

Senate Amendment to
House File 2399

H-8174

1 Amend House File 2399, as amended, passed, and
2 reprinted by the House, as follows:

3 1. By striking everything after the enacting clause
4 and inserting:

5 <Section 1. Section 664A.7, subsection 5, Code
6 2016, is amended to read as follows:

7 5. a. Violation of a no-contact order entered
8 for the offense or alleged offense of domestic abuse
9 assault in violation of [section 708.2A](#) or a violation
10 of a protective order issued pursuant to [chapter 232](#),
11 [235F](#), [236](#), [598](#), or [915](#) constitutes a public offense and
12 is punishable as a simple misdemeanor. Alternatively,
13 the court may hold a person in contempt of court for
14 such a violation, as provided in [subsection 3](#).

15 b. If a person is convicted of a violation of a
16 no-contact order or a protective order under this
17 subsection, or alternatively if the person is held in
18 contempt of court for such a violation, as provided
19 in subsection 3, the court shall order the person to
20 submit to a risk assessment pursuant to section 901.5C.

21 Sec. 2. Section 708.2A, subsection 1, Code 2016, is
22 amended to read as follows:

23 1. For the purposes of [this chapter](#), “*domestic*
24 *abuse assault*” means an assault, as defined in section
25 708.1, which is domestic abuse as defined in section
26 236.2, subsection 2, paragraph “*a*”, “*b*”, “*c*”, or “*d*”, or
27 “*e*”.

28 Sec. 3. Section 708.2A, subsection 7, paragraph b,
29 Code 2016, is amended by striking the paragraph and
30 inserting in lieu thereof the following:

31 *b.* A person convicted of a violation referred to
32 in subsection 4 shall be sentenced as provided under
33 section 902.13.

34 Sec. 4. Section 708.2B, Code 2016, is amended to
35 read as follows:

1 **708.2B Treatment of domestic abuse offenders.**

2 1. As used in **this section**, "*district department*"
3 means a judicial district department of correctional
4 services, established pursuant to **section 905.2**. A
5 person convicted of, or receiving a deferred judgment
6 for, domestic abuse assault as defined in section
7 708.2A, shall report to the district department
8 in order to participate in a batterers' treatment
9 program for domestic abuse offenders. In addition, a
10 person convicted of, or receiving a deferred judgment
11 for, an assault, as defined in **section 708.1**, which
12 is domestic abuse, as defined in section 236.2,
13 subsection 2, paragraph "e", may be ordered by the
14 court to participate in a batterers' treatment program.
15 Participation in the batterers' treatment program shall
16 not require a person to be placed on probation, but
17 a person on probation may participate in the program.
18 The district departments may contract for services
19 in completing the duties relating to the batterers'
20 treatment programs. The district departments shall
21 assess the fees for participation in the program, and
22 shall either collect or contract for the collection
23 of the fees to recoup the costs of treatment, but
24 may waive the fee or collect a lesser amount upon a
25 showing of cause. The fees shall be used by each of
26 the district departments or contract service providers
27 for the establishment, administration, coordination,
28 and provision of direct services of the batterers'
29 treatment programs.

30 2. In addition to the requirements of subsection 1,
31 the court shall order a person convicted of domestic
32 abuse assault in violation of section 708.2A to submit
33 to a risk assessment pursuant to section 901.5C.

34 3. District departments or contract service
35 providers shall receive upon request peace officers'

1 investigative reports regarding persons participating
2 in programs under this section. The receipt of reports
3 under this section shall not waive the confidentiality
4 of the reports under section 22.7.

5 Sec. 5. Section 708.7, subsection 2, Code 2016, is
6 amended by adding the following new paragraph:

7 NEW PARAGRAPH. *c.* A person convicted of harassment
8 in the first degree shall be sentenced under section
9 902.13 if the offense involved a domestic relationship
10 and the sentence exceeds one year.

11 Sec. 6. Section 708.11, subsection 1, paragraph b,
12 Code 2016, is amended to read as follows:

13 *b.* "*Course of conduct*" means repeatedly
14 maintaining a visual or physical proximity to a person
15 without legitimate purpose, repeatedly utilizing a
16 technological device to locate, listen to, or watch
17 a person without legitimate purpose, or repeatedly
18 conveying oral or written threats, threats implied
19 by conduct, or a combination thereof, directed at or
20 toward a person.

