

House File 2399

S-5113

1 Amend the amendment, S-5084, to House File 2399,  
2 as amended, passed, and reprinted by the House, as  
3 follows:

4 1. By striking page 1, line 5, through page 4, line  
5 10, and inserting:

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

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

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

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

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

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

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

35 Sec. 4. Section 708.2B, Code 2016, is amended to

1 read as follows:

2 **708.2B Treatment of domestic abuse offenders.**

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

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

35 3. District departments or contract service

1 providers shall receive upon request peace officers'  
2 investigative reports regarding persons participating  
3 in programs under this section. The receipt of reports  
4 under this section shall not waive the confidentiality  
5 of the reports under section 22.7.

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

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

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

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

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

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

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

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

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

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

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

12 NEW SUBSECTION. 3A. A person convicted under  
13 subsection 3, paragraph "a", or subsection 3, paragraph  
14 "b", subparagraph (1), shall be sentenced under section  
15 902.13 if the offense involved a domestic relationship.

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

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

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

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

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

1 under supervision by a judicial district department of  
2 correctional services, the court shall order the person  
3 to submit to a risk assessment.

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

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

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

1 offenses.

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

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

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

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

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

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

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

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

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

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

1 have been in an intimate relationship, the court may  
2 consider the following nonexclusive list of factors:

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

9 (b) A person may be involved in an intimate  
10 relationship with more than one person at a time.

11 2. a. A person who has been convicted of a third  
12 or subsequent offense of domestic abuse assault under  
13 section 708.2A, subsection 4, shall be denied parole  
14 or work release until the person has served between  
15 one-fifth of the maximum term and the maximum term of  
16 the person's sentence as provided in subsection 3.

17 b. A person who has been convicted of the offense  
18 of harassment in the first degree under section 708.7,  
19 subsection 2, and the offense involved a domestic  
20 relationship, shall be denied parole or work release  
21 until the person has served between one-half of the  
22 maximum term and the maximum term of the person's  
23 sentence as provided in subsection 3, if the person  
24 is committed to the custody of the director of the  
25 department of corrections.

26 c. A person who has been convicted of a third or  
27 subsequent offense of stalking under section 708.11,  
28 subsection 3, paragraph "a", and the offense involved a  
29 domestic relationship, shall be denied parole or work  
30 release until the person has served between one-fifth  
31 of the maximum term and the maximum term of the  
32 person's sentence as provided in subsection 3.

33 d. A person who has been convicted of the offense  
34 of stalking under section 708.11, subsection 3,  
35 paragraph "b", subparagraph (1), and the offense

1 involved a domestic relationship, shall be denied  
2 parole or work release until the person has served  
3 between one-fifth of the maximum term and the maximum  
4 term of the person's sentence as provided in subsection  
5 3.

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

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

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

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

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



1 of corrections who is serving a category "B" sentence  
2 is eligible for a reduction of sentence equal to  
3 fifteen eighty-fifths of a day for each day of good  
4 conduct by the inmate.

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

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

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

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

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

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

29 a. Domestic abuse assault in violation of section  
30 708.2A, subsection 4.

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

34 c. Stalking under section 708.11, subsection 3,  
35 paragraph "a", if the offense involved a domestic

1 relationship as defined in section 902.13.

2 *d.* Stalking under section 708.11, subsection  
3 3, paragraph "b", subparagraph (1), if the offense  
4 involved a domestic relationship as defined in section  
5 902.13.

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

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

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

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

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

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

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

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

32 NEW SUBPARAGRAPH. (9) The offense is a violation  
33 of section 708.7, subsection 2, and the offense  
34 involved a domestic relationship as defined in section  
35 902.13.

1     NEW SUBPARAGRAPH. (10) The offense is a violation  
2 of section 708.11, subsection 3, paragraph `a`, and the  
3 offense involved a domestic relationship as defined in  
4 section 902.13.

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

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

11     NEW PARAGRAPH. *0a.* The sentence imposed under  
12 section 902.13 for a violation referred to in section  
13 708.2A, subsection 4.>>

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