

**House File 2395 - Introduced**

HOUSE FILE 2395

BY COMMITTEE ON PUBLIC SAFETY

(SUCCESSOR TO HSB 618)

**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 2018, 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,~~ with specific and actual knowledge the  
11 person is committed to the custody of the department, commits  
12 ~~an aggravated 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, with specific and actual  
17 knowledge the person is under supervision, commits a class "D"  
18 felony.

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

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

26 (1) A child foster care facility licensed under section  
27 237.4.

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

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

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

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

1 3. Any peace officer, or an officer, employee, contractor,  
2 vendor, volunteer, or agent of a county who engages in a sex  
3 act with a prisoner incarcerated in a county jail or municipal  
4 holding facility, with specific and actual knowledge the person  
5 is incarcerated, commits an aggravated misdemeanor a class "D"  
6 felony.

7 Sec. 2. EFFECTIVE DATE. This Act takes effect January 1,  
8 2019.

9 EXPLANATION

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

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

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

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

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

33 The bill also raises the criminal penalty from an aggravated  
34 misdemeanor to a class "D" felony for a peace officer, officer,  
35 employee, contractor, vendor, volunteer, or agent of a county

1 who engages in a sex act with a prisoner incarcerated in a  
2 county jail or municipal holding facility, if such a person has  
3 specific and actual knowledge the inmate is incarcerated.

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

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

19 The bill takes effect January 1, 2019.