

H. 3-11-96 Judiciary
H. 3/25/96 Do Pass
FILED FEB 22 1996

SENATE FILE 2269
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 2085)

Passed Senate, Date ^(p. 628) 3/5/96 Passed House, Date 4/8/96 (p. 1346)
Vote: Ayes 50 Nays 0 Vote: Ayes 98 Nays 1

^(p. 1249) Approved April 17, 1996
Passed 4-8-96
Vote 48-0

A BILL FOR

1 An Act enhancing the penalties for a third or subsequent offense
2 of domestic abuse assault.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 2269

1 Section 1. Section 708.2A, Code Supplement 1995, is
2 amended to read as follows:

3 708.2A DOMESTIC ABUSE ASSAULT -- MANDATORY MINIMUMS,
4 PENALTIES ENHANCED -- EXTENSION OF NO-CONTACT ORDER.

5 1. For the purposes of this chapter, "domestic abuse
6 assault" means an assault, as defined in section 708.1, which
7 is domestic abuse as defined in section 236.2.

8 2. On a first offense of domestic abuse assault, the
9 person commits:

10 a. A simple misdemeanor for a domestic abuse assault,
11 except as otherwise provided.

12 b. A serious misdemeanor, if the domestic abuse assault
13 causes bodily injury or mental illness.

14 c. An aggravated misdemeanor, if the domestic abuse
15 assault is committed with the intent to inflict a serious
16 injury upon another, or if the person uses or displays a
17 dangerous weapon in connection with the assault. This
18 paragraph does not apply if section 708.6 or 708.8 applies.

19 3. Except as otherwise provided in subsection 2, on a
20 second ~~or-subsequent~~ domestic abuse assault, a person commits:

21 a. A serious misdemeanor, if the first offense was
22 classified as a simple misdemeanor, and the second offense
23 would otherwise be classified as a simple misdemeanor.

24 b. An aggravated misdemeanor, if the first offense was
25 classified as a simple or aggravated misdemeanor, and the
26 second offense would otherwise be classified as a serious
27 misdemeanor, or the first offense was classified as a serious
28 or aggravated misdemeanor, and the second offense would
29 otherwise be classified as a simple or serious misdemeanor.

30 4. On a third or subsequent offense of domestic abuse
31 assault, a person commits a class "D" felony.

32 5. a. A conviction for, deferred judgment for, or plea of
33 guilty to, a violation of this section which occurred more
34 than six years prior to the date of the violation charged
35 shall not be considered in determining that the violation

1 charged is a second or subsequent offense.

2 b. For the purpose of determining if a violation charged
3 is a second or subsequent offense, deferred judgments issued
4 pursuant to section 907.3 for violations of section 708.2 or
5 this section, which were issued on domestic abuse assaults,
6 and convictions or the equivalent of deferred judgments for
7 violations in any other states under statutes substantially
8 corresponding to this section shall be counted as previous
9 offenses. The courts shall judicially notice the statutes of
10 other states which define offenses substantially equivalent to
11 the offenses defined in this section and can therefore be
12 considered corresponding statutes. Each previous violation on
13 which conviction or deferral of judgment was entered prior to
14 the date of the offense charged shall be considered and
15 counted as a separate previous offense.

16 c. An offense shall be considered a prior offense
17 regardless of whether it was committed upon the same victim.

18 ~~4.~~ 6. a. A person convicted of violating ~~this section~~
19 subsection 2 or 3 shall serve a minimum term of two days of
20 the sentence imposed by law, and shall not be eligible for
21 suspension of the minimum sentence. The minimum term shall be
22 served on consecutive days. The court shall not impose a fine
23 in lieu of the minimum sentence, although a fine may be
24 imposed in addition to the minimum sentence. This section
25 does not prohibit the court from sentencing and the defendant
26 from serving the maximum term of confinement or from paying
27 the maximum fine permitted pursuant to chapters 902 and 903,
28 and does not prohibit the court from entering a deferred
29 judgment or sentence pursuant to section 907.3, if the
30 defendant has not previously received a deferred sentence or
31 judgment for a violation of section 708.2 or this section
32 which was issued on a domestic abuse assault. However, once
33 the defendant has received one deferred sentence or judgment
34 involving a violation of section 708.2 or this section which
35 was issued on a domestic abuse assault, the defendant shall

1 not be eligible to receive another deferred sentence or
2 judgment for a violation of this section.

