

FILED FEB 1 1990 SENATE FILE 2197  
BY RUNNING

Passed Senate, Date 2/28/90 (p. 784) Passed House, Date 3/15/90 (p. 1137)  
Vote: Ayes 34 Nays 14 Vote: Ayes 69 Nays 17  
Approved April 3, 1990

A BILL FOR

1 An Act relating to violations of an individual's rights, by  
2 prohibiting interference with the contractual or business  
3 relations of another person, by prohibiting acts of assault  
4 and criminal mischief, providing victims actionable civil  
5 relief against offenders, establishing a program to monitor  
6 rights violations, and providing a penalty.

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

SF 2197

8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

5166 amends all

1 Section 1. NEW SECTION. 80.40 CRIME INFORMATION.

2 The department shall establish a program to collect,  
3 classify, and disseminate information relating to violations  
4 of section 729.5. Planning for this project shall be  
5 completed and data collection shall commence no later than  
6 January 1, 1991.

7 Sec. 2. Section 729.5, Code 1989, is amended to read as  
8 follows:

9 729.5 PROHIBITING VIOLATIONS OF AN INDIVIDUAL'S CIVIL  
10 RIGHTS -- PENALTIES.

11 1. Persons within the state of Iowa have the right to be  
12 free from any violence, or intimidation by threat of violence,  
13 committed against their persons or property because of their  
14 race, color, religion, ancestry, national origin, political  
15 affiliation, or sex, sexual orientation, age, or disability.

16 2. A person who conspires with another person or persons,  
17 or who acts alone, to injure, oppress, threaten, or intimidate  
18 or interfere with any citizen person in the free exercise or  
19 enjoyment of any right or privilege secured to that person by  
20 the constitution or laws of the state of Iowa or by the  
21 constitution or laws of the United States, ~~and-assembles-with~~  
22 ~~one-or-more-persons-for-the-purpose-of-teaching-or-being~~  
23 ~~instructed-in-any-technique-or-means-capable-of-causing~~  
24 ~~property-damage, bodily-injury-or-death-when-the-person-or~~  
25 ~~persons-intend-to-employ-those-techniques-or-means-in~~  
26 ~~furtherance-of-the-conspiracy,~~ is on conviction, guilty of a  
27 class "D" "C" felony. "Intimidate" includes but is not  
28 limited to the burning of crosses and other symbols. As used  
29 in this subsection, "conspires" includes, but is not limited  
30 to, the assembly of two or more persons for the purpose of  
31 teaching or being instructed in any technique or means capable  
32 of causing property damage, bodily injury, or death.

33 A person who maliciously and intentionally intimidates or  
34 interferes with the business or contractual relations of  
35 another citizen because of that citizen's race, color,

1 religion, ancestry, national origin, political affiliation,  
2 sex, sexual orientation, age, or disability commits a simple  
3 misdemeanor.

4 3. A person who maliciously and intentionally intimidates  
5 or interferes with another person because of that person's  
6 race, color, religion, ancestry, national origin, political  
7 affiliation, sex, sexual orientation, age, or disability and  
8 while doing so commits any of the following acts, is guilty of  
9 an aggravated misdemeanor:

10 a. Commits an assault, as defined in section 708.1, upon  
11 that person or a third person.

12 b. Commits an act of criminal mischief, as defined in  
13 section 716.1, upon that person or a third person.

14 3 4. The fact that a person committed a felony or  
15 misdemeanor, or attempted to commit a felony, because of the  
16 victim's race, color, religion, ~~nationality, -country-of~~  
17 ancestry, national origin, political affiliation, or sex,  
18 sexual orientation, age, or disability, shall be considered a  
19 circumstance in aggravation of any crime in imposing a  
20 sentence and fine.

21 5. A victim who has suffered physical, emotional, or  
22 financial harm as a result of a violation of this section is  
23 entitled to injunctive relief, general and special damages,  
24 reasonable attorney fees, and costs.

25 4 6. This section does not make unlawful the teaching of  
26 any technique in self-defense.

27 5 7. This section does not make unlawful any activity of  
28 any of the following officials or persons:

29 a. Law enforcement officials of this or any other  
30 jurisdiction while engaged in the lawful performance of their  
31 official duties.

32 b. Federal officials required to carry firearms while  
33 engaged in the lawful performance of their official duties.

34 c. Members of the armed forces of the United States or the  
35 national guard while engaged in the lawful performance of

1 their official duties; ~~or~~.

2 d. Any conservation commission, law enforcement agency, or  
3 any agency licensed to provide security services, or any  
4 hunting club, gun club, shooting range, or other organization  
5 or entity whose primary purpose is to teach the safe handling  
6 or use of firearms, archery equipment, or other weapons or  
7 techniques employed in connection with lawful sporting or  
8 other lawful activity.

9 Sec. 3.

10 This Act shall not be construed to establish any new  
11 category of individual rights not currently protected by the  
12 laws of this state or federal law, or to enlarge, diminish, or  
13 impair any right guaranteed by the laws of this state or  
14 federal law.

15 Sec. 4.

16 The Code editor shall amend the title of chapter 729 by  
17 changing the word "civil" to "individual" to reflect the  
18 changes made in this Act.

