

Senate File 2338 - Introduced

SENATE FILE 2338
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 3165)

A BILL FOR

1 An Act modifying criminal offenses, penalties, and the sex
2 offender registry and including applicability provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 123.46, subsection 2, Code 2009, is
2 amended to read as follows:

3 2. A person shall not use or consume alcoholic liquor, wine,
4 or beer upon the public streets or highways. A person shall
5 not use or consume alcoholic liquor in any public place except
6 premises covered by a liquor control license. A person shall
7 not possess or consume alcoholic liquors, wine, or beer on
8 public school property or while attending a public or private
9 school-related function. A person shall not be intoxicated ~~or~~
10 ~~simulate intoxication~~ in a public place. A person violating
11 this subsection is guilty of a simple misdemeanor.

12 Sec. 2. Section 123.46, Code 2009, is amended by adding the
13 following new subsection:

14 NEW SUBSECTION. 2A. A person shall not simulate
15 intoxication in a public place. A person violating this
16 subsection is guilty of a simple misdemeanor.

17 Sec. 3. Section 229A.2, subsection 10, paragraph a, Code
18 2009, is amended to read as follows:

19 a. A violation of any provision of chapter 709, ~~except~~
20 ~~section 709.18, subsection 2 or 3.~~

21 Sec. 4. Section 235B.2, subsection 13, Code Supplement
22 2009, is amended to read as follows:

23 13. "*Serious injury*" means ~~a disabling mental illness, or~~
24 ~~a bodily injury which creates a substantial risk of death or~~
25 ~~which causes serious permanent disfigurement, or protracted~~
26 ~~loss or impairment of the function of any bodily member or~~
27 ~~organ~~ the same as defined in section 702.18.

28 Sec. 5. Section 272.2, subsection 14, paragraph b,
29 subparagraph (l), subparagraph division (b), subparagraph
30 subdivision (iii), Code Supplement 2009, is amended by striking
31 the subparagraph subdivision.

32 Sec. 6. Section 321J.1, subsection 9, Code 2009, is amended
33 to read as follows:

34 9. "*Serious injury*" means ~~a bodily injury which creates a~~
35 ~~substantial risk of death, or which causes serious permanent~~

1 ~~disfigurement, or which causes protracted loss or impairment~~
2 ~~of the function of any bodily organ or major bodily member, or~~
3 ~~which causes the loss of any bodily member~~ the same as defined
4 in section 702.18.

5 Sec. 7. Section 462A.2, subsection 36, Code 2009, is amended
6 to read as follows:

7 36. "*Serious injury*" means a ~~bodily injury which creates a~~
8 ~~substantial risk of death, or which causes serious permanent~~
9 ~~disfigurement, or which causes protracted loss or impairment~~
10 ~~of the function of any bodily organ or major bodily member, or~~
11 ~~which causes the loss of any bodily member~~ the same as defined
12 in section 702.18.

13 Sec. 8. Section 692A.102, subsection 1, paragraph b,
14 subparagraph (1), Code Supplement 2009, is amended by striking
15 the subparagraph.

16 Sec. 9. Section 692A.102, subsection 1, paragraph b,
17 Code Supplement 2009, is amended by adding the following new
18 subparagraph:

19 NEW SUBPARAGRAPH. (13A) Sexual abuse of a corpse in
20 violation of section 709.18.

21 Sec. 10. Section 702.11, subsection 2, Code 2009, is amended
22 by adding the following new paragraph:

23 NEW PARAGRAPH. *f.* Assault in violation of section 708.2,
24 subsection 4.

25 Sec. 11. Section 708.2, subsection 4, Code 2009, is amended
26 to read as follows:

27 4. A person who commits an assault, as defined in section
28 708.1, ~~and~~ without the intent to inflict serious injury,
29 but who causes serious injury, is guilty of a class "D" felony.

