

Senate File 83 - Introduced

SENATE FILE 83

BY ZAUN

A BILL FOR

1 An Act relating to the criminal offense of sexual exploitation
2 by a school employee, and making penalties applicable.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 709.15, subsection 1, paragraph f, Code
2 2017, is amended by striking the paragraph and inserting in
3 lieu thereof the following:

4 *f.* (1) "*School employee*" means any of the following, except
5 as provided in subparagraph (2):

6 (a) A person who holds a license, certificate,
7 authorization, or statement of professional recognition issued
8 under chapter 272.

9 (b) A person employed by a school district full-time,
10 part-time, or as a substitute.

11 (c) A person who performs services as a volunteer for a
12 school district and who has significant contact with students.

13 (d) A person who provides services under a contract for such
14 services to a school district and who has significant contact
15 with students.

16 (2) "*School employee*" does not include the following:

17 (a) A student enrolled in a school district.

18 (b) A person who holds a coaching authorization issued
19 under section 272.31, subsection 1, if the person is less than
20 four years older than the student with whom the person engages
21 in conduct prohibited under subsection 3, paragraph "a", and
22 the person is not in a position of direct authority over the
23 student.

24 (c) A person who performs services as a volunteer for a
25 school district and who has significant contact with students
26 enrolled in the school district if the person is less than
27 four years older than the student with whom the person engages
28 in conduct prohibited under subsection 3, paragraph "a", and
29 the person is not in a position of direct authority over the
30 student.

31 Sec. 2. Section 709.15, subsection 3, Code 2017, is amended
32 by adding the following new paragraph:

33 NEW PARAGRAPH. *c.* The provisions of this subsection do
34 not apply to a person who is employed by, volunteers for,
35 or provides services under a contract for such services to a

1 school district, if the student is not enrolled in the same
2 school district that employs the person or for which the person
3 volunteers or provides contracted services, and the person
4 does not meet the requirements of subsection 1, paragraph "f",
5 subparagraph (1), subparagraph division (a).

6 EXPLANATION

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

9 This bill expands the Code provision that establishes
10 the criminal offense of sexual exploitation by a school
11 employee to include a person who holds a license, certificate,
12 authorization, or statement of professional recognition issued
13 by the board of educational examiners; a person employed by
14 a school district full-time, part-time, or as a substitute;
15 and a person who performs services as a volunteer or contract
16 employee for a school district and who has significant contact
17 with students.

18 However, under the bill, "school employee" does not include
19 a student enrolled in a school district, a person who holds a
20 coaching authorization if the person is less than four years
21 older than the student and the person is not in a position
22 of direct authority over the student, or a volunteer for the
23 school district if the volunteer is less than four years older
24 than the student and is not in a position of direct authority
25 over the student.

26 Currently, a "school employee" is defined to include any
27 practitioner or coach who is licensed or authorized by the
28 board of educational examiners. The current definition does
29 not limit employment to a public or nonpublic school.

30 The bill makes the provisions relating to sexual
31 exploitation by a school employee inapplicable to a person who
32 is employed by, volunteers for, or provides services under a
33 contract for such services to a school district if the student
34 is not enrolled in the same school district that employs
35 the person or for which the person volunteers or provides

1 contracted services, and the person does not hold a license,
2 certificate, authorization, or statement of professional
3 recognition issued by the board of educational examiners.

4 A person who commits sexual exploitation by a school
5 employee in violation of Code section 709.15(3) commits either
6 an aggravated misdemeanor, which is punishable by confinement
7 for no more than two years and a fine of at least \$625 but not
8 more than \$6,250; or a class "D" felony, which is punishable
9 by confinement for no more than five years and a fine of at
10 least \$750 but not more than \$7,500. The person's actions also
11 constitute unprofessional and unethical conduct that may result
12 in disciplinary action by the board of educational examiners
13 and the person must register as a sex offender.