

SENATE FILE 403
BY SHEARER

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

A BILL FOR

1 An Act relating to criminal offenses and crime victims by
2 providing for termination of parental rights of persons who
3 commit sexual abuse, for changes to the definition of indecent
4 contact with a child, for changes to the statute of
5 limitations for certain sexual abuse cases, for crime victim
6 counselors to be present at civil proceedings, and for
7 polygraph examinations of sexual abuse victims and witnesses.
8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 403
JUDICIARY

1 Section 1. Section 600A.8, Code 2001, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 10. A parent who has been adjudicated
4 guilty of the act of sexual abuse in violation of section
5 709.2, 709.3, or 709.4, and whose parental rights were not
6 terminated under section 901.5, subsection 8B.

7 Sec. 2. NEW SECTION. 600A.11 SEXUAL ABUSE ADJUDICATION
8 -- TERMINATION.

9 Upon an adjudication of guilt for the act of sexual abuse
10 in violation of section 709.2, 709.3, or 709.4, the person who
11 committed sexual abuse shall have the person's parental rights
12 terminated with respect to any child born or expected to be
13 born that resulted from the commission of the act of sexual
14 abuse as provided in section 901.5, subsection 8B, if the
15 victim requests such a termination.

16 Sec. 3. Section 709.12, unnumbered paragraph 1, Code 2001,
17 is amended to read as follows:

18 A person eighteen years of age or older is upon conviction
19 guilty of an aggravated misdemeanor if the person commits any
20 of the following acts with a child, not the person's spouse,
21 with or without the child's consent, ~~for-the-purpose-of~~
22 ~~arousing-or-satisfying-the-sexual-desires-of-either-of-them;~~
23 which are not related to parental responsibilities or
24 medically necessary.

25 Sec. 4. Section 802.2, subsection 1, Code 2001, is amended
26 to read as follows:

27 1. An information or indictment for sexual abuse in the
28 first, second, or third degree committed on or with a person
29 who is under the age of eighteen years ~~shall-be-found-within~~
30 ~~ten-years-after-the-person-upon-whom-the-offense-is-committed~~
31 ~~attains-eighteen-years-of-age~~ may be commenced at any time
32 after the commission of the act.

33 Sec. 5. Section 901.5, Code 2001, is amended by adding the
34 following new subsection:

35 NEW SUBSECTION. 8B. In the case of a violation of sexual

1 abuse under section 709.2, 709.3, or 709.4, the court shall
2 terminate the parental rights of the defendant with respect to
3 any child born or expected to be born as a result of the act
4 of sexual abuse if the victim requests the termination.

5 Sec. 6. Section 915.20, subsection 1, paragraph a, Code
6 2001, is amended to read as follows:

7 a. "Proceedings related to the offense" means any
8 activities engaged in or proceedings commenced by a law
9 enforcement agency, judicial district department of
10 correctional services, or a court pertaining to the commission
11 of a public offense against the victim, in which the victim is
12 present, as well as examinations of the victim in an emergency
13 medical facility due to injuries from the public offense which
14 do not require surgical procedures. "Proceedings related to
15 the offense" includes, but is not limited to, law enforcement
16 investigations, pretrial court hearings, trial and sentencing
17 proceedings, ~~and~~ proceedings relating to the preparation of a
18 presentence investigation report in which the victim is
19 present, and any civil proceedings.

20 Sec. 7. Section 915.44, Code 2001, is amended to read as
21 follows:

22 915.44 POLYGRAPH EXAMINATIONS OF VICTIMS OR WITNESSES --
23 LIMITATIONS.

24 1. A criminal or juvenile justice agency shall not require
25 a person claiming to be a victim of sexual assault or claiming
26 to be a witness regarding the sexual assault of another person
27 to submit to a polygraph or similar examination ~~as-a~~
28 ~~precondition-to-the-agency-conducting-an-investigation-into~~
29 ~~the-matter.~~

30 2. ~~An-agency-wishing-to-perform-a-polygraph-examination-of~~
31 ~~a~~ A person claiming to be a victim or witness of sexual
32 assault ~~shall-inform-the-person-of-the-following~~ who wishes to
33 submit to a polygraph examination shall be informed of the
34 following by the examining agency:

35 a. That taking the polygraph examination is voluntary.

1 b. That the results of the examination are not admissible
2 in court.

3 c. That the person's decision to submit or refuse a
4 polygraph examination will not be the sole basis for a
5 decision by the agency not to investigate the matter.

6 3. An agency which declines to investigate an alleged case
7 of sexual assault ~~following a decision by~~ involving a person
8 claiming to be a victim ~~not to submit to a polygraph~~
9 ~~examination~~ shall provide to that person, in writing, the
10 reasons why the agency did not pursue the investigation at the
11 request of the person.

12 EXPLANATION

13 This bill makes several changes to statutory provisions
14 related to criminal offenses and crime victims.

15 Code section 600A.8, relating to grounds for terminating
16 parental rights, is amended. The bill provides that an
17 adjudication of guilt for an act of sexual abuse, the result
18 of which is the birth of a child, is a ground for termination
19 of parental rights.

20 New Code section 600A.11, relating to terminating parental
21 rights, is created. The Code section provides that upon an
22 adjudication of guilt, a person who commits sexual abuse shall
23 have the person's parental rights terminated under Code
24 section 901.5 with respect to any child born or expected to be
25 born that resulted from the act of sexual abuse if the victim
26 requests the termination.

27 Code section 709.12, relating to the criminal offense of
28 indecent contact with a child, is amended. The bill
29 eliminates "arousing or satisfying sexual desires of either
30 party" as an element of the offense but adds that a person
31 does not commit indecent contact with a child if the act is
32 related to parental responsibilities or medically necessary.
33 To be convicted of the criminal offense of indecent contact
34 with a child, current law provides that the person must
35 perform the illegal act and do so with the purpose of arousing

1 or satisfying the sexual desires of either party.

2 Code section 802.2(1), relating to the statute of
3 limitations for sexual abuse committed on or with a person
4 under the age of 18, is amended. The bill provides that the
5 statute of limitations shall be extended to any time period
6 after commission of the sexual abuse. Current law provides
7 that the statute of limitations is 10 years after the victim
8 reaches the age of 18.

9 Code section 915.20, relating to crime victim counselors,
10 is amended. The bill provides that a crime victim counselor
11 shall not be denied access to any civil proceedings related to
12 a criminal offense, if the counselor is requested to be
13 present at the proceedings by the victim. Current law
14 provides that a crime victim counselor shall not be denied
15 access to criminal proceedings, if the counselor's presence is
16 requested by the victim.

17 Code section 915.44, relating to polygraph examinations of
18 sexual abuse victims, is amended. The bill and current law
19 provide that a law enforcement agency shall not require a
20 sexual abuse victim or sexual abuse witness to submit to a
21 polygraph examination. The bill also provides that a sexual
22 abuse victim or a witness to sexual abuse who wishes to submit
23 to a polygraph examination, may do so only after being
24 informed that the examination is voluntary, not admissible in
25 court, and the decision to submit or refuse an examination
26 will not be the sole basis for a decision to not investigate
27 the matter.

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