties applicable".

**By SMITH of Marshall****H-8423 FILED APRIL 6, 2004**

WITHDRAWN

**Fiscal Services Division  
Legislative Services Agency  
Fiscal Note**

---

HF 2558 - Unborn Child, Death or Injury (LSB 7008HH)

Analyst: Beth Lenstra (Phone: (515) 281-6301 (beth.lenstra@legis.state.ia.us)

Fiscal Note Version - New

---

**Description**

House File 2558 defines a "person" to include the unborn as it pertains to victims of first and second degree murder, voluntary manslaughter, and attempted murder. The Bill provides that these crimes do not apply to a legal abortion.

**Assumptions**

1. There were three convictions under Section 707.8, Code of Iowa, in FY 2003. Two were Class C felony convictions and one was an aggravated misdemeanor conviction. There were no convictions under Section 707.7, Code of Iowa, in FY 2003.
2. First degree murder is a Class A felony, which is life in prison. State costs for one Class A felony conviction are approximately \$94,000.
3. Second degree murder is a Super Class B felony, with a period of confinement not to exceed 50 years. The offender is required to serve 70.0% of the maximum term in the State prison system. State costs for one Super Class B felony conviction for a crime against a person are approximately \$82,000.
4. Voluntary manslaughter is a Class C felony. State costs for one Class C felony conviction for a crime against a person are approximately \$23,000.
5. Attempted murder is a Class B felony. The offender is required to serve 70.0% of the maximum term in the State prison system. State costs for one Class B felony conviction for a crime against a person are approximately \$82,000.
6. The costs stated above include the Judicial Branch holding a trial; indigent defense; and supervision while on probation, parole, or prison, if applicable. The costs will be incurred across multiple fiscal years.

**Correctional Impact**

The correctional impact is not anticipated to be significant given the low number of convictions under current law.

**Fiscal Impact**

The fiscal impact of HF 2558 cannot be determined due to insufficient information. The State's increased cost for one conviction for an enhanced penalty is:

- From a Class B to a Class A felony conviction, the cost is approximately \$12,000.
- From a Class C to a Class A felony conviction, the cost is approximately \$71,000.
- From a Class C to a Class B felony, the cost is approximately \$59,000.

**Sources**

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

---

April 1, 2004

---

The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Fiscal Services Division, Legislative Services Agency to members of the Legislature upon request.

---

Upmeyer - CHAIR  
Dolecheck  
Foegel

St  
S: 02417  
& 2559  
SENATE/HOUSE FILE \_\_\_\_\_  
HSB 595  
EDUCATION

BY (PROPOSED DEPARTMENT OF  
EDUCATION/COLLEGE STUDENT  
AID COMMISSION BILL)

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

A BILL FOR

1 An Act relating to the duties of the college student aid  
2 commission and the approval and registration of postsecondary  
3 schools by the commission, the department of education, and  
4 the secretary of state, the imposition of penalties and  
5 collection of fees by those state agencies and offices, and  
6 the authorization of the commission to garnishee loan  
7 defaulters' wages.

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

- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23



1 Section 1. Section 256.7, subsection 3, Code Supplement  
2 2003, is amended to read as follows:

3 3. Prescribe standards and procedures for the approval of  
4 practitioner preparation programs and professional development  
5 programs, offered in this state by practitioner preparation  
6 institutions located within or outside this state and by area  
7 education agencies--in-this-state. Procedures provided for  
8 approval of programs shall include procedures for enforcement  
9 of the prescribed standards and shall not include a procedure  
10 for the waiving of any of the standards prescribed. The board  
11 may establish by rule and collect from practitioner  
12 preparation institutions located outside this state a  
13 reasonable fee based on the department's costs for  
14 administration of the program approval process. Fees  
15 collected under this subsection shall be deposited in the  
16 general fund of the state.

17 Sec. 2. Section 261.2, Code 2003, is amended by adding the  
18 following new subsection:

19 NEW SUBSECTION. 7. Establish reasonable registration  
20 standards for the approval, pursuant to section 261B.3A, of  
21 postsecondary schools that are required to register with the  
22 secretary of state in order to operate in this state.

