

House File 526 - Reprinted

HOUSE FILE 526

BY COMMITTEE ON PUBLIC SAFETY

(SUCCESSOR TO HF 148)

(As Amended and Passed by the House March 27, 2017)

A BILL FOR

1 An Act relating to the criminal offense of harassment or
2 invasion of privacy, providing penalties, and making
3 penalties applicable.

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

1 Section 1. Section 232.8, subsection 1, Code 2017, is
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. *e.* The juvenile court shall have exclusive
4 jurisdiction in a proceeding concerning a child under the age
5 of eighteen alleged to have committed the offense of harassment
6 in violation of section 708.7, subsection 1, paragraph "a",
7 subparagraph (5).

8 Sec. 2. Section 708.7, Code 2017, is amended to read as
9 follows:

10 **708.7 Harassment.**

11 1. *a.* A person commits harassment when, with intent to
12 intimidate, annoy, or alarm another person, the person does any
13 of the following:

14 (1) Communicates with another by telephone, telegraph,
15 writing, or via electronic communication without legitimate
16 purpose and in a manner likely to cause the other person
17 annoyance or harm.

18 (2) Places a simulated explosive or simulated incendiary
19 device in or near a building, vehicle, airplane, railroad
20 engine or railroad car, or boat occupied by another person.

21 (3) Orders merchandise or services in the name of another,
22 or to be delivered to another, without the other person's
23 knowledge or consent.

24 (4) Reports or causes to be reported false information to a
25 law enforcement authority implicating another in some criminal
26 activity, knowing that the information is false, or reports the
27 alleged occurrence of a criminal act, knowing the act did not
28 occur.

29 (5) Disseminates, publishes, distributes, posts, or
30 causes to be disseminated, published, distributed, or posted a
31 photograph or film showing another person in a state of full or
32 partial nudity or engaged in a sex act, knowing that the other
33 person has not consented to the dissemination, publication,
34 distribution, or posting.

35 *b.* A person commits harassment when the person, purposefully

1 and without legitimate purpose, has personal contact with
2 another person, with the intent to threaten, intimidate, or
3 alarm that other person. ~~As used in this section, unless~~
4 ~~the context otherwise requires, "personal contact" means an~~
5 ~~encounter in which two or more people are in visual or physical~~
6 ~~proximity to each other. "Personal contact" does not require~~
7 ~~a physical touching or oral communication, although it may~~
8 ~~include these types of contacts.~~

9 2. a. A person commits harassment in the first degree when
10 the person commits harassment involving a any of the following:

11 (1) A threat to commit a forcible felony, or commits.

12 (2) A violation of subsection 1, paragraph "a", subparagraph
13 (5).

14 (3) Commits harassment and has previously been convicted
15 of harassment three or more times under this section or any
16 similar statute during the preceding ten years.

17 b. Harassment in the first degree is an aggravated
18 misdemeanor.

19 3. a. A person commits harassment in the second degree
20 when the person commits harassment involving a threat to commit
21 bodily injury, or commits harassment and has previously been
22 convicted of harassment two times under this section or any
23 similar statute during the preceding ten years.

24 b. Harassment in the second degree is a serious misdemeanor.

25 4. a. Any other act of harassment is harassment in the
26 third degree.

27 b. Harassment in the third degree is a simple misdemeanor.

28 5. For purposes of determining whether or not the person
29 should register as a sex offender pursuant to the provisions
30 of chapter 692A, the fact finder shall make a determination as
31 provided in section 692A.126.

32 6. The following do not constitute harassment under
33 subsection 1, paragraph "a", subparagraph (5):

34 a. A photograph or film involving voluntary exposure by a
35 person in public or commercial settings.

1 b. Disclosures made in the public interest, including but
2 not limited to the reporting of unlawful conduct, disclosures
3 by law enforcement, news reporting, legal proceeding
4 disclosures, or medical treatment disclosures.

5 c. Disclosures by an interactive computer service of
6 information provided by another information content provider.

7 7. As used in this section, unless the context otherwise
8 requires:

9 a. "Full or partial nudity" means the showing of any part
10 of the human genitals or pubic area or buttocks, or any part
11 of the nipple of the breast of a female, with less than fully
12 opaque covering.

13 b. "Interactive computer service" means any information
14 service, system, or access software provider that provides or
15 enables computer access by multiple users to a computer server,
16 including specifically a service or system that provides access
17 to the internet and such a service or system operated or
18 offered by a library or educational institution.

19 c. "Information content provider" means any person or entity
20 that is responsible, in whole or in part, for the creation or
21 development of information provided through the internet or any
22 other interactive computer service.

23 d. "Personal contact" means an encounter in which two or
24 more people are in visual or physical proximity to each other.
25 "Personal contact" does not require a physical touching or oral
26 communication, although it may include these types of contacts.

27 e. "Photographs or films" means the making of any
28 photograph, motion picture film, videotape, or any other
29 recording or transmission of the image of a person.

30 f. "Sex act" means the same as defined in section 702.17.

31 Sec. 3. Section 709.21, subsection 1, paragraph a, Code
32 2017, is amended to read as follows:

33 a. The other person ~~does not have knowledge about and~~
34 does not consent or is unable to consent to being viewed,
35 photographed, or filmed.