

236.12 Prevention of further abuse — notification of rights — arrest — liability.

1. If a peace officer has reason to believe that domestic abuse has occurred, the officer shall use all reasonable means to prevent further abuse including but not limited to the following:

a. If requested, remaining on the scene as long as there is a danger to an abused person's physical safety without the presence of a peace officer, including but not limited to staying in the dwelling unit, or if unable to remain on the scene, assisting the person in leaving the residence.

b. Assisting an abused person in obtaining medical treatment necessitated by an assault, including providing assistance to the abused person in obtaining transportation to the emergency room of the nearest hospital.

c. Providing an abused person with immediate and adequate notice of the person's rights. The notice shall consist of handing the person a document that includes the telephone numbers of shelters, support groups, and crisis lines operating in the area and contains a copy of the following statement written in English and Spanish; asking the person to read the card; and asking whether the person understands the rights:

You have the right to ask the court for the following help on a temporary basis:

- (1) Keeping your attacker away from you, your home and your place of work.
- (2) The right to stay at your home without interference from your attacker.
- (3) Getting custody of children and obtaining support for yourself and your minor children if your attacker is legally required to provide such support.
- (4) Professional counseling for you, the children who are members of the household, and the defendant.

You have the right to seek help from the court to seek a protective order with or without the assistance of legal representation. You have the right to seek help from the courts without the payment of court costs if you do not have sufficient funds to pay the costs.

You have the right to file criminal charges for threats, assaults, or other related crimes.

You have the right to seek restitution against your attacker for harm to yourself or your property.

If you are in need of medical treatment, you have the right to request that the officer present assist you in obtaining transportation to the nearest hospital or otherwise assist you.

If you believe that police protection is needed for your physical safety, you have the right to request that the officer present remain at the scene until you and other affected parties can leave or until safety is otherwise ensured.

2. a. A peace officer may, with or without a warrant, arrest a person under section 708.2A, subsection 2, paragraph "a", if, upon investigation, including a reasonable inquiry of the alleged victim and other witnesses, if any, the officer has probable cause to believe that a domestic abuse assault has been committed which did not result in any injury to the alleged victim.

b. Except as otherwise provided in subsection 3, a peace officer shall, with or without a warrant, arrest a person under section 708.2A, subsection 2, paragraph "b", if, upon investigation, including a reasonable inquiry of the alleged victim and other witnesses, if any, the officer has probable cause to believe that a domestic abuse assault has been committed which resulted in the alleged victim's suffering a bodily injury.

c. Except as otherwise provided in subsection 3, a peace officer shall, with or without a warrant, arrest a person under section 708.2A, subsection 2, paragraph "c", if, upon investigation, including a reasonable inquiry of the alleged victim and other witnesses, if any, the officer has probable cause to believe that a domestic abuse assault has been committed with the intent to inflict a serious injury.

d. Except as otherwise provided in subsection 3, a peace officer shall, with or without a warrant, arrest a person under section 708.2A, subsection 2, paragraph "c", if, upon investigation, including a reasonable inquiry of the alleged victim and other witnesses, if any, the officer has probable cause to believe that a domestic abuse assault has been committed

and that the alleged abuser used or displayed a dangerous weapon in connection with the assault.

e. Except as otherwise provided in subsection 3, a peace officer shall, with or without a warrant, arrest a person under section 708.2A, subsection 2, paragraph “d”, if, upon investigation, including a reasonable inquiry of the alleged victim and other witnesses, if any, the officer has probable cause to believe that a domestic abuse assault has been committed by knowingly impeding the normal breathing or circulation of the blood of another by applying pressure to the throat or neck of the other person or by obstructing the nose or mouth of the other person.

f. Except as otherwise provided in subsection 3, a peace officer shall, with or without a warrant, arrest a person under section 708.2A, subsection 5, if, upon investigation, including a reasonable inquiry of the alleged victim and other witnesses, if any, the officer has probable cause to believe that a domestic abuse assault has been committed by knowingly impeding the normal breathing or circulation of the blood of another by applying pressure to the throat or neck of the other person or by obstructing the nose or mouth of the other person, and causing bodily injury.

3. As described in subsection 2, paragraph “b”, “c”, “d”, “e”, or “f”, the peace officer shall arrest the person whom the peace officer believes to be the primary physical aggressor. The duty of the officer to arrest extends only to those persons involved who are believed to have committed an assault. Persons acting with justification, as defined in section 704.3, are not subject to mandatory arrest. In identifying the primary physical aggressor, a peace officer shall consider the need to protect victims of domestic abuse, the relative degree of injury or fear inflicted on the persons involved, and any history of domestic abuse between the persons involved. A peace officer’s identification of the primary physical aggressor shall not be based on the consent of the victim to any subsequent prosecution or on the relationship of the persons involved in the incident, and shall not be based solely upon the absence of visible indications of injury or impairment.

4. A peace officer is not civilly or criminally liable for actions pursuant to this section taken in good faith.

84 Acts, ch 1258, §1; 85 Acts, ch 175, §5; 86 Acts, ch 1179, §3; 87 Acts, ch 154, §6; 89 Acts, ch 85, §2; 90 Acts, ch 1056, §1, 2; 91 Acts, ch 218, §11; 92 Acts, ch 1163, §52; 2009 Acts, ch 133, §93, 94; 2012 Acts, ch 1002, §1, 2

Referred to in §236.16, 236.17, 664A.3, 664A.6, 804.7, 915.50

[T] Subsection 2, NEW paragraphs e and f

[T] Subsection 3 amended