21 Sec. 7. Section 708.11, subsection 2, Code 2016, is
22 amended to read as follows:

23 2. A person commits stalking when all of the
24 following occur:

25 *a.* The person purposefully engages in a course of
26 conduct directed at a specific person that would cause
27 a reasonable person to feel terrorized, frightened,
28 intimidated, or threatened or to fear that the person
29 intends to cause bodily injury to, or the death of,
30 that specific person or a member of the specific
31 person's immediate family.

32 *b.* The person has knowledge or should have
33 knowledge that ~~the specific person will be placed in~~
34 ~~reasonable fear of~~ a reasonable person would feel
35 terrorized, frightened, intimidated, or threatened or

1 fear that the person intends to cause bodily injury to,
2 or the death of, that specific person or a member of
3 the specific person's immediate family by the course
4 of conduct.

5 ~~c. The person's course of conduct induces fear in~~
6 ~~the specific person of bodily injury to, or the death~~
7 ~~of, the specific person or a member of the specific~~
8 ~~person's immediate family.~~

9 Sec. 8. Section 708.11, Code 2016, is amended by
10 adding the following new subsection:

11 NEW SUBSECTION. 3A. A person convicted under
12 subsection 3, paragraph "a", or subsection 3, paragraph
13 "b", subparagraph (1), shall be sentenced under section
14 902.13 if the offense involved a domestic relationship.

15 Sec. 9. NEW SECTION. **708.11A Unauthorized**
16 **placement of global positioning device.**

17 1. A person commits unauthorized placement of
18 a global positioning device, when, with intent to
19 intimidate, annoy, or alarm another person, the person,
20 without the consent of the other person, places a
21 global positioning device on the other person or an
22 object in order to track the movements of the other
23 person without a legitimate purpose.

24 2. A person who commits a violation of this section
25 commits a serious misdemeanor.

26 Sec. 10. NEW SECTION. **901.5C Domestic abuse**
27 **assault — no-contact order or protective order**
28 **violations — risk assessment.**

29 1. If a person is convicted of domestic abuse
30 assault in violation of section 708.2A, a violation of
31 a no-contact order or a protective order under section
32 664A.7, subsection 5, or alternatively the person
33 is held in contempt of court for such a violation,
34 as provided in section 664A.7, subsection 3, while
35 under supervision by a judicial district department of

1 correctional services, the court shall order the person
2 to submit to a risk assessment.

3 2. The risk assessment shall be performed by
4 the judicial district department of correctional
5 services or a contract service provider of a batterers'
6 treatment program for domestic abuse offenders, using
7 a validated risk assessment developed by the board of
8 parole and approved by the department of corrections.
9 The court shall consider the risk assessment in
10 determining the appropriate conditions for release.
11 In determining whether to release a defendant, the
12 court shall determine whether sufficient conditions
13 for release are available that are designed to reduce
14 the risk to another individual, detect threatening
15 or criminal behavior, and increase the safety of
16 individuals and the general public, and balance those
17 determinations with the potential risk of harm if the
18 defendant is released.

19 3. The court may order the defendant to participate
20 in a program that includes the use of an electronic
21 tracking and monitoring system as a condition of
22 release. When ordering the use of an electronic
23 tracking and monitoring system the court shall consider
24 the safety of the victim and other legitimate factors
25 that may impact all of the parties. If an electronic
26 tracking and monitoring system is ordered, the court
27 shall order the defendant to pay the costs associated
28 with the imposition of the system. If the defendant
29 fails to pay the fees of the electronic tracking and
30 monitoring system in a timely manner, the court may
31 impose garnishment of the defendant's wages in order to
32 meet the payment obligation.

33 Sec. 11. NEW SECTION. 902.13 Minimum sentence for
34 certain domestic abuse assault, harassment, and stalking
35 offenses.

1 1. As used in this section, unless the context
2 otherwise requires:

3 a. (1) "*Family or household members*" means spouses,
4 persons cohabiting, parents, or other persons related
5 by consanguinity or affinity.

