

CHAPTER 236A

SEXUAL ABUSE — PROTECTIVE ORDERS — SERVICES

Referred to in [§13.31](#), [232.22](#), [664A.1](#), [664A.2](#), [664A.5](#), [664A.7](#), [915.52](#), [915.94](#)

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236A.1 Short title.

This chapter may be cited as the “*Sexual Abuse Act*”.

[2017 Acts, ch 121, §4](#)

NEW section

236A.2 Definitions.

For purposes of [this chapter](#), unless a different meaning is clearly indicated by the context:

1. “*Department*” means the department of justice.
2. “*Emergency shelter services*” include but are not limited to secure crisis shelters or housing for victims of sexual abuse.
3. “*Plaintiff*” includes a person filing an action on behalf of an unemancipated minor.
4. “*Pro se*” means proceeding on one’s own behalf without legal representation.
5. “*Sexual abuse*” means any commission of a crime defined in [chapter 709](#) or [section 726.2](#) or [728.12](#). “*Sexual abuse*” also means any commission of a crime in another jurisdiction under a statute that is substantially similar to any crime defined in [chapter 709](#) or [section 726.2](#) or [728.12](#).
6. “*Support services*” include but are not limited to legal services, counseling services, transportation services, child care services, and advocacy services.

[2017 Acts, ch 121, §5](#)

Referred to in [§507B.4](#)

NEW section

236A.3 Commencement of actions — waiver to juvenile court.

1. A person, including a parent or guardian on behalf of an unemancipated minor, may seek relief from sexual abuse by filing a verified petition in the district court. Venue shall lie where either the plaintiff or defendant resides. The petition shall state the following:

- a. Name of the plaintiff and the name and address of the plaintiff’s attorney, if any. If the plaintiff is proceeding pro se, the petition shall state a mailing address for the plaintiff. A mailing address may be provided by the plaintiff pursuant to [section 236A.11](#).
- b. Name and address of the parent or guardian filing the petition, if the petition is being filed on behalf of an unemancipated minor. A mailing address may be provided by the plaintiff pursuant to [section 236A.11](#).
- c. Name and address, if known, of the defendant.
- d. Nature of the alleged sexual abuse.
- e. Name and age of each child under eighteen whose welfare may be affected by the controversy.
- f. Desired relief, including a request for temporary or emergency orders.

2. A temporary or emergency order shall be based on a showing of a prima facie case of sexual abuse. If the factual basis for the alleged sexual abuse is contested, the court shall issue a protective order based upon a finding of sexual abuse by a preponderance of the evidence.

3. a. The filing fee and court costs for an order for protection and in a contempt action under [this chapter](#) shall be waived for the plaintiff.

b. The clerk of court, the sheriff of any county in this state, and other law enforcement and corrections officers shall perform their duties relating to service of process without charge to the plaintiff. When an order for protection is entered by the court, the court may direct the defendant to pay to the clerk of court the fees for the filing of the petition and reasonable costs of service of process if the court determines the defendant has the ability to pay the plaintiff's fees and costs. In lieu of personal service of an order for protection issued pursuant to [this section](#), the sheriff of any county in this state and other law enforcement and corrections officers may serve a defendant with a short-form notification pursuant to [section 664A.4A](#).

4. If the person against whom relief from sexual abuse is being sought is seventeen years of age or younger, the district court shall waive its jurisdiction over the action to the juvenile court.

[2017 Acts, ch 121, §6](#)

Referred to in [§236A.8](#), [236A.19](#), [915.50](#)

NEW section

236A.4 Plaintiffs proceeding pro se — provision of forms and assistance.

1. The department shall prescribe standard forms to be used by plaintiffs seeking protective orders by proceeding pro se in actions under [this chapter](#). The standard forms shall include language in fourteen point boldface type. Standard forms prescribed by the department shall be the exclusive forms used by plaintiffs proceeding pro se, and may be used by other plaintiffs. The department shall distribute the forms to the clerks of the district court.

2. The clerk of the district court shall furnish the required forms to persons seeking protective orders through pro se proceedings pursuant to [this chapter](#).

[2017 Acts, ch 121, §7](#)

Referred to in [§915.50](#)

NEW section

236A.5 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 person or plaintiff 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](#).

[2017 Acts, ch 121, §8](#)

Referred to in [§915.50](#)

NEW section

236A.6 Hearings — temporary orders.

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

2. The court may enter any temporary order it deems necessary to protect the plaintiff from sexual abuse prior to the hearing upon good cause shown in an ex parte proceeding. Present danger of sexual abuse to the plaintiff constitutes good cause for purposes of [this subsection](#).

3. If a hearing is continued, the court may make or extend any temporary order under [subsection 2](#) that it deems necessary.

