

House File 51 - Introduced

HOUSE FILE 51

BY FETT

A BILL FOR

1 An Act relating to obscenity, including the exposure of a minor
2 to an obscene performance and admittance of a minor to a
3 premises with obscene performances, establishing a private
4 civil cause of action, and providing penalties.

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

unofficial

1 Section 1. Section 721.2, Code 2025, is amended by adding the
2 following new subsection:

3 NEW SUBSECTION. 9. Violates the provisions of section
4 728.7A.

5 Sec. 2. Section 728.1, Code 2025, is amended by adding the
6 following new subsection:

7 NEW SUBSECTION. 5A. "Obscene performance" means a visual
8 performance by a person, whether compensated or uncompensated,
9 that exposes the person's genitals, pubic area, buttocks, or
10 female breast, including prosthetics and artificial sexual organs
11 or substitutes therefor, or involves the person engaging in a sex
12 act, masturbation, excretory function, or sadomasochistic abuse,
13 which the average person, viewing the performance as a whole and
14 applying contemporary community standards with respect to what
15 is suitable to be viewed by minors, would find appeals to the
16 prurient interest and is patently offensive, and the performance
17 taken as a whole lacks serious artistic, literary, political, or
18 scientific value.

19 Sec. 3. NEW SECTION. **728.1A Enforcement.**

20 The office of attorney general, as authorized by section 13.2,
21 subsection 1, paragraph "b", or the county attorney of the county
22 in which a violation of this chapter occurs shall enforce the
23 provisions of this chapter.

24 Sec. 4. NEW SECTION. **728.2A Exposing minor to obscene**
25 **performance.**

26 Any person who knowingly exposes a minor to an obscene
27 performance is guilty of a public offense and shall upon
28 conviction be guilty of an aggravated misdemeanor.

29 Sec. 5. NEW SECTION. **728.3A Admitting minors to premises**
30 **with obscene performances.**

31 1. A person who knowingly sells, gives, delivers, or provides
32 a minor who is not a child a pass or admits the minor to premises
33 where an obscene performance is performed is guilty of a public
34 offense and upon conviction is guilty of a serious misdemeanor.

35 2. A person who knowingly sells, gives, delivers, or provides

1 a child a pass or admits the minor to premises where an obscene
2 performance is performed is guilty of a public offense and upon
3 conviction is guilty of an aggravated misdemeanor.

4 Sec. 6. Section 728.6, Code 2025, is amended to read as
5 follows:

6 **728.6 Civil suit to determine obscenity.**

7 1. Whenever the county attorney of any county has reasonable
8 cause to believe that any person is engaged or plans to
9 engage in the dissemination or exhibition of obscene material
10 to minors within the county attorney's county, ~~to minors~~ the
11 county attorney may institute a civil proceeding in the district
12 court of the county to enjoin the dissemination or exhibition
13 of obscene material to minors. Such application for injunction
14 is optional and not mandatory and shall not be construed as
15 a prerequisite to criminal prosecution for a violation of this
16 chapter.

17 2. a. The parent or guardian of a minor, or a minor upon
18 attaining eighteen years of age, to whom obscene material has
19 been knowingly disseminated or exhibited, in violation of section
20 728.2 or 728.3, or who was exposed to an obscene performance, in
21 violation of section 728.2A or 728.3A, may bring a civil action
22 against any person that has knowingly disseminated or exhibited
23 obscene material to the minor or who engaged in or caused or
24 allowed a person to knowingly engage in an obscene performance
25 in the presence of the minor for any of the following remedies:

26 (1) A declaratory judgment.

27 (2) Injunctive relief.

28 (3) Actual, incidental, and consequential damages.

29 (4) Punitive damages, if appropriate.

30 (5) Other equitable relief that the court deems appropriate.

31 b. The minimum award of damages in an action brought pursuant
32 to this subsection shall be ten thousand dollars.

33 c. An action brought under this subsection may be commenced
34 by a parent or guardian within two years of a violation. An
35 action for a violation brought by a person who was a minor at

1 the time of a violation shall be found within ten years after the
2 person upon whom the offense is committed attains eighteen years
3 of age.

4 Sec. 7. NEW SECTION. **728.7A Public institutions and funds**
5 **— obscene material — obscene performance.**

6 1. No public institution, public facility, public equipment,
7 or other physical asset that is owned, leased, or controlled by
8 this state or a political subdivision of this state shall be
9 used for a show, exhibition, or performance that includes obscene
10 material or obscene performances.

11 2. No public institution or facility shall lease, sell, or
12 permit the subleasing of its facilities or property for the
13 purpose of shows, exhibitions, or performances that include
14 obscene material or obscene performances.