3 b. A person convicted of violating subsection 4 shall be
4 sentenced to a term of not less than one year and committed to
5 the custody of the director of the department of corrections,
6 and assessed a fine of not less than seven hundred fifty
7 dollars. Notwithstanding section 901.5, subsection 3, and
8 section 907.3, subsection 3, the sentence cannot be suspended;
9 however, the person sentenced shall receive credit for any
10 time the person was confined in a jail or detention facility
11 following arrest.

12 5- 7. If a defendant is convicted for, receives a deferred
13 judgment for, or pleads guilty to a violation of this section,
14 the court shall modify the no-contact order issued upon
15 initial appearance in the manner provided in section 236.14,
16 regardless of whether the defendant is placed on probation.

17 6- 8. The clerk of the district court shall provide notice
18 and copies of a judgment entered under this section to the
19 applicable law enforcement agencies and the twenty-four hour
20 dispatcher for the law enforcement agencies, in the manner
21 provided for protective orders under section 236.5. The clerk
22 shall provide notice and copies of modifications of the
23 judgment in the same manner.

24 7- 9. In addition to the mandatory minimum term of
25 confinement imposed by ~~this section~~ subsection 6, paragraph
26 "a", the court shall order the a defendant convicted under
27 subsection 2 or 3 to participate in a batterers' treatment
28 program as required under section 708.2B. In addition, as a
29 condition of deferring judgment or sentence pursuant to
30 section 907.3, the court shall order the defendant to
31 participate in a batterers' treatment program. The clerk of
32 the district court shall send a copy of the judgment or
33 deferred judgment to the judicial district department of
34 correctional services.

35 Sec. 2. Section 907.3, subsection 3, Code Supplement 1995,

1 is amended to read as follows:

2 3. By record entry at the time of or after sentencing, the
3 court may suspend the sentence and place the defendant on
4 probation upon such terms and conditions as it may require
5 including commitment to an alternate jail facility or a
6 community correctional residential treatment facility for a
7 specific number of days to be followed by a term of probation
8 as specified in section 907.7. A person so committed who has
9 probation revoked shall be given credit for such time served.
10 However, the court shall not suspend the minimum term of two
11 days imposed pursuant to section 708.2A, subsection 6,
12 paragraph "a", or a sentence imposed under section 708.2A,
13 subsection 6, paragraph "b", and the court shall not suspend a
14 sentence imposed pursuant to section 236.8 or 236.14 for
15 contempt.

16 EXPLANATION

17 This bill enhances the penalty for a third or subsequent
18 domestic abuse assault offense. A third or subsequent offense
19 would be a class "D" felony, punishable by imprisonment of no
20 less than one year (and up to five years), and a fine of no
21 less than \$750 (and up to \$7,500). The sentence could not be
22 suspended.

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HOUSE AMENDMENT TO
SENATE FILE 2269

S-5659

1 Amend Senate File 2269, as passed by the Senate, as
2 follows:

3 1. Page 1, by inserting before line 1 the
4 following:

5 "Section 1. Section 331.756, subsection 4, Code
6 Supplement 1995, is amended to read as follows:

7 4. Prosecute misdemeanors under chapter 236. The
8 county attorney shall prosecute other misdemeanors
9 when not otherwise engaged in the performance of other
10 official duties.

