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SENATE FILE 444
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 248)

Passed Senate, Date 4/5/91 (p 1018) Passed House, Date 4/29/91 (p 1891)
Vote: Ayes 48 Nays 2 Vote: Ayes 91 Nays 5
Approved May 29, 1991

A BILL FOR

An Act relating to law enforcement, victim services, and domestic abuse, establishing certain training and certification requirements, establishing and increasing certain criminal penalties, imposing mandatory minimum sentences, establishing a domestic abuse services fund, establishing an income tax checkoff for domestic abuse, increasing certain court costs and fees, eliminating certain court costs, requiring batterers treatment by offenders, establishing a pilot program, and containing effective date and applicability provisions.

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

TLSB 2445SV 74
mc/cf/24

S.F. 444 H.F. _____

1 Section 1. NEW SECTION. 13.11 INVESTIGATIONS OF LAW
2 ENFORCEMENT OFFICERS INVOLVED IN PUBLIC OFFENSES.
3 The attorney general shall conduct investigations of law
4 enforcement officers who have committed serious misdemeanors,
5 and shall make recommendations to the Iowa law enforcement
6 academy as to whether an officer's certification should be
7 revoked under the criteria established by the academy pursuant
8 to section 80B.11.
9 Sec. 2. Section 80B.6, unnumbered paragraph 1 and
10 subsection 1, Code 1991, are amended to read as follows:
11 There is created the Iowa law enforcement academy council
12 which shall consist of the following ~~seven~~ eight members
13 appointed by the governor subject to confirmation by the
14 senate to terms of four years commencing as provided in
15 section 69.19:
16 1. Three residents of the state, one of whom is a
17 prosecuting attorney.
18 Sec. 3. Section 80B.6, Code 1991, is amended by adding the
19 following new subsection:
20 NEW SUBSECTION. 6. A victim service provider.
21 Sec. 4. Section 80B.11, subsections 1 and 2, Code 1991,
22 are amended to read as follows:
23 1. Minimum entrance requirements, course of study,
24 attendance requirements, and equipment and facilities required
25 at approved law enforcement training schools. Minimum age
26 requirements for entrance to approved law enforcement training
27 schools shall be eighteen years of age. Minimum course of
28 study requirements shall include a separate domestic abuse
29 curriculum, which may include, but is not limited to, outside
30 speakers from domestic abuse shelters and crime victim
31 assistance organizations and at least ten hours of study
32 devoted exclusively to domestic abuse training covering the
33 topics set forth in section 236.17.
34 2. Minimum basic training requirements law enforcement
35 officers employed after July 1, 1968, must complete in order

1 to remain eligible for continued employment and the time
2 within which such basic training must be completed. Minimum
3 requirements shall mandate that at least one-half of the hours
4 required per year are devoted to the topic of human relations,
5 which includes, but is not limited to, interpersonal
6 relations, domestic abuse, child abuse, sexual abuse, stress
7 management, familial relationships, and related topics. The
8 rules shall include procedures for reporting the completion of
9 accredited basic training requirements as a condition for
10 continued certification, and procedures for council
11 accreditation of basic training courses as provided in section
12 80B.16.
13 Sec. 5. Section 80B.11, subsection 6, Code 1991, is
14 amended to read as follows:
15 6. Grounds for revocation of a law enforcement officer's
16 certification. The rules shall require revocation of
17 certification if, upon conducting the applicable revocation
18 proceedings, the council determines that the law enforcement
19 officer has been convicted of or received a deferred judgment
20 for a felony or an aggravated misdemeanor. The rules shall
21 establish review procedures and criteria for possible
22 revocation of the certification of law enforcement officers
23 who are convicted of or receive deferred judgments for
24 commission of a serious misdemeanor, or for law enforcement
25 officers whose conduct falls within the other criteria for
26 revocation set forth in section 80B.13. These rules shall
27 include procedures for reporting of law enforcement officers
28 who have committed indictable offenses to the academy, and to
29 the attorney general, for the purpose of conducting
30 investigations under section 13.11. The rules shall include
31 procedures for law enforcement agencies to notify the academy
32 and the attorney general, if applicable, when aware of the
33 commission of an indictable offense by a law enforcement
34 officer, and procedures for receiving similar notification by
35 county attorneys. The rules shall contain procedures for

