

SENATE FILE **2164**
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 2028)

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

A BILL FOR

1 An Act relating to unlawful military or training activity,
2 including the possession of certain real or simulated
3 explosive or incendiary devices, and establishing or making
4 penalties applicable.

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

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

S.F. 2164

1 Section 1. Section 29A.31, Code 1995, is amended to read
2 as follows:

3 29A.31 UNLAWFUL ORGANIZATIONS.

4 It shall be unlawful for any body of persons, other than
5 the national guard and the troops of the United States, to
6 associate themselves together as a military organization
7 within the limits of this state without the written permission
8 of the governor, which the governor may at any time revoke,
9 but this provision shall not prevent civic, social, or
10 benevolent organizations from wearing uniforms and swords not
11 in conflict with the other provisions of this chapter. A
12 person who violates this section commits an aggravated
13 misdemeanor.

14 Sec. 2. Section 708.7, subsection 1, paragraph a,
15 subparagraph (2), Code 1995, is amended by striking the
16 subparagraph.

17 Sec. 3. Section 712.6, Code 1995, is amended to read as
18 follows:

19 712.6 POSSESSION OF EXPLOSIVE OR INCENDIARY MATERIALS OR
20 DEVICES -- ACTUAL OR SIMULATED.

21 1. Any A person who ~~shall possess any~~ possesses an actual
22 or simulated incendiary or explosive device or material with
23 the intent to use such device or material to commit any public
24 offense shall be guilty of a class "C" felony.

25 2. A person who possesses an actual or simulated
26 incendiary or explosive device or material, who knows or has
27 reason to believe that the device or material may be used to
28 commit a public offense, and who is not a person authorized
29 under section 724.2 to possess the device or material commits
30 a class "D" felony.

31 3. A person who places a simulated explosive or incendiary
32 device in or near a building, vehicle, airplane, railroad
33 engine, railroad car, or boat occupied by another person, with
34 the intent to alarm, annoy, intimidate, or threaten another
35 person, commits a class "D" felony.

1 Sec. 4. Section 729.5, subsection 1, unnumbered paragraph
2 1, Code 1995, is amended to read as follows:

3 A person, who acts alone, or who conspires or assembles
4 with another person or persons, to injure, oppress, threaten,
5 or intimidate or interfere with any citizen in the free
6 exercise or enjoyment of any right or privilege secured to
7 that person by the constitution or laws of the state of Iowa
8 or by the constitution or laws of the United States, ~~and or~~
9 who assembles with one or more persons for the purpose of
10 teaching or being instructed in any technique or means capable
11 of causing property damage, bodily injury, or death, when the
12 person or persons intend to employ these intends, or knows or
13 has reason to know, that the teaching, instruction, or
14 techniques or means in furtherance of the conspiracy, is on
15 conviction, guilty of will be used to further a conspiracy to
16 or to commit a public offense, commits a class "D" felony.

17 EXPLANATION

18 This bill makes unlawfully associating as a military unit
19 an aggravated misdemeanor. Currently, it is unlawful to
20 associate as a military unit without the permission of the
21 governor but there is no penalty for violating that provision.

22 The bill also provides that a person commits a class "D"
23 felony if the person assembles with others to injure,
24 intimidate, or otherwise interfere in the enjoyment of
25 constitutionally protected rights by a person or who teaches
26 or provides instruction in any technique or means capable of
27 causing injury or death to people or property with the intent,
28 or when the person knows or should know, that the instruction
29 or training will be unlawfully employed to further a
30 conspiracy to or to commit a public offense or violation of
31 individual rights.

32 The bill also strikes language regarding bomb threats from
33 chapter 708 (assault and related offenses) and moves it to
34 chapter 712 (arson and related offenses). The bill makes it a
35 class "C" felony for a person to possess a simulated explosive

1 or incendiary device with the intent to use the device to
2 commit a crime. The bill makes it a class "D" felony for a
3 person to possess an actual or simulated explosive or
4 incendiary device who is not authorized to under chapter 724
5 if the person knows or has reason to know the device may be
6 used to commit a public offense. A person who places a
7 simulated explosive device near an occupied building or
8 vehicle with the intent to alarm, or threaten another person
9 commits a class "D" felony.

- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30
- 31
- 32
- 33
- 34
- 35

**SENATE FILE 2164
FISCAL NOTE**

The estimate for Senate File 2164 is hereby submitted as a fiscal note pursuant to Joint Rule 17 and as a correctional impact statement pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 2164 makes unlawfully associating with a military unit an aggravated misdemeanor. The Bill makes it a class D felony to assemble with others to injure, intimidate, or otherwise interfere with another's constitutional rights, to teach techniques of causing injury or death or destruction of property with the intent or knowing that the instruction will be used unlawfully. The Bill also deals with various aspects of possessing and using actual and simulated explosive and incendiary devices, establishing penalties of Class C and D felonies.

ASSUMPTIONS

No information is available from which to predict the incidence of the offenses or the number of convictions.

