

political affiliation. Nomination shall be made by petition in accordance with chapter 45. The petition form shall be furnished by the county commissioner of elections, signed by fifty eligible electors of the county, and shall be filed with the county commissioner of elections at least fifty-five days prior to the date of the general election. A plurality is sufficient to elect hospital trustees.

Sec. 27. Section 477B.6, subsection 1, unnumbered paragraph 2, Code 1991, is amended to read as follows:

“Shall the following public measure be adopted? YES NO

“Should enhanced Enhanced 911 emergency telephone service shall be funded, in whole or in part, by a monthly surcharge of (an amount determined by the local joint E911 service board of up to one dollar) on each telephone access line collected as part of each telephone subscriber's monthly phone bill if provided within (description of the proposed E911 service area)?”

Sec. 28. Section 477B.6, subsection 2, unnumbered paragraph 2, Code 1991, is amended to read as follows:

At the request of the joint E911 service board a county commissioner of elections shall include the question on the next eligible general election ballot in each electoral precinct to be served, in whole or in part, by the proposed E911 service area, provided the request is timely submitted to permit inclusion. The question may be included in the next election in which all of the voters in the proposed E911 service area will be eligible to vote on the same day, such as a primary, general, or school board election. The county commissioner of elections shall report the results to the joint E911 service board. The joint E911 service board shall compile the results if subscribers from more than one county are included within the proposed service area. The joint E911 service board shall announce whether a simple majority of the compiled votes reported by the commissioner approved the referendum question.

Approved May 7, 1991

CHAPTER 130

SEXUAL EXPLOITATION BY COUNSELOR OR THERAPIST

S.F. 2

AN ACT relating to sexual exploitation by a counselor or therapist and providing penalties.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 702.11, Code 1991, is amended to read as follows:

702.11 FORCIBLE FELONY.

A “forcible felony” is any felonious child endangerment, assault, murder, sexual abuse other than sexual abuse in the third degree committed between spouses or in violation of section 709.4, subsection 2, paragraph “c”, subparagraph (4), kidnapping, robbery, arson in the first degree, or burglary in the first degree. However, sexual abuse in the third degree committed between spouses, sexual abuse in violation of section 709.4, subsection 2, paragraph “c”, subparagraph (4), or sexual exploitation by a counselor or therapist in violation of section 709.15, is not a “forcible felony”.

Sec. 2. NEW SECTION. 709.15 SEXUAL EXPLOITATION BY A COUNSELOR OR THERAPIST.

1. As used in this section:

a. “Counselor or therapist” means a physician, psychologist, nurse, professional counselor, social worker, marriage or family therapist, alcohol or drug counselor, member of the clergy, or any other person, whether or not licensed or registered by the state, who provides or purports to provide mental health services.

b. "Mental health service" means the treatment, assessment, or counseling of another person for a cognitive, behavioral, emotional, mental, or social dysfunction, including an intrapersonal or interpersonal dysfunction.

c. "Emotionally dependent" means that the nature of the patient's or client's or former patient's or client's emotional condition or the nature of the treatment provided by the counselor or therapist is such that the counselor or therapist knows or has reason to know that the patient or client or former patient or client is significantly impaired in the ability to withhold consent to sexual conduct, as described in paragraph "f", by the counselor or therapist.

For the purposes of paragraph "f", a former patient or former client is presumed to be dependent for one year following the termination of the provision of mental health services.

d. "Former patient or client" means a person who received mental health services from the counselor or therapist.

e. "Patient or client" means a person who receives mental health services from the counselor or therapist.

f. "Sexual abuse by a counselor or therapist" occurs when either or both of the following are found:

(1) A pattern or practice or scheme of conduct to engage in any of the conduct described in subparagraph (2) or (3).

(2) Any sexual conduct, with a patient or client or emotionally dependent former patient or client for the purpose of arousing or satisfying the sexual desires of the counselor or therapist or the patient or client or emotionally dependent former patient or client, which includes but is not limited to the following: kissing; touching of the clothed or unclothed inner thigh, breast, groin, buttock, anus, pubes, or genitals; or a sex act as defined in section 702.17.

(3) Any sexual conduct with a patient or client or former patient or client within one year of the termination of the provision of mental health services by the counselor or therapist for the purpose of arousing or satisfying the sexual desires of the counselor or therapist or the patient or client or former patient or client which includes but is not limited to the following: kissing; touching of the clothed or unclothed inner thigh, breast, groin, buttock, anus, pubes, or genitals; or a sex act as defined in section 702.17.

"Sexual abuse by a counselor or therapist" does not include touching which is part of a necessary examination or treatment provided a patient or client by a counselor or therapist acting within the scope of the practice or employment in which the counselor or therapist is engaged.

2. A counselor or therapist who commits sexual abuse in violation of subsection 1, paragraph "f", subparagraph (1), commits a class "D" felony.

3. A counselor or therapist who commits sexual abuse in violation of subsection 1, paragraph "f", subparagraph (2), commits an aggravated misdemeanor.

4. A counselor or therapist who commits sexual abuse in violation of subsection 1, paragraph "f", subparagraph (3), commits a serious misdemeanor. In lieu of the sentence provided for under section 903.1, subsection 1, paragraph "b", the offender may be required to attend a sexual abuser treatment program.

Sec. 3. Section 614.1, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 12. SEXUAL ABUSE BY A COUNSELOR OR THERAPIST. An action for damages for injury suffered as a result of sexual abuse by a counselor or therapist shall be brought within five years of the date the victim was last treated by the counselor or therapist.

Approved May 8, 1991