1 cooperation with the attorney general in investigations in
2 matters involving serious misdemeanors, conducted pursuant to
3 section 13.11. The rules shall require the initiation of
4 revocation proceedings upon recommendation by the attorney
5 general.
6 Sec. 6. Section 80B.13, subsection 8, unnumbered paragraph
7 1, Code 1991, is amended to read as follows:
8 Revoke a law enforcement officer's certification. The
9 council shall revoke a law enforcement officer's certification
10 for the conviction of a felony or aggravated misdemeanor, upon
11 conducting the applicable revocation proceedings. The council
12 shall initiate revocation proceedings upon recommendation of
13 the attorney general in serious misdemeanor cases, as provided
14 in sections 13.11 and 80B.11. In addition the council may
15 consider revocation proceedings when an employing agency
16 recommends to the council that revocation would be appropriate
17 with regard to a current or former employee.
18 Sec. 7. NEW SECTION. 80B.16 DUTIES OF COUNCIL PERTAINING
19 TO TRAINING.
20 The council shall review all training courses for which law
21 enforcement officers seek accreditation to fulfill continuing
22 education requirements, and shall either accredit the course
23 for a specified number of hours or refuse to accredit the
24 course.
25 Sec. 8. NEW SECTION. 80B.17 TASK SURVEY AS CURRICULUM
26 GUIDE.
27 The academy shall conduct a task survey at least every five
28 years, to be used as a guide for adjusting curriculum and
29 continuing education requirements. The task survey shall
30 examine the proportion of a law enforcement officer's time
31 required to perform each of the officer's major duties.
32 Sec. 9. NEW SECTION. 80B.18 CURRICULUM ADVISORY
33 COMMITTEE.
34 1. A law enforcement academy curriculum advisory committee
35 is established. The committee shall consist of the following

1 members appointed pursuant to rules adopted by the director,
2 subject to the approval of the council:
3 a. One person engaged full time in law enforcement.
4 b. A peace officer instructor who instructs in a law
5 enforcement related training area.
6 c. An instructor from a community college.
7 d. A county attorney or assistant county attorney.
8 e. A public defender or an attorney practicing primarily
9 in criminal defense.
10 f. A person representing the department of justice.
11 g. A public member who has received victim services.
12 h. Two victim service providers.
13 2. The committee shall make recommendations to the academy
14 concerning curriculum and continuing education courses. In
15 making recommendations, the committee shall consider the task
16 survey conducted pursuant to section 80B.17.
17 3. The director, subject to the approval of the council,
18 shall adopt rules establishing procedures of operation for the
19 committee, and other matters necessary for the implementation
20 of this section.
21 4. The members of the committee shall be reimbursed for
22 actual and necessary expenses incurred in the performance of
23 their duties.
24 Sec. 10. Section 135B.6, Code 1991, is amended by adding
25 the following new unnumbered paragraph:
26 NEW UNNUMBERED PARAGRAPH. The department shall adopt rules
27 requiring hospitals to establish and implement protocols for
28 responding to the needs of patients who are victims of
29 domestic abuse, as defined in section 236.2, as a condition of
30 continued or initial licensure.
31 Sec. 11. Section 236.2, Code 1991, is amended by adding
32 the following new subsection:
33 NEW SUBSECTION. 4A. "Pro se" means a person proceeding on
34 the person's own behalf without legal representation.
35 Sec. 12. Section 236.3, subsection 1, Code 1991, is

