FILED
FEB 26 1986
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

STATE OF IOWA,	)	27-1
Plaintiff-Appellee,	)	Filed February 26, 1986
vs.	)	5-617 84-940
JOHN LESLIE DANIELS,	)	
Defendant-Appellant.	)	

Appeal from the Iowa District Court for Marshall County (No. 6665) David R. Hansen, Judge.

Defendant appeals from his conviction for sexual abuse in the third degree in violation of Iowa Code section 709.4(5). **AFFIRMED.**

Charles L. Harrington, Chief Appellate Defender, for defendant-appellant.

Thomas J. Miller, Attorney General, and Elizabeth E. Ciebell, Assistant Attorney General, and Phillip L. Krejci, County Attorney, for plaintiff-appellee.

Considered by Schlegel, P.J., and Hayden and Sackett, JJ.

SACKETT, J.

Defendant claims the trial court erred in admitting evidence of defendant's age because such evidence exceeded the scope of the minutes of evidence.

It is undisputed that establishing defendant's age was necessary to prove an essential element of sexual abuse under Iowa Code section 709.4(5).

We affirm the trial court and find it unnecessary to determine whether the evidence of age exceeds the scope of the minutes. The county attorney's information apprised defendant that the offense charged involved proof of the participants' ages. The complaint indicated the nature of the offense as well as the birth date of the defendant. Defendant was not surprised or prejudiced by the proof of his age. There is no error. See State v. Waterbury, 307 N.W.2d 45, 51 (Iowa 1981)

AFFIRMED.