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MAR 1 2001

Place On Calendar

HOUSE FILE 458  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 342)

Passed House, Date <sup>(P.804)</sup> 3-21-01 Passed Senate, Date <sup>(P.1063)</sup> 4-10-01  
Vote: Ayes 97 Nays 0 Vote: Ayes 48 Nays 0  
Approved April 23, 2001

A BILL FOR

1 An Act extending the statute of limitations period for filing a  
2 criminal charge of incest.

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

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HF 458

1 Section 1. NEW SECTION. 802.2A INCEST -- SEXUAL  
2 EXPLOITATION BY A COUNSELOR OR THERAPIST.

3 1. An information or indictment for incest under section  
4 726.2 committed on or with a person who is under the age of  
5 eighteen shall be found within ten years after the person upon  
6 whom the offense is committed attains eighteen years of age.  
7 An information or indictment for any other incest shall be  
8 found within ten years after its commission.

9 2. An indictment or information for sexual exploitation by  
10 a counselor or therapist under section 709.15 shall be found  
11 within ten years of the date the victim was last treated by  
12 the counselor or therapist.

13 Sec. 2. Section 802.3, Code 2001, is amended to read as  
14 follows:

15 802.3 FELONY -- AGGRAVATED OR SERIOUS MISDEMEANOR.

16 ~~1.~~ In all cases, except those enumerated in subsection-2  
17 ~~and-in~~ sections 802.1 ~~and~~, 802.2, and 802.2A, an indictment or  
18 information for a felony or aggravated or serious misdemeanor  
19 shall be found within three years after its commission.

20 ~~2.--An-indictment-or-information-for-sexual-exploitation-by~~  
21 ~~a-counselor-or-therapist-under-section-709.15-shall-be-found~~  
22 ~~within-ten-years-of-the-date-the-victim-was-last-treated-by~~  
23 ~~the-counselor-or-therapist.~~

24 EXPLANATION

25 This bill extends the statute of limitations period for  
26 filing a criminal charge for incest.

27 The bill provides that the statute of limitations shall be  
28 extended for filing a criminal charge for incest committed on  
29 or with a person under the age of 18, to 10 years after the  
30 person reaches the age of 18. The bill also extends the  
31 statute of limitations period for filing a criminal charge for  
32 all other incest cases, to 10 years after the commission of  
33 the act. Under current law, the statute of limitations period  
34 is three years.

35 Incest is a class "D" felony which is punishable by

1 confinement for no more than five years and a fine of at least  
2 \$750 but not more than \$7,500.

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HOUSE FILE 458

H-1255

1 Amend House File 458 as follows:  
2 1. Page 1, line 10, by inserting after the figure  
3 "709.15" the following: "committed on or with a  
4 person who is under the age of eighteen".  
5 2. Page 1, by striking lines 11 and 12 and  
6 inserting the following: "within ten years after the  
7 person upon whom the offense is committed attains  
8 eighteen years of age. An information or indictment  
9 for any other sexual exploitation shall be found  
10 within ten years of the date the victim was last  
11 treated by the counselor or therapist."

By RAECKER of Polk  
KREIMAN of Davis

H-1255 FILED MARCH 20, 2001

*Adopted*  
*3/21/01*  
*(P. 804)*

**HOUSE FILE 458**  
**FISCAL NOTE**

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The estimate for **House File 458** 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.

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House File 458 creates a new section under Chapter 802.2, Code of Iowa and extends the statute of limitations period for filing a criminal charge for incest from three to ten years. Incest is a Class D felony which is punishable by confinement for no more than five years and a fine of at least \$750 but not more than \$7,500. The Bill also provides that the statute of limitations shall be extended for filing a criminal charge for incest committed on or with a person under the age of 18, to ten years after the person reaches the age of 18.

**ASSUMPTIONS**

1. The analysis is based on information obtained from the Justice Data Warehouse, which included statewide court information. Conviction and penalty information is based on FY 2000 data.
2. There were eight offenders convicted of incest in FY 2000.
3. There were two convictions under 709.15, Code of Iowa during FY 2000.
4. The marginal cost per day for State prisons is \$16 per offender. The average length of stay for Class D felons in the State prison system is 21.3 months.
5. 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.
6. The median cost per case for Class D felonies is \$1,000 to defend.
7. Court costs for a Class D felony range from approximately \$3,000 to \$5,100 per case.

**CORRECTIONAL IMPACT**

House File 342 will result in increased cases to the prisons and community-based corrections, however, due to insufficient information, an estimate cannot be provided.

**FISCAL IMPACT**

House File 342 will result in increased cases being filed with the court,

PAGE 2 , FISCAL NOTE, HOUSE FILE 458

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however, an actual estimate cannot be provided due to insufficient information. The approximate cost for one person convicted of incest under Chapter 802, Code of Iowa would be \$17,000.