4. Upon application of the plaintiff or defendant, the court shall issue subpoenas requiring attendance and testimony of witnesses and production of papers.

5. The court shall advise the defendant of a right to be represented by counsel of the defendant's choosing and to have a continuance to secure counsel.

6. Hearings shall be recorded.

[2017 Acts, ch 121, §9](#)

Referred to in [§232.8](#), [236A.8](#), [915.50](#)

NEW section

236A.7 Disposition.

1. Upon a finding that the defendant has engaged in sexual abuse, the court may grant a protective order or approve a consent agreement which may contain but is not limited to any of the following provisions:

a. That the defendant cease sexual abuse of the plaintiff.

b. That the defendant stay away from the plaintiff's residence, school, or place of employment.

2. An order for a protective order or approved consent agreement shall be for a fixed period of time not to exceed one year. The court may amend or extend its order or a consent agreement at any time upon a petition filed by the plaintiff or defendant and after notice and hearing. The court may extend the order if the court, after hearing at which the defendant has the opportunity to be heard, finds that the defendant continues to pose a threat to the safety of the plaintiff, persons residing with the plaintiff, or members of the plaintiff's immediate family. The number of extensions that can be granted by the court is not limited.

3. The order shall state whether the defendant is to be taken into custody by a peace officer for a violation of the terms stated in the order.

4. The court may order that the defendant pay the plaintiff's attorney fees and court costs.

5. An order or consent agreement under [this section](#) shall not affect title to real property.

6. A copy of any order or approved consent agreement shall be issued to the plaintiff, the defendant, the county sheriff of the county in which the order or consent decree is initially entered, 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 persons and the county sheriff previously notified.

7. 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.

8. 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.

[2017 Acts, ch 121, §10](#)

Referred to in [§236A.8](#), [236A.19](#), [331.424](#), [664A.4](#), [915.22](#), [915.50](#)

For restrictions concerning issuance of mutual protective orders, see [§236A.20](#)

NEW section

236A.8 Emergency orders.

1. When the court is unavailable from the close of business at the end of the day or week to the resumption of business at the beginning of the day or week, a petition may be filed before a district judge, or district associate judge designated by the chief judge of the judicial district, who may grant emergency relief in accordance with [section 236A.7, subsection 1, paragraph "b"](#), if the district judge or district associate judge deems it necessary to protect the plaintiff from sexual abuse, upon good cause shown in an ex parte proceeding. Present danger of sexual abuse to the plaintiff constitutes good cause for purposes of [this subsection](#).

2. An emergency order issued under [subsection 1](#) shall expire seventy-two hours after issuance. When the order expires, the plaintiff may seek a temporary order from the court pursuant to [section 236A.6](#).

3. A petition filed and emergency order issued under [this section](#) and any documentation in support of the petition and order shall be immediately certified to the court. The certification shall commence a proceeding for purposes of [section 236A.3](#).

[2017 Acts, ch 121, §11](#)

Referred to in [§232.8, 915.50](#)
NEW section

236A.9 Procedure.

A proceeding under [this chapter](#) shall be held in accordance with the rules of civil procedure, except as otherwise set forth in [this chapter](#) and in [chapter 664A](#), and is in addition to any other civil or criminal remedy.

[2017 Acts, ch 121, §12](#)

Referred to in [§915.50](#)
NEW section

236A.10 Sexual abuse information.

1. Criminal or juvenile justice agencies, as defined in [section 692.1](#), shall collect and maintain information on incidents involving sexual abuse and shall provide the information to the department of public safety in the manner prescribed by the department of public safety.

2. The department of public safety may compile statistics and issue reports on sexual abuse in Iowa, provided individual identifying details of the sexual abuse are deleted. The statistics and reports may include nonidentifying information on the personal characteristics of perpetrators and victims. The department of public safety may request the cooperation of the department of justice in compiling the statistics and issuing the reports. The department of public safety may provide nonidentifying information on individual incidents of sexual abuse to persons conducting bona fide research, including but not limited to personnel of the department of justice.

[2017 Acts, ch 121, §13](#)

Referred to in [§915.50](#)
NEW section

236A.11 Plaintiff's address — confidentiality of records.

1. A plaintiff seeking relief from sexual abuse under [this chapter](#) may use any of the following addresses as a mailing address for purposes of filing a petition under [this chapter](#), as well as for the purpose of obtaining any utility or other service:

- a. The mailing address of a shelter or other agency.
- b. A public or private post office box.
- c. Any other mailing address, with the permission of the resident of that address.

2. A plaintiff shall report any change of address, whether designated according to [subsection 1](#) or otherwise, to the clerk of court no more than five days after the previous address on record becomes invalid.

