

MAR 1 5 2005  
Place On Calendar

HOUSE FILE 752  
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO HSB 269)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to crimes against members of the species Homo  
2 sapiens at any stage of development and making penalties  
3 applicable.

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

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HF 752

1 Section 1. NEW SECTION. 707.12 APPLICATION.

2 1. For the purposes of sections 707.1, 707.2, 707.3,  
3 707.4, and 707.11, as it pertains to the victim of a crime,  
4 "person" includes a member of the species Homo sapiens, at any  
5 stage of development when carried in the womb or after birth.

6 2. Sections 707.1, 707.2, 707.3, 707.4, and 707.11 shall  
7 not apply to a legal abortion to which the pregnant woman or a  
8 person legally authorized to act on the pregnant woman's  
9 behalf consented, or for which consent is implied by law.

10 EXPLANATION

11 This bill provides that for the purposes of certain  
12 sections of the Code, as they pertain to victims of murder or  
13 manslaughter, "person" includes a member of the species Homo  
14 sapiens, at any stage of development when carried in the womb  
15 or after birth. The sections of the Code are: section 707.1  
16 (murder); section 707.2 (murder in the first degree); section  
17 707.3 (murder in the second degree); section 707.4 (voluntary  
18 manslaughter); and section 707.11 (attempt to commit murder).

19 The bill also provides that those sections do not apply to  
20 a legal abortion to which the pregnant woman or a person  
21 legally authorized to act on the pregnant woman's behalf  
22 consented, or for which consent is implied by law.

23 Under the bill, the penalty for each crime is applicable to  
24 the perpetrator for each such victim.

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HOUSE FILE 752

H-1106

1 Amend House File 752 as follows:

2 1. By striking everything after the enacting  
3 clause and inserting the following:

4 "Section 1. Section 135.11, Code 2005, is amended  
5 by adding the following new subsection:

6 NEW SUBSECTION. 19A. Develop a model plan for  
7 institutional health facilities as defined in section  
8 135.61, maternal health centers, and other providers  
9 under the purview of the department that provide  
10 services to women during pregnancy or immediately  
11 following the birth of a child. The model plan shall  
12 address a provider's provision of mental health  
13 assessments and referrals to women receiving services  
14 from the provider during pregnancy and postpartum.

15 Sec. 2. Section 135.106, subsection 2, paragraph  
16 d, Code 2005, is amended to read as follows:

17 d. Provision of systematic screening, prenatally  
18 or upon the birth of a child, to identify high-risk  
19 families. The screening process shall include but is  
20 not limited to provision of mental health assessments  
21 and referrals of women during pregnancy and  
22 postpartum.

23 Sec. 3. Section 255A.2, Code 2005, is amended by  
24 adding the following new unnumbered paragraph:

25 NEW UNNUMBERED PARAGRAPH. The services provided  
26 under the statewide obstetrical and newborn indigent  
27 patient care program shall include but are not limited  
28 to mental health assessments and treatment during  
29 pregnancy and postpartum for the women covered by the  
30 program.

31 Sec. 4. Section 514C.12, subsection 1, Code 2005,  
32 is amended to read as follows:

33 1. Notwithstanding section 514C.6, a person who  
34 provides an individual or group policy of accident or  
35 health insurance or individual or group hospital or  
36 health care service contract issued pursuant to  
37 chapter 509, 509A, 514, or 514A or an individual or  
38 group health maintenance organization contract issued  
39 and regulated under chapter 514B, ~~which is delivered,~~  
40 ~~amended, or renewed on or after July 1, 1996, and~~  
41 which provides maternity benefits, which are not  
42 limited to complications of pregnancy, or newborn care  
43 benefits, shall not terminate inpatient benefits or  
44 require discharge of a mother or the newborn from a  
45 hospital following delivery earlier than determined to  
46 be medically appropriate by the attending physician  
47 after consultation with the mother and in accordance  
48 with guidelines adopted by rule by the commissioner.  
49 The guidelines adopted by rule shall be consistent  
50 with or may adopt by reference the guidelines for

