

17 1993

SENATE FILE 342
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 183)

(p784)
Passed Senate, Date 3/23/93 Passed House, Date _____
Vote: Ayes 49 Nays 0 Vote: Ayes _____ Nays _____
Approved May 25, 1993

A BILL FOR

1 An Act relating to domestic abuse, expanding the definition of
2 domestic abuse, and providing penalties.

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

4

5

SENATE FILE 342

S-3192

1 Amend Senate File 342 as follows:

2 1. Page 1, line 14, by striking the word "five"
3 and inserting the following: "two".

By HARRY SLIFE

S-3192 FILED MARCH 23, 1993
ADOPTED

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SF 342

1 Section 1. Section 236.2, subsection 2, Code 1993, is
2 amended to read as follows:

3 2. "Domestic abuse" means committing assault as defined in
4 section 708.1 under either any of the following circumstances:

5 a. The assault is between family or household members who
6 resided together at the time of the assault.

7 b. The assault is between separated spouses or persons
8 divorced from each other and not residing together at the time
9 of the assault.

10 c. The assault is between persons who are parents of the
11 same minor child, regardless of whether they have been married
12 or have lived together at any time.

13 d. The assault is between persons who have been family or
14 household members residing together within the past five years
15 and are not residing together at the time of the assault.

16 Sec. 2. Section 236.3A, subsection 2, Code 1993, is
17 amended to read as follows:

18 2. The clerk of the district court shall furnish the
19 required forms to persons seeking protective orders through
20 pro se proceedings pursuant to this chapter. The clerk may
21 furnish information to a person to enable the person to
22 complete the forms.

23 Sec. 3. Section 236.3A, Code 1993, is amended by adding
24 the following new subsection:

25 NEW SUBSECTION. 3. The judicial department shall provide
26 training for the clerks of the district court in fulfilling
27 their duties pursuant to this section and this chapter.

28 Sec. 4. Section 236.4, subsection 1, Code 1993, is amended
29 to read as follows:

30 1. Within ~~ten~~ fifteen days after commencing a proceeding
31 and upon notice to the other party, a hearing shall be held at
32 which the plaintiff must prove the allegation of domestic
33 abuse by a preponderance of the evidence.

34 Sec. 5. Section 236.4, Code 1993, is amended by adding the
35 following new subsection:

1 NEW SUBSECTION. 7. A magistrate may enter or extend
2 temporary orders pursuant to this section.

3 Sec. 6. Section 236.6, subsection 1, Code 1993, is amended
4 to read as follows:

5 1. When the court is unavailable from the close of
6 business at the end of the day or week to the resumption of
7 business at the beginning of the day or week, a petition may
8 be filed before a district judge, ~~or~~ district associate judge,
9 or magistrate designated by the chief judge of the judicial
10 district, who may grant emergency relief in accordance with
11 section 236.5, subsection 2, if the district judge, ~~or~~
12 district associate judge, or magistrate deems it necessary to
13 protect the plaintiff from domestic abuse, upon good cause
14 shown in an ex parte proceeding. Present danger of domestic
15 abuse to the plaintiff constitutes good cause for purposes of
16 this subsection.

17 Sec. 7. Section 236.11, unnumbered paragraph 3, Code 1993,
18 is amended to read as follows:

19 If the magistrate finds probable cause, the magistrate
20 shall order the person to appear before the court which issued
21 the original order or approved the consent agreement,
22 whichever was allegedly violated, at a specified time not less
23 than three days nor more than ~~ten~~ fifteen days after the
24 initial appearance under this section. The magistrate shall
25 cause the original court to be notified of the contents of the
26 magistrate's order.

27 Sec. 8. Section 236.14, subsection 2, unnumbered paragraph
28 4, Code 1993, is amended to read as follows:

29 Violation of this no-contact order is punishable by summary
30 contempt proceedings. If held in contempt for violation of a
31 no-contact order, the person shall be confined in the county
32 jail for a minimum of seven days. A jail sentence imposed
33 pursuant to this paragraph shall be served on consecutive
34 days. No portion of the mandatory minimum term of confinement
35 imposed by this section shall be deferred or suspended. A

1 deferred judgment shall not be entered for violation of a no-
2 contact order, and the court shall not impose a fine in lieu
3 of the minimum sentence, although a fine may be imposed in
4 addition to the minimum sentence.

5 Sec. 9. Section 602.6405, subsection 1, Code 1993, is
6 amended to read as follows:

7 1. Magistrates have jurisdiction of simple misdemeanors,
8 including traffic and ordinance violations, and preliminary
9 hearings, search warrant proceedings, county and municipal
10 infractions, and small claims. Magistrates have jurisdiction
11 to exercise the powers specified in sections 644.2 and 644.12,
12 and to hear complaints or preliminary informations, issue
13 warrants, order arrests, make commitments, and take bail.
14 Magistrates have jurisdiction over violations of section
15 123.49, subsection 2, paragraph "h". Magistrates who are
16 admitted to the practice of law in this state have
17 jurisdiction over all proceedings for the involuntary
18 commitment, treatment, or hospitalization of individuals under
19 chapters 125 and 229, except as otherwise provided under
20 section 229.6A, and shall have jurisdiction to issue temporary
21 and emergency orders pursuant to sections 236.4 and 236.6;
22 nonlawyer magistrates have jurisdiction over emergency
23 detention and hospitalization proceedings under sections
24 125.91 and 229.22. Magistrates have jurisdiction to conduct
25 hearings authorized under section 809.4 and section 809.10,
26 subsection 2.

27 Sec. 10. Section 708.2A, subsection 4, Code 1993, is
28 amended to read as follows:

29 4. A person convicted of violating this section shall
30 serve a minimum term of two days of the sentence imposed by
31 law, and shall not be eligible for suspension of the minimum
32 sentence. The minimum term shall be served on consecutive
33 days. The court shall not impose a fine in lieu of the
34 minimum sentence, although a fine may be imposed in addition
35 to the minimum sentence. This section does not prohibit the

1 court from sentencing and the defendant from serving the
2 maximum term of confinement or from paying the maximum fine
3 permitted pursuant to chapters 902 and 903, and does not
4 prohibit the court from entering a deferred judgment or
5 sentence pursuant to section 907.3, if the defendant has not
6 previously received a deferred sentence or judgment for a
7 violation of section 708.2 or this section which was issued on
8 a domestic abuse assault. However, once the defendant has
9 received one deferred sentence or judgment involving a
10 violation of section 708.2 or this section which was issued on
11 a domestic abuse assault, the defendant shall not be eligible
12 to receive another deferred sentence or judgment for a
13 violation of this section.

