

HSB 4

Shay, Chair
Sukup
Kreiman

JUDICIARY

HOUSE FILE Successor 9104
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON LARSON)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to child endangerment violations and injuries to
2 a child and providing penalties.

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

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1 Section 1. Section 702.11, subsection 2, Code 2001, is
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. e. Child endangerment resulting in bodily
4 injury to a child in violation of section 726.6, subsection
5 2A.

6 Sec. 2. Section 726.6, subsection 1, unnumbered paragraph
7 1, Code 2001, is amended to read as follows:

8 A person who is the parent, guardian, or person having
9 custody or control over a child or a minor under the age of
10 eighteen with a mental or physical disability, or a person who
11 is a member of the household in which a child or such a minor
12 resides, commits child endangerment when the person does any
13 of the following:

14 Sec. 3. Section 726.6, subsection 1, paragraph b, Code
15 2001, is amended to read as follows:

16 b. By an intentional act or series of intentional acts,
17 uses unreasonable force, torture or cruelty that results in
18 physical injury, or that is intended to cause bodily injury or
19 serious injury.

20 Sec. 4. Section 726.6, Code 2001, is amended by adding the
21 following new subsection:

22 NEW SUBSECTION. 2A. A person who commits child
23 endangerment resulting in bodily injury to a child or minor is
24 guilty of a class "D" felony.

25 Sec. 5. Section 726.6, subsection 3, Code 2001, is amended
26 to read as follows:

27 3. A person who commits child endangerment not resulting
28 in bodily injury or serious injury to a child or minor is
29 guilty of an aggravated misdemeanor.

30 EXPLANATION

31 This bill amends Code section 726.6, relating to child
32 endangerment violations, and includes a conforming change to
33 Code section 702.11, relating to forcible felonies.

34 Code section 726.6 is amended to include a person who is a
35 member of the child's or minor's household in the list of

1 possible perpetrators of an act of child endangerment. The
2 list of child endangerment acts is amended to include acts
3 intended to cause bodily injury. A new subsection provides
4 that an act of child endangerment resulting in bodily injury
5 to a child is a class "D" felony and the bill provides that an
6 act of child endangerment that does not result in bodily
7 injury or serious injury to a child is an aggravated
8 misdemeanor.

9 Current law provides that a felonious act of child
10 endangerment is a forcible felony. Code section 702.11 is
11 amended to provide that a class "D" felony act of child
12 endangerment resulting in bodily injury to a child is not a
13 forcible felony.

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Substituted for by SF 63

JAN 25 2001

Place On Calendar

HOUSE FILE 104

BY COMMITTEE ON JUDICIARY

WITHDRAWN (SUCCESSOR TO HSB 4)
2/14/01

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to child endangerment violations and injuries to
2 a child or minor and providing penalties.

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

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HF 104

1 Section 1. Section 702.11, subsection 2, Code 2001, is
2 amended by adding the following new paragraph:
3 NEW PARAGRAPH. e. Child endangerment resulting in bodily
4 injury to a child in violation of section 726.6, subsection
5 2A.

6 Sec. 2. Section 726.6, subsection 1, unnumbered paragraph
7 1, Code 2001, is amended to read as follows:

8 A person who is the parent, guardian, or person having
9 custody or control over a child or a minor under the age of
10 eighteen with a mental or physical disability, or a person who
11 is a member of the household in which a child or such a minor
12 resides, commits child endangerment when the person does any
13 of the following:

14 Sec. 3. Section 726.6, subsection 1, paragraph b, Code
15 2001, is amended to read as follows:

16 b. By an intentional act or series of intentional acts,
17 uses unreasonable force, torture or cruelty that results in
18 ~~physical~~ bodily injury, or that is intended to cause serious
19 injury.

20 Sec. 4. Section 726.6, Code 2001, is amended by adding the
21 following new subsections:

22 NEW SUBSECTION. 1A. For the purposes of subsection 1,
23 "person having control over a child or a minor" means any of
24 the following:

25 a. A person who has accepted, undertaken, or assumed
26 supervision of a child or such a minor from the parent or
27 guardian of the child or minor.