H-1106

**H-1106**

Page 2

1 perinatal care established by the American academy of  
2 pediatrics and the American college of obstetricians  
3 and gynecologists which provide that when  
4 complications are not present, the postpartum hospital  
5 stay ranges from a minimum of forty-eight hours for a  
6 vaginal delivery to a minimum of ninety-six hours for  
7 a cesarean birth, excluding the day of delivery. The  
8 guidelines adopted by rule by the commissioner shall  
9 also provide that in the event of a discharge from the  
10 hospital prior to the minimum stay established in the  
11 guidelines, a postdischarge follow-up visit shall be  
12 provided to the mother and newborn by providers  
13 competent in postpartum care and newborn assessment if  
14 determined medically appropriate as directed by the  
15 attending physician, in accordance with the  
16 guidelines. In addition, the guidelines shall provide  
17 for coverage of mental health assessment and treatment  
18 of women provided during pregnancy and postpartum  
19 under the policies and contracts subject to this  
20 section that are delivered, amended, or renewed on or  
21 after July 1, 2005."

22 2. Title page, by striking lines 1 through 3 and  
23 inserting the following: "An Act relating to services  
24 available to women during pregnancy and postpartum."

**By** MASCHER of Johnson

**H-1106** FILED MARCH 17, 2005

HOUSE FILE 752

H-1107

1 Amend House File 752 as follows:  
2 1. By striking everything after the enacting  
3 clause and inserting the following:  
4 "Section 1. PROTECTION INITIATIVE --  
5 APPROPRIATION. There is appropriated from the general  
6 fund of the state to the Iowa department of public  
7 health for the fiscal year beginning July 1, 2005, and  
8 ending June 30, 2006, the following amount, or so much  
9 thereof as is necessary, for the purpose designated:  
10 For enhancement of initiatives to increase public  
11 awareness regarding violence against pregnant women  
12 and for the development of services and programs to  
13 protect pregnant women against violence:  
14 ..... \$ 100,000"  
15 2. Title page, by striking lines 1 through 3, and  
16 inserting the following: "An Act relating to  
17 protection of pregnant women against violence, and  
18 providing an appropriation."

By SMITH of Marshall

H-1107 FILED MARCH 18, 2005

HOUSE FILE 752

H-1108

1 Amend House File 752 as follows:  
2 1. Page 1, by striking lines 1 through 9, and  
3 inserting the following:  
4 "Section 1. Section 707.8, subsection 2, Code  
5 2005, is amended to read as follows:  
6 2. A person who terminates a human pregnancy  
7 without the consent of the pregnant person during the  
8 commission of a felony or felonious assault is guilty  
9 of a class ~~"C"~~ "B" felony."  
10 2. Title page, lines 1 through 3, by striking the  
11 words "crimes against members of the species Homo  
12 sapiens at any stage of development and making  
13 penalties applicable" and inserting the following:  
14 "nonconsensual termination of a human pregnancy during  
15 the commission of a felony or a felonious assault and  
16 providing a penalty".

By HUNTER of Polk

H-1108 FILED MARCH 18, 2005

HOUSE FILE 752

H-1109

1 Amend House File 752 as follows:

2 1. Page 1, by striking lines 1 through 9, and  
3 inserting the following:

4 "Section 1. Section 707.8, subsection 3, Code  
5 2005, is amended to read as follows:

6 3. A person who intentionally terminates a human  
7 pregnancy without the knowledge and voluntary consent  
8 of the pregnant person is guilty of a class ~~"C"~~ "B"  
9 felony.

10 2. Title page, lines 1 through 3, by striking the  
11 words "crimes against members of the species Homo  
12 sapiens at any stage of development and making  
13 penalties applicable" and inserting the following:  
14 "intentional nonconsensual termination of a human  
15 pregnancy and providing a penalty".

By HUNTER of Polk

H-1109 FILED MARCH 18, 2005

HOUSE FILE 752

H-1110

1 Amend House File 752 as follows:

2 1. Page 1, by striking lines 1 through 9, and  
3 inserting the following:

4 "Section 1. Section 707.8, subsection 4, Code  
5 2005, is amended to read as follows:

6 4. A person who unintentionally terminates a human  
7 pregnancy by any of the means provided pursuant to  
8 section 707.6A, subsection 1, is guilty of a class ~~"C"~~  
9 "B" felony."

10 2. Title page, lines 1 through 3, by striking the  
11 words "crimes against members of the species Homo  
12 sapiens at any stage of development and making  
13 penalties applicable" and inserting the following:  
14 "the unintentional termination of a human pregnancy  
15 and providing a penalty".

