

JAN 24 1990

Judiciary & Law Enforcement

HOUSE FILE 2160

BY ROSENBERG and PETERSON
of Carroll

Passed House, Date 2/28/90 (p. 697) Passed Senate, Date 3/15/90 (p. 1094)
Vote: Ayes 98 Nays 0 Vote: Ayes 46 Nays 0
Approved March 26, 1990

A BILL FOR

1 An Act relating to mandatory domestic abuse arrests and providing
2 guidelines concerning a primary physical aggressor.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

HOUSE FILE 2160

H-5141

1 Amend House File 2160 as follows:
2 1. By striking page 1, line 35, through page 2,
3 line 5, and inserting the following:
4 "NEW SUBSECTION. 3A. As described in subsection
5 2, paragraph "b", "c", or "d", the peace officer shall
6 arrest the person whom the peace officer believes to
7 be the primary physical aggressor. The duty of the
8 officer to arrest extends only to those persons
9 involved who are believed to have committed an
10 assault. Persons acting with justification, as
11 defined in section 704.3, are not subject to mandatory
12 arrest. In".

By COMMITTEE ON JUDICIARY
AND LAW ENFORCEMENT
JAY of Appanoose, Chairperson

H-5141 FILED FEBRUARY 14, 1990

Adopted 2/28 (p. 696)

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HF 2160

1 Section 1. Section 236.12, subsection 2, Code Supplement
2 1989, is amended to read as follows:

3 2. a. A peace officer may, with or without a warrant,
4 arrest a person under section 708.2, subsection 4, if, upon
5 investigation, including a reasonable inquiry of the alleged
6 victim and other witnesses, if any, the officer has probable
7 cause to believe that a domestic abuse assault has been
8 committed which did not result in any injury to the alleged
9 victim.

10 b. A Except as otherwise provided in subsection 3A, a
11 peace officer shall, with or without a warrant, arrest a
12 person under section 708.2, subsection 2, if, upon
13 investigation, including a reasonable inquiry of the alleged
14 victim and other witnesses, if any, the officer has probable
15 cause to believe that a domestic abuse assault has been
16 committed which resulted in the alleged victim's suffering a
17 bodily injury.

18 c. A Except as otherwise provided in subsection 3A, a
19 peace officer shall, with or without a warrant, arrest a
20 person under section 708.2, subsection 1, if, upon
21 investigation, including a reasonable inquiry of the alleged
22 victim and other witnesses, if any, the officer has probable
23 cause to believe that a domestic abuse assault has been
24 committed with the intent to inflict a serious injury.

25 d. A Except as otherwise provided in subsection 3A, a
26 peace officer shall, with or without a warrant, arrest a
27 person under section 708.2, subsection 3, if, upon
28 investigation, including a reasonable inquiry of the alleged
29 victim and other witnesses, if any, the officer has probable
30 cause to believe that a domestic abuse assault has been
31 committed and that the alleged abuser used or displayed a
32 dangerous weapon in connection with the assault.

33 Sec. 2. Section 236.12, Code Supplement 1989, is amended
34 by adding the following new subsection:

5/4/35 NEW SUBSECTION. 3A. If a peace officer has a reasonable

1 basis to believe that two or more persons have committed
2 domestic abuse against each other, as described in subsection
3 2, paragraph "b", "c", or "d", the peace officer shall arrest
4 the person whom the peace officer believes to be the primary
5 physical aggressor, and may arrest other persons involved. In
6 identifying the primary physical aggressor, a peace officer
7 shall consider the need to protect victims of domestic abuse,
8 the relative degree of injury or fear inflicted on the persons
9 involved, and any history of domestic abuse between the
10 persons involved. A peace officer's identification of the
11 primary physical aggressor shall not be based on the consent
12 of the victim to any subsequent prosecution or on the
13 relationship of the persons involved in the incident, and
14 shall not be based solely upon the absence of visible
15 indications of injury or impairment.