28 b. A person who has undertaken or assumed temporary
29 supervision of a child or such a minor without explicit
30 consent from the parent or guardian of the child or minor.

31 c. A person who operates a motor vehicle with a child or
32 such a minor present in the vehicle.

33 NEW SUBSECTION. 2A. A person who commits child
34 endangerment resulting in bodily injury to a child or minor is
35 guilty of a class "D" felony.

1 Sec. 5. Section 726.6, subsection 3, Code 2001, is amended
2 to read as follows:

3 3. A person who commits child endangerment not resulting
4 in bodily injury or serious injury to a child or minor is
5 guilty of an aggravated misdemeanor.

6 EXPLANATION

7 This bill amends Code section 726.6, relating to child
8 endangerment violations, and includes a conforming change to
9 Code section 702.11, relating to forcible felonies.

10 Code section 726.6 is amended to include a person who is a
11 member of the child's or minor's household in the list of
12 possible perpetrators of an act of child endangerment. The
13 list of child endangerment acts is amended to include acts
14 intended to cause bodily injury.

15 In addition the bill adds two new subsections to Code
16 section 726.6. New subsection 1A defines the term "person
17 having control over a child or a minor" to add the following
18 to the list of possible perpetrators of an act of child
19 endangerment: a person who has accepted, undertaken, or
20 assumed supervision of a child or minor from the parent or
21 guardian, a person who has undertaken or assumed temporary
22 supervision without explicit consent from the parent or
23 guardian, or a person who operates a motor vehicle with a
24 child or minor present in the vehicle. New subsection 2A
25 provides that an act of child endangerment resulting in bodily
26 injury to a child or minor is a class "D" felony and the bill
27 provides that an act of child endangerment that does not
28 result in bodily injury or serious injury to a child or minor
29 is an aggravated misdemeanor.

30 Current law provides that a felonious act of child
31 endangerment is a forcible felony. Code section 702.11 is
32 amended to provide that a class "D" felony act of child
33 endangerment resulting in bodily injury to a child is not a
34 forcible felony.

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HOUSE FILE 104
FISCAL NOTE

The estimate for House File 104 is hereby submitted as a fiscal note pursuant to Joint Rule 17 and as a correctional impact statement pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

House File 104 expands the definition of who may be charged with child endangerment, to include a person in the household in which a child or minor resides. The Bill provides that child endangerment includes actions intended to cause bodily injury. Current law provides such acts are limited to serious injury. House File 104 imposes a nonforcible Class D felony for child endangerment resulting in bodily injury. Current law provides that child endangerment not resulting in serious injury is an aggravated misdemeanor.

ASSUMPTIONS

1. Charge, conviction, and sentencing patterns and trends will not change over the projection period.
2. Prisoner length of stay, revocation rates, and other corrections' practices and policies will not change over the projection period.
3. The law will become effective July 1, 2001. A lag effect of six months is assumed, from the effective date of the change in the law to the date of first entry of affected offenders into the correctional system.
4. The analysis is based on information obtained from the Justice Data Warehouse, which includes statewide court information. Conviction and penalty information is based on FY 2000 data.
5. The Bill clarifies who may be charged with child endangerment, to include people who have "custody or control over a child or minor." There may be additional charges and convictions due to this clarification; however, due to insufficient information, an accurate estimate cannot be provided.
6. Average jail terms are based on the average jail term imposed for child endangerment.
7. During FY 2000, 353 offenders were convicted of aggravated misdemeanor child endangerment. Of these, 14 were sentenced to prison, 102 received jail terms, 13 were sentenced to Community-Based Corrections (CBC) residential facilities, and 236 received supervised probation. Certain offenders received a split sentence of jail and probation.
8. Approximately 30.0% of convictions for aggravated misdemeanor child endangerment involve bodily injury.
9. Cases involving serious injury will not be affected by House File 104. These cases will continue to be prosecuted under current law as at least a Class C felony.
10. House File 104 will cause at least 88 offenders (25.0% of 353 convictions in FY 2000) to be convicted of a Class D felony rather than an aggravated misdemeanor. These Class D felons will be sentenced similar to other Class D felons.
11. There were 5,011 persons convicted of assault during FY 2000.

