

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, subsection 2, paragraph “a”, “b”, “c”, or “d”.

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.

d. An aggravated misdemeanor, if the domestic abuse assault is 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.

3. Except as otherwise provided in subsection 2, on a second 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. For a domestic abuse assault 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, the person commits a class “D” felony.

6. a. A conviction for, deferred judgment for, or plea of guilty to, a violation of this section which occurred more than twelve 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.

7. a. A person convicted of violating 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 person 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 person 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.

b. A person convicted of violating subsection 4 shall be sentenced as provided under section 902.9, subsection 5, and shall be denied parole or work release until the person has

served a minimum of one year of the person's sentence. Notwithstanding section 901.5, subsections 1, 3, and 5 and section 907.3, the person cannot receive a suspended or deferred sentence or a deferred judgment; however, the person sentenced shall receive credit for any time the person was confined in a jail or detention facility following arrest.

8. If a person 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 664A.5, regardless of whether the person is placed on probation.

9. 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.

10. In addition to the mandatory minimum term of confinement imposed by subsection 7, paragraph "a", the court shall order a person 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 person 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.

87 Acts, ch 154, §9; 91 Acts, ch 218, §27; 91 Acts, ch 219, §19, 20; 92 Acts, ch 1163, §118; 93 Acts, ch 157, §9; 94 Acts, ch 1093, §2; 95 Acts, ch 90, §1; 96 Acts, ch 1131, §3; 97 Acts, ch 33, §14; 98 Acts, ch 1192, §1; 99 Acts, ch 65, §4; 99 Acts, ch 114, §45; 2002 Acts, ch 1004, §4; 2006 Acts, ch 1101, §13, 14; 2012 Acts, ch 1002, §4, 5

Referred to in §232.22, 232.52, 236.12, 236.18, 598.16, 598.41, 598.41D, 600A.8, 664A.1, 664A.2, 664A.6, 664A.7, 702.11, 708.2B, 907.3, 915.22

[T] Subsection 2, NEW paragraph d

[T] NEW subsection 5 and former subsections 5 – 9 renumbered as 6 – 10