19 EXPLANATION

20 This bill prohibits violating an individual's rights on the  
21 basis of the individual's sexual orientation, age, or  
22 disability; provides that commission of an offense upon a  
23 victim because of the victim's sexual orientation, age, or  
24 disability shall be considered an aggravating circumstance in  
25 sentencing the offender; and provides that intimidation  
26 includes the burning of crosses and other symbols. Acts of  
27 assault and criminal mischief against such individuals are  
28 punished as class "C" felonies. Interference with the  
29 business or contractual relations of such persons maliciously  
30 and intentionally is punished as a simple misdemeanor.  
31 Malicious or intentional intimidation or interference with  
32 another person because of the person's race, color, religion,  
33 ancestry, national origin, political affiliation, sex, sexual  
34 orientation, age, or disability is an aggravated misdemeanor  
35 if the act includes an assault or criminal mischief against

1 that person or a third person. Victims of these violations  
2 are granted civil remedies. The department of public safety  
3 is required to implement a program to monitor individual  
4 rights violations. No new category of civil rights is  
5 established. The title of Code chapter 729 is changed to  
6 "Infringement of Individual Rights."

7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35

5244, 5263  
Amend all

## SENATE FILE 2197

S-5166

1 Amend Senate File 2197 as follows:

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

4 "Section 1. NEW SECTION. 80.40 CRIME  
5 INFORMATION.

6 The department shall establish a program to  
7 collect, classify, and disseminate information  
8 relating to violations of section 729.5. Planning for  
9 this project shall be completed and data collection  
10 shall commence no later than January 1, 1991.

11 Sec. 2. Section 729.5, Code 1989, is amended to  
12 read as follows:

13 729.5 PROHIBITING VIOLATIONS OF AN INDIVIDUAL'S  
14 CIVIL RIGHTS -- PENALTIES.

15 1. Persons within the state of Iowa have the right  
16 to be free from any violence, or intimidation by  
17 threat of violence, committed against their persons or  
18 property because of their race, color, religion,  
19 ancestry, national origin, political affiliation, or  
20 sex, sexual orientation, age, or disability.

21 2. A person who conspires with another person or  
22 persons, or who acts alone to injure, oppress,  
23 threaten, or intimidate or interfere with any citizen  
24 in the free exercise or enjoyment of any right or  
25 privilege secured to that person by the constitution  
26 or laws of the state of Iowa or by the constitution or  
27 laws of the United States, and assembles with one or  
28 more persons for the purpose of teaching or being  
29 instructed in any technique or means capable of  
30 causing property damage, bodily injury or death when  
31 the person or persons intend to employ those  
32 techniques or means in furtherance of the conspiracy,  
33 is on conviction, guilty of a class "D" felony.

34 A person intimidates or interferes with another  
35 person if the act of the person results in any of the  
36 following:

37 a. Physical injury to the other person.

38 b. Physical damage to or destruction of the other  
39 person's property.

40 c. Communication in a manner, or action in a  
41 manner, intended to result in either of the following:

42 (1) To place the other person in fear of physical  
43 contact which will be injurious, insulting, or  
44 offensive, coupled with the apparent ability to  
45 execute the act.

46 (2) To place the other person in fear of harm to  
47 the other person's property, or harm to the person or  
48 property of a third person.

49 3. The fact that a person committed a felony or  
50 misdemeanor, or attempted to commit a felony, because

S-5166

Page 2

1 of the victim's race, color, religion, nationality,  
2 country-of ancestry, national origin, political  
3 affiliation, or sex, sexual orientation, age, or  
4 disability, shall be considered a circumstance in  
5 aggravation of any crime in imposing sentence and  
6 fine. Evidence of such fact includes, but is not  
7 limited to, the burning of crosses and other symbols,  
8 and a rebuttable presumption of the fact arises where  
9 such an act is shown to have been committed.

10 4. A victim who has suffered physical, emotional,  
11 or financial harm as a result of a violation of this  
12 section is entitled to injunctive relief, general and  
13 special damages, reasonable attorney fees, and costs.

14 4 5. This section does not make unlawful the  
15 teaching of any technique in self-defense.

16 5 6. This section does not make unlawful any  
17 activity of any of the following officials or persons:

18 a. Law enforcement officials of this or any other  
19 jurisdiction while engaged in the lawful performance  
20 of their official duties.

21 b. Federal officials required to carry firearms  
22 while engaged in the lawful performance of their  
23 official duties.

24 c. Members of the armed forces of the United  
25 States or the national guard while engaged in the  
26 lawful performance of their official duties, or.

27 d. Any conservation commission, law enforcement  
28 agency, or any agency licensed to provide security  
29 services, or any hunting club, gun club, shooting  
30 range, or other organization or entity whose primary  
31 purpose is to teach the safe handling or use of  
32 firearms, archery equipment, or other weapons or  
33 techniques employed in connection with lawful sporting  
34 or other lawful activity.

35 Sec. 3.

36 This Act shall not be construed to establish any  
37 new category of individual rights not currently  
38 protected by the laws of this state or federal law, or  
39 to enlarge, diminish, or impair any right guaranteed  
40 by the laws of this state or federal law.

41 Sec. 4.

42 The Code editor shall amend the title of chapter  
43 729 by changing the word "civil" to "individual" to  
44 reflect the changes made in this Act."

45 2. Title page, by striking lines 1 through 3, and  
46 inserting the following: "An Act relating to  
47 violations of an individual's rights, by prohibiting  
48 acts of assault".

By LINN FUHRMAN  
TOM MANN, JR.

RICHARD J. VARN  
RICHARD V. RUNNING

S-5166 FILED FEBRUARY 21, 1990

*Adopted as amended by 5263 2/28 (p. 184)*

## SENATE FILE 2197

S-5244

1 Amend the amendment, S-5166, to Senate File 2197 as  
2 follows:

3 1. By striking page 1, line 4, through page 2,  
4 line 48, and inserting the following:

5 ""Section 1. NEW SECTION. 80.40 CRIME  
6 INFORMATION.