11 Sec. 2. Section 602.6306, subsection 2, Code 1995,
12 is amended to read as follows:

13 2. District associate judges also have
14 jurisdiction in civil actions for money judgment where
15 the amount in controversy does not exceed ten thousand
16 dollars, jurisdiction over involuntary commitment,
17 treatment, or hospitalization proceedings under
18 chapters 125 and 229, jurisdiction of indictable
19 misdemeanors, and felony violations of section 321J.2,
20 jurisdiction to enter a temporary or emergency order
21 of protection under chapter 236, and to make court
22 appointments and set hearings in criminal matters,
23 jurisdiction to enter orders in probate which do not
24 require notice and hearing and to set hearings in
25 actions under chapter 633, and the jurisdiction
26 provided in section 602.7101 when designated as a
27 judge of the juvenile court. While presiding in these
28 subject matters a district associate judge shall
29 employ district judges' practice and procedure."

30 2. Page 4, by inserting after line 15 the
31 following:

32 "Sec. ____ DOMESTIC ABUSE TREATMENT PILOT PROGRAM.
33 Notwithstanding section 708.2A, a court, located in a
34 county which has been designated by the supreme court
35 as a county establishing an alternative batterers'
36 treatment pilot program, shall sentence a person who
37 pleads guilty to or is convicted of domestic abuse
38 assault under section 708.2A to either a batterers'
39 treatment program under section 708.2B or the
40 alternative batterers' pilot program established in
41 the county.

42 The judicial district in which the county is
43 located shall report to the general assembly not later
44 than January 15 of each year regarding the alternative
45 batterers' pilot program. The judicial district shall
46 submit a final report not later than August 1, 1998,
47 regarding the pilot program.

48 This section is repealed effective June 30, 1998,
49 except that the date for submission of the final
50 report shall remain August 1, 1998."

S-5659

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S-5659

Page 2

1 3. Title page, line 2, by striking the word
2 "assault." and inserting the following: "assault,
3 requiring county attorneys to prosecute certain
4 domestic abuse misdemeanors, giving district associate
5 judges jurisdiction to enter orders of protection in
6 certain domestic abuse matters, and establishing a
7 pilot program for domestic abuse."

8 4. By renumbering as necessary.

S-5659 Filed 4/3/96

RECEIVED FROM THE HOUSE

Senate Concurred 4-8-96 (P. 1249)

SENATE FILE 2269

H-5738

1 Amend Senate File 2269, as passed by the Senate, as
2 follows:

3 1. Page 1, by inserting before line 1 the
4 following:

5 "Section 1. Section 331.756, subsection 4, Code
6 Supplement 1995, is amended to read as follows:

7 4. Prosecute misdemeanors under chapter 236. The
8 county attorney shall prosecute other misdemeanors
9 when not otherwise engaged in the performance of other
10 official duties.

11 Sec. 2. Section 602.6306, subsection 2, Code 1995,
12 is amended to read as follows:

13 2. District associate judges also have
14 jurisdiction in civil actions for money judgment where
15 the amount in controversy does not exceed ten thousand
16 dollars, jurisdiction over involuntary commitment,
17 treatment, or hospitalization proceedings under
18 chapters 125 and 229, jurisdiction of indictable
19 misdemeanors, and felony violations of section 321J.2,
20 jurisdiction to enter a temporary or emergency order
21 of protection under chapter 236, and to make court
22 appointments and set hearings in criminal matters,
23 jurisdiction to enter orders in probate which do not
24 require notice and hearing and to set hearings in
25 actions under chapter 633, and the jurisdiction
26 provided in section 602.7101 when designated as a
27 judge of the juvenile court. While presiding in these
28 subject matters a district associate judge shall
29 employ district judges' practice and procedure."

30 2. Page 4, by inserting after line 15 the
31 following:

32 "Sec. ____ . DOMESTIC ABUSE TREATMENT PILOT PROGRAM.
33 Notwithstanding section 708.2A, a court, located in a
34 county which has been designated by the supreme court
35 as a county establishing an alternative batterers'
36 treatment pilot program, shall sentence a person who
37 pleads guilty to or is convicted of domestic abuse
38 assault under section 708.2A to either a batterers'
39 treatment program under section 708.2B or the
40 alternative batterers' pilot program established in
41 the county.

42 The judicial district in which the county is
43 located shall report to the general assembly not later
44 than January 15 of each year regarding the alternative
45 batterers' pilot program. The judicial district shall
46 submit a final report not later than August 1, 1998,
47 regarding the pilot program.