1 amended to read as follows:
2 1. Name of the plaintiff and the name and address of the
3 plaintiff's attorney, if any. If the plaintiff is proceeding
4 pro se, the petition shall state a mailing address for the
5 plaintiff.
6 Sec. 13. Section 236.3, unnumbered paragraph 2, Code 1991,
7 is amended to read as follows:
8 ~~If the plaintiff files an affidavit stating that the~~
9 ~~plaintiff does not have sufficient funds to pay the cost of~~
10 ~~filing and service, the~~ The petition shall be filed and
11 service shall be made without payment of costs. ~~If a petition~~
12 ~~is filed and service is made without payment of costs, the~~
13 ~~court shall determine at the hearing if the payment of costs~~
14 ~~would prejudice the plaintiff's financial ability to provide~~
15 ~~economic necessities for the plaintiff or the plaintiff's~~
16 ~~dependents. If the court finds that the payment of costs~~
17 ~~would not prejudice the plaintiff's financial ability to~~
18 ~~provide economic necessities for the plaintiff or the~~
19 ~~plaintiff's dependents, the court may order the plaintiff to~~
20 ~~pay the costs of filing and service. However, in making the~~
21 ~~determinations, the court shall not consider funds no longer~~
22 ~~available to the plaintiff as a result of the commencement of~~
23 ~~the action.~~ Notwithstanding section 602.8105 or any other
24 provision to the contrary, court costs other than the costs of
25 counseling as provided in section 236.5, and service costs,
26 shall not be assessed or collected from either party for items
27 associated with obtaining orders issued pursuant to section
28 236.5 or 236.6.
29 Sec. 14. NEW SECTION. 236.3A PLAINTIFFS PROCEEDING PRO
30 SE -- PROVISION OF FORMS AND ASSISTANCE.
31 1. The department shall prescribe standard forms to be
32 used by plaintiffs seeking protective orders by proceeding pro
33 se in actions under this chapter. Standard forms prescribed
34 by the department shall be the exclusive forms used by
35 plaintiffs proceeding pro se, and may be used by other

1 plaintiffs. The supreme court shall distribute the forms to
2 the clerks of the district courts.
3 2. The clerk of the district court shall furnish the
4 required forms to persons seeking protective orders through
5 pro se proceedings pursuant to this chapter.
6 Sec. 15. Section 236.5, subsection 4, Code 1991, is
7 amended to read as follows:
8 4. A certified copy of any order or approved consent
9 agreement shall be issued to the plaintiff, the defendant and
10 law enforcement agencies having jurisdiction to enforce the
11 order or consent agreement, and the twenty-four hour
12 dispatcher for the law enforcement agencies. Any subsequent
13 amendment or revocation of an order or consent agreement shall
14 be forwarded by the clerk to all individuals and agencies
15 previously notified. The clerk shall contact the law
16 enforcement agencies and the twenty-four hour dispatcher by
17 telephone or otherwise within six hours of filing the order,
18 approved consent agreement, amendment, or revocation, and
19 shall send or deliver a written copy to law enforcement
20 agencies and the twenty-four hour dispatcher within twenty-
21 four hours of filing the document.
22 Sec. 16. Section 236.11, unnumbered paragraph 1, Code
23 1991, is amended to read as follows:
24 A peace officer shall use every reasonable means to enforce
25 an order or court-approved consent agreement entered under
26 this chapter, a temporary or permanent protective order or
27 order to vacate the homestead under chapter 598, or any order
28 that establishes conditions of release or is a protective
29 order or sentencing order in a criminal prosecution arising
30 from a domestic abuse assault. If a peace officer has reason
31 to believe that domestic abuse has occurred, the peace officer
32 shall ask the abused person if any prior orders exist, and
33 shall contact the twenty-four hour dispatcher to inquire if
34 any prior orders exist. If a peace officer has probable cause
35 to believe that a person has violated an order or approved