7 The department shall establish a program to  
8 collect, classify, and disseminate information  
9 relating to violations of section 729.5. Planning for  
10 this project shall be completed and data collection  
11 shall commence no later than January 1, 1991.

12 Sec. 2. Section 729.5, Code 1989, is amended to  
13 read as follows:

14 729.5 PROHIBITING VIOLATIONS OF AN INDIVIDUAL'S  
15 CIVIL RIGHTS -- PENALTIES.

16 1. Persons within the state of Iowa have the right  
17 to be free from any violence, or intimidation by  
18 threat of violence, committed against their persons or  
19 property because of their race, color, religion,  
20 ancestry, national origin, political affiliation, or  
21 sex, sexual orientation, age, or disability.

22 2. A person who conspires with another person or  
23 persons, or who acts alone to injure, oppress,  
24 threaten, or intimidate or interfere with any citizen  
25 in the free exercise or enjoyment of any right or  
26 privilege secured to that person by the constitution  
27 or laws of the state of Iowa or by the constitution or  
28 laws of the United States, and assembles with one or  
29 more persons for the purpose of teaching or being  
30 instructed in any technique or means capable of  
31 causing property damage, bodily injury or death when  
32 the person or persons intend to employ those  
33 techniques or means in furtherance of the conspiracy,  
34 is on conviction, guilty of a class "D" felony.

35 A person intimidates or interferes with another  
36 person if the act of the person results in any of the  
37 following:

38 a. Physical injury to the other person.

39 b. Physical damage to or destruction of the other  
40 person's property.

41 c. Communication in a manner, or action in a  
42 manner, intended to result in either of the following:

43 (1) To place the other person in fear of physical  
44 contact which will be injurious, insulting, or  
45 offensive, coupled with the apparent ability to  
46 execute the act.

47 (2) To place the other person in fear of harm to  
48 the other person's property, or harm to the person or  
49 property of a third person.

50 3. The fact that a person committed a felony or



S-5244

Page 2

1 misdemeanor, or attempted to commit a felony, because  
2 of the victim's race, color, religion, nationality,  
3 country-of ancestry, national origin, political  
4 affiliation, or sex, sexual orientation, age, or  
5 disability, shall be considered a circumstance in  
6 aggravation of any crime in imposing sentence and  
7 fine. Evidence of such fact includes, but is not  
8 limited to, the burning of crosses and other symbols,  
9 and a rebuttable presumption of the fact arises where  
10 such an act is shown to have been committed.

11 4. A victim who has suffered physical, emotional,  
12 or financial harm as a result of a violation of this  
13 section is entitled to injunctive relief, general and  
14 special damages, reasonable attorney fees, and costs.  
15 However, a victim who is a member of a protected class  
16 and who has suffered physical, emotional, or financial  
17 harm as a result of a violation of this section which  
18 occurred because of the victim's status as a member of  
19 a protected class, shall not be entitled to any relief  
20 or damages pursuant to this subsection unless the  
21 victim has exhausted all administrative and judicial  
22 review provided for under chapter 601A and has been  
23 denied relief and a finding has been made that the  
24 defendant did not engage in a discriminatory or unfair  
25 practice under that chapter.

26 Upon a finding that a discriminatory or unfair  
27 practice prohibited under chapter 601A has occurred,  
28 the remedies provided under that chapter are the  
29 exclusive remedies available to the victim.

30 An action brought pursuant to this subsection must  
31 be brought within two years after the date of the  
32 violation of this section. However, the filing of a  
33 complaint under chapter 601A tolls the statute of  
34 limitations for the purposes of the commencement of an  
35 action under this subsection.

36 4 5. This section does not make unlawful the  
37 teaching of any technique in self-defense.

38 5 6. This section does not make unlawful any  
39 activity of any of the following officials or persons:

40 a. Law enforcement officials of this or any other  
41 jurisdiction while engaged in the lawful performance  
42 of their official duties;.

43 b. Federal officials required to carry firearms  
44 while engaged in the lawful performance of their  
45 official duties;.

46 c. Members of the armed forces of the United  
47 States or the national guard while engaged in the  
48 lawful performance of their official duties;--or.

49 d. Any conservation commission, law enforcement  
50 agency, or any agency licensed to provide security

5244

page 3

1 services, or any hunting club, gun club, shooting  
 2 range, or other organization or entity whose primary  
 3 purpose is to teach the safe handling or use of  
 4 firearms, archery equipment, or other weapons or  
 5 techniques employed in connection with lawful sporting  
 6 or other lawful activity.

7 Sec. 3.

8 This Act shall not be construed to establish any  
 9 new category of individual rights not currently  
 10 protected by the laws of this state or federal law, or  
 11 to enlarge, diminish, or impair any right guaranteed  
 12 by the laws of this state or federal law.

13 Sec. 4.

14 The Code editor shall amend the title of chapter  
 15 729 by changing the word "civil" to "individual" to  
 16 reflect the changes made in this Act."

17 \_\_\_\_\_. Title page, by striking lines 1 through 3,  
 18 and inserting the following: "An Act relating to  
 19 violations of an individual's rights, by prohibiting  
 20 acts of assault"."

By LINN FUHRMAN

S-5244 FILED FEBRUARY 27, 1990

*w/d 2/28 (p. 783)*

## SENATE FILE 2197

S-5263

1 Amend the amendment, S-5166, to Senate File 2197 as  
2 follows:

3 1. By striking page 1, line 4, through page 2,  
4 line 48, and inserting the following:

5 ""Section J. NEW SECTION. 80.40 CRIME  
6 INFORMATION.

