

Iowa Sexual Offenses Against Children

Iowa law defines many different actions as sexual offenses. Some of these offenses involve proscribed actions that are specific to children, while others include harm to adults also. Read how Iowa law defines specific offenses below:

709.2 Sexual Abuse In The First Degree

709.3 Sexual Abuse In The Second Degree

709.4 Sexual Abuse In The Third Degree

709.8 Lascivious Acts With A Child

709.9 Indecent Exposure

709.11 Assault With Intent To Commit Sexual Abuse

709.12 Indecent Contact With A Child

709.14 Lascivious Conduct With A Minor

709.15 Sexual Exploitation By A Counselor, Therapist, Or School Employee

709.21 Invasion Of Privacy -- Nudity

726.2 Incest

728.12 Sexual Exploitation Of A Minor

709.2 SEXUAL ABUSE IN THE FIRST DEGREE.

A person commits sexual abuse in the first degree when in the course of committing sexual abuse the person causes another serious injury. Sexual abuse in the first degree is a class "A" felony.

709.3 SEXUAL ABUSE IN THE SECOND DEGREE.

A person commits sexual abuse in the second degree when the person commits sexual abuse under any of the following circumstances:

1. During the commission of sexual abuse the person displays in a threatening manner a dangerous weapon, or uses or threatens to use force creating a substantial risk of death or serious injury to any person.
2. The other person is under the age of twelve.
3. The person is aided or abetted by one or more persons and the sex act is committed by force or against the will of the other person against whom the sex act is committed.

Sexual abuse in the second degree is a class "B" felony.

709.4 SEXUAL ABUSE IN THE THIRD DEGREE.

A person commits sexual abuse in the third degree when the person performs a sex act under any of the following circumstances:

1. The act is done by force or against the will of the other person, whether or not the other person is the person's spouse or is cohabiting with the person.
2. The act is between persons who are not at the time cohabiting as husband and wife and if any of the following are true:
 - a. The other person is suffering from a mental defect or incapacity which precludes giving consent.
 - b. The other person is twelve or thirteen years of age.
 - c. The other person is fourteen or fifteen years of age and any of the following are true:

- (1) The person is a member of the same household as the other person.
- (2) The person is related to the other person by blood or affinity to the fourth degree.
- (3) The person is in a position of authority over the other person and uses that authority to coerce the other person to submit.
- (4) The person is four or more years older than the other person.

3. The act is performed while the other person is under the influence of a controlled substance, which may include but is not limited to flunitrazepam, and all of the following are true:

- a. The controlled substance, which may include but is not limited to flunitrazepam, prevents the other person from consenting to the act.
- b. The person performing the act knows or reasonably should have known that the other person was under the influence of the controlled substance, which may include but is not limited to flunitrazepam.

4. The act is performed while the other person is mentally incapacitated, physically incapacitated, or physically helpless.

Sexual abuse in the third degree is a class "C" felony.

709.8 LASCIVIOUS ACTS WITH A CHILD.

It is unlawful for any person sixteen years of age or older to perform any of the following acts with a child with or without the child's consent unless married to each other, for the purpose of arousing or satisfying the sexual desires of either of them:

1. Fondle or touch the pubes or genitals of a child.
2. Permit or cause a child to fondle or touch the person's genitals or pubes.
3. Solicit a child to engage in a sex act or solicit a person to arrange a sex act with a child.
4. Inflict pain or discomfort upon a child or permit a child to inflict pain or discomfort on the person.

Any person who violates a provision of this section involving an act included in subsection 1 or 2 shall, upon conviction, be guilty of a class "C" felony. Any person who violates a provision of this section involving an act included in subsection 3 or 4 shall, upon conviction, be guilty of a class "D" felony.

709.9 INDECENT EXPOSURE.

A person who exposes the person's genitals or pubes to another not the person's spouse, or who commits a sex act in the presence of or view of a third person, commits a serious misdemeanor, if:

1. The person does so to arouse or satisfy the sexual desires of either party; and
2. The person knows or reasonably should know that the act is offensive to the viewer.

709.11 ASSAULT WITH INTENT TO COMMIT SEXUAL ABUSE.

Any person who commits an assault, as defined in section 708.1, with the intent to commit sexual abuse is guilty of a class "C" felony if the person thereby causes serious injury to any person and guilty of a class "D" felony if the person thereby causes any person a bodily injury other than a serious injury. The person is guilty of an aggravated misdemeanor if no injury results.

709.12 INDECENT CONTACT WITH A CHILD.

A person eighteen years of age or older is upon conviction guilty of an aggravated misdemeanor if the person commits any of the following acts with a child, not the person's spouse, with or without the child's consent, for the purpose of arousing or satisfying the sexual desires of either of them:

1. Fondle or touch the inner thigh, groin, buttock, anus, or breast of the child.
2. Touch the clothing covering the immediate area of the inner thigh, groin, buttock, anus, or breast of the child.
3. Solicit or permit a child to fondle or touch the inner thigh, groin, buttock, anus, or breast of the person.
4. Solicit a child to engage in any act prohibited under section 709.8, subsection 1, 2, or 4.

The provisions of this section shall also apply to a person sixteen or seventeen years of age who commits any of the enumerated acts with a child who is at least five years the person's junior, in which case the juvenile court shall have jurisdiction under chapter 232.