3. The entire file or a portion of the file in a sexual abuse case shall be sealed by the clerk of court as ordered by the court to protect the privacy interest or safety of any person.

4. Notwithstanding [subsection 3](#), court orders and support payment records shall remain public records, although the court may order that address and location information be redacted from the public records.

[2017 Acts, ch 121, §14](#)

Referred to in [§236A.3, 915.50](#)
NEW section

236A.12 Duties of peace officer — magistrate.

1. A peace officer shall use every reasonable means to enforce an order or court-approved consent agreement entered under [this chapter](#), an order that establishes conditions of release or is a protective order or sentencing order in a criminal prosecution arising from a sexual abuse, or a protective order under [chapter 232](#). If a peace officer has reason to believe that sexual abuse has occurred, the peace officer shall ask the abused person if any prior orders exist, and shall contact the twenty-four-hour dispatcher to inquire if any prior orders exist. If a peace officer has probable cause to believe that a person has violated an order or approved

consent agreement entered under [this chapter](#), an order establishing conditions of release or a protective or sentencing order in a criminal prosecution arising from sexual abuse, or, if the person is an adult, a violation of a protective order under [chapter 232](#), the peace officer shall take the person into custody and shall take the person without unnecessary delay before the nearest or most accessible magistrate in the judicial district in which the person was taken into custody. The magistrate shall make an initial preliminary determination whether there is probable cause to believe that an order or consent agreement existed and that the person taken into custody has violated its terms. The magistrate's decision shall be entered in the record.

2. If a peace officer has probable cause to believe that a person has violated an order or approved consent agreement entered under [this chapter](#), an order establishing conditions of release or a protective or sentencing order in a criminal prosecution arising from a sexual abuse, or a protective order under [chapter 232](#), and the peace officer is unable to take the person into custody within twenty-four hours of making the probable cause determination, the peace officer shall either request a magistrate to make a determination as to whether a rule to show cause or arrest warrant should be issued, or refer the matter to the county attorney.

3. If the magistrate finds probable cause, the magistrate shall order the person to appear either before the court which issued the original order or approved the consent agreement, or before the court in the jurisdiction where the alleged violation took place, at a specified time not less than five days nor more than 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.

4. A peace officer shall not be held civilly or criminally liable for acting pursuant to [this section](#) provided that the peace officer acts reasonably and in good faith, on probable cause, and the officer's acts do not constitute a willful and wanton disregard for the rights or safety of another.

[2017 Acts, ch 121, §15](#)

Referred to in [§664A.3](#), [664A.7](#)
NEW section

236A.13 Prevention of further abuse — notification of rights — liability.

1. If a peace officer has reason to believe that sexual 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.

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 complaints 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 persons can leave or until safety is otherwise ensured.

2. A peace officer is not civilly or criminally liable for actions pursuant to [this section](#) taken reasonably and in good faith.

[2017 Acts, ch 121, §16](#)

Referred to in [§236A.16, 915.50](#)

Similar provisions, [§235B.3A, 235E.3, 236.12, 709.22](#)

NEW section

236A.14 Prohibition against referral.

In a criminal action arising from sexual abuse, the prosecuting attorney or court shall not refer or order the parties involved to participate in mediation or other nonjudicial procedures prior to judicial resolution of the action.

[2017 Acts, ch 121, §17](#)

NEW section

236A.15 Application for designation and funding as a provider of services for victims of sexual abuse.

Upon receipt of state or federal funding designated for victims of sexual abuse by the department, a public or private nonprofit organization may apply to the department for designation and funding as a provider of emergency shelter services and support services to victims of sexual abuse. The application shall be submitted on a form prescribed by the department and shall include but not be limited to information regarding services to be provided, budget, and security measures.

[2017 Acts, ch 121, §18](#)

NEW section

236A.16 Department powers and duties.

1. The department shall do all of the following:
 - a. Designate and award grants for existing and pilot programs pursuant to [this chapter](#) to provide emergency shelter services and support services to victims of sexual abuse.
 - b. Design and implement a uniform method of collecting data from sexual abuse organizations funded under [this chapter](#).
 - c. Designate and award moneys for publicizing and staffing a statewide, toll-free telephone hotline for use by victims of sexual abuse. The department may award a grant to a public agency or a private, nonprofit organization for the purpose of operating the hotline. The operation of the hotline shall include informing victims of their rights and of various community services that are available, referring victims to service providers, receiving complaints concerning misconduct by peace officers and encouraging victims to refer such complaints to the office of ombudsman, providing counseling services to victims over the telephone, and providing sexual abuse victim advocacy.
 - d. Advertise the toll-free telephone hotline through the use of public service announcements, billboards, print and broadcast media services, and other appropriate means, and contact media organizations to encourage the provision of free or inexpensive advertising concerning the hotline and its services.
 - e. Develop, with the assistance of the entity operating the telephone hotline and other sexual abuse victim services providers, brochures explaining the rights of victims set forth under [section 236A.13](#) and the services of the telephone hotline, and distribute the brochures

to law enforcement agencies, victim service providers, health practitioners, charitable and religious organizations, and other entities that may have contact with victims of sexual abuse.