14 Sec. 11. Section 907.3, subsection 1, Code 1993, is
15 amended by adding the following new paragraph:

16 NEW PARAGRAPH. i. The offense is a finding of contempt
17 for violation of a no-contact order pursuant to section
18 236.14.

19 Sec. 12. Section 907.3, subsections 2 and 3, Code 1993,
20 are amended to read as follows:

21 2. At the time of or after pronouncing judgment and with
22 the consent of the defendant, the court may defer the sentence
23 and assign the defendant to the judicial district department
24 of correctional services. However, the court shall not defer
25 the sentence for a violation of section 708.2A if the
26 defendant has previously received a deferred judgment or
27 sentence for a violation of section 708.2 or 708.2A which was
28 issued on a domestic abuse assault, or if similar relief was
29 granted anywhere in the United States concerning that
30 jurisdiction's statutes which substantially correspond to
31 domestic abuse assault as provided in section 708.2A. In
32 addition, the court shall not defer a sentence which includes
33 the minimum term of seven days for contempt imposed pursuant
34 to section 236.14. Upon a showing that the defendant is not
35 fulfilling the conditions of probation, the court may revoke

1 probation and impose any sentence authorized by law. Before
2 taking such action, the court shall give the defendant an
3 opportunity to be heard on any matter relevant to the proposed
4 action. Upon violation of the conditions of probation, the
5 court may proceed as provided in chapter 908.

6 3. By record entry at the time of or after sentencing, the
7 court may suspend the sentence and place the defendant on
8 probation upon such terms and conditions as it may require
9 including commitment to an alternate jail facility or a
10 community correctional residential treatment facility for a
11 specific number of days to be followed by a term of probation
12 as specified in section 907.7. A person so committed who has
13 probation revoked shall be given credit for such time served.
14 However, the court shall not suspend the minimum term of two
15 days imposed pursuant to section 708.2A, and the court shall
16 not suspend the minimum term of seven days imposed pursuant to
17 section 236.14 for contempt.

18 EXPLANATION

19 This bill contains a number of provisions relating to
20 domestic abuse. The bill expands the definition of domestic
21 abuse, which is referred to in both civil and criminal
22 proceedings, to include assaults between persons who are
23 parents of the same minor child, regardless of whether they
24 have been married or have lived together at any time. Under
25 the bill, there are no age restrictions pertaining to the age
26 of the defendant in these circumstances.

27 The bill also expands the definition of domestic abuse to
28 include assaults between persons who have been family or
29 household members residing together within the past five years
30 and are not residing together at the time of the assault.
31 Current law defines "family or household members" in section
32 236.2 as spouses, persons cohabiting, parents, or other
33 persons related by consanguinity or affinity, except children
34 under 18.

35 This bill provides that clerks of the district court may

1 furnish information to pro se plaintiffs to enable them to
2 complete the required forms. The bill also requires the
3 judicial department to provide training for the clerks of the
4 district court in fulfilling their duties pursuant to the
5 domestic abuse chapter.

6 The bill expands the jurisdiction of magistrates, to permit
7 them to enter temporary and emergency civil domestic abuse
8 orders.

9 The bill extends the time period for a hearing after a
10 domestic abuse civil petition is filed, from 10 to 15 days.
11 The bill also extends the time as to which a person must
12 appear before the court which issued an order upon a finding
13 of probable cause by a magistrate that the order has been
14 violated, from a maximum of 10 days to a maximum of 15 days.

15 The bill specifies that no portion of the mandatory minimum
16 term of seven days imposed for violation of a no-contact order
17 shall be deferred or suspended, that a deferred judgment shall
18 not be entered for violation of a no-contact order, and that
19 the court shall not impose a fine in lieu of the minimum
20 sentence, although a fine may be imposed in addition to the
21 minimum sentence. The bill also specifies that the court
22 shall not impose a fine in lieu of the minimum two-day term
23 imposed for domestic abuse assault under section 708.2A,
24 although a fine may be imposed in addition to the minimum
25 sentence.

26 The bill may include a state mandate as defined in section
27 25B.3.

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SENATE FILE 342
FISCAL NOTE

A fiscal note for Senate File 342 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 342 contains a number of provisions relating to domestic abuse and expands the definition of domestic abuse, which is referred to in both civil and criminal proceedings, to include assaults between persons who are parents of the same minor child, regardless of whether they have been married or have lived together at any time. Under the bill, there are no age restrictions pertaining to the age of the defendant in these circumstances. The bill expands the definition of domestic abuse to include assaults between persons who have been family or household members residing together within the past 5 years and are not residing together at the time of the assault.

Assumptions:

1. It will cost a minimum of \$2,500 annually to produce new pro se forms.
2. The average cost per case will be \$479.45.
3. By expanding the definition of domestic abuse to include persons who previously lived together will increase the number of new cases that will come before the Court, but no information is available with which to estimate the number of cases.
4. The Department of Public Health reports that in 1992 there were approximately 2,818 orders relating to paternity. It is feasible to assume that a number of these orders could come before the Court for domestic abuse related incidents in the future.
5. It will cost \$13,500 annually to provide educational training for Clerks of the District Court.

Fiscal Impact:

Because the total number of domestic abuse cases under SF 342 is unknown, the fiscal impact cannot be determined. It is estimated that for each case filed with the Court, the cost to the General Fund will be \$479.45.

In addition, the estimated cost to produce new pro se forms is \$2,500 annually and the cost to provide educational training for Clerks of the District Court is estimated to be \$13,500 annually from the General Fund of the State.

Sources: Judicial Department
Department of Justice
Department of Corrections
Department of Human Rights
Department of Public Health

(LSB 2257sv, LAM)

PRINTED APRIL 6, 1993

BY DENNIS PROUTY, FISCAL DIRECTOR

1 Section 1. Section 236.2, subsection 2, Code 1993, is
2 amended to read as follows:

3 2. "Domestic abuse" means committing assault as defined in
4 section 708.1 under either any of the following circumstances:

5 a. The assault is between family or household members who
6 resided together at the time of the assault.

7 b. The assault is between separated spouses or persons
8 divorced from each other and not residing together at the time
9 of the assault.