6 (2) "*Family or household members*" does not include
7 children under age eighteen or persons listed in
8 subparagraph (1).

9 b. "*Intimate relationship*" means a significant
10 romantic involvement that need not include sexual
11 involvement. An intimate relationship does not include
12 casual social relationships or associations in a
13 business or professional capacity.

14 c. "*Offense involving a domestic relationship*"
15 means an offense involving any of the following
16 circumstances:

17 (1) The offense is between family or household
18 members who resided together at the time of the
19 offense.

20 (2) The offense is between separated spouses or
21 persons divorced from each other and not residing
22 together at the time of the offense.

23 (3) The offense is between persons who are parents
24 of the same minor child, regardless of whether they
25 have been married or have lived together at any time.

26 (4) The offense is between persons who have been
27 family or household members residing together within
28 the past year and are not residing together at the time
29 of the offense.

30 (5) (a) The offense is between persons who are in
31 an intimate relationship or have been in an intimate
32 relationship and have had contact with one another
33 within the past year immediately preceding the time of
34 the offense. In determining whether persons are or
35 have been in an intimate relationship, the court may

1 consider the following nonexclusive list of factors:

- 2 (i) The duration of the relationship.
- 3 (ii) The frequency of interaction.
- 4 (iii) Whether the relationship has been terminated.
- 5 (iv) The nature of the relationship, characterized
- 6 by either party's expectation of sexual or romantic
- 7 involvement.

8 (b) A person may be involved in an intimate

9 relationship with more than one person at a time.

10 2. a. A person who has been convicted of a third

11 or subsequent offense of domestic abuse assault under

12 section 708.2A, subsection 4, shall be denied parole

13 or work release until the person has served between

14 one-fifth of the maximum term and the maximum term of

15 the person's sentence as provided in subsection 3.

16 b. A person who has been convicted of the offense

17 of harassment in the first degree under section 708.7,

18 subsection 2, and the offense involved a domestic

19 relationship, shall be denied parole or work release

20 until the person has served between one-half of the

21 maximum term and the maximum term of the person's

22 sentence as provided in subsection 3, if the person

23 is committed to the custody of the director of the

24 department of corrections.

25 c. A person who has been convicted of a third or

26 subsequent offense of stalking under section 708.11,

27 subsection 3, paragraph "a", and the offense involved a

28 domestic relationship, shall be denied parole or work

29 release until the person has served between one-fifth

30 of the maximum term and the maximum term of the

31 person's sentence as provided in subsection 3.

32 d. A person who has been convicted of the offense

33 of stalking under section 708.11, subsection 3,

34 paragraph "b", subparagraph (1), and the offense

35 involved a domestic relationship, shall be denied

1 parole or work release until the person has served
2 between one-fifth of the maximum term and the maximum
3 term of the person's sentence as provided in subsection
4 3.

5 3. The sentencing court shall determine, after
6 receiving and examining all pertinent information
7 referred to in section 901.5, the minimum term of
8 confinement, within the parameters set forth in
9 subsection 2, required to be served before a person may
10 be paroled or placed on work release.

11 Sec. 12. Section 903A.2, subsection 1, paragraph a,
12 unnumbered paragraph 1, Code 2016, is amended to read
13 as follows:

14 Category "A" sentences are those sentences which
15 are not subject to a maximum accumulation of earned
16 time of fifteen percent of the total sentence of
17 confinement under [section 902.12](#) or [902.13](#). To the
18 extent provided in [subsection 5](#), category "A" sentences
19 also include life sentences imposed under section
20 902.1. An inmate of an institution under the control
21 of the department of corrections who is serving a
22 category "A" sentence is eligible for a reduction of
23 sentence equal to one and two-tenths days for each day
24 the inmate demonstrates good conduct and satisfactorily
25 participates in any program or placement status
26 identified by the director to earn the reduction. The
27 programs include but are not limited to the following:

28 Sec. 13. Section 903A.2, subsection 1, paragraph b,
29 Code 2016, is amended to read as follows:

30 b. (1) Category "B" sentences are those sentences
31 which are subject to a maximum accumulation of earned
32 time of fifteen percent of the total sentence of
33 confinement under [section 902.12](#) or [902.13](#). An inmate
34 of an institution under the control of the department
35 of corrections who is serving a category "B" sentence

1 is eligible for a reduction of sentence equal to
2 fifteen eighty-fifths of a day for each day of good
3 conduct by the inmate.