By HUNTER of Polk

H-1110 FILED MARCH 18, 2005

HOUSE FILE 752

H-1111

1 Amend House File 752 as follows:

2 1. Page 1, by striking lines 1 through 9 and  
3 inserting the following:

4 "Sec. \_\_\_\_ Section 707.8, subsection 6, Code 2005,  
5 is amended to read as follows:

6 6. A person who unintentionally terminates a human  
7 pregnancy while drag racing in violation of section  
8 321.278 is guilty of a class ~~"D"~~ "C" felony."

9 2. Title page, by striking lines 1 through 3, and  
10 inserting the following: "An Act relating to  
11 unintentional termination of a human pregnancy while  
12 drag racing and providing a penalty."

By HUNTER of Polk

H-1111 FILED MARCH 18, 2005

HOUSE FILE 752

H-1114

1 Amend House File 752 as follows:

2 1. Page 1, by striking lines 1 through 9 and  
3 inserting the following:

4 "Section 1. Section 707.8, subsection 1, Code  
5 2005, is amended to read as follows:

6 1. A person who terminates a human pregnancy  
7 without the consent of the pregnant person during the  
8 commission of a forcible felony is guilty of a class  
9 ~~"B"~~ "A" felony."

10 2. Title page, lines 1 through 3, by striking the  
11 words "crimes against members of the species Homo  
12 sapiens at any stage of development and making  
13 penalties applicable" and inserting the following:  
14 "nonconsensual termination of a pregnancy during the  
15 commission of a forcible felony and providing a  
16 penalty".

By HUNTER of Polk

H-1114 FILED MARCH 18, 2005

**Fiscal Services Division  
Legislative Services Agency  
Fiscal Note**

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HF 752 - Unborn Child, Death or Injury (LSB 3127HV)

Analyst: Beth Lenstra (Phone: (515) 281-6301 (beth.lenstra@legis.state.ia.us))

Fiscal Note Version - New

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**Description**

House File 752 defines a "person" to include the unborn as it pertains to victims of first and second degree murder, voluntary manslaughter, and attempted murder. The Bill provides that these crimes do not apply to a legal abortion.

**Factual Background**

1. There were three convictions under Section 707.8, Code of Iowa, in FY 2003. Two were Class C felony convictions and one was an aggravated misdemeanor conviction. There were no convictions under Section 707.8, Code of Iowa, in FY 2004.
2. There were no convictions under Section 707.7, Code of Iowa, in FY 2003 or FY 2004.
3. First degree murder is a Class A felony, which is life in prison. State costs for one Class A felony conviction are approximately \$94,000.
4. Second degree murder is a Super Class B felony, with a period of confinement not to exceed 50 years. The offender is required to serve 70.0% of the maximum term in the State prison system. State costs for one Super Class B felony conviction for a crime against a person are approximately \$83,000.
5. Voluntary manslaughter is a Class C felony. State costs for one Class C felony conviction for a crime against a person are approximately \$23,000.
6. Attempted murder is a Class B felony. The offender is required to serve 70.0% of the maximum term (25 years) in the State prison system. State costs for one Class B felony conviction for a crime against a person are approximately \$83,000.
7. The costs stated above include the Judicial Branch holding a trial; indigent defense; and supervision while on parole or prison, if applicable. The costs will be incurred across multiple fiscal years.

**Correctional Impact**

The correctional impact is not anticipated to be significant given the low number of convictions under current law.

**Fiscal Impact**

The fiscal impact of HF 752 cannot be determined due to insufficient information. The State's increased cost for one conviction for an enhanced penalty is:

- From a Class B to a Class A felony conviction, the cost is approximately \$11,000.
- From a Class C to a Class A felony conviction, the cost is approximately \$71,000.
- From a Class C to a Class B felony, the cost is approximately \$60,000.

**Sources**

Department of Human Rights, Criminal and Juvenile Justice Planning Division  
Department of Corrections  
Judicial Branch  
Office of the State Public Defender

/s/ Holly M. Lyons

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March 21, 2005

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The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Fiscal Services Division, Legislative Services Agency to members of the Legislature upon request.

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*Roberts  
Carroll  
Hunter*

HSB 269  
HUMAN RESOURCES

\_\_\_\_\_ SF / SF  
Ag pepeec eeded By

HOUSE FILE

SF

By

752

BY (PROPOSED COMMITTEE ON  
HUMAN RESOURCES BILL BY  
CHAIRPERSON UPMEYER)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

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