15 3. No public funds made available by the state or a political
16 subdivision of this state that are distributed by an institution,
17 board, commission, department, agency, official, or an employee
18 of the state or political subdivision shall be used for the
19 purpose of shows, exhibitions, or performances that include
20 obscene material or obscene performances.

21 4. This section shall not apply to obscene materials that are
22 sent or received as part of a law enforcement investigation or
23 are authorized by law to be sent or received.

24 Sec. 8. REPEAL. Section 728.7, Code 2025, is repealed.

25 EXPLANATION

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

28 This bill relates to obscenity, including the exposure of a
29 minor to an obscene performance and admittance of a minor to
30 a premises with obscene performances, and establishes a private
31 civil cause of action.

32 The bill defines "obscene performance" as a visual performance
33 by a person, whether compensated or uncompensated, that exposes
34 the person's genitals, pubic area, buttocks, or female breast,
35 including prosthetics and artificial sexual organs or substitutes

1 therefor, or involves the person engaging in a sex act,
2 masturbation, excretory function, or sadomasochistic abuse, which
3 the average person, viewing the performance as a whole and
4 applying contemporary community standards with respect to what
5 is suitable to be viewed by minors, would find appeals to the
6 prurient interest and is patently offensive, and the performance
7 taken as a whole lacks serious artistic, literary, political, or
8 scientific value.

9 The bill provides that the office of attorney general or the
10 county attorney of the county in which a violation occurs shall
11 enforce the provisions of Code chapter 728 (obscenity).

12 The bill provides that any person who knowingly exposes a
13 minor to an "obscene performance" is guilty of a public offense
14 and shall upon conviction be guilty of an aggravated misdemeanor.

15 The bill provides that a person who knowingly sells, gives,
16 delivers, or provides a minor who is not a child a pass or admits
17 the minor to premises where an obscene performance is performed
18 is guilty of a serious misdemeanor. A person who knowingly
19 sells, gives, delivers, or provides a child a pass or admits the
20 minor to premises where an obscene performance is performed is
21 guilty of an aggravated misdemeanor. A minor is a person under
22 18 years of age, and a child is a person under 14 years of age.

23 The bill establishes a private civil cause of action for a
24 parent or guardian of a minor, or a minor upon reaching 18 years
25 of age, to whom obscene material has been knowingly disseminated
26 or exhibited, or who was exposed to an obscene performance.
27 A cause of action may be brought against any person that has
28 knowingly disseminated or exhibited obscene material to the minor
29 or who engaged in or caused or allowed a person to knowingly
30 engage in an obscene performance in the presence of the minor
31 for any of the following remedies: a declaratory judgment;
32 injunctive relief; actual, incidental, and consequential damages;
33 punitive damages, if appropriate; and any other equitable relief
34 that the court deems appropriate. The minimum award of damages
35 shall be \$10,000. An action may be commenced by a parent or

1 guardian within two years of a violation. An action for a
2 violation brought by a person who was a minor at the time of a
3 violation shall be found within 10 years after the person upon
4 whom the offense is committed attains 18 years of age.

5 The bill provides that no public institution, public facility,
6 public equipment, or other physical asset that is owned, leased,
7 or controlled by this state or a political subdivision of this
8 state shall be used for a show, exhibition, or performance
9 that includes obscene material or obscene performances. No
10 public institution or facility shall lease, sell, or permit the
11 subleasing of its facilities or property for the purpose of
12 shows, exhibitions, or performances that include obscene material
13 or obscene performances. No public funds made available by
14 the state or a political subdivision of this state that are
15 distributed by an institution, board, commission, department,
16 agency, official, or an employee of the state or political
17 subdivision shall be used for the purpose of shows, exhibitions,
18 or performances that include obscene material or obscene
19 performances. The bill does not apply to obscene materials that
20 are sent or received as part of a law enforcement investigation
21 or are authorized by law to be sent or received.

22 The bill provides that any public officer or employee, or
23 any person acting under color of such office or employment, who
24 knowingly allows a public institution or funds to be used for
25 the purpose of shows, exhibitions, or performances that include
26 obscene material or obscene performances commits a serious
27 misdemeanor.

28 The bill repeals Code section 728.7 (exemptions for public
29 libraries and educational institutions), which provides that
30 nothing in Code chapter 728 prohibits the use of appropriate
31 material for educational purposes in any accredited school, or
32 any public library, or in any educational program in which the
33 minor is participating and nothing in Code chapter 728 prohibits
34 the attendance of minors at an exhibition or display of art works
35 or the use of any materials in any public library.