10 c. The assault is between persons who are parents of the
11 same minor child, regardless of whether they have been married
12 or have lived together at any time.

13 d. The assault is between persons who have been family or
14 household members residing together within the past two years
15 and are not residing together at the time of the assault.

16 Sec. 2. Section 236.3A, subsection 2, Code 1993, is
17 amended to read as follows:

18 2. The clerk of the district court shall furnish the
19 required forms to persons seeking protective orders through
20 pro se proceedings pursuant to this chapter. The clerk may
21 furnish information to a person to enable the person to
22 complete the forms.

23 Sec. 3. Section 236.3A, Code 1993, is amended by adding
24 the following new subsection:

25 NEW SUBSECTION. 3. The judicial department shall provide
26 training for the clerks of the district court in fulfilling
27 their duties pursuant to this section and this chapter.

28 Sec. 4. Section 236.4, subsection 1, Code 1993, is amended
29 to read as follows:

30 1. Within ~~ten~~ fifteen days after commencing a proceeding
31 and upon notice to the other party, a hearing shall be held at
32 which the plaintiff must prove the allegation of domestic
33 abuse by a preponderance of the evidence.

34 Sec. 5. Section 236.4, Code 1993, is amended by adding the
35 following new subsection:

1 NEW SUBSECTION. 7. A magistrate may enter or extend
2 temporary orders pursuant to this section.

3 Sec. 6. Section 236.6, subsection 1, Code 1993, is amended
4 to read as follows:

5 1. When the court is unavailable from the close of
6 business at the end of the day or week to the resumption of
7 business at the beginning of the day or week, a petition may
8 be filed before a district judge, ~~or~~ district associate judge,
9 or magistrate designated by the chief judge of the judicial
10 district, who may grant emergency relief in accordance with
11 section 236.5, subsection 2, if the district judge, ~~or~~
12 district associate judge, or magistrate deems it necessary to
13 protect the plaintiff from domestic abuse, upon good cause
14 shown in an ex parte proceeding. Present danger of domestic
15 abuse to the plaintiff constitutes good cause for purposes of
16 this subsection.

17 Sec. 7. Section 236.11, unnumbered paragraph 3, Code 1993,
18 is amended to read as follows:

19 If the magistrate finds probable cause, the magistrate
20 shall order the person to appear before the court which issued
21 the original order or approved the consent agreement,
22 whichever was allegedly violated, at a specified time not less
23 than three days nor more than ~~ten~~ fifteen days after the
24 initial appearance under this section. The magistrate shall
25 cause the original court to be notified of the contents of the
26 magistrate's order.

27 Sec. 8. Section 236.14, subsection 2, unnumbered paragraph
28 4, Code 1993, is amended to read as follows:

29 Violation of this no-contact order is punishable by summary
30 contempt proceedings. If held in contempt for violation of a
31 no-contact order, the person shall be confined in the county
32 jail for a minimum of seven days. A jail sentence imposed
33 pursuant to this paragraph shall be served on consecutive
34 days. No portion of the mandatory minimum term of confinement
35 imposed by this section shall be deferred or suspended. A

1 deferred judgment shall not be entered for violation of a no-
2 contact order, and the court shall not impose a fine in lieu
3 of the minimum sentence, although a fine may be imposed in
4 addition to the minimum sentence.

5 Sec. 9. Section 602.6405, subsection 1, Code 1993, is
6 amended to read as follows:

7 1. Magistrates have jurisdiction of simple misdemeanors,
8 including traffic and ordinance violations, and preliminary
9 hearings, search warrant proceedings, county and municipal
10 infractions, and small claims. Magistrates have jurisdiction
11 to exercise the powers specified in sections 644.2 and 644.12,
12 and to hear complaints or preliminary informations, issue
13 warrants, order arrests, make commitments, and take bail.
14 Magistrates have jurisdiction over violations of section
15 123.49, subsection 2, paragraph "h". Magistrates who are
16 admitted to the practice of law in this state have
17 jurisdiction over all proceedings for the involuntary
18 commitment, treatment, or hospitalization of individuals under
19 chapters 125 and 229, except as otherwise provided under
20 section 229.6A, and shall have jurisdiction to issue temporary
21 and emergency orders pursuant to sections 236.4 and 236.6;
22 nonlawyer magistrates have jurisdiction over emergency
23 detention and hospitalization proceedings under sections
24 125.91 and 229.22. Magistrates have jurisdiction to conduct
25 hearings authorized under section 809.4 and section 809.10,
26 subsection 2.

27 Sec. 10. Section 708.2A, subsection 4, Code 1993, is
28 amended to read as follows:

29 4. A person convicted of violating this section shall
30 serve a minimum term of two days of the sentence imposed by
31 law, and shall not be eligible for suspension of the minimum
32 sentence. The minimum term shall be served on consecutive
33 days. The court shall not impose a fine in lieu of the
34 minimum sentence, although a fine may be imposed in addition
35 to the minimum sentence. This section does not prohibit the

1 court from sentencing and the defendant from serving the
2 maximum term of confinement or from paying the maximum fine
3 permitted pursuant to chapters 902 and 903, and does not
4 prohibit the court from entering a deferred judgment or
5 sentence pursuant to section 907.3, if the defendant has not
6 previously received a deferred sentence or judgment for a
7 violation of section 708.2 or this section which was issued on
8 a domestic abuse assault. However, once the defendant has
9 received one deferred sentence or judgment involving a
10 violation of section 708.2 or this section which was issued on
11 a domestic abuse assault, the defendant shall not be eligible
12 to receive another deferred sentence or judgment for a
13 violation of this section.

14 Sec. 11. Section 907.3, subsection 1, Code 1993, is
15 amended by adding the following new paragraph:

16 NEW PARAGRAPH. i. The offense is a finding of contempt
17 for violation of a no-contact order pursuant to section
18 236.14.

19 Sec. 12. Section 907.3, subsections 2 and 3, Code 1993,
20 are amended to read as follows:

21 2. At the time of or after pronouncing judgment and with
22 the consent of the defendant, the court may defer the sentence
23 and assign the defendant to the judicial district department
24 of correctional services. However, the court shall not defer
25 the sentence for a violation of section 708.2A if the
26 defendant has previously received a deferred judgment or
27 sentence for a violation of section 708.2 or 708.2A which was
28 issued on a domestic abuse assault, or if similar relief was
29 granted anywhere in the United States concerning that
30 jurisdiction's statutes which substantially correspond to
31 domestic abuse assault as provided in section 708.2A. In
32 addition, the court shall not defer a sentence which includes
33 the minimum term of seven days for contempt imposed pursuant
34 to section 236.14. Upon a showing that the defendant is not
35 fulfilling the conditions of probation, the court may revoke

1 probation and impose any sentence authorized by law. Before
2 taking such action, the court shall give the defendant an
3 opportunity to be heard on any matter relevant to the proposed
4 action. Upon violation of the conditions of probation, the
5 court may proceed as provided in chapter 908.