30 Sec. 12. Section 708.6, Code 2009, is amended to read as
31 follows:

32 **708.6 Intimidation with a dangerous weapon.**

33 1. A person commits a class "C" felony when the person,
34 with the intent to injure or provoke fear or anger in another,
35 shoots, throws, launches, or discharges a dangerous weapon at,

1 into, or in a building, vehicle, airplane, railroad engine,
2 railroad car, or boat, occupied by another person, or within an
3 assembly of people, and thereby places the occupants or people
4 in reasonable apprehension of serious injury or threatens to
5 commit such an act under circumstances raising a reasonable
6 expectation that the threat will be carried out.

7 2. A person commits a class "D" felony when the person
8 recklessly shoots, throws, launches, or discharges a dangerous
9 weapon at, into, or in a building, vehicle, airplane, railroad
10 engine, railroad car, or boat, occupied by another person, or
11 within an assembly of people, and thereby places the occupants
12 or people in reasonable apprehension of serious injury or
13 threatens to commit such an act under circumstances raising a
14 reasonable expectation that the threat will be carried out.

15 **Sec. 13. NEW SECTION. 708.14 Abuse of a corpse.**

16 1. A person commits abuse of a human corpse if the person
17 does any of the following:

18 a. Mutilates, disfigures, or dismembers a human corpse with
19 the intent to conceal a crime.

20 b. Hides or buries a human corpse with the intent to conceal
21 a crime.

22 2. A person who violates this section commits a class "D"
23 felony.

24 **Sec. 14. Section 709.18, Code 2009, is amended to read as**
25 **follows:**

26 **709.18 Abuse Sexual abuse of a corpse.**

27 1. A person commits sexual abuse of a human corpse if the
28 person knowingly and intentionally engages in a sex act, as
29 defined in section 702.17, with a human corpse.

30 ~~2. A person commits abuse of a human corpse if the person~~
31 ~~mutilates, disfigures, or dismembers a human corpse with the~~
32 ~~intent to conceal a crime.~~

33 ~~3. A person commits abuse of a human corpse if the person~~
34 ~~hides or buries a human corpse with the intent to conceal a~~
35 ~~crime.~~

1 4- 2. A person who violates this section commits a class
2 "D" felony.

3 Sec. 15. Section 907.7, subsection 1, Code 2009, is amended
4 to read as follows:

5 1. The length of the probation shall be for a ~~term~~ period as
6 the court shall fix but not to exceed five years if the offense
7 is a felony or not to exceed two years if the offense is a
8 misdemeanor. The period of probation may be extended for up
9 to one year including one year beyond the maximum period as
10 provided in section 908.11.

11 Sec. 16. Section 908.11, subsection 4, Code 2009, is amended
12 to read as follows:

13 4. If the violation is established, the court may continue
14 the probation or youthful offender status with or without
15 an alteration of the conditions of probation or a youthful
16 offender status. If the defendant is an adult or a youthful
17 offender the court may hold the defendant in contempt of court
18 and sentence the defendant to a jail term while continuing the
19 probation or youthful offender status, order the defendant
20 to be placed in a violator facility established pursuant to
21 section 904.207 while continuing the probation or youthful
22 offender status, extend the term of probation for up to one
23 year as authorized in section 907.7 while continuing the
24 probation or youthful offender status, or revoke the probation
25 or youthful offender status and require the defendant to serve
26 the sentence imposed or any lesser sentence, and, if imposition
27 of sentence was deferred, may impose any sentence which might
28 originally have been imposed.

29 Sec. 17. Section 910.4, subsection 1, paragraph b,
30 subparagraph (1), Code 2009, is amended to read as follows:

31 (1) If the court extends the period of probation, ~~it~~ the
32 period of probation shall not be for more than the maximum
33 period of probation for the offense committed except for an
34 extension of a period of probation as ~~provided~~ authorized in
35 section 907.7. After discharge from probation or after

1 the expiration of the period of probation, as extended if
2 applicable, the failure of an offender to comply with the plan
3 of restitution ordered by the court shall constitute contempt
4 of court.