709.14 LASCIVIOUS CONDUCT WITH A MINOR.

It is unlawful for a person over eighteen years of age who is in a position of authority over a minor to force, persuade, or coerce a minor, with or without consent, to disrobe or partially disrobe for the purpose of arousing or satisfying the sexual desires of either of them.

Lascivious conduct with a minor is a serious misdemeanor.

709.15 SEXUAL EXPLOITATION BY A COUNSELOR, THERAPIST, OR SCHOOL EMPLOYEE.

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. "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 subsection 2, by the counselor or therapist.

For the purposes of subsection 2, a former patient or client is presumed to be emotionally dependent for one year following the termination of the provision of mental health services.

- c. "Former patient or client" means a person who received mental health services from the counselor or therapist.
- d. "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.
- e. "Patient or client" means a person who receives mental health services from the counselor or therapist.
- f. "School employee" means a practitioner as defined in section 272.1.

g. "Student" means a person who is currently enrolled in or attending a public or nonpublic elementary or secondary school, or who was a student enrolled in or who attended a public or nonpublic elementary or secondary school within thirty days of any violation of subsection 3.

2. Sexual exploitation by a counselor or therapist occurs when any of the following are found:

- a. A pattern or practice or scheme of conduct to engage in any of the conduct described in paragraph "b" or "c".
- b. Any sexual conduct, with an emotionally dependent 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 emotionally dependent 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.
- c. 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 exploitation 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.

3. Sexual exploitation by a school employee occurs when any of the following are found:

- a. A pattern or practice or scheme of conduct to engage in any of the conduct described in paragraph "b".
- b. Any sexual conduct with a student for the purpose of arousing or satisfying the sexual desires of the school employee or the student. Sexual conduct 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 exploitation by a school employee does not include touching that is necessary in the performance of the school employee's duties while acting within the scope of employment.

4. a. A counselor or therapist who commits sexual exploitation in violation of subsection 2, paragraph "a", commits a class "D" felony.

b. A counselor or therapist who commits sexual exploitation in violation of subsection 2, paragraph "b", commits an aggravated misdemeanor.

c. A counselor or therapist who commits sexual exploitation in violation of subsection 2, paragraph "c", 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.

5. a. A school employee who commits sexual exploitation in violation of subsection 3, paragraph "a", commits a class "D" felony.

709.21 INVASION OF PRIVACY -- NUDITY.

1. A person who knowingly views, photographs, or films another person, for the purpose of arousing or gratifying the sexual desire of any person, commits invasion of privacy if all of the following apply:

- a. The other person does not have knowledge about and does not consent or is unable to consent to being viewed, photographed, or filmed.
- b. The other person is in a state of full or partial nudity.
- c. The other person has a reasonable expectation of privacy while in a state of full or partial nudity.

2. As used in this section:

- a. "Full or partial nudity" means the showing of any part of the human genitals or pubic area or buttocks, or any part of the nipple of the breast of a female, with less than fully opaque covering.
- b. "Photographs or films" means the making of any photograph, motion picture film, videotape, or any other recording or transmission of the image of a person.

3. A person who violates this section commits a serious misdemeanor.

726.2 INCEST.

A person, except a child as defined in section 702.5, who performs a sex act with another whom the person knows to be related to the person, either legitimately or illegitimately, as an ancestor, descendant, brother or sister of the whole or half blood, aunt, uncle, niece, or nephew, commits incest. Incest is a class "D" felony.

728.12 SEXUAL EXPLOITATION OF A MINOR.

1. It shall be unlawful to employ, use, persuade, induce, entice, coerce, solicit, knowingly permit, or otherwise cause or attempt to cause a minor to engage in a prohibited sexual act or in the simulation of a prohibited sexual act. A person must know, or have reason to know, or intend that the act or simulated act may be photographed, filmed, or otherwise preserved in a negative, slide, book, magazine, computer, computer disk, or other print or visual medium, or be preserved in an electronic, magnetic, or optical storage system, or in any other type of storage system. A person who commits a violation of this subsection commits a class "C" felony. Notwithstanding section 902.9, the court may assess a fine of not more than fifty thousand dollars for each offense under this subsection in addition to imposing any other authorized sentence.

2. It shall be unlawful to knowingly promote any material visually depicting a live performance of a minor engaging in a prohibited sexual act or in the simulation of a prohibited sexual act. A person who commits a violation of this subsection commits a class "D" felony. Notwithstanding section 902.9, the court may assess a fine of not more than twenty-five thousand dollars for each offense under this subsection in addition to imposing any other authorized sentence.

3. It shall be unlawful to knowingly purchase or possess a negative, slide, book, magazine, computer, computer disk, or other print or visual medium, or an electronic, magnetic, or optical storage system, or any other type of storage system which depicts a minor engaging in a prohibited sexual act or the simulation of a prohibited sexual act. A person who commits a violation of this subsection commits an aggravated misdemeanor for a first offense and a class "D" felony for a second or subsequent offense. For purposes of this subsection, an offense is considered a second or subsequent offense if, prior to the person's having been convicted under this subsection, any of the following apply:

- a. The person has a prior conviction or deferred judgment under this subsection.
- b. The person has a prior conviction, deferred judgment, or the equivalent of a deferred judgment in another jurisdiction for an offense substantially similar to the offense defined in this subsection. The court shall judicially notice the statutes of other states that define offenses substantially similar to the offense defined in this subsection and that therefore can be considered corresponding statutes.

4. This section does not apply to law enforcement officers, court personnel, licensed physicians, licensed psychologists, or attorneys in the performance of their official duties.