6 3. By record entry at the time of or after sentencing, the
7 court may suspend the sentence and place the defendant on
8 probation upon such terms and conditions as it may require
9 including commitment to an alternate jail facility or a
10 community correctional residential treatment facility for a
11 specific number of days to be followed by a term of probation
12 as specified in section 907.7. A person so committed who has
13 probation revoked shall be given credit for such time served.
14 However, the court shall not suspend the minimum term of two
15 days imposed pursuant to section 708.2A, and the court shall
16 not suspend the minimum term of seven days imposed pursuant to
17 section 236.14 for contempt.

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SENATE FILE 342

H-3761

1 Amend Senate File 342, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 1, by striking lines 13 through 15.

4 2. Page 1, by inserting before line 16, the
5 following:

6 "Sec. ____ . Section 236.2, subsection 4, Code 1993,
7 is amended to read as follows:

8 4. "Family or household members" means spouses,
9 persons ~~constituting~~ residing together, parents, or
10 other persons related by consanguinity or affinity,
11 except children under eighteen."

12 3. Page 1, by striking lines 16 through 22.

13 4. Page 1, by striking lines 23 through 27.

14 5. Page 1, by inserting before line 28, the
15 following:

16 "Sec. ____ . NEW SECTION. 236.3B ASSISTANCE BY
17 COUNTY ATTORNEY.

18 A county attorney's office may provide assistance
19 to a person wishing to initiate proceedings pursuant
20 to this chapter or to a plaintiff at any stage of a
21 proceeding under this chapter, if the individual does
22 not have sufficient funds to pay for legal assistance
23 and if the assistance does not create a conflict of
24 interest for the county attorney's office. The
25 assistance provided may include, but is not limited
26 to, assistance in obtaining or completing forms,
27 filing a petition or other necessary pleading,
28 presenting evidence to the court, and enforcing the
29 orders of the court entered pursuant to this chapter.
30 Providing assistance pursuant to this section shall
31 not be considered the private practice of law for the
32 purposes of section 331.752."

33 6. Page 1, line 30, by striking the words "Within
34 ten" and inserting the following: "Within-ten Not
35 less than five and not more than".

36 7. By striking page 1, line 34, through page 2,
37 line 2.

38 8. Page 2, by inserting before line 3, the
39 following:

40 "Sec. ____ . Section 236.5, subsection 4, Code 1993,
41 is amended to read as follows:

42 4. A certified copy of any order or approved
43 consent agreement shall be issued to the plaintiff,
44 the defendant and the county sheriff having
45 jurisdiction to enforce the order or consent
46 agreement, and the twenty-four hour dispatcher for the
47 county sheriff. Any subsequent amendment or
48 revocation of an order or consent agreement shall be
49 forwarded by the clerk to all individuals and the
50 county sheriff previously notified. The clerk shall

H-3761

H-3761

Page 2

1 notify the county sneriff and the twenty-four hour
2 dispatcher for the county sheriff in writing so that
3 the county sheriff and tne county sheriff's dispatcher
4 receive written notice within six hours of filing the
5 order, approved consent agreement, amendment, or
6 revocation. The clerk may fulfill this requirement by
7 sending the notice by facsimile or other electronic
8 transmission which reproduces tne notice in writing
9 witnin six hours of filing the order. The county
10 sneriff's dispatcher shall notify all law enforcement
11 agencies having jurisdiction over the matter and the
12 twenty-four hour dispatcher for the law enforcement
13 agencies upon notification by the clerk. The clerk
14 shall send or deliver a written copy of any such
15 document to the law enforcement agencies and the
16 twenty-four hour dispatcher within twenty-four hours
17 of filing the document."

18 9. Page 2, by striking lines 3 through 16.

19 10. Page 2, by inserting before line 17, the
20 following:

21 "Sec. ____ . Section 236.8, Code 1993, is amended to
22 read as follows:

23 236.8 CONTEMPT.

24 The court may hold a party in contempt for a
25 violation of an order or court-approved consent
26 agreement entered under this chapter, for violation of
27 a temporary or permanent protective order or order to
28 vacate the homestead under chapter 598, or for
29 violation of any order that establishes conditions of
30 release or is a protective order or sentencing order
31 in a criminal prosecution arising from a domestic
32 abuse assault. If held in contempt, the defendant
33 shall serve a jail sentence. Any jail sentence of
34 more than one day imposed under this section shall be
35 served on consecutive days.

36 A hearing in a contempt proceeding brought pursuant
37 to this section shall be held not less than five and
38 not more than fifteen days after the issuance of a
39 rule to show cause, as set by the court."

40 11. Page 2, line 23, by striking the word "three"
41 and inserting the following: "three five".

42 12. Page 2, line 30, by inserting after the word
43 "proceedings." the following: "A hearing in a
44 contempt proceeding brought pursuant to this section
45 shall be held not less than five and not more than
46 fifteen days after the issuance of a rule to show
47 cause, as set by the court."

48 13. Page 3, line 1, by inserting after the word
49 "judgment" the following: ", deferred sentence, or
50 suspended sentence".

H-3761

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H-3761

Page 3

- 1 14. Page 3, by inserting after line 4, the
 2 following:
 3 "Sec. _____. Section 236.14, Code 1993, is amended
 4 by adding the following new subsection:
 5 NEW SUBSECTION. 3. This section shall not be
 6 construed to limit a pretrial release order issued
 7 pursuant to chapter 811."
 8 15. Page 3, by striking lines 5 through 26.
 9 16. Page 4, by inserting after line 13, the
 10 following:
 11 "Sec. _____. Section 811.2, subsection 1, paragraph
 12 e, Code 1993, is amended to read as follows:
 13 e. Impose any other condition deemed reasonably
 14 necessary to assure appearance as required, or the
 15 safety of another person or persons including a
 16 condition requiring that the defendant return to
 17 custody after specified hours, or a condition that the
 18 defendant have no contact with the victim or other
 19 persons specified by the court."
 20 17. Page 4, by striking line 17 and inserting the
 21 following: "pursuant to section 236.8 or".
 22 18. Page 4, by striking lines 32 through 34, and
 23 inserting the following: "addition, the court shall
 24 not defer a sentence if it is imposed for contempt
 25 pursuant to section 236.8 or 236.14. Upon a showing
 26 that the defendant is not".
 27 19. Page 5, by striking lines 16 and 17 and
 28 inserting the following: "not suspend a sentence
 29 imposed pursuant to section 236.8 or 236.14 for
 30 contempt."
 31 20. Title page, line 2, by inserting after the
 32 word "abuse," the following: "adding no-contact
 33 provisions to pretrial release conditions,".
 34 21. By renumbering as necessary.