7 The department shall establish a program to  
8 collect, classify, and disseminate information  
9 relating to violations of section 729.5. Planning for  
10 this project shall be completed and data collection  
11 shall commence no later than January 1, 1991.

12 Sec. 2. Section 729.5, Code 1989, is amended to  
13 read as follows:

14 729.5 PROHIBITING VIOLATIONS OF AN INDIVIDUAL'S  
15 CIVIL RIGHTS -- PENALTIES.

16 1. Persons within the state of Iowa have the right  
17 to be free from any violence, or intimidation by  
18 threat of violence, committed against their persons or  
19 property because of their race, color, religion,  
20 ancestry, national origin, political affiliation, or  
21 sex, sexual orientation, age, or disability.

22 2. A person who conspires with another person or  
23 persons to injure, oppress, threaten, or intimidate or  
24 interfere with any citizen in the free exercise or  
25 enjoyment of any right or privilege secured to that  
26 person by the constitution or laws of the state of  
27 Iowa or by the constitution or laws of the United  
28 States, and assembles with one or more persons for the  
29 purpose of teaching or being instructed in any  
30 technique or means capable of causing property damage,  
31 bodily injury or death when the person or persons  
32 intend to employ those techniques or means in  
33 furtherance of the conspiracy, is on conviction,  
34 guilty of a class "D" felony.

35 A person intimidates or interferes with another  
36 person if the act of the person results in any of the  
37 following:

38 a. Physical injury to the other person.

39 b. Physical damage to or destruction of the other  
40 person's property.

41 c. Communication in a manner, or action in a  
42 manner, intended to result in either of the following:

43 (1) To place the other person in fear of physical  
44 contact which will be injurious, insulting, or  
45 offensive, coupled with the apparent ability to  
46 execute the act.

47 (2) To place the other person in fear of harm to  
48 the other person's property, or harm to the person or  
49 property of a third person.

50 3. A person who acts to injure, oppress, threaten,

S-5263

Page 2

1 or intimidate or interfere with any citizen in the  
2 free exercise or enjoyment of any right or privilege  
3 secured to that person by the constitution or laws of  
4 the state of Iowa or by the constitution or laws of  
5 the United States, is on conviction, guilty of a class  
6 "D" felony.

7 3 4. The fact that a person committed a felony or  
8 misdemeanor, or attempted to commit a felony, because  
9 of the victim's race, color, religion, nationality,  
10 country-of ancestry, national origin, political  
11 affiliation, or sex, sexual orientation, age, or  
12 disability, shall be considered a circumstance in  
13 aggravation of any crime in imposing sentence and  
14 fine. Evidence of such fact includes, but is not  
15 limited to, the burning of crosses and other symbols,  
16 and a rebuttable presumption of the fact arises where  
17 such an act is shown to have been committed.

18 5. A victim who has suffered physical, emotional,  
19 or financial harm as a result of a violation of this  
20 section is entitled to injunctive relief, general and  
21 special damages, reasonable attorney fees, and costs.  
22 However, a victim who is a member of a protected class  
23 and who has suffered physical, emotional, or financial  
24 harm as a result of a violation of this section which  
25 occurred because of the victim's status as a member of  
26 a protected class, shall not be entitled to any relief  
27 or damages pursuant to this subsection unless the  
28 victim has exhausted all administrative and judicial  
29 review provided for under chapter 601A and has been  
30 denied relief and a finding has been made that the  
31 defendant did not engage in a discriminatory or unfair  
32 practice under that chapter.

33 Upon a finding that a discriminatory or unfair  
34 practice prohibited under chapter 601A has occurred,  
35 the remedies provided under that chapter are the  
36 exclusive remedies available to the victim.

37 An action brought pursuant to this subsection must  
38 be brought within two years after the date of the  
39 violation of this section. However, the filing of a  
40 complaint under chapter 601A tolls the statute of  
41 limitations for the purposes of the commencement of an  
42 action under this subsection.

43 4 6. This section does not make unlawful the  
44 teaching of any technique in self-defense.

45 5 7. This section does not make unlawful any  
46 activity of any of the following officials or persons:

47 a. Law enforcement officials of this or any other  
48 jurisdiction while engaged in the lawful performance  
49 of their official duties.

50 b. Federal officials required to carry firearms

S-5263

Page 3

1 while engaged in the lawful performance of their  
2 official duties.

3 c. Members of the armed forces of the United  
4 States or the national guard while engaged in the  
5 lawful performance of their official duties.

6 d. Any conservation commission, law enforcement  
7 agency, or any agency licensed to provide security  
8 services, or any hunting club, gun club, shooting  
9 range, or other organization or entity whose primary  
10 purpose is to teach the safe handling or use of  
11 firearms, archery equipment, or other weapons or  
12 techniques employed in connection with lawful sporting  
13 or other lawful activity.

14 Sec. 3.

15 This Act shall not be construed to establish any  
16 new category of individual rights not currently  
17 protected by the laws of this state or federal law, or  
18 to enlarge, diminish, or impair any right guaranteed  
19 by the laws of this state or federal law.

20 Sec. 4.

21 The Code editor shall amend the title of chapter  
22 729 by changing the word "civil" to "individual" to  
23 reflect the changes made in this Act."

24 \_\_\_\_\_. Title page, by striking lines 1 through 3,  
25 and inserting the following: "An Act relating to  
26 violations of an individual's rights, by prohibiting  
acts of assault"."

