

House Study Bill 113

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 elements 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 1428DP 83
5 jm/rj/5

PAG LIN

1 1 Section 1. Section 709.1, subsection 1, Code 2009, 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 The bill is in response to an Iowa supreme court case,
1 16 State v. Bolsinger, 709 N.W.2d 560 (2006).

1 17 Under the bill, the modification of the definition of
1 18 "sexual abuse" results in changes to the elements of the
1 19 following criminal offenses: sexual abuse in the first degree
1 20 (709.2), sexual abuse in the second degree (709.3), sexual
1 21 abuse in the third degree (709.4), assault with intent to
1 22 commit sexual abuse (709.11), enticing a minor away (710.10),
1 23 burglary in the first degree (713.3), and child endangerment
1 24 (726.6).

1 25 The term "sexual abuse" appears in the definition of
1 26 "kidnapping" under Code section 710.1, and in "kidnapping" in
1 27 the first degree (710.2).

1 28 The term "sexual abuse" appears in criminal provisions
1 29 related to the enhancement of criminal penalties in Code
1 30 sections 702.11 (forcible felony), 902.12 (minimum sentences
1 31 for certain felonies == 70 percent sentences), and 902.14
1 32 (enhanced penalties for sexual abuse and lascivious acts).

1 33 The term "sexual abuse" appears in numerous Code sections
1 34 including the following: 13.31 (victim assistance programs),
2 1 29B.116 (military justice), 80F.1 (rights of peace officers
2 2 and public safety personnel), 81.10 (DNA profiling), 135.118
2 3 (child protection center grant programs), 135L.3 (parental
2 4 notification of abortion), 229A.2 (commitment of sexually
2 5 violent predators), 232.2 (juvenile justice definitions),
2 6 232.48 (predisposition and investigation report), 232.49
2 7 (physical and mental examinations), 232.83 (child sexual
2 8 abuse), 232.97 (social investigation report), 232.116 (grounds
2 9 for termination of parental rights), 232.181 (social history
2 10 report), 237A.5 (child care facilities), 252B.9 (child support
2 11 recovery), 256.9 (duties of director of department of
2 12 education), 260C.14 (authority of community college
2 13 directors), 261.9 (college student aid commission), 262.9
2 14 (board of regents), 272.2 (educational examiners board),
2 15 331.802 (deaths reported), 595.3A (marriage application),
2 16 611.23 (civil actions), 614.1 (limitations of actions), 614.8A
2 17 (damages for child sexual abuse), 668.15 (damages resulting
2 18 from sexual abuse), 692A.1 (sex offender registry), 701.11
2 19 (evidence of sexual abuse), 708.3 (assault while participating

2 20 in a felony), 709.5 (resistance to sexual abuse), 709.6 (jury
2 21 instructions), 709.10 (sexual abuse evidence), 802.2
2 22 (limitations of criminal actions), 802.10 (DNA profile of
2 23 accused), 811.1 (bail and bail restrictions), 903B.10
2 24 (hormonal intervention therapy), 915.20A (victim counselor
2 25 privilege), and 915.40 (victim rights).
2 26 LSB 1428DP 83
2 27 jm/rj/5.1