CORRECTIONAL IMPACT

Because the Bill defines new aggravated misdemeanors and felonies, there is potential for an impact on the correctional system. However, the Department of Public Safety and the Office of the Attorney General expect the effects of this Bill to be negligible.

FISCAL IMPACT

The fiscal impact of Senate File 2164 cannot be determined. It is estimated that any impact would be minimal.

SOURCES

Criminal and Juvenile Justice Planning Division, Department of Human Rights
Department of Public Safety
Office of the Attorney General (LSB 3122SV, MDF)

FILED MARCH 5, 1996

BY DENNIS PROUTY, FISCAL DIRECTOR

SENATE FILE 2164

S-5225

- 1 Amend Senate File 2164 as follows:
- 2 1. Page 2, by striking lines 1 through 16.
- 3 2. Title page, by striking lines 1 through 3 and
- 4 inserting the following: "An Act relating to
- 5 possession of certain real or simulated explosive or
- 6 incendiary devices and establishing penalties."
- 7 3. By renumbering as necessary.

By RANDAL J. GIANNETTO

S-5225 FILED MARCH 6, 1996

SENATE FILE 2164

S-5226

- 1 Amend Senate File 2164 as follows:
- 2 1. Page 1, by striking lines 14 through 35.
- 3 2. Title page, line 1, by striking the word
- 4 "activity," and inserting the following: "activity".
- 5 3. Title page, by striking lines 2 and 3 and
- 6 inserting the following: "and making".
- 7 4. By renumbering as necessary.

By RANDAL J. GIANNETTO

S-5226 FILED MARCH 6, 1996

Disignees
Giannetto
Vilsack
Bartz
Maddox

SSB-2028

Succeeded By
SF/HF 2164

Judiciary

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
PUBLIC SAFETY BILL)

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

A BILL FOR

1 An Act relating to civil disorder and unlawful training activity
2 and establishing a penalty.

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

- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24

1 Section 1. Section 708.7, subsection 1, paragraph a,
2 subparagraph (2), Code 1995, is amended by striking the
3 subparagraph.

4 Sec. 2. Section 712.6, Code 1995, is amended to read as
5 follows:

6 712.6 POSSESSION OF EXPLOSIVE OR INCENDIARY MATERIALS OR
7 DEVICES -- ACTUAL OR SIMULATED.

8 1. Any A person who ~~shall possess any~~ possesses an actual
9 or simulated incendiary or explosive device or material with
10 the intent to use such device or material to commit any public
11 offense shall be guilty of a class "C" felony.

12 2. A person who possesses an actual or simulated
13 incendiary or explosive device or material and who is not a
14 person authorized under section 724.2 to possess the device or
15 material commits a class "D" felony.

16 3. A person who places a simulated explosive or incendiary
17 device in or near a building, vehicle, airplane, railroad
18 engine, railroad car, or boat occupied by another person
19 commits a class "D" felony.

20 Sec. 3. NEW SECTION. 724A.1 LEGISLATIVE FINDINGS --
21 UNLAWFUL PARAMILITARY ACTIVITY.

22 The general assembly recognizes the constitutional rights
23 of every citizen to hold and express beliefs on any subject
24 and to associate with others who share similar beliefs. The
25 general assembly also finds that activities which involve the
26 training of people to commit unlawful acts of violence or
27 which further conspiracies to commit unlawful acts of violence
28 against persons or property, whether public or private, are a
29 threat to public order and safety, are not protected by either
30 the United States or state constitutions, and should be
31 subject to criminal prosecution and penalties. The general
32 assembly further finds that the provisions of this chapter
33 promote the health, safety, and welfare of the citizens of
34 Iowa and do not interfere with the exercise of the rights of
35 free speech and association.

1 Sec. 4. NEW SECTION. 724A.2 DEFINITIONS.

2 1. "Civil disorder" means the unlawful use, by one or more
3 individuals, of an offensive weapon as defined in section
4 724.1, dangerous weapon as defined in section 702.7, firearm,
5 or a technique or means capable of causing injury or death to
6 an individual or damage to property which causes an immediate
7 danger, or results in damage or injury, to a person or to
8 public or private property.

9 2. "Terrorism" means the same as defined in section 708.6.

10 Sec. 5. NEW SECTION. 724A.3 UNLAWFUL TRAINING ACTIVITY.

11 A person commits unlawful training activity by doing any of
12 the following:

13 1. Providing or participating in, alone or with one or
14 more persons, instruction or training in the use, application,
15 or construction of an offensive weapon as defined in section
16 724.1, dangerous weapon as defined in section 702.7, firearm,
17 or the use or application of a technique or means capable of
18 causing injury or death to an individual or damage to property
19 when the person intends, or knows or has reason to know, that
20 the instruction or training will be unlawfully employed for
21 use in, or in furtherance of, terrorism, a violation of
22 section 729.5, or civil disorder.