-2-

- Approximately 7.0% of reported assault victims were under age 13, based on the 1999 Uniform Crime Report. Approximately 18.0% of reported assaults involved family members, based on the 1999 Uniform Crime Report.
12. There will be at least 63 offenders (5,011 convictions x 7.0% = 351; 351 x 18.0% = 63) annually convicted of either aggravated misdemeanor or Class D felony child endangerment, rather than assault. Approximately 25.0% (16 offenders) will be sentenced as Class D felons while 47 offenders will be sentenced as aggravated misdemeanants.
 13. The marginal cost per day for county jails does not exceed \$25.00 per offender. The average length of stay for child endangerment is 42 days; the average length of stay for simple misdemeanor assault is 9 days; the average length of stay for serious misdemeanor assault is 48 days.
 14. The marginal cost per day for State prisons is \$16.00 per offender. The average length of stay for Class D felons in the State prison system is 21.3 months.
 15. The marginal cost per day for probation or parole is \$1.55 per offender. The average length of stay for street supervision is 29 months for a Class D felony and 19 months for an aggravated misdemeanor.
 16. The marginal cost per day for CBC facilities is \$16.00 per offender, with an average length of stay of 4 months.
 17. The median cost per case for aggravated misdemeanors and Class D felonies is \$1,000 to defend. There should be no net increase in costs for indigent defense or the State Public Defender's Office under House File 104.
 18. Court costs vary by type of offense charged as well as contested versus uncontested cases. Trial costs for an aggravated misdemeanor case ranges from \$173 to \$3,700. Trial costs for a Class D felony case range from \$2,900 to \$5,100. These costs include expenses for the Clerk of Court, court attendant, court reporter, juries, and judges; i.e., Magistrates, District Associate Judges, and District Court Judges.

CORRECTIONAL IMPACT

It is estimated there will be 8 fewer jail admissions during FY 2002, and 16 fewer admissions each year thereafter. On an annual basis, there will be 3 fewer child endangerment cases, 5 fewer simple misdemeanor assault cases, and 8 fewer serious misdemeanor assault cases.

Admissions to the State prison and CBC systems will increase. There will be 19 new admissions to the prison system during FY 2002, 37 new admissions during FY 2003 and each year thereafter. The prison population will increase by 19 inmates during FY 2002, 58 during FY 2003, and 73 during FY 2006.

Admissions to CBC facilities will increase by 2 during FY 2002, and 4 each year thereafter. Admissions to street supervision will increase by 10 in FY 2002, 21 in FY 2003, and 58 in FY 2006.

FISCAL IMPACT

State General Fund Impact:

The estimated FY 2002 costs for the State prison system are expected to increase by \$111,000; estimated FY 2003 costs are expected to increase by

-3-

\$339,000.

Community-Based Corrections (CBC) residential facility costs are estimated to increase by \$4,000 during FY 2002. Future fiscal year cost increases are estimated to be \$8,000 annually.

Probation and parole costs are estimated to increase by \$6,000 for FY 2002. FY 2003 cost increases are estimated to range from \$15,000 to \$18,000, depending on the number of aggravated misdemeanants versus the number of felons.

The court system will incur additional costs. There will be 104 offenders tried for a Class D felony rather than an aggravated misdemeanor. The cost increase ranges from approximately \$1,385 to \$2,738 per case. On an annual basis, the cost increase ranges from \$144,000 to \$285,000.

Total State criminal justice system (prisons, CBC, and Judicial Department) costs range from \$265,000 to \$406,000 for FY 2002. Total State costs for FY 2003 range from \$506,000 to \$650,000.

Local Government Impact:

Total statewide savings for county jails are estimated to be \$7,000 during FY 2002 and \$14,000 annually thereafter.

SOURCES

Criminal and Juvenile Justice Planning Division, Department of Human Rights
Department of Corrections
Supreme Court
State Public Defender's Office

(LSB 1274hv, BAL)

FILED JANUARY 31, 2001

BY DENNIS PROUTY, FISCAL DIRECTOR