4 (2) An inmate required to participate in a domestic
5 abuse treatment program shall not be eligible for a
6 reduction of sentence unless the inmate participates
7 in and completes a domestic abuse treatment program
8 established by the director.

9 Sec. 14. Section 904A.4, subsection 8, Code 2016,
10 is amended to read as follows:

11 8. a. The board of parole shall implement a risk
12 assessment program which shall provide risk assessment
13 analysis for the board.

14 b. The board of parole shall also develop a risk
15 assessment validated for domestic abuse-related
16 offenses in consultation with the department of
17 corrections. The board may adopt rules pursuant to
18 chapter 17A relating to the use of the domestic abuse
19 risk assessment.

20 Sec. 15. NEW SECTION. **905.16 Electronic tracking**
21 **and monitoring system.**

22 1. A person placed on probation, parole, work
23 release, special sentence, or any other type of
24 conditional release for any of the following offenses
25 may be supervised by an electronic tracking and
26 monitoring system in addition to any other conditions
27 of supervision:

28 a. Domestic abuse assault in violation of section
29 708.2A, subsection 4.

30 b. Harassment in the first degree in violation of
31 section 708.7, subsection 2, if the offense involved a
32 domestic relationship as defined in section 902.13.

33 c. Stalking under section 708.11, subsection 3,
34 paragraph "a", if the offense involved a domestic
35 relationship as defined in section 902.13.

1 d. Stalking under section 708.11, subsection
2 3, paragraph "b", subparagraph (1), if the offense
3 involved a domestic relationship as defined in section
4 902.13.

5 2. When considering whether to order the use of an
6 electronic tracking and monitoring system the court
7 shall consider the safety of the victim and other
8 legitimate factors that may impact all of the parties.

9 Sec. 16. Section 907.3, subsection 1, paragraph
10 a, Code 2016, is amended by adding the following new
11 subparagraphs:

12 NEW SUBPARAGRAPH. (013) The offense is a violation
13 referred to in section 708.2A, subsection 4.

14 NEW SUBPARAGRAPH. (0013) The offense is a
15 violation of section 708.7, subsection 2, and the
16 offense involved a domestic relationship as defined in
17 section 902.13.

18 NEW SUBPARAGRAPH. (00013) The offense is a
19 violation referred to in section 708.11, subsection
20 3, paragraph "a", and the offense involved a domestic
21 relationship as defined in section 902.13.

22 NEW SUBPARAGRAPH. (000013) The offense is a
23 violation of section 708.11, subsection 3, paragraph
24 "b", subparagraph (1), and the offense involved a
25 domestic relationship as defined in section 902.13.

26 Sec. 17. Section 907.3, subsection 2, paragraph
27 a, Code 2016, is amended by adding the following new
28 subparagraphs:

29 NEW SUBPARAGRAPH. (8) The offense is a violation
30 referred to in section 708.2A, subsection 4.

31 NEW SUBPARAGRAPH. (9) The offense is a violation
32 of section 708.7, subsection 2, and the offense
33 involved a domestic relationship as defined in section
34 902.13.

35 NEW SUBPARAGRAPH. (10) The offense is a violation

1 of section 708.11, subsection 3, paragraph "a", and the
2 offense involved a domestic relationship as defined in
3 section 902.13.

4 NEW SUBPARAGRAPH. (11) The offense is a violation
5 of section 708.11, subsection 3, paragraph "b",
6 subparagraph (1), and the offense involved a domestic
7 relationship as defined in section 902.13.

8 Sec. 18. Section 907.3, subsection 3, Code 2016, is
9 amended by adding the following new paragraph:

10 NEW PARAGRAPH. *0a.* The sentence imposed under
11 section 902.13 for a violation referred to in section
12 708.2A, subsection 4.>

13 2. Title page, by striking lines 1 and 2 and
14 inserting <An Act relating to the criminal offenses
15 of stalking, harassment, unauthorized placement of a
16 global positioning device, and domestic abuse, and
17 providing penalties.>