By COMMITTEE ON JUDICIARY AND
 LAW ENFORCEMENT
 McNEAL of Hardin, Chairperson

Adopted 5-1-93 (P. 1936)
 H-3761 FILED APRIL 6, 1993

SENATE FILE 342

H-4389

- 1 Amend the amendment, H-3761, to Senate File 342, as
 2 amended, passed, and reprinted by the Senate, as
 3 follows:
 4 1. Page 1, by striking line 3 and inserting the
 5 following:
 6 "_____. Page 1, line 14, by striking the words "two
 7 years" and inserting the following: "year"."
 8 2. Page 1, by striking lines 4 through 11.
 9 3. By renumbering as necessary.

By DODERER of Johnson

H-4389 FILED MAY 1, 1993
 ADOPTED

HOUSE AMENDMENT TO
SENATE FILE 342

S-3768

1 Amend Senate File 342, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 1, line 14, by striking the words "two
4 years" and inserting the following: "year".

5 2. Page 1, by striking lines 16 through 22.

6 3. Page 1, by striking lines 23 through 27.

7 4. Page 1, by inserting before line 28, the
8 following:

9 "Sec. ____ . NEW SECTION. 236.3B ASSISTANCE BY
10 COUNTY ATTORNEY.

11 A county attorney's office may provide assistance
12 to a person wishing to initiate proceedings pursuant
13 to this chapter or to a plaintiff at any stage of a
14 proceeding under this chapter, if the individual does
15 not have sufficient funds to pay for legal assistance
16 and if the assistance does not create a conflict of
17 interest for the county attorney's office. The
18 assistance provided may include, but is not limited
19 to, assistance in obtaining or completing forms,
20 filing a petition or other necessary pleading,
21 presenting evidence to the court, and enforcing the
22 orders of the court entered pursuant to this chapter.
23 Providing assistance pursuant to this section shall
24 not be considered the private practice of law for the
25 purposes of section 331.752."

26 5. Page 1, line 30, by striking the words "Within
27 ten" and inserting the following: "Within-ten Not
28 less than five and not more than".

29 6. By striking page 1, line 34, through page 2,
30 line 2.

31 7. Page 2, by inserting before line 3, the
32 following:

33 "Sec. ____ . Section 236.5, subsection 4, Code 1993,
34 is amended to read as follows:

35 4. A certified copy of any order or approved
36 consent agreement shall be issued to the plaintiff,
37 the defendant and the county sheriff having
38 jurisdiction to enforce the order or consent
39 agreement, and the twenty-four hour dispatcher for the
40 county sheriff. Any subsequent amendment or
41 revocation of an order or consent agreement shall be
42 forwarded by the clerk to all individuals and the
43 county sheriff previously notified. The clerk shall
44 notify the county sheriff and the twenty-four hour
45 dispatcher for the county sheriff in writing so that
46 the county sheriff and the county sheriff's dispatcher
47 receive written notice within six hours of filing the
48 order, approved consent agreement, amendment, or
49 revocation. The clerk may fulfill this requirement by
50 sending the notice by facsimile or other electronic

S-3768

S-3768

Page 2

1 transmission which reproduces the notice in writing
2 within six hours of filing the order. The county
3 sheriff's dispatcher shall notify all law enforcement
4 agencies having jurisdiction over the matter and the
5 twenty-four hour dispatcher for the law enforcement
6 agencies upon notification by the clerk. The clerk
7 shall send or deliver a written copy of any such
8 document to the law enforcement agencies and the
9 twenty-four hour dispatcher within twenty-four hours
10 of filing the document."

11 8. Page 2, by striking lines 3 through 16.

12 9. Page 2, by inserting before line 17, the
13 following:

14 "Sec. ____ . Section 236.8, Code 1993, is amended to
15 read as follows:

16 236.8 CONTEMPT.

17 The court may hold a party in contempt for a
18 violation of an order or court-approved consent
19 agreement entered under this chapter, for violation of
20 a temporary or permanent protective order or order to
21 vacate the homestead under chapter 598, or for
22 violation of any order that establishes conditions of
23 release or is a protective order or sentencing order
24 in a criminal prosecution arising from a domestic
25 abuse assault. If held in contempt, the defendant
26 shall serve a jail sentence. Any jail sentence of
27 more than one day imposed under this section shall be
28 served on consecutive days.

29 A hearing in a contempt proceeding brought pursuant
30 to this section shall be held not less than five and
31 not more than fifteen days after the issuance of a
32 rule to show cause, as set by the court."

33 10. Page 2, line 23, by striking the word "three"
34 and inserting the following: "three five".

35 11. Page 2, line 30, by inserting after the word
36 "proceedings." the following: "A hearing in a
37 contempt proceeding brought pursuant to this section
38 shall be held not less than five and not more than
39 fifteen days after the issuance of a rule to show
40 cause, as set by the court."

41 12. Page 3, line 1, by inserting after the word
42 "judgment" the following: ", deferred sentence, or
43 suspended sentence".

44 13. Page 3, by inserting after line 4, the
45 following:

46 "Sec. ____ . Section 236.14, Code 1993, is amended
47 by adding the following new subsection:

48 NEW SUBSECTION. 3. This section shall not be
49 construed to limit a pretrial release order issued
50 pursuant to chapter 811."