1 consent agreement entered under this chapter, a temporary or
2 permanent protective order or order to vacate the homestead
3 under chapter 598, or any order establishing conditions of
4 release or a protective or sentencing order in a criminal
5 prosecution arising from a domestic abuse assault, the peace
6 officer shall take the person into custody and shall take the
7 person without unnecessary delay before the nearest or most
8 accessible magistrate in the judicial district in which the
9 person was taken into custody. The magistrate shall make an
10 initial preliminary determination whether there is probable
11 cause to believe that an order or consent agreement existed
12 and that the person taken into custody has violated its terms.
13 The magistrate's decision shall be entered in the record.
14 If a peace officer has probable cause to believe that a
15 person has violated an order or approved consent agreement
16 entered under this chapter, a temporary or permanent
17 protective order or order to vacate the homestead under
18 chapter 598, or any order establishing conditions of release
19 or a protective or sentencing order in a criminal prosecution
20 arising from a domestic abuse assault, and the peace officer
21 is unable to take the person into custody within twenty-four
22 hours of making the probable cause determination, the peace
23 officer shall notify a magistrate for a determination as to
24 whether a rule to show cause or arrest warrant should be
25 issued.
26 Sec. 17. Section 236.12, subsection 1, paragraph c, Code
27 1991, is amended by adding the following new unnumbered
28 paragraph after subparagraph (4):
29 NEW UNNUMBERED PARAGRAPH. You have the right to seek help
30 from the court to seek a protective order with or without the
31 assistance of legal representation.
32 Sec. 18. Section 236.14, subsection 2, unnumbered
33 paragraphs 3 and 4, Code 1991, are amended to read as follows:
34 The clerk of the court or other person designated by the
35 court shall provide a copy of this order to the victim

1 pursuant to chapter 910A. The order has force and effect
2 until it is modified or terminated by subsequent court action
3 in the contempt proceeding or the criminal or juvenile court
4 action and is reviewable in the manner prescribed in section
5 811.2. The clerk of the district court shall also provide
6 oral or other notice and copies of the no-contact order to the
7 applicable law enforcement agencies and the twenty-four hour
8 dispatcher for the law enforcement agencies, in the manner
9 provided for protective orders under section 236.5. The clerk
10 shall provide oral or other notice and copies of modifications
11 or vacations of these orders in the same manner.
12 Violation of this no-contact order is punishable by summary
13 contempt proceedings. If held in contempt for violation of a
14 no-contract order, the person shall be confined in the county
15 jail for a minimum of seven days.
16 Sec. 19. NEW SECTION. 236.14A NO-CONTACT ORDER FORMS.
17 The supreme court shall submit a form pursuant to the
18 rulemaking procedure established in section 602.4202, to be
19 used by the court in issuing no-contact orders pursuant to
20 section 236.14, and shall distribute the form to magistrates,
21 district associate judges, and district judges when the form
22 becomes effective.
23 Sec. 20. Section 236.15, Code 1991, is amended to read as
24 follows:
25 236.15 APPLICATION FOR DESIGNATION AND FUNDING AS A
26 PROVIDER OF SERVICES FOR VICTIMS OF DOMESTIC ABUSE -- DOMESTIC
27 ABUSE SERVICES FUND ESTABLISHED.
28 1. Upon receipt of state or federal funding designated for
29 victims of domestic abuse by the department, a public or
30 private nonprofit organization may apply to the department for
31 designation and funding as a provider of emergency shelter
32 services and support services to victims of domestic abuse and
33 sexual assault. The application shall be submitted on a form
34 prescribed by the department and shall include, but not be
35 limited to, information regarding services to be provided,

1 budget, and security measures.
2 2. The domestic abuse services fund is established as a
3 separate fund in the state treasury under the control of the
4 department. The department, in consultation with the crime
5 victim assistance board, shall administer the funds, which
6 shall be dedicated to and are appropriated for the provision
7 of financial assistance to sexual assault and domestic
8 violence centers and batterers' treatment programs, and for
9 the performance of the other duties imposed upon the
10 department under section 236.16. Notwithstanding section
11 8.33, any balance in the fund on June 30 of any fiscal year
12 shall not revert to the general fund of the state.
13 Sec. 21. NEW SECTION. 236.15A INCOME TAX CHECKOFF FOR
14 DOMESTIC ABUSE SERVICES.
15 A person who files an individual or a joint income tax
16 return with the department of revenue and finance under
17 section 422.13 may designate any amount to be paid to the
18 domestic abuse services fund established in section 236.15.
19 If the refund due on the return or the payment remitted with
20 the return is insufficient to pay the additional amount
21 designated by the taxpayer to the domestic abuse services
22 fund, the amount designated shall be reduced to the remaining
23 amount of refund or the remaining amount remitted with the
24 return.
25 The revenues received shall be deposited in the domestic
26 abuse services fund.
27 The director of revenue and finance shall draft the income
28 tax form to allow the designation of contributions to the
29 domestic abuse services fund on the tax return.
30 The department of revenue and finance on or before January
31 31 of the year following the preceding calendar year shall
32 certify the total amount designated on the tax return forms
33 due in the preceding calendar year and shall report the amount
34 to the treasurer of state. The treasurer of state shall
35 credit the amount to the domestic abuse services fund.

