

House File 826 - Introduced

HOUSE FILE 826
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 81)

A BILL FOR

1 An Act relating to obscene materials involving minors, and
2 providing penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 692A.102, subsection 1, paragraph a,
2 subparagraph (10), Code 2025, is amended by adding the following
3 new subparagraph division:

4 NEW SUBPARAGRAPH DIVISION. (c) Production, distribution,
5 receipt, or possession of, or attempt to produce, distribute,
6 receive, or possess, obscene material involving a minor, in
7 violation of section 728.13.

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

10 NEW SUBSECTION. 5A. "*Obscene material involving a minor*"
11 means any visual depiction that is all of the following:

12 a. A depiction or apparent depiction of a minor engaging in a
13 prohibited sexual act, as defined in section 728.1.

14 b. Appealing to the prurient interest as would be found by
15 the average person, taking the visual depiction as a whole and
16 applying contemporary adult community standards.

17 c. Patently offensive as would be found by the average
18 person, taking the visual depiction as a whole and applying
19 contemporary adult community standards.

20 d. Lacking of serious literary, scientific, political, or
21 artistic value when taken as a whole.

22 Sec. 3. NEW SECTION. **728.13 Production or distribution of**
23 **obscene material involving a minor.**

24 1. A person shall not knowingly produce, distribute, receive,
25 or possess with the intent to distribute, or attempt to produce,
26 distribute, receive, or possess with the intent to distribute,
27 any obscene material involving a minor.

28 2. A person who violates this section commits an aggravated
29 misdemeanor for a first offense and a class "D" felony for a
30 second or subsequent offense. For purposes of this section, an
31 offense is considered a second or subsequent offense if, prior to
32 the person's having been convicted under this section, the person
33 has a prior conviction or deferred judgment for a violation
34 of this section, section 728.2, 728.3, 728.12, or 728.15, any
35 provision under chapter 709 involving a minor, or any sex offense

1 against a minor that requires a person to register as a sex
2 offender under chapter 692A, or a prior conviction or deferred
3 judgment in another jurisdiction for a substantially similar
4 offense. The court shall judicially notice the statutes of other
5 states that define offenses substantially similar to the offense
6 defined in this section and that therefore can be considered
7 corresponding statutes.

8 3. This section does not require that the minor depicted
9 actually exists.

10 4. This section shall not apply to any bona fide law
11 enforcement or judicial activity, or to any material used for
12 educational purposes in any accredited school or public library,
13 or in any educational program.

14 5. This section shall not be construed to impose civil or
15 criminal liability on an internet service provider.

16 EXPLANATION

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

19 This bill relates to obscene materials involving minors.

20 The bill defines "obscene material involving a minor" as
21 any visual depiction that depicts or appears to depict a minor
22 engaging in a prohibited sexual act that the average person,
23 taking the visual depiction as a whole and applying contemporary
24 adult community standards, would find appeals to the prurient
25 interest and is patently offensive, and, when taken as a whole,
26 lacks serious literary, scientific, political, or artistic value.

27 The bill prohibits a person from knowingly producing,
28 distributing, receiving, or possessing with the intent to
29 distribute any obscene material involving a minor, or attempting
30 any such conduct. A person who commits a violation of the
31 bill commits an aggravated misdemeanor for a first offense and
32 a class "D" felony for a second or subsequent offense. An
33 aggravated misdemeanor is punishable by confinement for no more
34 than two years and a fine of at least \$855 but not more than
35 \$8,540. A class "D" felony is punishable by confinement for

1 no more than five years and a fine of at least \$1,025 but not
2 more than \$10,245. The bill provides that a person convicted
3 of production, distribution, receipt, or possession of obscene
4 materials involving minors, or attempting any such conduct, must
5 register as a tier I sex offender.

6 The bill does not require that the minor depicted actually
7 exists.

8 The bill does not apply to any bona fide law enforcement
9 or judicial activity, or to any material used for educational
10 purposes in any accredited school or any public library, or in
11 any educational program.

12 The bill does not impose civil or criminal liability on an
13 internet service provider.

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