By LINN FUHRMAN

S-5263 FILED FEBRUARY 27, 1990

*Adopted 2/28 (p. 784)*

*Amended 3/1  
Do Pass with H-5571*

SENATE FILE 2197  
BY RUNNING

(AS AMENDED AND PASSED BY THE SENATE FEBRUARY 28, 1990)

ALL New Language by the Senate

*Re* Passed Senate, Date 3/26/90 (p. 1311) Passed House, Date 3/15/90 (p. 1137)  
Vote: Ayes 31 Nays 16 Vote: Ayes 69 Nays 17  
Approved April 3, 1990

A BILL FOR

1 An Act relating to violations of an individual's rights, by  
2 prohibiting acts of assault and criminal mischief, providing  
3 victims actionable civil relief against offenders,  
4 establishing a program to monitor rights violations, and  
5 providing a penalty.

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

7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23

S.F. 2197

1 Section 1. NEW SECTION. 80.40 CRIME INFORMATION.

2 The department shall establish a program to collect,  
3 classify, and disseminate information relating to violations  
4 of section 729.5. Planning for this project shall be  
5 completed and data collection shall commence no later than  
6 January 1, 1991.

7 Sec. 2. Section 729.5, Code 1989, is amended to read as  
8 follows:

9 729.5 PROHIBITING VIOLATIONS OF AN INDIVIDUAL'S CIVIL  
10 RIGHTS -- PENALTIES.

11 1. Persons within the state of Iowa have the right to be  
12 free from any violence, or intimidation by threat of violence,  
13 committed against their persons or property because of their  
14 race, color, religion, ancestry, national origin, political  
15 affiliation, ~~or~~ sex, sexual orientation, age, or disability.

16 2. A person who conspires with another person or persons  
17 to injure, oppress, threaten, or intimidate or interfere with  
18 any citizen in the free exercise or enjoyment of any right or  
19 privilege secured to that person by the constitution or laws  
20 of the state of Iowa or by the constitution or laws of the  
21 United States, and assembles with one or more persons for the  
22 purpose of teaching or being instructed in any technique or  
23 means capable of causing property damage, bodily injury or  
24 death when the person or persons intend to employ those  
25 techniques or means in furtherance of the conspiracy, is on  
26 conviction, guilty of a class "D" felony.

27 A person intimidates or interferes with another person if  
28 the act of the person results in any of the following:

29 a. Physical injury to the other person.

30 b. Physical damage to or destruction of the other person's  
31 property.

32 c. Communication in a manner, or action in a manner,  
33 intended to result in either of the following:

34 (1) To place the other person in fear of physical contact  
35 which will be injurious, insulting, or offensive, coupled with

1 the apparent ability to execute the act.

2 (2) To place the other person in fear of harm to the other  
3 person's property, or harm to the person or property of a  
4 third person.

5 3. A person who acts to injure, oppress, threaten, or  
6 intimidate or interfere with any citizen in the free exercise  
7 or enjoyment of any right or privilege secured to that person  
8 by the constitution or laws of the state of Iowa or by the  
9 constitution or laws of the United States, is on conviction,  
10 guilty of a class "D" felony.

11 3 4. The fact that a person committed a felony or  
12 misdemeanor, or attempted to commit a felony, because of the  
13 victim's race, color, religion, nationality,--country-of  
14 ancestry, national origin, political affiliation, or sex,  
15 sexual orientation, age, or disability, shall be considered a  
16 circumstance in aggravation of any crime in imposing sentence  
17 and fine. Evidence of such fact includes, but is not limited  
18 to, the burning of crosses and other symbols, and a rebuttable  
19 presumption of the fact arises where such an act is shown to  
20 have been committed.

21 5. A victim who has suffered physical, emotional, or  
22 financial harm as a result of a violation of this section is  
23 entitled to injunctive relief, general and special damages,  
24 reasonable attorney fees, and costs. However, a victim who is  
25 a member of a protected class and who has suffered physical,  
26 emotional, or financial harm as a result of a violation of  
27 this section which occurred because of the victim's status as  
28 a member of a protected class, shall not be entitled to any  
29 relief or damages pursuant to this subsection unless the  
30 victim has exhausted all administrative and judicial review  
31 provided for under chapter 601A and has been denied relief and  
32 a finding has been made that the defendant did not engage in a  
33 discriminatory or unfair practice under that chapter.

34 Upon a finding that a discriminatory or unfair practice  
35 prohibited under chapter 601A has occurred, the remedies



1 provided under that chapter are the exclusive remedies  
2 available to the victim.

3 An action brought pursuant to this subsection must be  
4 brought within two years after the date of the violation of  
5 this section. However, the filing of a complaint under  
6 chapter 601A tolls the statute of limitations for the purposes  
7 of the commencement of an action under this subsection.

8 4 6. This section does not make unlawful the teaching of  
9 any technique in self-defense.

10 5 7. This section does not make unlawful any activity of  
11 any of the following officials or persons:

12 a. Law enforcement officials of this or any other  
13 jurisdiction while engaged in the lawful performance of their  
14 official duties~~;~~.

15 b. Federal officials required to carry firearms while  
16 engaged in the lawful performance of their official duties~~;~~.

17 c. Members of the armed forces of the United States or the  
18 national guard while engaged in the lawful performance of  
19 their official duties~~;-or~~.

20 d. Any conservation commission, law enforcement agency, or  
21 any agency licensed to provide security services, or any  
22 hunting club, gun club, shooting range, or other organization  
23 or entity whose primary purpose is to teach the safe handling  
24 or use of firearms, archery equipment, or other weapons or  
25 techniques employed in connection with lawful sporting or  
26 other lawful activity.

