

Senate File 2263 - Introduced

SENATE FILE 2263

BY BROWN

A BILL FOR

1 An Act creating the criminal offense of sexual exploitation
2 of a student with a developmental disability by a college
3 employee, and providing penalties.

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

1 Section 1. Section 614.1, Code 2018, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 12A. *Sexual exploitation of a student with*
4 *a developmental disability by a college employee.* An action for
5 damages for injury suffered as a result of sexual exploitation
6 by a college employee, as defined in section 709.15A, shall
7 be brought within five years of the date the victim was last
8 enrolled in or attended the college.

9 Sec. 2. Section 692A.102, subsection 1, paragraph a, Code
10 2018, is amended by adding the following new subparagraph:

11 NEW SUBPARAGRAPH. (012) Sexual exploitation of a student
12 with a developmental disability by a college employee in
13 violation of section 709.15A.

14 Sec. 3. Section 702.11, subsection 2, Code 2018, is amended
15 by adding the following new paragraph:

16 NEW PARAGRAPH. *Oe.* Sexual exploitation of a student with a
17 developmental disability by a college employee in violation of
18 section 709.15A.

19 Sec. 4. NEW SECTION. 709.15A **Sexual exploitation of a**
20 **student with a developmental disability by a college employee.**

21 1. As used in this section:

22 *a.* "College" means a community college, regents institution,
23 or any other public or private college or university.

24 *b.* "College employee" means a person employed by a college
25 full-time or part-time, or employed as a contract employee
26 at a community college, regents institution, or any other
27 public or private college or university. "College employee"
28 does not include a person enrolled as a student at a community
29 college, regents institution, or public or private college or
30 university.

31 *c.* "Student" means a person who is currently enrolled in
32 or attending a community college, regents institution, or any
33 other public or private college or university, or who was
34 a student enrolled in or attended such community college,
35 regents institution, or public or private university or college

1 within thirty days of any violation of subsection 2, and who
2 has a developmental disability as defined under the federal
3 Developmental Disabilities Assistance and Bill of Rights Act of
4 2000, Pub. L. No. 106-402, as codified in 42 U.S.C. §15002(8).

5 2. *a.* Sexual exploitation of a student with a developmental
6 disability by a college employee occurs when any of the
7 following are found:

8 (1) A pattern or practice or scheme of conduct to engage in
9 any of the conduct described in subparagraph (2).

10 (2) Any sexual conduct with a student for the purpose
11 of arousing or satisfying the sexual desires of the college
12 employee or the student. Sexual conduct includes but is not
13 limited to the following:

14 (a) Kissing.

15 (b) Touching of the clothed or unclothed inner thigh,
16 breast, groin, buttock, anus, pubes, or genitals.

17 (c) A sex act as defined in section 702.17.

18 *b.* Sexual exploitation of a student with a developmental
19 disability by a college employee does not include touching
20 that is necessary in the performance of the college employee's
21 duties while acting within the scope of employment.

22 *c.* The provisions of this subsection do not apply to a
23 college employee if the student is not enrolled in the college
24 where the college employee is employed, or the college employee
25 does not instruct or have direct supervisory authority over the
26 student.

27 3. *a.* A college employee who commits sexual exploitation of
28 a student with a developmental disability by a college employee
29 in violation of subsection 2, subparagraph (1), commits an
30 aggravated misdemeanor.

31 *b.* A college employee who commits sexual exploitation of a
32 student with a developmental disability by a college employee
33 in violation of subsection 2, subparagraph (2), commits a
34 serious misdemeanor.

35 Sec. 5. Section 709.19, subsection 1, Code 2018, is amended

1 to read as follows:

2 1. Upon the filing of an affidavit by a victim, or a parent
3 or guardian on behalf of a minor who is a victim, of a crime
4 that is a sexual offense in violation of [section 709.2](#), [709.3](#),
5 [709.4](#), [709.8](#), [709.9](#), [709.11](#), [709.12](#), [709.14](#), [709.15](#), [709.15A](#),
6 or [709.16](#), that states that the presence of or contact with
7 the defendant whose release from jail or prison is imminent or
8 who has been released from jail or prison continues to pose a
9 threat to the safety of the victim, persons residing with the
10 victim, or members of the victim's immediate family, the court
11 shall enter a temporary no-contact order which shall require
12 the defendant to have no contact with the victim, persons
13 residing with the victim, or members of the victim's immediate
14 family.

15 EXPLANATION

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

18 This bill creates the criminal offense of sexual
19 exploitation of a student with a developmental disability by a
20 college employee.

21 The bill defines "college" to mean a community college,
22 regents institution, or any other public or private college or
23 university.

24 The bill defines "college employee" to mean a person
25 employed full-time or part-time or employed as a contract
26 employee at a community college, regents institution, or any
27 other public or private college or university. "College
28 employee" does not include a person enrolled as a student at a
29 community college, regents institution, or public or private
30 college or university.

31 The bill defines "student" to mean a person who is
32 currently enrolled in or attending a community college,
33 regents institution, or any other public or private college or
34 university, or who was a student enrolled in or attended such
35 community college, regents institution, or public or private

1 university or college within 30 days of any violation of the
2 bill, and who has a developmental disability as defined under
3 the federal Developmental Disabilities Assistance and Bill of
4 Rights Act of 2000, Pub. L. No. 106-402, as codified in 42
5 U.S.C. §15002(8).

6 Under the bill, a college employee commits sexual
7 exploitation of a student with a developmental disability by
8 a college employee classified as a serious misdemeanor when
9 any of the following are found: any sexual conduct with a
10 student for the purpose of arousing or satisfying the sexual
11 desires of the college employee or the student, including
12 kissing, touching of the clothed or unclothed inner thigh,
13 breast, groin, buttock, anus, pubes, or genitals; or a sex act
14 as defined in Code section 702.17.

15 A college employee commits sexual exploitation of a
16 student with a developmental disability by a college employee
17 classified as an aggravated misdemeanor when the college
18 employee engages in a pattern or practice or scheme of conduct
19 involving any of the following: any sexual conduct with a
20 student for the purpose of arousing or satisfying the sexual
21 desires of the school employee or the student, including
22 kissing, touching of the clothed or unclothed inner thigh,
23 breast, groin, buttock, anus, pubes, or genitals; or a sex act
24 as defined in Code section 702.17.

25 The bill provides that an action for damages for injury
26 suffered as a result of sexual exploitation of a student with a
27 developmental disability by a college employee, as defined in
28 Code section 709.15A, shall be brought within five years of the
29 date the victim was last enrolled in or attended the college.

30 The bill excludes sexual exploitation of a student with
31 a developmental disability by a college employee from the
32 definition of forcible felony just as sexual exploitation by a
33 counselor, therapist, or school employee is excluded.

34 The bill requires the court to enter a temporary no-contact
35 order, upon the filing of an affidavit by a victim of sexual

1 exploitation of a student with a developmental disability by
2 a college employee, which requires the defendant to have no
3 contact with the victim, persons residing with the victim, or
4 members of the victim's immediate family.

5 A person who violates the bill must register as a sex
6 offender under Code chapter 692A, and is required to serve a
7 10-year special sentence under Code section 903B.2.

8 An aggravated misdemeanor is punishable by confinement for
9 no more than two years and a fine of at least \$625 but not
10 more than \$6,250. A serious misdemeanor is punishable by
11 confinement for no more than one year and a fine of at least
12 \$315 but not more than \$1,875.