

House File 2446 - Introduced

HOUSE FILE 2446

BY COMMITTEE ON PUBLIC SAFETY

(SUCCESSOR TO HF 2232)

A BILL FOR

1 An Act relating to sexual exploitation of a minor, and making
2 penalties applicable.

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

1 Section 1. Section 728.12, subsection 3, Code 2022, is
2 amended to read as follows:

3 3. a. It shall be unlawful to knowingly purchase or possess
4 a visual depiction containing a pictorial representation of a
5 minor engaging in a prohibited sexual act or the simulation of
6 a prohibited sexual act.

7 b. A visual depiction containing pictorial representations
8 of different minors shall be prosecuted and punished as
9 separate offenses for each pictorial representation of a
10 different minor in the visual depiction. ~~However, violations~~
11 ~~of this subsection involving multiple visual depictions~~

12 c. A visual depiction containing pictorial representations
13 of the same minor shall be prosecuted and punished as ~~one~~
14 ~~offense~~ separate offenses for each pictorial representation of
15 the same minor.

16 d. A person who commits a violation of this subsection
17 commits an aggravated misdemeanor for a first offense and a
18 class "D" felony for a second or subsequent offense.

19 e. For purposes of this subsection, an offense is considered
20 a second or subsequent offense if, prior to the person's having
21 been convicted under this subsection, any of the following
22 apply:

23 ~~a.~~ (1) The person has a prior conviction or deferred
24 judgment under this subsection.

25 ~~b.~~ (2) The person has a prior conviction, deferred
26 judgment, or the equivalent of a deferred judgment in another
27 jurisdiction for an offense substantially similar to the
28 offense defined in this subsection. The court shall judicially
29 notice the statutes of other states that define offenses
30 substantially similar to the offense defined in this subsection
31 and that therefore can be considered corresponding statutes.

32 EXPLANATION

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

35 This bill relates to sexual exploitation of a minor, and

1 makes penalties applicable.

2 Current law provides that it is unlawful to knowingly
3 purchase or possess a visual depiction of a minor engaging in a
4 prohibited sexual act or the simulation of a prohibited sexual
5 act. A visual depiction containing pictorial representations
6 of different minors shall be prosecuted and punished as
7 separate offenses for each pictorial representation of a
8 different minor in the visual depiction. However, violations
9 involving multiple visual depictions containing pictorial
10 representations of the same minor shall be prosecuted and
11 punished as one offense.

12 The bill provides that a person who knowingly purchases
13 or possesses multiple visual depictions containing pictorial
14 representations of the same minor engaging in prohibited sexual
15 acts or the simulation of prohibited sexual acts shall be
16 prosecuted and punished as separate offenses.

17 A person who commits a violation of this subsection commits
18 an aggravated misdemeanor for a first offense and a class "D"
19 felony for a second or subsequent offense. An aggravated
20 misdemeanor is punishable by confinement for no more than two
21 years and a fine of at least \$855 but not more than \$8,540. A
22 class "D" felony is punishable by confinement for no more than
23 five years and a fine of at least \$1,025 but not more than
24 \$10,245.

25 A violation of Code section 728.12(3) is a tier II sex
26 offense and a person convicted of the offense is required to
27 register as a sex offender. A person convicted of the offense
28 is also subject to a 10-year special sentence imposed in
29 addition to any other sentence.