48 This section is repealed effective June 30, 1998,
49 except that the date for submission of the final
50 report shall remain August 1, 1998."

H-5738

H-5738

Page 2

- 1 3. Title page, line 2, by striking the word
- 2 "assault." and inserting the following: "assault,
- 3 requiring county attorneys to prosecute certain
- 4 domestic abuse misdemeanors, giving district associate
- 5 judges jurisdiction to enter orders of protection in
- 6 certain domestic abuse matters, and establishing a
- 7 pilot program for domestic abuse."
- 8 4. By renumbering as necessary.

By KREIMAN of Davis
GREINER of Washington

H-5738 FILED APRIL 1, 1996

Adopted 4/3/96 (p. 1346)

**SENATE FILE 2269
FISCAL NOTE**

The estimate for **Senate File 2269** 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 2269 enhances the penalty for a third or subsequent domestic abuse assault offense. A third or subsequent offense would be a class "D" felony, punishable by imprisonment of no less than one year (and up to five years), and a fine of no less than \$750 (and up to \$7,500). The sentence could be suspended.

ASSUMPTIONS

1. Charge, conviction, and sentencing patterns and trends will not change over the projection period, except where noted.
2. Prisoner length of stay, revocation rates, and other corrections policies and practices will not change over the projection period.
3. There will be a lag of six months from the law's effective date to the date of the first entry of affected offenders into the correctional system.

CORRECTIONAL IMPACT

A total of 36 convictions may occur each year due to the adoption of SF 2269, resulting in the following correctional impact on prisons:

Increase in Admissions to Prison

	<u>FY 1997</u>	<u>FY 1998</u>	<u>FY 2001</u>
Admissions	6	12	12
Population Increase	6	36	42

NOTE: The proposed mandatory minimum term for such offenders would not have a significant impact on offender length of stay, as Class "D" felons whose crimes are against persons already serve an average term of imprisonment in excess of the proposed mandatory term.

FISCAL IMPACT

Senate File 2269 will increase General Fund expenditures of the Department of Corrections approximately \$26,000 in FY 1997, \$158,000 in FY 1998, and \$184,000 in FY 2001.

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NOTE: The average marginal cost per year for a prison inmate is estimated to be \$4,380.

SOURCES

Department of Human Services
Criminal and Juvenile Justice Planning
Department of Corrections

(LSB 3688sv, PQP)

FILED FEBRUARY 28, 1996

BY DENNIS PROUTY, FISCAL DIRECTOR

Szymoniak
Diannetto
Hammond
Boettger
Drake

SSB. 2085
Judiciary

Succeeded By
SF HF 2269
SENATE/HOUSE FILE _____
BY (PROPOSED GOVERNOR'S BILL)

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

A BILL FOR

1 An Act enhancing the penalties for a third or subsequent offense
2 of domestic abuse assault.

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

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1 ~~Section 1.~~ Section 708.2A, Code Supplement 1995, is
2 amended to read as follows:

3 708.2A DOMESTIC ABUSE ASSAULT -- MANDATORY MINIMUMS,
4 PENALTIES ENHANCED -- EXTENSION OF NO-CONTACT ORDER.

5 1. For the purposes of this chapter, "domestic abuse
6 assault" means an assault, as defined in section 708.1, which
7 is domestic abuse as defined in section 236.2.

8 2. On a first offense of domestic abuse assault, the
9 person commits:

10 a. A simple misdemeanor for a domestic abuse assault,
11 except as otherwise provided.

12 b. A serious misdemeanor, if the domestic abuse assault
13 causes bodily injury or mental illness.

14 c. An aggravated misdemeanor, if the domestic abuse
15 assault is committed with the intent to inflict a serious
16 injury upon another, or if the person uses or displays a
17 dangerous weapon in connection with the assault. This
18 paragraph does not apply if section 708.6 or 708.8 applies.

19 3. Except as otherwise provided in subsection 2, on a
20 second or subsequent domestic abuse assault, a person commits:

21 a. A serious misdemeanor, if the first offense was
22 classified as a simple misdemeanor, and the second offense
23 would otherwise be classified as a simple misdemeanor.