S-3768

-2-

S-3768

Page 3

- 1 14. Page 3, by striking lines 5 through 26.
2 15. Page 4, by inserting after line 13, the
3 following:
4 "Sec. ____ . Section 811.2, subsection 1, paragraph
5 e, Code 1993, is amended to read as follows:
6 e. Impose any other condition deemed reasonably
7 necessary to assure appearance as required, or the
8 safety of another person or persons including a
9 condition requiring that the defendant return to
10 custody after specified hours, or a condition that the
11 defendant have no contact with the victim or other
12 persons specified by the court."
13 16. Page 4, by striking line 17 and inserting the
14 following: "pursuant to section 236.8 or".
15 17. Page 4, by striking lines 32 through 34, and
16 inserting the following: "addition, the court shall
17 not defer a sentence if it is imposed for contempt
18 pursuant to section 236.8 or 236.14. Upon a showing
19 that the defendant is not".
20 18. Page 5, by striking lines 16 and 17 and
21 inserting the following: "not suspend a sentence
22 imposed pursuant to section 236.8 or 236.14 for
23 contempt."
24 19. Title page, line 2, by inserting after the
25 word "abuse," the following: "adding no-contact
26 provisions to pretrial release conditions,".
27 20. By renumbering as necessary.

RECEIVED FROM THE HOUSE

S-3768 FILED MAY 1, 1993

CONCURRED

SSB 183

JUDICIARY

SENATE FILE 342
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON STURGEON)

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

A BILL FOR

1 An Act relating to domestic abuse, expanding the definition of
2 domestic abuse, and providing penalties.

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

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S.F. _____ H.F. _____

1 Section 1. Section 236.2, subsection 2, Code 1993, is
2 amended to read as follows:

3 2. "Domestic abuse" means committing assault as defined in
4 section 708.1 under either any of the following circumstances:

5 a. The assault is between family or household members who
6 resided together at the time of the assault.

7 b. The assault is between separated spouses or persons
8 divorced from each other and not residing together at the time
9 of the assault.

10 c. The assault is between persons who are parents of the
11 same minor child, regardless of whether they have been married
12 or have lived together at any time.

13 d. The assault is between persons who have been family or
14 household members residing together within the past five years
15 and are not residing together at the time of the assault.

16 Sec. 2. Section 236.3A, subsection 2, Code 1993, is
17 amended to read as follows:

18 2. The clerk of the district court shall furnish the
19 required forms to persons seeking protective orders through
20 pro se proceedings pursuant to this chapter. The clerk may
21 furnish information to a person to enable the person to
22 complete the forms.

23 Sec. 3. Section 236.3A, Code 1993, is amended by adding
24 the following new subsection:

25 NEW SUBSECTION. 3. The judicial department shall provide
26 training for the clerks of the district court in fulfilling
27 their duties pursuant to this section and this chapter.

28 Sec. 4. Section 236.4, subsection 1, Code 1993, is amended
29 to read as follows:

30 1. Within ~~ten~~ fifteen days after commencing a proceeding
31 and upon notice to the other party, a hearing shall be held at
32 which the plaintiff must prove the allegation of domestic
33 abuse by a preponderance of the evidence.

34 Sec. 5. Section 236.4, Code 1993, is amended by adding the
35 following new subsection:

1 NEW SUBSECTION. 7. A magistrate may enter or extend
2 temporary orders pursuant to this section.

3 Sec. 6. Section 236.6, subsection 1, Code 1993, is amended
4 to read as follows:

5 1. When the court is unavailable from the close of
6 business at the end of the day or week to the resumption of
7 business at the beginning of the day or week, a petition may
8 be filed before a district judge, ~~or~~ district associate judge,
9 or magistrate designated by the chief judge of the judicial
10 district, who may grant emergency relief in accordance with
11 section 236.5, subsection 2, if the district judge, or
12 district associate judge, or magistrate deems it necessary to
13 protect the plaintiff from domestic abuse, upon good cause
14 shown in an ex parte proceeding. Present danger of domestic
15 abuse to the plaintiff constitutes good cause for purposes of
16 this subsection.

17 Sec. 7. Section 236.11, unnumbered paragraph 3, Code 1993,
18 is amended to read as follows:

19 If the magistrate finds probable cause, the magistrate
20 shall order the person to appear before the court which issued
21 the original order or approved the consent agreement,
22 whichever was allegedly violated, at a specified time not less
23 than three days nor more than ten fifteen days after the
24 initial appearance under this section. The magistrate shall
25 cause the original court to be notified of the contents of the
26 magistrate's order.

27 Sec. 8. Section 236.14, subsection 2, unnumbered paragraph
28 4, Code 1993, is amended to read as follows:

29 Violation of this no-contact order is punishable by summary
30 contempt proceedings. If held in contempt for violation of a
31 no-contact order, the person shall be confined in the county
32 jail for a minimum of seven days. A jail sentence imposed
33 pursuant to this paragraph shall be served on consecutive
34 days. No portion of the mandatory minimum term of confinement
35 imposed by this section shall be deferred or suspended. A

1 deferred judgment shall not be entered for violation of a no-
2 contact order, and the court shall not impose a fine in lieu
3 of the minimum sentence, although a fine may be imposed in
4 addition to the minimum sentence.

5 Sec. 9. Section 602.6405, subsection 1, Code 1993, is
6 amended to read as follows:

7 1. Magistrates have jurisdiction of simple misdemeanors,
8 including traffic and ordinance violations, and preliminary
9 hearings, search warrant proceedings, county and municipal
10 infractions, and small claims. Magistrates have jurisdiction
11 to exercise the powers specified in sections 644.2 and 644.12,
12 and to hear complaints or preliminary informations, issue
13 warrants, order arrests, make commitments, and take bail.
14 Magistrates have jurisdiction over violations of section
15 123.49, subsection 2, paragraph "h". Magistrates who are
16 admitted to the practice of law in this state have
17 jurisdiction over all proceedings for the involuntary
18 commitment, treatment, or hospitalization of individuals under
19 chapters 125 and 229, except as otherwise provided under
20 section 229.6A, and shall have jurisdiction to issue temporary
21 and emergency orders pursuant to sections 236.4 and 236.6;
22 nonlawyer magistrates have jurisdiction over emergency
23 detention and hospitalization proceedings under sections
24 125.91 and 229.22. Magistrates have jurisdiction to conduct
25 hearings authorized under section 809.4 and section 809.10,
26 subsection 2.