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EXPLANATION

17 The bill specifically provides that the mandatory arrest
18 provisions in domestic abuse situations do not apply where
19 more than one person is involved in physical aggression, but
20 only one person is the primary physical aggressor. The bill
21 specifically permits the peace officer to arrest only one
22 individual, where appropriate. Under current law, a peace
23 officer is required to arrest a person if the officer has
24 probable cause to believe that a domestic abuse assault has
25 been committed, and the victim suffered bodily injury, the
26 alleged abuser intended to inflict a serious injury, or the
27 alleged abuser used or displayed a dangerous weapon. Iowa
28 Code section 236.2(2) defines "domestic abuse" as an assault
29 as defined in section 708.1 involving family or household
30 members residing together at the time, or having formerly
31 resided together as spouses.

32 An assault is generally defined as offensive physical
33 contact without justification. In some circumstances
34 justification could include conduct in self-defense and such
35 conduct would therefore not constitute an assault.

LSB 7889H 73

Sen. Judiciary 3/2 Do Pass 3/12 (p. 986)

HOUSE FILE 2160
BY ROSENBERG and PETERSON
of Carroll

(As Amended and Passed by the House February 28, 1990)

Passed House, Date 2/28/90 (p. 697) Passed Senate, Date 3/15/90 (p. 1094)
Vote: Ayes 98 Nays 0 Vote: Ayes 46 Nays 0
Approved March 26, 1990

A BILL FOR

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

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House Amendments _____

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5 investigation, including a reasonable inquiry of the alleged
6 victim and other witnesses, if any, the officer has probable
7 cause to believe that a domestic abuse assault has been
8 committed which did not result in any injury to the alleged
9 victim.

10 b. A Except as otherwise provided in subsection 3A, a
11 peace officer shall, with or without a warrant, arrest a
12 person under section 708.2, subsection 2, if, upon
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17 bodily injury.

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31 committed and that the alleged abuser used or displayed a
32 dangerous weapon in connection with the assault.

33 Sec. 2. Section 236.12, Code Supplement 1989, is amended
34 by adding the following new subsection:

35 NEW SUBSECTION. 3A. As described in subsection 2,

1 paragraph "b", "c", or "d", the peace officer shall arrest the
2 person whom the peace officer believes to be the primary
3 physical aggressor. The duty of the officer to arrest extends
4 only to those persons involved who are believed to have
5 committed an assault. Persons acting with justification, as
6 defined in section 704.3, are not subject to mandatory arrest.
7 In identifying the primary physical aggressor, a peace officer
8 shall consider the need to protect victims of domestic abuse,
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11 persons involved. A peace officer's identification of the
12 primary physical aggressor shall not be based on the consent
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HOUSE FILE 2160

AN ACT

RELATING TO MANDATORY DOMESTIC ABUSE ARRESTS AND PROVIDING
GUIDELINES CONCERNING A PRIMARY PHYSICAL AGGRESSOR.

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

Section 1. Section 236.12, subsection 2, Code Supplement 1989, is amended to read as follows:

2. a. A peace officer may, with or without a warrant, arrest a person under section 708.2, subsection 4, 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 which did not result in any injury to the alleged victim.

b. A Except as otherwise provided in subsection 3A, a peace officer shall, with or without a warrant, arrest a person under section 708.2, subsection 2, 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 which resulted in the alleged victim's suffering a bodily injury.

c. A Except as otherwise provided in subsection 3A, a peace officer shall, with or without a warrant, arrest a person under section 708.2, subsection 1, 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 with the intent to inflict a serious injury.

d. A Except as otherwise provided in subsection 3A, a peace officer shall, with or without a warrant, arrest a person under section 708.2, subsection 3, 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 and that the alleged abuser used or displayed a dangerous weapon in connection with the assault.

Sec. 2. Section 236.12, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. As described in subsection 2, paragraph "b", "c", or "d", 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.

DONALD D. AVENSON
Speaker of the House

JO ANN ZIMMERMAN
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2160, Seventy-third General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved March 26, 1990

TERRY E. BRANSTAD
Governor