24 b. An aggravated misdemeanor, if the first offense was
25 classified as a simple or aggravated misdemeanor, and the
26 second offense would otherwise be classified as a serious
27 misdemeanor, or the first offense was classified as a serious
28 or aggravated misdemeanor, and the second offense would
29 otherwise be classified as a simple or serious misdemeanor.

30 4. On a third or subsequent offense of domestic abuse
31 assault, a person commits a class "D" felony.

32 5. a. A conviction for, deferred judgment for, or plea of
33 guilty to, a violation of this section which occurred more
34 than six years prior to the date of the violation charged
35 shall not be considered in determining that the violation

1 charged is a second or subsequent offense.

2 b. For the purpose of determining if a violation charged
3 is a second or subsequent offense, deferred judgments issued
4 pursuant to section 907.3 for violations of section 708.2 or
5 this section, which were issued on domestic abuse assaults,
6 and convictions or the equivalent of deferred judgments for
7 violations in any other states under statutes substantially
8 corresponding to this section shall be counted as previous
9 offenses. The courts shall judicially notice the statutes of
10 other states which define offenses substantially equivalent to
11 the offenses defined in this section and can therefore be
12 considered corresponding statutes. Each previous violation on
13 which conviction or deferral of judgment was entered prior to
14 the date of the offense charged shall be considered and
15 counted as a separate previous offense.

16 c. An offense shall be considered a prior offense
17 regardless of whether it was committed upon the same victim.

18 ~~4.~~ 6. a. A person convicted of violating ~~this section~~
19 subsection 2 or 3 shall serve a minimum term of two days of
20 the sentence imposed by law, and shall not be eligible for
21 suspension of the minimum sentence. The minimum term shall be
22 served on consecutive days. The court shall not impose a fine
23 in lieu of the minimum sentence, although a fine may be
24 imposed in addition to the minimum sentence. This section
25 does not prohibit the court from sentencing and the defendant
26 from serving the maximum term of confinement or from paying
27 the maximum fine permitted pursuant to chapters 902 and 903,
28 and does not prohibit the court from entering a deferred
29 judgment or sentence pursuant to section 907.3, if the
30 defendant has not previously received a deferred sentence or
31 judgment for a violation of section 708.2 or this section
32 which was issued on a domestic abuse assault. However, once
33 the defendant has received one deferred sentence or judgment
34 involving a violation of section 708.2 or this section which
35 was issued on a domestic abuse assault, the defendant shall

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1 not be eligible to receive another deferred sentence or
2 judgment for a violation of this section.

3 b. A person convicted of violating subsection 4 shall be
4 sentenced to a term of not less than one year and committed to
5 the custody of the director of the department of corrections,
6 and assessed a fine of not less than seven hundred fifty
7 dollars. Notwithstanding section 901.5, subsection 3, and
8 section 907.3, subsection 3, the sentence cannot be suspended;
9 however, the person sentenced shall receive credit for any
10 time the person was confined in a jail or detention facility
11 following arrest.

12 ~~5-~~ 7. If a defendant is convicted for, receives a deferred
13 judgment for, or pleads guilty to a violation of this section,
14 the court shall modify the no-contact order issued upon
15 initial appearance in the manner provided in section 236.14,
16 regardless of whether the defendant is placed on probation.

17 ~~6-~~ 8. The clerk of the district court shall provide notice
18 and copies of a judgment entered under this section to the
19 applicable law enforcement agencies and the twenty-four hour
20 dispatcher for the law enforcement agencies, in the manner
21 provided for protective orders under section 236.5. The clerk
22 shall provide notice and copies of modifications of the
23 judgment in the same manner.

24 ~~7-~~ 9. In addition to the mandatory minimum term of
25 confinement imposed by ~~this-section~~ subsection 6, paragraph
26 "a", the court shall order the a defendant convicted under
27 subsection 2 or 3 to participate in a batterers' treatment
28 program as required under section 708.2B. In addition, as a
29 condition of deferring judgment or sentence pursuant to
30 section 907.3, the court shall order the defendant to
31 participate in a batterers' treatment program. The clerk of
32 the district court shall send a copy of the judgment or
33 deferred judgment to the judicial district department of
34 correctional services.