23 2. Conspiring with or assembling with one or more persons
24 to provide or participate in instruction or training in the
25 use, application, or construction of an offensive weapon as
26 defined in section 724.1, dangerous weapon as defined in
27 section 702.7, firearm, or the use or application of a
28 technique or means capable of causing injury or death to an
29 individual or damage to property when the person intends, or
30 knows or has reason to know, that the instruction or training
31 will be unlawfully employed for use in, or in furtherance of,
32 terrorism, a violation of section 729.5, or civil disorder

33 Unlawful training activity is a class "D" felony.

34 Sec. 6. NEW SECTION. 724A.4 CERTAIN ACTIVITY NOT
35 PROHIBITED.

1 This chapter does not prohibit otherwise lawful activities
2 involving weapons, firearms, processes, or techniques which do
3 not violate section 724A.3 including but not limited to the
4 following:

5 1. Training or teaching of the use of weapons for law
6 enforcement, hunting, recreation, or competition purposes.

7 2. Classes in the safe use and handling of firearms or
8 martial arts or self-defense classes.

9 3. The activities of the national guard or of the armed
10 forces of the United States.

11 Nothing in this chapter shall make unlawful any act of any
12 law enforcement officer performed otherwise lawfully in the
13 course of the officer's official duties.

14 Sec. 7. Section 729.5, subsection 1, unnumbered paragraph
15 1, Code 1995, is amended to read as follows:

16 A person, who acts alone, or who conspires with another
17 person or persons, to injure, oppress, threaten, or intimidate
18 or interfere with any citizen in the free exercise or
19 enjoyment of any right or privilege secured to that person by
20 the constitution or laws of the state of Iowa or by the
21 constitution or laws of the United States, ~~and assemblies with~~
22 ~~one or more persons for the purpose of teaching or being~~
23 ~~instructed in any technique or means capable of causing~~
24 ~~property damage, bodily injury or death when the person or~~
25 ~~persons intend to employ those techniques or means in~~
26 ~~furtherance of the conspiracy, is on conviction, guilty of~~
27 commits a class "D" felony.

28 EXPLANATION

29 This bill creates the offense of unlawful training activity
30 and makes related changes to provisions regarding the
31 possession of real or simulated explosive devices and
32 regarding violation of individual rights. The bill makes
33 unlawful training activity a class "D" felony.

34 The bill provides that a person commits the offense of
35 unlawful training activity in either of two ways: first, when

1 the person provides or participates in training involving
2 offensive or dangerous weapons, firearms, or any technique or
3 means capable of causing injury or death to people or property
4 with the intent, or when the person knows or should know, that
5 the instruction or training will be unlawfully employed for
6 use in terrorism, violation of individual rights, or civil
7 disorder; second, if a person conspires or assembles with
8 others to provide or participate in the instruction or
9 training with the intent, or where the person knows or should
10 know, that the instruction or training will be unlawfully
11 employed for use in terrorism, violation of individual rights,
12 or civil disorder.

13 The bill defines civil disorder as the unlawful use of an
14 offensive or dangerous weapon, firearm, or the use of a
15 technique or other means which is capable of injuring or
16 killing people or damaging public or private property. As
17 used in the bill, terrorism has the same meaning as in section
18 708.6.

19 The bill also strikes language regarding bomb threats from
20 chapter 708 (assault and related offenses) and moves it to
21 chapter 712 (arson and related offenses). A person who places
22 a simulated explosive device near an occupied building or
23 vehicle commits a class "D" felony. The bill eliminates the
24 requirement of intent to harass or intimidate from this
25 offense. The bill makes it a class "C" felony for a person to
26 possess a simulated explosive or incendiary device with the
27 intent to use the device to commit a crime. The bill also
28 makes it a class "D" felony for a person to possess an actual
29 or simulated explosive or incendiary device who is not
30 authorized to under chapter 724.

31 BACKGROUND STATEMENT

32 SUBMITTED BY THE AGENCY

33 The public has become aware recently of groups which
34 espouse views and ideals that favor expression of disagreement
35 with government policies and actions in unlawful and violent

1 ways. The potential exists that some of these groups or their
2 members will commence plans or prepare to conduct unlawful
3 actions intended to demonstrate their views.

4 Review of Iowa's current statutes indicates insufficient
5 authority exists as a basis for law enforcement response to
6 the kind of unlawful training activity possible today by these
7 groups or individuals. Many states have enacted laws that
8 provide law enforcement and prosecutors clear authority to
9 investigate and criminally prosecute unlawful activities by
10 groups or individuals regarding training in techniques of
11 violence. Enactment of such a statute in Iowa would provide a
12 means of responding to such activity should it appear.

13 The Iowa department of public safety proposes creation of a
14 new Code chapter defining civil disorder and unlawful training
15 activity and providing criminal penalties. Various legitimate
16 activities would be exempted from application of the statute.
17 Conviction of violating the chapter would be a class "D"
18 felony.

19 The proposed legislation also moves language regarding
20 possession of explosive or incendiary materials with intent to
21 commit a public offense from chapter 708 (assault) to chapter
22 712 (arson). Also added is a proscription on possession of
23 simulated explosive devices with intent to commit a public
24 offense.

25
26
27
28
29
30
31
32
33
34
35