27 Sec. 10. Section 708.2A, subsection 4, Code 1993, is
28 amended to read as follows:

29 4. A person convicted of violating this section shall
30 serve a minimum term of two days of the sentence imposed by
31 law, and shall not be eligible for suspension of the minimum
32 sentence. The minimum term shall be served on consecutive
33 days. The court shall not impose a fine in lieu of the
34 minimum sentence, although a fine may be imposed in addition
35 to the minimum sentence. This section does not prohibit the

1 court from sentencing and the defendant from serving the
2 maximum term of confinement or from paying the maximum fine
3 permitted pursuant to chapters 902 and 903, and does not
4 prohibit the court from entering a deferred judgment or
5 sentence pursuant to section 907.3, if the defendant has not
6 previously received a deferred sentence or judgment for a
7 violation of section 708.2 or this section which was issued on
8 a domestic abuse assault. However, once the defendant has
9 received one deferred sentence or judgment involving a
10 violation of section 708.2 or this section which was issued on
11 a domestic abuse assault, the defendant shall not be eligible
12 to receive another deferred sentence or judgment for a
13 violation of this section.

14 Sec. 11. Section 907.3, subsection 1, Code 1993, is
15 amended by adding the following new paragraph:

16 NEW PARAGRAPH. i. The offense is a finding of contempt
17 for violation of a no-contract order pursuant to section
18 236.14.

19 Sec. 12. Section 907.3, subsections 2 and 3, Code 1993,
20 are amended to read as follows:

21 2. At the time of or after pronouncing judgment and with
22 the consent of the defendant, the court may defer the sentence
23 and assign the defendant to the judicial district department
24 of correctional services. However, the court shall not defer
25 the sentence for a violation of section 708.2A if the
26 defendant has previously received a deferred judgment or
27 sentence for a violation of section 708.2 or 708.2A which was
28 issued on a domestic abuse assault, or if similar relief was
29 granted anywhere in the United States concerning that
30 jurisdiction's statutes which substantially correspond to
31 domestic abuse assault as provided in section 708.2A. In
32 addition, the court shall not defer a sentence which includes
33 the minimum term of seven days for contempt imposed pursuant
34 to section 236.14. Upon a showing that the defendant is not
35 fulfilling the conditions of probation, the court may revoke

1 probation and impose any sentence authorized by law. Before
2 taking such action, the court shall give the defendant an
3 opportunity to be heard on any matter relevant to the proposed
4 action. Upon violation of the conditions of probation, the
5 court may proceed as provided in chapter 908.

6 3. By record entry at the time of or after sentencing, the
7 court may suspend the sentence and place the defendant on
8 probation upon such terms and conditions as it may require
9 including commitment to an alternate jail facility or a
10 community correctional residential treatment facility for a
11 specific number of days to be followed by a term of probation
12 as specified in section 907.7. A person so committed who has
13 probation revoked shall be given credit for such time served.
14 However, the court shall not suspend the minimum term of two
15 days imposed pursuant to section 708.2A, and the court shall
16 not suspend the minimum term of seven days imposed pursuant to
17 section 236.14 for contempt.

18 EXPLANATION

19 This bill contains a number of provisions relating to
20 domestic abuse. The bill expands the definition of domestic
21 abuse, which is referred to in both civil and criminal
22 proceedings, to include assaults between persons who are
23 parents of the same minor child, regardless of whether they
24 have been married or have lived together at any time. Under
25 the bill, there are no age restrictions pertaining to the age
26 of the defendant in these circumstances.

27 The bill also expands the definition of domestic abuse to
28 include assaults between persons who have been family or
29 household members residing together within the past five years
30 and are not residing together at the time of the assault.
31 Current law defines "family or household members" in section
32 236.2 as spouses, persons cohabiting, parents, or other
33 persons related by consanguinity or affinity, except children
34 under 18.

35 This bill provides that clerks of the district court may

1 furnish information to pro se plaintiffs to enable them to
2 complete the required forms. The bill also requires the
3 judicial department to provide training for the clerks of the
4 district court in fulfilling their duties pursuant to the
5 domestic abuse chapter.

6 The bill expands the jurisdiction of magistrates, to permit
7 them to enter temporary and emergency civil domestic abuse
8 orders.

9 The bill extends the time period for a hearing after a
10 domestic abuse civil petition is filed, from 10 to 15 days.
11 The bill also extends the time as to which a person must
12 appear before the court which issued an order upon a finding
13 of probable cause by a magistrate that the order has been
14 violated, from a maximum of 10 days to a maximum of 15 days.

15 The bill specifies that no portion of the mandatory minimum
16 term of seven days imposed for violation of a no-contract
17 order shall be deferred or suspended, that a deferred judgment
18 shall not be entered for violation of a no-contract order, and
19 that the court shall not impose a fine in lieu of the minimum
20 sentence, although a fine may be imposed in addition to the
21 minimum sentence. The bill also specifies that the court
22 shall not impose a fine in lieu of the minimum two-day term
23 imposed for domestic abuse assault under section 708.2A,
24 although a fine may be imposed in addition to the minimum
25 sentence.

26 The bill may include a state mandate as defined in section
27 25B.3.

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SENATE FILE 342

AN ACT

RELATING TO DOMESTIC ABUSE, EXPANDING THE DEFINITION OF DOMESTIC ABUSE, ADDING NO-CONTACT PROVISIONS TO PRE-TRIAL RELEASE CONDITIONS, AND PROVIDING PENALTIES.

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

Section 1. Section 236.2, subsection 2, Code 1993, is amended to read as follows:

2. "Domestic abuse" means committing assault as defined in section 708.1 under either any of the following circumstances:

- a. The assault is between family or household members who resided together at the time of the assault.
- b. The assault is between separated spouses or persons divorced from each other and not residing together at the time of the assault.
- c. The assault is between persons who are parents of the same minor child, regardless of whether they have been married or have lived together at any time.
- d. The assault is between persons who have been family or household members residing together within the past year and are not residing together at the time of the assault.

Sec. 2. NEW SECTION. 236.3B ASSISTANCE BY COUNTY ATTORNEY.

A county attorney's office may provide assistance to a person wishing to initiate proceedings pursuant to this chapter or to a plaintiff at any stage of a proceeding under this chapter, if the individual does not have sufficient funds

to pay for legal assistance and if the assistance does not create a conflict of interest for the county attorney's office. The assistance provided may include, but is not limited to, assistance in obtaining or completing forms, filing a petition or other necessary pleading, presenting evidence to the court, and enforcing the orders of the court entered pursuant to this chapter. Providing assistance pursuant to this section shall not be considered the private practice of law for the purposes of section 331.752.

