

# House Study Bill 118

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED ATTORNEY  
GENERAL BILL)

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

## A BILL FOR

1 An Act modifying the definition of sexual abuse by including  
2 certain deceptive acts, and providing penalties.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
4 TLSB 1101DP 82  
5 jm/je/5

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1 1 Section 1. Section 709.1, subsection 1, Code 2007, is  
1 2 amended to read as follows:  
1 3 1. The act is done by force or against the will of the  
1 4 other. If the consent or acquiescence of the other is  
1 5 procured by threats of violence toward any person, or by  
1 6 deception as to the sexual nature of the act, or if the act is  
1 7 done while the other is under the influence of a drug inducing  
1 8 sleep or is otherwise in a state of unconsciousness, the act  
1 9 is done against the will of the other.

### EXPLANATION

1 10 This bill modifies the definition of sexual abuse. The  
1 11 bill provides that a person commits sexual abuse if the person  
1 12 performs a sex act upon another if the consent to perform the  
1 13 sex act is procured by deception as to the sexual nature of  
1 14 the act. A "sex act" is defined in Code section 702.17.

1 15 Under the bill, the modification of the definition of  
1 16 "sexual abuse" results in changes to the elements of the  
1 17 following criminal offenses: sexual abuse in the first degree  
1 18 (709.2), sexual abuse in the second degree (709.3), sexual  
1 19 abuse in the third degree (709.4), and assault with intent to  
1 20 commit sexual abuse (709.11).

1 21 The modification to the definition of "sexual abuse" also  
1 22 results in changes to the elements of "kidnapping" under Code  
1 23 section 710.1, and changes the definition of "kidnapping" in  
1 24 the first degree (710.2), enticing a minor away (710.10),  
1 25 burglary in the first degree (713.3), and child endangerment  
1 26 (726.6).

1 27 Under the bill, the modification to the definition of  
1 28 "sexual abuse" also changes enhancements to criminal penalties  
1 29 in Code sections 702.11 (forcible felony), 902.12 (minimum  
1 30 sentences for certain felonies == 70 percent sentences), and  
1 31 902.14 (enhanced penalties for sexual abuse and lascivious  
1 32 acts).

1 33 The term "sexual abuse" also appears in numerous Code  
1 34 sections including the following: 13.31 (victim assistance  
2 1 programs), 29B.116 (military justice), 81.10 (DNA profiling),  
2 2 135.118 (child protection center grant programs), 135L.3  
2 3 (parental notification of abortion), 229A.2 (commitment of  
2 4 sexually violent predators), 232.2 (juvenile justice  
2 5 definitions), 232.48 (predisposition and investigation  
2 6 report), 232.49 (physical and mental examinations), 232.83  
2 7 (child sexual abuse), 232.97 (social investigation report),  
2 8 232.116 (grounds for termination of parental rights), 232.181  
2 9 (social history report), 237A.5 (child care facilities),  
2 10 252B.9 (child support recovery), 256.9 (duties of director of  
2 11 department of education), 260C.14 (authority of community  
2 12 college directors), 261.9 (college student aid commission),  
2 13 262.9 (board of regents), 272.2 (educational examiners board),  
2 14 331.802 (deaths reported), 595.3A (marriage application),  
2 15 611.23 (civil actions), 614.1 (limitations of actions), 614.8A  
2 16 (damages for child sexual abuse), 668.15 (damages resulting  
2 17 from sexual abuse), 692A.1 (sex offender registry), 701.11  
2 18 (evidence of sexual abuse), 708.3 (assault while participating  
2 19 in a felony), 709.5 (resistance to sexual abuse), 709.6 (jury

2 20 instructions), 709.10 (sexual abuse evidence), 802.2  
2 21 (limitations of criminal actions), 802.10 (DNA profile of  
2 22 accused), 811.1 (bail and bail restrictions), 903B.10  
2 23 (hormonal intervention therapy), 915.20A (victim counselor  
2 24 privilege), and 915.40 (victim rights).  
2 25 The bill is in response to an Iowa supreme court case,  
2 26 State v. Bolsinger, 709 N.W.2d 560 (2006).  
2 27 LSB 1101DP 82  
2 28 jm:rj/je/5.1