27 Sec. 3.

28 This Act shall not be construed to establish any new  
29 category of individual rights not currently protected by the  
30 laws of this state or federal law, or to enlarge, diminish, or  
31 impair any right guaranteed by the laws of this state or  
32 federal law.

33 Sec. 4.

34 The Code editor shall amend the title of chapter 729 by  
35 changing the word "civil" to "individual" to reflect the

- 1 changes made in this Act.
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30
- 31
- 32
- 33
- 34
- 35

## SENATE FILE 2197

H-5635

1 Amend Senate File 2197, as amended, passed, and  
2 reprinted by the Senate, as follows:

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

5 "Section 1. Section 729.5, Code 1989, is amended  
6 to read as follows:

7 729.5 PROHIBITING VIOLATIONS OF AN INDIVIDUAL'S  
8 CIVIL RIGHTS -- PENALTIES.

9 1. Persons within the state of Iowa have the right  
10 to be free from any violence, or intimidation by  
11 threat of violence, committed against their persons or  
12 property ~~because of their race, color, religion,~~  
13 ~~ancestry, national origin, political affiliation, or~~  
14 ~~sex~~ as protected under chapter 601A.

15 2. A person who conspires with another person or  
16 persons to injure, oppress, threaten, or intimidate,  
17 or interfere with any citizen in the free exercise or  
18 enjoyment of any right or privilege secured to that  
19 person by the constitution or laws of the state of  
20 Iowa or by the constitution or laws of the United  
21 States, and assembles with one or more persons for the  
22 purpose of teaching or being instructed in any  
23 technique or means capable of causing property damage,  
24 bodily injury, or death when the person or persons  
25 intend to employ those techniques or means in  
26 furtherance of the conspiracy, ~~is on conviction,~~  
27 ~~guilty of~~ commits a class "B" "C" felony.

28 3. A person who maliciously and intentionally  
29 intimidates or interferes with another person because  
30 of the personal characteristics of the person as  
31 protected under chapter 601A, commits a class "D"  
32 felony if the act results in any of the following:

33 a. Physical injury to that person.

34 b. Physical damage to or destruction of that  
35 person's property.

36 c. Communication in a manner, or action in a  
37 manner, intended to result in either of the following:

38 (1) To place the other person in fear of physical  
39 contact which will be injurious, insulting, or  
40 offensive coupled with the apparent ability to  
41 execute the act.

42 (2) To place the other person in fear of harm to  
43 the other person's property, or harm to the person or  
44 property of a third person.

45 4. The fact that a person committed a felony or  
46 misdemeanor, or attempted to commit a felony, because  
47 of the victim's ~~race, color, religion, nationality,~~  
48 ~~country of origin, political affiliation, or sex~~  
49 because of the victim's personal characteristics as  
50 protected under chapter 601A, shall be considered a

H-5635

Page 2

1 circumstance in aggravation of any crime in imposing  
2 sentence.

3 5. A victim who has suffered physical, emotional,  
4 or financial harm as a result of a violation of this  
5 section is entitled to injunctive relief, reasonable  
6 attorney fees, and costs.

7 4 6. This section does not make unlawful the  
8 teaching of any technique in self-defense.

9 5 7. This section does not make unlawful any  
10 activity of:

11 a. Law enforcement officials of this or any other  
12 jurisdiction while engaged in the lawful performance  
13 of their official duties;

14 b. Federal officials required to carry firearms  
15 while engaged in the lawful performance of their  
16 official duties;

17 c. Members of the armed forces of the United  
18 States or the national guard while engaged in the  
19 lawful performance of their official duties; or

20 d. Any conservation commission, law enforcement  
21 agency, or any agency licensed to provide security  
22 services, or any hunting club, gun club, shooting  
23 range, or other organization or entity whose primary  
24 purpose is to teach the safe handling or use of  
25 firearms, archery equipment, or other weapons or  
26 techniques employed in connection with lawful sporting  
27 or other lawful activity.

28 Sec. 2. NEW SECTION. 729.6 CIVIL RIGHTS  
29 VIOLATIONS CRIME INFORMATION.

30 Criminal justice agencies, as defined in section  
31 692.1, shall collect and maintain information on  
32 crimes involving violations of chapter 601A or section  
33 729.5 pursuant to chapter 692, and shall provide the  
34 information to the department of public safety in the  
35 manner prescribed by the department. The department  
36 of public safety shall receive and maintain the  
37 information, including information on the personal  
38 characteristics and identities of perpetrators and  
39 victims of these crimes. The department shall  
40 maintain the confidentiality of information which  
41 individually identifies perpetrators or victims of  
42 these crimes, except the department may disseminate  
43 the identifying information to a criminal justice  
44 agency if necessary for the performance of the  
45 official duties of the agency. The department may  
46 provide nonidentifying information on individual  
47 crimes involving violations of chapter 601A or section  
48 729.5 to persons conducting bona fide research.

49 Sec. 3. TIME SCHEDULE.

50 Planning for the collection and maintenance of

H-5635

Page 3

1 information pursuant to section 729.6 shall be  
 2 completed and data collection shall commence no later  
 3 than January 1, 1991."

By CORBETT of Linn

H-5635 FILED MARCH 13, 1990

*Lost 3/15 (p. 1137)*

## SENATE FILE 2197

H-5638

1 Amend Senate File 2197 as amended, passed, and  
 2 reprinted by the Senate, as follows:  
 3 1. Page 1, line 15, by striking the word "sexual"  
 4 and inserting the following: "homosexual or  
 5 heterosexual".  
 6 2. Page 2, line 15, by striking the word "sexual"  
 7 and inserting the following: "homosexual or  
 8 heterosexual".