**SOURCES**

Criminal Juvenile and Justice Planning Division, Department of Human Rights  
Judicial Department

(LSB 3021hv, JDD)

FILED MARCH 6, 2001

BY DENNIS PROUTY, FISCAL DIRECTOR

5-3/27/01 To Pass

HOUSE FILE 458  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 342)

(As Amended and Passed by the House March 21, 2001)

Passed House, <sup>(P. 1202)</sup> Date 4-17-01 Passed Senate, <sup>(P. 1063)</sup> Date 4-10-01  
Vote: Ayes 98 Nays 0 Vote: Ayes 48 Nays 0  
Approved April 23, 2001

**A BILL FOR**

1 An Act extending the statute of limitations period for filing a  
2 criminal charge of incest.

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

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House Amendments \_\_\_\_\_

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**HOUSE FILE 458**

**S-3265**

1 Amend House File 458, as amended, passed, and  
2 reprinted by the House, as follows:  
3 1. Title page, line 2, by inserting after the  
4 word "incest" the following: "or sexual exploitation  
5 by a counselor or therapist".

By NANCY BOETTGER

**S-3265 FILED MARCH 27, 2001**

*Adopted*  
*4-10-01 (P. 1062)*

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1 Section 1. NEW SECTION. 802.2A INCEST -- SEXUAL  
2 EXPLOITATION BY A COUNSELOR OR THERAPIST.

3 1. An information or indictment for incest under section  
4 726.2 committed on or with a person who is under the age of  
5 eighteen shall be found within ten years after the person upon  
6 whom the offense is committed attains eighteen years of age.  
7 An information or indictment for any other incest shall be  
8 found within ten years after its commission.

9 2. An indictment or information for sexual exploitation by  
10 a counselor or therapist under section 709.15 committed on or  
11 with a person who is under the age of eighteen shall be found  
12 within ten years after the person upon whom the offense is  
13 committed attains eighteen years of age. An information or  
14 indictment for any other sexual exploitation shall be found  
15 within ten years of the date the victim was last treated by  
16 the counselor or therapist.

17 Sec. 2. Section 802.3, Code 2001, is amended to read as  
18 follows:

19 802.3 FELONY -- AGGRAVATED OR SERIOUS MISDEMEANOR.

20 ~~1-~~ In all cases, except those enumerated in ~~subsection-2~~  
21 ~~and-in~~ sections 802.1 ~~and,~~ 802.2, and 802.2A, an indictment or  
22 information for a felony or aggravated or serious misdemeanor  
23 shall be found within three years after its commission.

24 ~~2.--An indictment or information for sexual exploitation by~~  
25 ~~a counselor or therapist under section 709.15 shall be found~~  
26 ~~within ten years of the date the victim was last treated by~~  
27 ~~the counselor or therapist.~~

**SENATE AMENDMENT TO HOUSE FILE 458**

H-1481

1 Amend House File 458, as amended, passed, and  
2 reprinted by the House, as follows:  
3 1. Title page, line 2, by inserting after the  
4 word "incest" the following: "or sexual exploitation  
5 by a counselor or therapist".

RECEIVED FROM THE SENATE

H-1481 FILED APRIL 11, 2001

*House Concurred 4-17-01 (p.1202)*

HOUSE FILE 458

AN ACT

EXTENDING THE STATUTE OF LIMITATIONS PERIOD FOR FILING A  
CRIMINAL CHARGE OF INCEST OR SEXUAL EXPLOITATION BY A  
COUNSELOR OR THERAPIST.

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

Section 1. NEW SECTION. 802.2A INCEST -- SEXUAL  
EXPLOITATION BY A COUNSELOR OR THERAPIST.

1. An information or indictment for incest under section  
726.2 committed on or with a person who is under the age of  
eighteen shall be found within ten years after the person upon  
whom the offense is committed attains eighteen years of age.  
An information or indictment for any other incest shall be  
found within ten years after its commission.

2. An indictment or information for sexual exploitation by  
a counselor or therapist under section 709.15 committed on or  
with a person who is under the age of eighteen shall be found  
within ten years after the person upon whom the offense is  
committed attains eighteen years of age. An information or  
indictment for any other sexual exploitation shall be found  
within ten years of the date the victim was last treated by  
the counselor or therapist.

Sec. 2. Section 802.3, Code 2001, is amended to read as  
follows:

802.3 FELONY -- AGGRAVATED OR SERIOUS MISDEMEANOR.

~~It~~ In all cases, except those enumerated in ~~subsection 2~~  
~~and in~~ sections 802.1 ~~and~~, 802.2, and 802.2A, an indictment or  
information for a felony or aggravated or serious misdemeanor  
shall be found within three years after its commission.

~~2. -- An indictment or information for sexual exploitation by  
a counselor or therapist under section 709.15 shall be found  
within ten years of the date the victim was last treated by  
the counselor or therapist.~~

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BRENT SIEGRIST  
Speaker of the House

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MARY E. KRAMER  
President of the Senate

I hereby certify that this bill originated in the House and  
is known as House File 458, Seventy-ninth General Assembly.

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Approved April 23, 2001

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MARGARET THOMSON  
Chief Clerk of the House

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THOMAS J. VILSACK  
Governor