2. The department shall consult and cooperate with all public and private agencies which may provide services to victims of sexual abuse, including but not limited to legal services, social services, prospective employment opportunities, and unemployment benefits.

3. The department may accept, use, and dispose of contributions of money, services, and property made available by an agency or department of the state or federal government, or a private agency or individual.

[2017 Acts, ch 121, §19](#)

NEW section

236A.17 Sexual abuse training requirements.

The department, in cooperation with victim service providers, shall work with various professional organizations to encourage organizations to establish training programs for professionals who work in the area of sexual abuse prevention and services. Sexual abuse training may include but is not limited to the following areas:

1. The enforcement of both civil and criminal remedies in sexual abuse matters.
2. The nature, extent, and causes of sexual abuse.
3. The legal rights and remedies available to sexual abuse victims, including crime victim compensation.
4. Services available to sexual abuse victims including the sexual abuse telephone hotline.
5. The duties of peace officers pursuant to [this chapter](#).
6. Techniques for intervention in sexual abuse cases.

[2017 Acts, ch 121, §20](#)

NEW section

236A.18 Reference to certain criminal provisions.

In addition to the provisions contained in [this chapter](#), certain criminal penalties and provisions pertaining to sexual abuse are set forth in [chapters 664A and 709](#) and [sections 726.2 and 728.12](#).

[2017 Acts, ch 121, §21](#)

NEW section

236A.19 Foreign protective orders — registration — enforcement — immunity.

1. As used in [this section](#), “*foreign protective order*” means a protective order entered by a court of another state, Indian tribe, or United States territory that would be an order or court-approved consent agreement entered under [this chapter](#), an order that establishes conditions of release, or a protective order or sentencing order in a criminal prosecution arising from a sexual abuse if it had been entered in Iowa.

2. A certified or authenticated copy of a permanent foreign protective order may be filed with the clerk of the district court in any county that would have venue if the original action was being commenced in this state or in which the person in whose favor the order was entered may be present.

a. The clerk shall file foreign protective orders that are not certified or authenticated, if supported by an affidavit of a person with personal knowledge, subject to the penalties for perjury. The person protected by the order may provide this affidavit.

b. The clerk shall provide copies of the order as required by [section 236A.7](#), except that notice shall not be provided to the respondent without the express written direction of the person in whose favor the order was entered.

3. a. A valid foreign protective order has the same effect and shall be enforced in the same manner as a protective order issued in this state whether or not filed with a clerk of court or otherwise placed in a registry of protective orders.

b. A foreign protective order is valid if it meets all of the following:

(1) The order states the name of the protected person and the person against whom enforcement is sought.

(2) The order has not expired.

(3) The order was issued by a court or tribunal that had jurisdiction over the parties and subject matter under the law of the foreign jurisdiction.

(4) The order was issued in accordance with the respondent's due process rights, either after the respondent was provided with reasonable notice and an opportunity to be heard before the court or tribunal that issued the order, or in the case of an ex parte order, the respondent was granted notice and opportunity to be heard within a reasonable time after the order was issued.

c. Proof that a foreign protective order failed to meet all of the factors listed in paragraph "b" shall be an affirmative defense in any action seeking enforcement of the order.

4. A peace officer shall treat a foreign protective order as a valid legal document and shall make an arrest for a violation of the foreign protective order in the same manner that a peace officer would make an arrest for a violation of a protective order issued within this state.

a. The fact that a foreign protective order has not been filed with the clerk of court or otherwise placed in a registry shall not be grounds to refuse to enforce the terms of the order unless it is apparent to the officer that the order is invalid on its face.

b. A peace officer acting reasonably and in good faith in connection with the enforcement of a foreign protective order shall be immune from civil and criminal liability in any action arising in connection with such enforcement.

5. Filing and service costs in connection with foreign protective orders are waived as provided in [section 236A.3](#).

[2017 Acts, ch 121, §22](#)

Referred to in [§664A.1](#)

NEW section

236A.20 Mutual protective orders prohibited — exceptions.

A court in an action under [this chapter](#) shall not issue mutual protective orders against the victim and the abuser unless both file a petition requesting a protective order.

[2017 Acts, ch 121, §23](#)

NEW section