1 The department of revenue and finance shall consult the
2 crime victim assistance board concerning the adoption of rules
3 to implement this section. However, before a checkoff
4 pursuant to this section shall be permitted, all liabilities
5 on the books of the department of revenue and finance and
6 accounts identified as owing under section 421.17 and the
7 political contribution allowed under section 56.18 shall be
8 satisfied.
9 Sec. 22. Section 236.16, subsection 1, Code 1991, is
10 amended by adding the following new paragraphs:
11 NEW PARAGRAPH. c. Designate and award moneys from the
12 domestic abuse services fund for publicizing and staffing a
13 statewide, toll-free telephone hotline for use by victims of
14 domestic abuse. The department may award a grant to a public
15 agency or a private, nonprofit organization for the purpose of
16 operating the hotline. The operation of the hotline shall
17 include informing victims of their rights and of various
18 community services that are available, referring victims to
19 service providers, receiving complaints concerning misconduct
20 by peace officers and encouraging victims to refer such
21 complaints to the office of citizens' aide, providing
22 counseling services to victims over the telephone, and
23 providing domestic abuse victim advocacy.
24 NEW PARAGRAPH. d. Advertise the toll-free telephone
25 hotline through the use of public service announcements,
26 billboards, print and broadcast media services, and other
27 appropriate means, and contact media organizations to
28 encourage the provision of free or inexpensive advertising
29 concerning the hotline and its services.
30 NEW PARAGRAPH. e. Develop, with the assistance of the
31 entity operating the telephone hotline and other domestic
32 abuse victim services providers, brochures explaining the
33 rights of victims set forth under section 236.12 and the
34 services of the telephone hotline, and distribute the
35 brochures to law enforcement agencies, victim service

1 providers, health practitioners, charitable and religious
2 organizations, and other entities that may have contact with
3 victims of domestic abuse.
4 NEW PARAGRAPH. f. Designate and award grants to
5 batterers' treatment programs.
6 Sec. 23. NEW SECTION. 236.17 DOMESTIC ABUSE TRAINING
7 REQUIREMENTS.
8 The department, in cooperation with victim service
9 providers, shall work with various professional organizations
10 to encourage organizations to establish training programs for
11 professionals who work in the area of domestic abuse
12 prevention and services. The Iowa law enforcement academy
13 shall require domestic abuse training for law enforcement
14 officers as set forth in section 80B.11. Domestic abuse
15 training shall include, but is not limited to, the following
16 areas:
17 1. The enforcement of both civil and criminal remedies in
18 domestic abuse matters.
19 2. The nature, extent, and causes of domestic abuse.
20 3. The legal rights and remedies available to domestic
21 abuse victims, including crime victim compensation.
22 4. Services available to domestic abuse victims and their
23 children, including the domestic abuse telephone hotline.
24 5. The mandatory arrest provisions of section 236.12, and
25 other duties of peace officers pursuant to this chapter.
26 6. Techniques for intervention in domestic abuse cases.
27 Sec. 24. NEW SECTION. 236.18 REFERENCE TO CERTAIN
28 CRIMINAL PROVISIONS.
29 In addition to the criminal penalties contained in this
30 chapter, certain criminal penalties and provisions pertaining
31 to domestic abuse assaults are set forth in sections 708.2A
32 and 708.2B.
33 Sec. 25. Section 246.105, Code 1991, is amended by adding
34 the following new subsection:
35 NEW SUBSECTION. 9A. Adopt rules in accordance with