23 Sec. 3. Section 261.37, subsection 7, Code Supplement  
24 2003, is amended to read as follows:

25 7. To establish an effective system for the collection of  
26 delinquent loans, including the adoption of an agreement with  
27 the department of administrative services to set off against a  
28 defaulter's income tax refund or rebate the amount that is due  
29 because of a default on a guaranteed or parental loan made  
30 under this division. The commission shall adopt rules under  
31 chapter 17A necessary to assist the department of  
32 administrative services in the implementation of the student  
33 loan setoff program as established under section 8A.504. The  
34 commission shall apply administrative wage garnishment  
35 procedures authorized under the federal Higher Education Act

1 of 1965, as amended and codified in 20 U.S.C. § 1071 et seq.,  
2 for all delinquent loans, including loans authorized under  
3 section 261.38, when a defaulter fails to voluntarily enter  
4 into a reasonable payment agreement.

5 Sec. 4. Section 261B.3, subsection 1, Code 2003, is  
6 amended to read as follows:

7 1. A school that maintains or conducts one or more courses  
8 of instruction, including courses of instruction by  
9 correspondence, offered in this state or which has a presence  
10 in this state and offers courses in other states or foreign  
11 countries shall register ~~annually~~ with the secretary.

12 Registrations shall be renewed every four years or upon any  
13 substantive change in program offerings, location, or  
14 accreditation. Registration shall be made on application  
15 forms approved and supplied by the secretary and at the time  
16 and in the manner prescribed by the secretary. Upon receipt  
17 of a complete and accurate registration application, the  
18 secretary shall issue an acknowledgment of document filed and  
19 send it to the school.

20 Sec. 5. Section 261B.8, Code 2003, is amended to read as  
21 follows:

22 261B.8 REGISTRATION FEES.

23 1. The secretary shall set by rule and collect an a  
24 nonrefundable initial registration fee ~~of-one-thousand-dollars~~  
25 and ~~an-annual~~ a renewal of registration fee ~~of-five-hundred~~  
26 ~~dollars~~ from each registered school.

27 2. Fees shall be set by rule not more than once each year  
28 and shall be based upon the costs of administering this  
29 chapter.

30 3. Fees collected under this section shall be deposited in  
31 the general fund of the state. Civil penalties ordered  
32 pursuant to section 261B.12 shall be paid to the treasurer of  
33 state to be deposited in the general fund of the state.

34 Sec. 6. Section 261B.12, Code 2003, is amended to read as  
35 follows:



595

1 schools to annually register with the secretary of state, and  
2 instead requires the schools to register once every four  
3 years, or upon any substantive change in program offerings,  
4 location, or accreditation.

5 The bill directs the secretary of state to establish  
6 registration and renewal fees for postsecondary schools  
7 required to register with the secretary. Currently, the Code  
8 sets the fee for initial registration at \$1,000, with annual  
9 renewals at \$500.

10 The bill establishes a civil penalty to be assessed by the  
11 secretary of state and permits the ordering of punitive  
12 damages for postsecondary schools that fail to register or pay  
13 registration fees to the secretary as required under Code  
14 chapter 261B. The bill directs the secretary to adopt by rule  
15 a schedule of civil penalties and punitive damages for minor  
16 and serious violations of the Code chapter. Moneys collected  
17 by the secretary in the form of fees or civil penalties must  
18 be deposited in the general fund of the state.

19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35



**IOWA  
COLLEGE  
STUDENT AID  
COMMISSION**

200 - 10<sup>th</sup> Street, 4<sup>th</sup> Floor  
Des Moines, IA 50309-3609  
Telephone: (515) 242-3344  
FAX: (515) 242-3388  
E-Mail: [info@iowacollegeaid.org](mailto:info@iowacollegeaid.org)

January 12, 2004

Members of the General Assembly:

The Iowa College Student Aid Commission believes Chapter 261B of the Code of Iowa should be amended to clarify provisions governing the registration of out-of-state colleges and universities doing business in Iowa. Commissioners also are seeking authorization to expand administrative wage garnishment activities.

**Registration of out-of-state colleges and universities.**

Out-of-state colleges and universities operating in Iowa are required to register with the Secretary of State and be approved by the Iowa College Student Aid Commission. Four institutions have registered, and an additional four have applied for registration. Two institutions are known to be operating in Iowa without seeking registration. Secretary of State and Commission staffs work closely to identify institutions that need to register, and to ensure that institutions meet the requirements of Chapter 261B. The proposed changes will encourage out-of-state institutions to seek registration, and will support the two agencies' efforts to administer registration activities. The changes will not materially impact the General Fund. A summary of the registration provisions follows.

