

AN ACT
ENHANCING THE PENALTY FOR CERTAIN DOMESTIC ABUSE ASSAULT CASES
AND PROVIDING A PENALTY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 236.12, subsection 2, Code 2011, is amended by adding the following new paragraphs:

NEW PARAGRAPH. *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.

NEW PARAGRAPH. *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 4A, 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.

Sec. 2. Section 236.12, subsection 3, Code 2011, is amended to read as follows:

3. As described in subsection 2, paragraph "*b*", "*c*", or "*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.

Sec. 3. Section 702.11, subsection 2, Code 2011, is amended by adding the following new paragraph:

NEW PARAGRAPH. *g.* Domestic abuse assault in violation of section 708.2A, subsection 4A.

Sec. 4. Section 708.2A, subsection 2, Code 2011, is amended by adding the following new paragraph:

NEW PARAGRAPH. *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.

Sec. 5. Section 708.2A, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. 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.

JOHN P. KIBBIE
President of the Senate

KRAIG PAULSEN
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 93, Eighty-fourth General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved _____, 2012

TERRY E. BRANSTAD
Governor