

Senate Study Bill 1230 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON HOGG)

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 either
13 of the following apply:

14 a. The other person is fourteen years of age and the person
15 is eighteen years of age.

16 b. The other person is fifteen years of age and the person
17 is nineteen years of age.

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

20 3. A person who violates this section commits a class "D"
21 felony.

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

23 1. Notwithstanding section 903B.2, a person convicted of
24 a violation of section 709.4, subsection 2, paragraph "c",
25 subparagraph (4), prior to, on, or after the effective date of
26 this Act shall not be subject to the special sentence if either
27 of the following applied when the offense was committed:

28 a. The victim was fourteen years of age and the person was
29 eighteen years of age.

30 b. The victim was fifteen years of age and the person was
31 nineteen years of age.

32 2. The department of corrections in consultation with the
33 department of public safety shall identify persons whose sole
34 reason for being on probation, parole, or committed to the
35 custody of the director of the department of corrections is for

1 a conviction of sexual abuse in the third degree under section
2 709.4, subsection 2, paragraph "c", subparagraph (4), that
3 occurred prior to, on, or after the effective date of this Act,
4 and who meet the criteria established in subsection 1.

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

16

EXPLANATION

17 This bill establishes the criminal offense of sexual abuse
18 in the fourth degree, makes related changes to sexual abuse in
19 the third degree, provides penalties, and includes retroactive
20 and other applicability provisions.

21 SEX ABUSE IN THE FOURTH DEGREE. Under the bill, a person
22 commits sexual abuse in the fourth degree if the person commits
23 a sex act with another person and any of the following apply:
24 the other person is 14 years of age and the person is 18 years
25 of age; or the other person is 15 years of age and the person
26 is 19 years of age.

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

30 Under current law, a person who commits sexual abuse in the
31 third degree, including those acts now classified as sexual
32 abuse in the fourth degree in the bill, commits a class "D"
33 felony and is subject to a special sentence under Code section
34 903B.2.

35 The bill also specifies that a person who commits sexual

1 abuse in the fourth degree shall register as a tier I sex
2 offender who is required to verify the person's relevant
3 information to the county sheriff of residence on an annual
4 basis for 10 years.

5 Under current law, a person who commits sexual abuse in the
6 third degree, including those acts now classified as sexual
7 abuse in the fourth degree in the bill, is classified as a tier
8 I sex offender.

9 SEX ABUSE IN THE THIRD DEGREE. The bill specifies that
10 a person convicted of sexual abuse in the third degree in
11 violation of Code section 709.4(2)(c)(4) (statutory rape due to
12 age differences of the offending person and the victim) prior
13 to, on, or after the effective date of the bill shall not be
14 subject to the special sentence under Code section 903B.2 if
15 either of the following applied when the offense was committed:
16 the victim was 14 years of age and the person was 18 years of
17 age; or the victim was 15 years of age and the person was 19
18 years of age.

19 For a person convicted of sexual abuse in the third degree in
20 violation of Code section 709.4(2)(c)(4) prior to, on, or after
21 the effective date of the bill where a judgment for a special
22 sentence has already been entered as part of the judgment, the
23 bill voids the portion of the judgment imposing the special
24 sentence.

25 Under the bill, the department of corrections in
26 consultation with the department of public safety shall
27 identify persons whose sole reason for being on probation,
28 parole, or committed to the custody of the director of the
29 department of corrections is for a conviction of sexual abuse
30 in the third degree under Code section 709.4(2)(c)(4), and who
31 meet the age differential criteria with the victim under newly
32 established sex abuse in the fourth degree. If the department
33 of corrections and the department of public safety identify
34 such a person under the bill, the department of corrections
35 shall notify the board of parole that the portion of the

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1 judgment requiring the service of a special sentence is void
2 and the person shall not be subject to the special sentence
3 under Code section 903B.2. If such a person has begun serving
4 the special sentence, the bill requires the term of the special
5 sentence to terminate immediately after being notified by the
6 department of corrections that the portion of the judgment
7 requiring service of a special sentence is void.