Sec. 3. Section 236.4, subsection 1, Code 1993, is amended to read as follows:

1. Within ten Not less than five and not more than fifteen days after commencing a proceeding and upon notice to the other party, a hearing shall be held at which the plaintiff must prove the allegation of domestic abuse by a preponderance of the evidence.

Sec. 4. Section 236.5, subsection 4, Code 1993, is amended to read as follows:

4. A certified copy of any order or approved consent agreement shall be issued to the plaintiff, the defendant and the county sheriff having jurisdiction to enforce the order or consent agreement, and the twenty-four hour dispatcher for the county sheriff. Any subsequent amendment or revocation of an order or consent agreement shall be forwarded by the clerk to all individuals and the county sheriff previously notified. The clerk shall notify the county sheriff and the twenty-four hour dispatcher for the county sheriff in writing so that the county sheriff and the county sheriff's dispatcher receive written notice within six hours of filing the order, approved consent agreement, amendment, or revocation. The clerk may fulfill this requirement by sending the notice by facsimile or other electronic transmission which reproduces the notice in writing within six hours of filing the order. The county sheriff's dispatcher shall notify all law enforcement agencies having jurisdiction over the matter and the twenty-four hour dispatcher for the law enforcement agencies upon notification by the clerk. The clerk shall send or deliver a written copy

of any such document to the law enforcement agencies and the twenty-four hour dispatcher within twenty-four hours of filing the document.

Sec. 5. Section 236.8, Code 1993, is amended to read as follows:

236.8 CONTEMPT.

The court may hold a party in contempt for a violation of an order or court-approved consent agreement entered under this chapter, for violation of a temporary or permanent protective order or order to vacate the homestead under chapter 598, or for violation of any order that establishes conditions of release or is a protective order or sentencing order in a criminal prosecution arising from a domestic abuse assault. If held in contempt, the defendant shall serve a jail sentence. Any jail sentence of more than one day imposed under this section shall be served on consecutive days.

A hearing in a contempt proceeding brought pursuant to this section shall be held not less than five and not more than fifteen days after the issuance of a rule to show cause, as set by the court.

Sec. 6. Section 236.11, unnumbered paragraph 3, Code 1993, is amended to read as follows:

If the magistrate finds probable cause, the magistrate shall order the person to appear before the court which issued the original order or approved the consent agreement, whichever was allegedly violated, at a specified time not less than three five days nor more than ten fifteen days after the initial appearance under this section. The magistrate shall cause the original court to be notified of the contents of the magistrate's order.

Sec. 7. Section 236.14, subsection 2, unnumbered paragraph 4, Code 1993, is amended to read as follows:

Violation of this no-contact order is punishable by summary contempt proceedings. A hearing in a contempt proceeding brought pursuant to this section shall be held not less than five and not more than fifteen days after the issuance of a rule to show cause, as set by the court. If held in contempt

for violation of a no-contact order, the person shall be confined in the county jail for a minimum of seven days. A jail sentence imposed pursuant to this paragraph shall be served on consecutive days. No portion of the mandatory minimum term of confinement imposed by this section shall be deferred or suspended. A deferred judgment, deferred sentence, or suspended sentence shall not be entered for violation of a no-contact order, and the court shall not impose a fine in lieu of the minimum sentence, although a fine may be imposed in addition to the minimum sentence.

Sec. 8. Section 236.14, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 3. This section shall not be construed to limit a pretrial release order issued pursuant to chapter 811.

Sec. 9. Section 708.2A, subsection 4, Code 1993, is amended to read as follows:

4. A person convicted of violating this section shall serve a minimum term of two days of the sentence imposed by law, and shall not be eligible for suspension of the minimum sentence. The court shall not impose a fine in lieu of the minimum sentence, although a fine may be imposed in addition to the minimum sentence. This section does not prohibit the court from sentencing and the defendant from serving the maximum term of confinement or from paying the maximum fine permitted pursuant to chapters 902 and 903, and does not prohibit the court from entering a deferred judgment or sentence pursuant to section 907.3, if the defendant has not previously received a deferred sentence or judgment for a violation of section 708.2 or this section which was issued on a domestic abuse assault. However, once the defendant has received one deferred sentence or judgment involving a violation of section 708.2 or this section which was issued on a domestic abuse assault, the defendant shall not be eligible to receive another deferred sentence or judgment for a violation of this section.

Sec. 10. Section 811.2, subsection 1, paragraph e, Code 1993, is amended to read as follows:

e. Impose any other condition deemed reasonably necessary to assure appearance as required, or the safety of another person or persons including a condition requiring that the defendant return to custody after specified hours, or a condition that the defendant have no contact with the victim or other persons specified by the court.

Sec. 11. Section 907.3, subsection 1, Code 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. i. The offense is a finding of contempt pursuant to section 236.8 or 236.14.

Sec. 12. Section 907.3, subsections 2 and 3, Code 1993, are amended to read as follows:

2. At the time of or after pronouncing judgment and with the consent of the defendant, the court may defer the sentence and assign the defendant to the judicial district department of correctional services. However, the court shall not defer the sentence for a violation of section 708.2A if the defendant has previously received a deferred judgment or sentence for a violation of section 708.2 or 708.2A which was issued on a domestic abuse assault, or if similar relief was granted anywhere in the United States concerning that jurisdiction's statutes which substantially correspond to domestic abuse assault as provided in section 708.2A. In addition, the court shall not defer a sentence if it is imposed for contempt pursuant to section 236.8 or 236.14. Upon a showing that the defendant is not fulfilling the conditions of probation, the court may revoke probation and impose any sentence authorized by law. Before taking such action, the court shall give the defendant an opportunity to be heard on any matter relevant to the proposed action. Upon violation of the conditions of probation, the court may proceed as provided in chapter 908.

3. By record entry at the time of or after sentencing, the court may suspend the sentence and place the defendant on probation upon such terms and conditions as it may require

including commitment to an alternate jail facility or a community correctional residential treatment facility for a specific number of days to be followed by a term of probation as specified in section 907.7. A person so committed who has probation revoked shall be given credit for such time served. However, the court shall not suspend the minimum term of two days imposed pursuant to section 708.2A, and the court shall not suspend a sentence imposed pursuant to section 236.8 or 236.14 for contempt.

LEONARD L. BOSWELL
President of the Senate

HAROLD VAN MAANEN
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 342, Seventy-fifth General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved May 25, 1993

TERRY E. BRANSTAD
Governor