5 Sec. 18. REPEAL. Sections 321.406 and 709.7, Code 2009,
6 are repealed.

7 Sec. 19. APPLICABILITY. This Act applies to criminal
8 offenses committed on or after July 1, 2010.

9 EXPLANATION

10 This bill modifies criminal offenses, penalties, and the sex
11 offender registry.

12 The bill relates to simulated public intoxication. The bill
13 transfers the criminal offense of simulated public intoxication
14 in a public place from Code section 123.46, subsection 2, to
15 Code section 123.46, new subsection 2A. The bill does not
16 modify the criminal penalty for simulated public intoxication.
17 A person who commits simulated public intoxication. A person
18 who commits simulated public intoxication in a public place
19 commits a simple misdemeanor.

20 The bill modifies the definition of "serious injury" in
21 Code chapters 235B (dependent adult abuse), 321J (operating
22 while intoxicated), and 462A (water navigation regulations).
23 The bill, by modifying the definitions of "serious injury" in
24 the affected Code chapters, makes the definition of "serious
25 injury" consistent with the definition of "serious injury" in
26 Code section 702.18, applicable to the Iowa criminal code.

27 The bill transfers some "abuse of a corpse" provisions from
28 Code section 709.18 to Code chapter 708 (assault) and creates
29 new Code section 708.14. The bill renames the "abuse of a
30 corpse" offense remaining in Code section 709.18 as "sexual
31 abuse of a corpse". The bill requires a person who commits
32 sexual abuse of a corpse to register as a tier II sex offender.
33 A tier II offender must verify the offender's relevant
34 information with the county sheriff of the principal place
35 of residence every six months. The bill does not modify the

1 penalty classification for the criminal offense that remains in
2 Code section 709.18 or for the criminal offenses transferred
3 to new Code section 708.14. A person who commits a violation
4 of the bill commits a class "D" felony. The bill does effect
5 the criminal penalties applicable to the criminal offenses
6 transferred to new Code section 708.14. Under the bill, as
7 a result of transferring the criminal offenses to new Code
8 section 708.14, these transferred offenses are no longer sexual
9 offenses under Code chapter 709 and therefore not subject to a
10 special sentence pursuant to Code section 903B.2.

11 The bill provides that a person who commits an assault
12 without the intent to inflict serious injury, but who causes
13 serious injury, commits a class "D" felony. The bill exempts
14 the modified assault provision from the definition of forcible
15 felony under Code section 702.11. By exempting the modified
16 assault provision from the definition of forcible felony, a
17 person convicted of such an offense is eligible to receive a
18 deferred judgment, or a suspended or deferred sentence under
19 Code section 907.3.

20 The bill modifies the elements to prove a class "D" felony
21 offense of intimidation with a dangerous weapon by adding a
22 mens rea component to the offense. Under the bill, a person
23 commits a class "D" felony intimidation with a dangerous weapon
24 offense if a person "recklessly" performs the actions required
25 to be convicted of such an offense.

26 The bill provides that a judge may extend a period of
27 probation, for up to one year including one year beyond
28 the maximum period, if a violation of probation has been
29 established. The bill also requires the court to inform a
30 defendant, at the time of sentencing, that the period of
31 probation may be extended for up to one year if a violation of
32 probation is established.

33 The bill repeals Code section 321.406, which limits the use
34 of cowl lamps on motor vehicles to no more than two such lamps
35 emitting amber or white light without glare. The punishment

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1 for Code section 321.406 is a simple misdemeanor as provided
2 in Code section 321.482.

3 The bill repeals the criminal offense of detention in a
4 brothel. A similar criminal offense exists in Code chapter
5 710A (human trafficking).

6 The bill applies to criminal offenses committed on or after
7 July 1, 2010.