

House File 2323 - Introduced

HOUSE FILE 2323

BY COMMITTEE ON PUBLIC SAFETY

(SUCCESSOR TO HSB 536)

A BILL FOR

1 An Act relating to the criminal elements and penalties for
2 the commission of sexual misconduct with offenders and
3 juveniles, and including effective date provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 709.16, Code 2016, is amended to read as
2 follows:

3 **709.16 Sexual misconduct with offenders and juveniles.**

4 1. a. Any peace officer, or an officer, employee,
5 contractor, vendor, volunteer, or agent of the department of
6 corrections, ~~or an officer, employee, or agent of a judicial~~
7 ~~district department of correctional services,~~ who engages in
8 a sex act with an individual committed to the custody of the
9 department of corrections ~~or a judicial district department of~~
10 ~~correctional services,~~ who knows that the person is committed
11 to the custody of the department, commits an ~~aggravated~~
12 ~~misdemeanor~~ a class "D" felony.

13 b. An officer, employee, or agent of a judicial district
14 department of correctional services who engages in a sex act
15 with an individual under supervision of a judicial district
16 department of correctional services, who knows that the person
17 is under supervision, commits a class "D" felony.

18 2. a. Any peace officer, or an officer, employee,
19 contractor, vendor, volunteer, or agent of a juvenile placement
20 facility who engages in a sex act with a juvenile placed at
21 such facility commits ~~an aggravated misdemeanor~~ a class "D"
22 felony.

23 b. For purposes of this subsection, a "*juvenile placement*
24 *facility*" means any of the following:

25 (1) A child foster care facility licensed under section
26 237.4.

27 (2) Institutions controlled by the department of human
28 services listed in section 218.1.

29 (3) Juvenile detention and juvenile shelter care homes
30 approved under section 232.142.

31 (4) Psychiatric medical institutions for children licensed
32 under chapter 135H.

33 (5) Facilities for the treatment of persons with
34 substance-related disorders as defined in section 125.2.

35 3. Any peace officer, or an officer, employee, contractor,

1 vendor, volunteer, or agent of a county who engages in a sex
2 act with a prisoner incarcerated in a county jail or municipal
3 holding facility, who knows that the person is incarcerated,
4 commits an aggravated misdemeanor a class "D" felony.

5 Sec. 2. EFFECTIVE DATE. This Act takes effect January 1,
6 2017.

7 EXPLANATION

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

10 This bill relates to the criminal elements and penalties
11 for the commission of sexual misconduct with offenders and
12 juveniles.

13 The bill raises the criminal penalty from an aggravated
14 misdemeanor to a class "D" felony for a peace officer,
15 officer, employee, contractor, vendor, volunteer, or agent
16 of the department of corrections who engages in a sex act
17 with an inmate committed to the custody of the department
18 of corrections, if such a person knows that the inmate is
19 committed to the custody of the department.

20 The bill raises the criminal penalty from an aggravated
21 misdemeanor to a class "D" felony for an officer, employee,
22 or agent of a judicial district department of correctional
23 services who engages in a sex act with an individual under
24 supervision of a judicial district department, and who knows
25 that the person is under supervision.

26 The bill raises the criminal penalty from an aggravated
27 misdemeanor to a class "D" felony for a peace officer, officer,
28 employee, contractor, vendor, volunteer, or agent of a juvenile
29 placement facility who engages in a sex act with a juvenile
30 placed at such a facility.

31 The bill also raises the criminal penalty from an aggravated
32 misdemeanor to a class "D" felony for a peace officer, officer,
33 employee, contractor, vendor, volunteer, or agent of a county
34 who engages in a sex act with a prisoner incarcerated in a
35 county jail or municipal holding facility, if such a person

1 knows that the inmate is incarcerated.

2 An aggravated misdemeanor is punishable by confinement for
3 no more than two years and a fine of at least \$625 but not more
4 than \$6,250. A class "D" felony is punishable by confinement
5 for no more than five years and a fine of at least \$750 but not
6 more than \$7,500.

7 A person who violates the bill is also subject to a special
8 sentence under Code section 903B.2. A special sentence is a
9 punishment in addition to the punishment for the underlying
10 criminal offense by committing the person into the custody of
11 the director of the Iowa department of corrections for a period
12 of 10 years. A person serving a special sentence begins the
13 sentence as if on parole or work release but the sentence is
14 subject to a revocation of release for up to two years for a
15 first revocation and five years for any second or subsequent
16 revocation.

17 The bill takes effect January 1, 2017.