

Senate Study Bill 3189 - Introduced

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

A BILL FOR

1 An Act relating to dissemination by a young person of material
2 depicting a sex act or nudity and sexual exploitation of a
3 minor.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 728.2A Dissemination by young
2 persons of material depicting a sex act or nudity.

3 1. Any person fourteen through eighteen years of age who
4 knowingly disseminates to another person fourteen through
5 eighteen years of age material depicting either or both
6 persons, one of whom is a minor, engaged in a sex act or in a
7 state of full or partial nudity, as defined in section 709.21,
8 commits a simple misdemeanor.

9 2. A person convicted under this section shall not be
10 required to register as a sex offender under chapter 692A.

11 Sec. 2. Section 728.12, Code 2014, is amended by adding the
12 following new subsection:

13 NEW SUBSECTION. 5. A violation of this section does not
14 apply to a person fourteen through eighteen years of age if all
15 of the following circumstances apply:

16 a. The material was disseminated to a person fourteen
17 through eighteen years of age.

18 b. The material depicts the sender, recipient, or both, one
19 of whom is a minor, engaged in a prohibited sex act or in the
20 simulation of a prohibited sex act.

21 c. The material was knowingly created with the consent of
22 the persons depicted.

23 d. The sender of the material knows or reasonably believes
24 the material would not be offensive to the recipient of the
25 material.

26 e. The person does not further disseminate or exhibit the
27 material if the material depicts another person.

28 EXPLANATION

29 The inclusion of this explanation does not constitute agreement with
30 the explanation's substance by the members of the general assembly.

31 This bill relates to dissemination by a young person
32 of material depicting a sex act or nudity and to sexual
33 exploitation of a minor.

34 The bill grants discretion to a prosecutor to charge a person
35 14 through 18 years of age with a simple misdemeanor under

1 new Code section 708.2A, for disseminating to another person
2 14 through 18 years of age material depicting either or both
3 persons, one of whom is a minor, engaged in a sex act or in
4 a state of full or partial nudity. A person convicted under
5 new Code section 708.2A is not required to register as a sex
6 offender and is not subject to a special sentence.

7 Under current law, it is a serious misdemeanor to knowingly
8 disseminate obscene material to a minor, and such a conviction
9 requires the person to register as a sex offender.

10 A sex act is defined in Code section 728.1 to mean any
11 sexual contact, actual or simulated, either natural or deviant,
12 between two or more persons, or between a person and an animal,
13 by penetration of the penis into the vagina or anus, or by
14 contact between the mouth or tongue and genitalia or anus, or
15 by contact between a finger of one person and the genitalia
16 of another person or by use of artificial sexual organs or
17 substitutes therefore in contact with the genitalia or anus.

18 Full or partial nudity is defined to mean the showing of any
19 part of the human genitals or pubic area or buttocks, or any
20 part of the nipple of the breast of a female, with less than
21 fully opaque covering.

22 Under the bill a person 14 through 18 years of age is not
23 guilty of sexual exploitation of a minor pursuant to Code
24 section 728.12 if all the following circumstances apply: the
25 material was disseminated to a person 14 through 18 years of
26 age; the material depicts the sender, recipient, or both, one
27 of whom is a minor, engaged in a prohibited sex act or in the
28 simulation of a prohibited sex act; the material was knowingly
29 created with the consent of the persons depicted; the sender of
30 the material knows or reasonably believes the material would
31 not be offensive to the recipient of the material; and the
32 person does not further disseminate or exhibit the material if
33 the material depicts another person.

34 A person who commits sexual exploitation of a minor commits
35 an aggravated misdemeanor up to a class "C" felony, depending

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1 on the facts and circumstances of the particular offense. The
2 person is also required to register as a sex offender under
3 Code chapter 692A and is subject to a special sentence as
4 provided in Code chapter 903B.