- Provide for registration fees for out-of-state colleges and universities to be set by administrative rule.
- Provide authority to promulgate administrative rules.
- Provide penalties for colleges and universities failing to register, with the penalties to be established by administrative rule.

595

Members of the General Assembly  
Page 2  
January 12, 2004

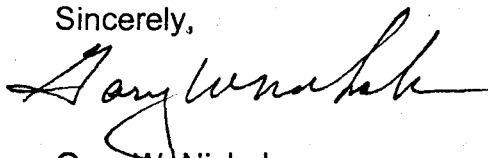
- Provide authority for the Iowa Department of Education to approve practitioner preparation and professional development programs offered by out-of-state colleges and universities, and allow the Department of Education to charge a reasonable fee for the approval process.

### **Alignment of Administrative Wage Garnishment**

The Iowa Attorney General's Office is successfully administering federally authorized administrative wage garnishments for the Commission. Federal authorization to garnish up to 10 percent of an individual's compensation is used to pursue borrowers who refuse to voluntarily enter into repayment agreements. Wage garnishment authority currently is limited to federal loans and cannot be used to collect alternative loans authorized under section 261.38 of the Iowa Code. The Commission is proposing a provision that grants the Commission similar authority for state loans.

Thank you for considering the proposed legislation. If you have questions, please contact me at 242-3340.

Sincerely,



Gary W. Nichols  
Executive Director

GWN:mjp  
Enclosure

VERO

May 14, 2004

The Honorable Chester Culver  
Secretary of State  
State Capitol Building  
LOCAL

Dear Mr. Secretary:

I hereby transmit **House File 2558**, an Act relating to crimes against members of the species homo sapiens at any stage of development and making penalties applicable.

I am sympathetic to efforts to protect women during their pregnancy.

Iowa law currently provides for greater accountability, responsibility and protection in cases of violent crimes against pregnant women. Iowa has had laws on the books dealing with violent crimes against pregnant women for more than five years. These can be found under Iowa Code sections 707.8(1)-(12). Iowa Code 707.8(1) specifically deals with terminating a human pregnancy without the consent of the pregnant person during the commission of a forcible felony (murder, kidnapping, robbery, assault, arson). A person found guilty under 707.8(1) is guilty of a class "B" felony. The penalties for a class "B" felony provide for a maximum sentence of no more than 25 years, and two separate charges can be brought. In addition, Iowa Code section 707.7 sets out the crime of feticide as a class "C" felony.

If the intent of this bill is to provide for greater accountability for people committing crimes against a pregnant woman or to provide greater protection for pregnant women, then this objective could be accomplished by increasing existing penalties for these types of crimes.

House File 2558 creates a new crime that fails to promote greater accountability of wrongdoers and fails to afford greater protection for pregnant women. Under these circumstances there appears to be no reason to approve House File 2558.

For the above reasons, I hereby respectfully disapprove **House File 2558**.

Sincerely,

Thomas J. Vilsack  
Governor

TJV:jmc

cc: Secretary of the Senate  
Chief Clerk of the House

person legally authorized to act on the pregnant woman's behalf consented, or for which consent is implied by law.

VETO

CHRISTOPHER C. RANTS  
Speaker of the House

JEFFREY M. LAMBERTI  
President of the Senate

HOUSE FILE 2558

AN ACT

RELATING TO CRIMES AGAINST MEMBERS OF THE SPECIES HOMO SAPIENS AT ANY STAGE OF DEVELOPMENT AND MAKING PENALTIES APPLICABLE.

I hereby certify that this bill originated in the House and is known as House File 2558, Eightieth General Assembly.

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

MARGARET THOMSON  
Chief Clerk of the House

Section 1. NEW SECTION. 707.11A APPLICATION.

Approved \_\_\_\_\_, 2004

1. For the purposes of sections 707.1, 707.2, 707.3, 707.4, and 707.11, as it pertains to the victim of a crime, "person" includes a member of the species homo sapiens, at any stage of development when carried in the womb or after birth.

2. Sections 707.1, 707.2, 707.3, 707.4, and 707.11 shall not apply to a legal abortion to which the pregnant woman or a

THOMAS J. VILSACK  
Governor