

Senate File 385 - Introduced

SENATE FILE 385
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1230)

A BILL FOR

1 An Act establishing the criminal offense of sexual abuse in the
2 fourth degree, making related changes to sexual abuse in
3 the third degree and the sex offender registry, providing
4 penalties, and including retroactive and other applicability
5 provisions.

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

1 Section 1. Section 692A.102, subsection 1, paragraph a,
2 Code 2013, is amended by adding the following new subparagraph:
3 NEW SUBPARAGRAPH. (05) Sexual abuse in the fourth degree
4 in violation of section 709.4A.

5 Sec. 2. Section 709.4, subsection 2, paragraph c,
6 subparagraph (4), Code 2013, is amended to read as follows:

7 (4) The Except as provided in section 709.4A, the person is
8 four or more years older than the other person.

9 Sec. 3. NEW SECTION. **709.4A Sexual abuse in the fourth**
10 **degree.**

11 1. A person commits sexual abuse in the fourth degree when
12 the person performs a sex act with another person and the other
13 person is fourteen years of age and the person is eighteen
14 years of age.

15 2. Notwithstanding section 903B.2, a person convicted under
16 this section is not subject to the special sentence.

17 3. A person who violates this section commits a class "D"
18 felony.

19 Sec. 4. **SPECIAL SENTENCE — JUDGMENT VOID.**

20 1. Notwithstanding section 903B.2, a person convicted of
21 a violation of section 709.4, subsection 2, paragraph "c",
22 subparagraph (4), prior to, on, or after the effective date of
23 this Act shall not be subject to the special sentence if the
24 victim was fourteen years of age and the person is eighteen
25 years of age.

26 2. The department of corrections in consultation with the
27 department of public safety shall identify persons whose sole
28 reason for being on probation, parole, or committed to the
29 custody of the director of the department of corrections is for
30 a conviction of sexual abuse in the third degree under section
31 709.4, subsection 2, paragraph "c", subparagraph (4), that
32 occurred prior to, on, or after the effective date of this Act,
33 and who meet the criteria established in subsection 1.

34 3. If the department of corrections and the department of
35 public safety identify such a person pursuant to subsection

1 2, the department of corrections shall notify the board of
2 parole that the portion of the judgment requiring the service
3 of a special sentence is void and the person shall not be
4 subject to the special sentence under section 903B.2. If the
5 person identified pursuant to subsection 2 has begun serving
6 the special sentence, the term of the special sentence shall
7 terminate immediately after being notified by the department of
8 corrections that the portion of the judgment requiring service
9 of a special sentence is void.

10

EXPLANATION

11 This bill establishes the criminal offense of sexual abuse
12 in the fourth degree, makes related changes to sexual abuse in
13 the third degree, provides penalties, and includes retroactive
14 and other applicability provisions.

15 SEX ABUSE IN THE FOURTH DEGREE. Under the bill, a person 18
16 years of age commits sexual abuse in the fourth degree if the
17 person commits a sex act with another person who is 14 years of
18 age.

19 The bill specifies that a person who commits sexual abuse in
20 the fourth degree is guilty of a class "D" felony and is not
21 subject to a special sentence under Code section 903B.2.

22 Under current law, a person who commits sexual abuse in the
23 third degree, including those acts now classified as sexual
24 abuse in the fourth degree in the bill, commits a class "C"
25 felony and is subject to a special sentence under Code section
26 903B.2.

27 The bill also specifies that a person who commits sexual
28 abuse in the fourth degree shall register as a tier I sex
29 offender who is required to verify the person's relevant
30 information to the county sheriff of residence on an annual
31 basis for 10 years.

32 Under current law, a person who commits sexual abuse in the
33 third degree, including those acts now classified as sexual
34 abuse in the fourth degree in the bill, is classified as a tier
35 I sex offender.

1 SEX ABUSE IN THE THIRD DEGREE. The bill specifies that
2 a person convicted of sexual abuse in the third degree in
3 violation of Code section 709.4(2)(c)(4) (statutory rape due to
4 age differences of the offending person and the victim) prior
5 to, on, or after the effective date of the bill shall not be
6 subject to the special sentence under Code section 903B.2 if
7 the victim was 14 years of age and the person was 18 years of
8 age at the time the offense was committed.

9 Under the bill, the department of corrections in
10 consultation with the department of public safety shall
11 identify persons whose sole reason for being on probation,
12 parole, or committed to the custody of the director of the
13 department of corrections is for a conviction of sexual abuse
14 in the third degree under Code section 709.4(2)(c)(4), and who
15 meet the age differential criteria with the victim under newly
16 established sex abuse in the fourth degree. If the department
17 of corrections and the department of public safety identify
18 such a person under the bill, the department of corrections
19 shall notify the board of parole that the portion of the
20 judgment requiring the service of a special sentence is void
21 and the person shall not be subject to the special sentence
22 under Code section 903B.2. If such a person has begun serving
23 the special sentence, the bill requires the term of the special
24 sentence to terminate immediately after being notified by the
25 department of corrections that the portion of the judgment
26 requiring service of a special sentence is void.