By BANKS of Plymouth

H-5638 FILED MARCH 13, 1990

*Lost 3/15 (p. 1137)*

## SENATE FILE 2197

H-5644

1 Amend Senate File 2197 as amended, passed, and  
 2 reprinted by the Senate, as follows:  
 3 1. Page 1, line 15, by striking the words "sexual  
 4 orientation" and inserting the following:  
 5 "homosexuality or heterosexuality".  
 6 2. Page 2, line 15, by striking the words "sexual  
 7 orientation" and inserting the following:  
 8 "homosexuality or heterosexuality".

By BANKS of Plymouth

H-5644 FILED MARCH 13, 1990

*Lost 3/15 (p. 1137)*

## SENATE FILE 2197

H-5571

1 Amend Senate File 2197, as amended, passed, and  
 2 reprinted by the Senate as follows:  
 3 1. Page 2, by striking lines 5 through 10.  
 4 2. Page 2, by striking lines 31 through 33, and  
 5 inserting the following: "provided for under 601A."  
 6 3. Renumber as necessary.

By COMMITTEE ON JUDICIARY AND  
LAW ENFORCEMENT

JAY of Appanoose, Chairperson

H-5571 FILED MARCH 8, 1990

*Adopted as amended by 5699, 5735 3/15 (p. 1134)*

## SENATE FILE 2197

H-5699

- 1 Amend the amendment, H-5571, to Senate File 2197,  
 2 as amended, passed, and reprinted by the Senate, as  
 3 follows:  
 4 1. Page 1, by inserting after line 2 the follow-  
 5 ing:  
 6 "\_\_\_\_\_. Page 1, by striking line 16 and inserting  
 7 the following:  
 8 "2. A person, who acts alone, or who conspires  
 9 with another person or persons, "."  
 10 2. Page 1, by inserting after line 3 the follow-  
 11 ing:  
 12 "\_\_\_\_\_. Page 2, line 30, by striking the words "and  
 13 judicial".  
 14 3. Renumber as necessary.

By ROSENBERG of Story  
 TRENT of Muscatine

H-5699 FILED MARCH 14, 1990

*Adopted 3/15 (p. 1134)*

## SENATE FILE 2197

H-5661

- 1 Amend Senate File 2197 as amended, passed, and  
 2 reprinted by the Senate, as follows:  
 3 1. Page 1, by striking lines 1 through 6.  
 4 2. Title page, by striking line 4 and inserting  
 5 the following: "and".

By CORBETT of Linn

H-5661 FILED MARCH 14, 1990

*w/10 3/15 (p. 1137)*

## SENATE FILE 2197

H-5682

- 1 Amend the amendment, H-5635, to Senate File 2197,  
 2 as amended, passed, and reprinted by the Senate, as  
 3 follows:  
 4 1. By striking page 2, line 35 through page 3,  
 5 line 3, and inserting the following: "manner  
 6 prescribed by the department. The department shall  
 7 establish a program to collect, classify, and  
 8 disseminate information relating to violations of  
 9 section 729.5. Planning for this project shall be  
 10 completed and data collection shall commence no later  
 11 than January 1, 1991."

By CORBETT of Linn

H-5682 FILED MARCH 14, 1990

*Adopted 3/15 (p. 1136)*

HOUSE AMENDMENT TO  
SENATE FILE 2197

S-5552

- 1 Amend Senate File 2197, as amended, passed, and  
2 reprinted by the Senate as follows:  
3 1. Page 1, by striking line 16 and inserting the  
4 following:  
5 "2. A person, who acts alone, or who conspires  
6 with another person or persons,".  
7 2. Page 2, by striking lines 5 through 10 and  
8 inserting the following:  
9 "3. A person who maliciously and intentionally  
10 intimidates or interferes with another person because  
11 of that person's race, color, religion, ancestry,  
12 national origin, political affiliation, sex, sexual  
13 orientation, age, or disability and while doing so  
14 commits any of the following acts, is guilty of an  
15 aggravated misdemeanor:  
16 a. Commits an assault, as defined in section  
17 708.1, upon that person or a third person.  
18 b. Commits an act of criminal mischief, as defined  
19 in section 716.1, upon that person or a third person."  
20 3. Page 2, line 30, by striking the words "and  
21 judicial".  
22 4. Page 2, by striking lines 31 through 33, and  
23 inserting the following: "provided for under 601A."  
24 5. Renumber as necessary.

RECEIVED FROM THE HOUSE

S-5552 FILED MARCH 19, 1990

*Senate concurred 3/26 (p. 1311)*

SENATE FILE 2197

S-5684

- 1 Amend the House amendment, S-5552, to Senate File  
2 2197, as amended, passed, and reprinted by the Senate,  
3 as follows:  
4 1. Page 1, line 13, by striking the words "or  
5 disability" and inserting the following: "disability,  
6 union membership, or nonunion membership".

By WILLIAM W. DIELEMAN

S-5684 FILED MARCH 26, 1990  
RULED OUT OF ORDER

H-5735

- 1 Amend the Committee amendment, H-5571, to Senate  
2 File 2197, as amended, passed, and reprinted by the  
3 Senate, as follows:
- 4 1. Page 1, by striking line 3 and inserting the  
5 following:
- 6 " . Page 2, by striking lines 5 through 10 and  
7 inserting the following:
- 8 "3. A person who maliciously and intentionally  
9 intimidates or interferes with another person because  
10 of that person's race, color, religion, ancestry,  
11 national origin, political affiliation, sex, sexual  
12 orientation, age, or disability and while doing so  
13 commits any of the following acts, is guilty of an  
14 aggravated misdemeanor:
- 15 a. Commits an assault, as defined in section  
16 708.1, upon that person or a third person.
- 17 b. Commits an act of criminal mischief, as defined  
18 in section 716.1, upon that person or a third  
19 person."
- 20 2. Renumber as necessary.