35 Sec. 2. Section 907.3, subsection 3, Code Supplement 1995,

1 is amended to read as follows:

2 3. By record entry at the time of or after sentencing, the
3 court may suspend the sentence and place the defendant on
4 probation upon such terms and conditions as it may require
5 including commitment to an alternate jail facility or a
6 community correctional residential treatment facility for a
7 specific number of days to be followed by a term of probation
8 as specified in section 907.7. A person so committed who has
9 probation revoked shall be given credit for such time served.
10 However, the court shall not suspend the minimum term of two
11 days imposed pursuant to section 708.2A, subsection 6,
12 paragraph "a", or a sentence imposed under section 708.2A,
13 subsection 6, paragraph "b", and the court shall not suspend a
14 sentence imposed pursuant to section 236.8 or 236.14 for
15 contempt.

16 EXPLANATION

17 This bill enhances the penalty for a third or subsequent
18 domestic abuse assault offense. A third or subsequent offense
19 would be a class "D" felony, punishable by imprisonment of no
20 less than one year (and up to five years), and a fine of no
21 less than \$750 (and up to \$7,500). The sentence could not be
22 suspended.

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SENATE FILE 2269

AN ACT

ENHANCING THE PENALTIES FOR A THIRD OR SUBSEQUENT OFFENSE OF DOMESTIC ABUSE ASSAULT, REQUIRING COUNTY ATTORNEYS TO PROSECUTE CERTAIN DOMESTIC ABUSE MISDEMEANORS, GIVING DISTRICT ASSOCIATE JUDGES JURISDICTION TO ENTER ORDERS OF PROTECTION IN CERTAIN DOMESTIC ABUSE MATTERS, AND ESTABLISHING A PILOT PROGRAM FOR DOMESTIC ABUSE.

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

Section 1. Section 331.756, subsection 4, Code Supplement 1995, is amended to read as follows:

4. Prosecute misdemeanors under chapter 236. The county attorney shall prosecute other misdemeanors when not otherwise engaged in the performance of other official duties.

Sec. 2. Section 602.6306, subsection 2, Code 1995, is amended to read as follows:

2. District associate judges also have jurisdiction in civil actions for money judgment where the amount in controversy does not exceed ten thousand dollars, jurisdiction over involuntary commitment, treatment, or hospitalization proceedings under chapters 125 and 229, jurisdiction of indictable misdemeanors, and felony violations of section 321J.2, jurisdiction to enter a temporary or emergency order of protection under chapter 236, and to make court

appointments and set hearings in criminal matters, jurisdiction to enter orders in probate which do not require notice and hearing and to set hearings in actions under chapter 633, and the jurisdiction provided in section 602.7101 when designated as a judge of the juvenile court. While presiding in these subject matters a district associate judge shall employ district judges' practice and procedure.

Sec. 3. Section 708.2A, Code Supplement 1995, is amended to read as follows:

708.2A DOMESTIC ABUSE ASSAULT -- MANDATORY MINIMUMS, PENALTIES ENHANCED -- EXTENSION OF NO-CONTACT ORDER.

1. For the purposes of this chapter, "domestic abuse assault" means an assault, as defined in section 708.1, which is domestic abuse as defined in section 236.2.

2. On a first offense of domestic abuse assault, the person commits:

a. A simple misdemeanor for a domestic abuse assault, except as otherwise provided.

b. A serious misdemeanor, if the domestic abuse assault causes bodily injury or mental illness.

c. An aggravated misdemeanor, if the domestic abuse assault is committed with the intent to inflict a serious injury upon another, or if the person uses or displays a dangerous weapon in connection with the assault. This paragraph does not apply if section 708.6 or 708.8 applies.