By ROSENBERG of Story

H-5735 FILED MARCH 15, 1990

ADOPTED (p. 1134)



SENATE FILE 2197

AN ACT

RELATING TO VIOLATIONS OF AN INDIVIDUAL'S RIGHTS, BY PROHIBITING ACTS OF ASSAULT AND CRIMINAL MISCHIEF, PROVIDING VICTIMS ACTIONABLE CIVIL RELIEF AGAINST OFFENDERS, ESTABLISHING A PROGRAM TO MONITOR RIGHTS VIOLATIONS, AND PROVIDING A PENALTY.

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

Section 1. NEW SECTION. 80.40 CRIME INFORMATION.

The department shall establish a program to collect, classify, and disseminate information relating to violations of section 729.5. Planning for this project shall be completed and data collection shall commence no later than January 1, 1991.

Sec. 2. Section 729.5, Code 1989, is amended to read as follows:

729.5 PROHIBITING VIOLATIONS OF AN INDIVIDUAL'S CIVIL RIGHTS -- PENALTIES.

1. Persons within the state of Iowa have the right to be free from any violence, or intimidation by threat of violence, committed against their persons or property because of their race, color, religion, ancestry, national origin, political affiliation, or sex, sexual orientation, age, or disability.

2. A person, who acts alone, or who conspires with another person or persons, to injure, oppress, threaten, or intimidate or interfere with any citizen in the free exercise or enjoyment of any right or privilege secured to that person by the constitution or laws of the state of Iowa or by the constitution or laws of the United States, and assembles with one or more persons for the purpose of teaching or being instructed in any technique or means capable of causing property damage, bodily injury or death when the person or

persons intend to employ those techniques or means in furtherance of the conspiracy, is on conviction, guilty of a class "D" felony.

A person intimidates or interferes with another person if the act of the person results in any of the following:

a. Physical injury to the other person.

b. Physical damage to or destruction of the other person's property.

c. Communication in a manner, or action in a manner, intended to result in either of the following:

(1) To place the other person in fear of physical contact which will be injurious, insulting, or offensive, coupled with the apparent ability to execute the act.

(2) To place the other person in fear of harm to the other person's property, or harm to the person or property of a third person.

3. A person who maliciously and intentionally intimidates or interferes with another person because of that person's race, color, religion, ancestry, national origin, political affiliation, sex, sexual orientation, age, or disability and while doing so commits any of the following acts, is guilty of an aggravated misdemeanor:

a. Commits an assault, as defined in section 708.1, upon that person or a third person.

b. Commits an act of criminal mischief, as defined in section 716.1, upon that person or a third person.

3 4. The fact that a person committed a felony or misdemeanor, or attempted to commit a felony, because of the victim's race, color, religion, nationality, country-of-ancestry, national origin, political affiliation, or sex, sexual orientation, age, or disability, shall be considered a circumstance in aggravation of any crime in imposing sentence and fine. Evidence of such fact includes, but is not limited to, the burning of crosses and other symbols, and a rebuttable presumption of the fact arises where such an act is shown to have been committed.

5. A victim who has suffered physical, emotional, or financial harm as a result of a violation of this section is entitled to injunctive relief, general and special damages, reasonable attorney fees, and costs. However, a victim who is a member of a protected class and who has suffered physical, emotional, or financial harm as a result of a violation of this section which occurred because of the victim's status as a member of a protected class, shall not be entitled to any relief or damages pursuant to this subsection unless the victim has exhausted all administrative review provided for under 601A.

Upon a finding that a discriminatory or unfair practice prohibited under chapter 601A has occurred, the remedies provided under that chapter are the exclusive remedies available to the victim.

An action brought pursuant to this subsection must be brought within two years after the date of the violation of this section. However, the filing of a complaint under chapter 601A tolls the statute of limitations for the purposes of the commencement of an action under this subsection.

4 6. This section does not make unlawful the teaching of any technique in self-defense.

5 7. This section does not make unlawful any activity of any of the following officials or persons:

a. Law enforcement officials of this or any other jurisdiction while engaged in the lawful performance of their official duties.

b. Federal officials required to carry firearms while engaged in the lawful performance of their official duties.

c. Members of the armed forces of the United States or the national guard while engaged in the lawful performance of their official duties.

d. Any conservation commission, law enforcement agency, or any agency licensed to provide security services, or any hunting club, gun club, shooting range, or other organization or entity whose primary purpose is to teach the safe handling or use of firearms, archery equipment, or other weapons or

techniques employed in connection with lawful sporting or other lawful activity.

Sec. 3.

This Act shall not be construed to establish any new category of individual rights not currently protected by the laws of this state or federal law, or to enlarge, diminish, or impair any right guaranteed by the laws of this state or federal law.

Sec. 4.

The Code editor shall amend the title of chapter 729 by changing the word "civil" to "individual" to reflect the changes made in this Act.

---

JO ANN ZIMMERMAN  
President of the Senate

---

DONALD D. AVENSON  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2197, Seventy-third General Assembly.

---

JOHN F. DWYER  
Secretary of the Senate

Approved *April 3*, 1990

---

TERRY E. BRANSTAD  
Governor