3. Except as otherwise provided in subsection 2, on a second or-subsequent domestic abuse assault, a person commits:

a. A serious misdemeanor, if the first offense was classified as a simple misdemeanor, and the second offense would otherwise be classified as a simple misdemeanor.

b. An aggravated misdemeanor, if the first offense was classified as a simple or aggravated misdemeanor, and the second offense would otherwise be classified as a serious misdemeanor, or the first offense was classified as a serious or aggravated misdemeanor, and the second offense would otherwise be classified as a simple or serious misdemeanor.

4. On a third or subsequent offense of domestic abuse assault, a person commits a class "D" felony.

5. a. A conviction for, deferred judgment for, or plea of guilty to, a violation of this section which occurred more than six years prior to the date of the violation charged shall not be considered in determining that the violation charged is a second or subsequent offense.

b. For the purpose of determining if a violation charged is a second or subsequent offense, deferred judgments issued pursuant to section 907.3 for violations of section 708.2 or this section, which were issued on domestic abuse assaults, and convictions or the equivalent of deferred judgments for violations in any other states under statutes substantially corresponding to this section shall be counted as previous offenses. The courts shall judicially notice the statutes of other states which define offenses substantially equivalent to the offenses defined in this section and can therefore be considered corresponding statutes. Each previous violation on which conviction or deferral of judgment was entered prior to the date of the offense charged shall be considered and counted as a separate previous offense.

c. An offense shall be considered a prior offense regardless of whether it was committed upon the same victim.

4- 6. a. A person convicted of violating ~~this-section~~ subsection 2 or 3 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 minimum term shall be served on consecutive days. 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.

b. A person convicted of violating subsection 4 shall be sentenced to a term of not less than one year and committed to the custody of the director of the department of corrections, and assessed a fine of not less than seven hundred fifty dollars. Notwithstanding section 901.5, subsection 3, and section 907.3, subsection 3, the sentence cannot be suspended; however, the person sentenced shall receive credit for any time the person was confined in a jail or detention facility following arrest.

5- 7. If a defendant is convicted for, receives a deferred judgment for, or pleads guilty to a violation of this section, the court shall modify the no-contact order issued upon initial appearance in the manner provided in section 236.14, regardless of whether the defendant is placed on probation.

6- 8. The clerk of the district court shall provide notice and copies of a judgment entered under this section to the applicable law enforcement agencies and the twenty-four hour dispatcher for the law enforcement agencies, in the manner provided for protective orders under section 236.5. The clerk shall provide notice and copies of modifications of the judgment in the same manner.

7- 9. In addition to the mandatory minimum term of confinement imposed by ~~this-section~~ subsection 6, paragraph "a", the court shall order the a defendant convicted under subsection 2 or 3 to participate in a batterers' treatment program as required under section 708.2B. In addition, as a condition of deferring judgment or sentence pursuant to

section 907.3, the court shall order the defendant to participate in a batterers' treatment program. The clerk of the district court shall send a copy of the judgment or deferred judgment to the judicial district department of correctional services.

Sec. 4. Section 907.3, subsection 3, Code Supplement 1995, is amended to read as follows:

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, subsection 6, paragraph "a", or a sentence imposed under section 708.2A, subsection 6, paragraph "b", and the court shall not suspend a sentence imposed pursuant to section 236.8 or 236.14 for contempt.

Sec. 5. DOMESTIC ABUSE TREATMENT PILOT PROGRAM. Notwithstanding section 708.2A, a court, located in a county which has been designated by the supreme court as a county establishing an alternative batterers' treatment pilot program, shall sentence a person who pleads guilty to or is convicted of domestic abuse assault under section 708.2A to either a batterers' treatment program under section 708.2B or the alternative batterers' pilot program established in the county.

The judicial district in which the county is located shall report to the general assembly not later than January 15 of each year regarding the alternative batterers' pilot program. The judicial district shall submit a final report not later than August 1, 1998, regarding the pilot program.

This section is repealed effective June 30, 1998, except that the date for submission of the final report shall remain August 1, 1998.

LEONARD L. BOSWELL
President of the Senate

RON J. CORBETT
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2269, Seventy-sixth General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved *April 17*, 1996

TERRY E. BRANSTAD
Governor