1 chapter 17A concerning procedures to be followed by the
2 judicial district departments of correctional services in
3 implementing batterers' treatment programs pursuant to section
4 708.2B.
5 Sec. 26. Section 246.108, subsection 1, Code 1991, is
6 amended by adding the following new paragraphs:
7 NEW PARAGRAPH. p. Adopt rules subject to the approval of
8 the board, requiring the establishment and implementation of
9 batterers' support groups in all of the institutions under the
10 jurisdiction of the department.
11 NEW PARAGRAPH. q. Adopt rules subject to the approval of
12 the board, requiring special training for employees of the
13 Iowa correctional institution for women. The rules shall
14 require that these employees receive training concerning the
15 needs of female inmates. The rules shall mandate that the
16 training include, but is not limited to, problems associated
17 with battered spouse syndrome. As used in this paragraph,
18 "battered spouse syndrome" means the psychological condition
19 of a victim of repeated physical and psychological abuse by a
20 spouse, former spouse, cohabitant, or former cohabitant, which
21 is also recognized in the medical and scientific community as
22 the "battered women's syndrome." The rules shall require new
23 employees to receive the training prior to commencing
24 employment.
25 Sec. 27. Section 279.50, subsection 4, unnumbered
26 paragraph 2, Code 1991, is amended to read as follows:
27 Each school board shall provide instruction in human growth
28 and development including instruction regarding human
29 sexuality, self-esteem, stress management, interpersonal
30 relationships, domestic abuse, and acquired immune deficiency
31 syndrome as required in section 256.11, in grades one through
32 twelve. Each school board shall annually provide to a parent
33 or guardian of any pupil enrolled in the school district,
34 information about the human growth and development curriculum
35 used in the pupil's grade level and the procedure for

1 inspecting the instructional materials prior to their use in
2 the classroom. A pupil shall not be required to take
3 instruction in human growth and development if the pupil's
4 parent or guardian files with the appropriate principal a
5 written request that the pupil be excused from the
6 instruction. Notification that the written request may be
7 made shall be included in the information provided by the
8 school district.
9 Sec. 28. Section 331.756, Code 1991, is amended by adding
10 the following new subsection:
11 NEW SUBSECTION. 16A. Notify the Iowa law enforcement
12 academy when aware of the commission of indictable offenses by
13 law enforcement officers under procedures established pursuant
14 to section 80B.11. The county attorney shall also notify the
15 attorney general when aware of the commission of a serious
16 misdemeanor by a law enforcement officer.
17 Sec. 29. NEW SECTION. 598.42 NOTICE OF CERTAIN ORDERS BY
18 CLERK OF COURT.
19 The clerk of the district court shall provide oral or other
20 notice and copies of temporary or permanent protective orders
21 and orders to vacate the homestead entered pursuant to this
22 chapter to the applicable law enforcement agencies and the
23 twenty-four hour dispatcher for the law enforcement agencies,
24 in the manner provided for protective orders under section
25 236.5. The clerk shall provide oral or other notice and
26 copies of modifications or vacations of these orders in the
27 same manner.
28 Sec. 30. Section 602.8105, subsection 1, paragraph a, Code
29 1991, is amended to read as follows:
30 a. For filing and docketing a petition other than for
31 modification of a dissolution decree to which a written
32 stipulation is attached at the time of filing containing the
33 agreement of the parties to the terms of the modification, or
34 an appeal or writ of error, ~~forty-five~~ fifty dollars. Four
35 dollars of the fee shall be deposited in the court revenue

1 distribution account established under section 602.8108, and
2 forty-one dollars of the fee shall be paid into the state
3 treasury. Five dollars of the fee shall be remitted to the
4 treasurer of state for deposit in the domestic abuse services
5 fund established in section 236.15. Of the amount paid to the
6 state treasury, one dollar shall be deposited in the judicial
7 retirement fund established in section 602.9104 to be used to
8 pay retirement benefits of the judicial retirement system, and
9 the remainder shall be deposited in the general fund of the
10 state. In counties having a population of one hundred
11 thousand or over, an additional five dollars shall be charged
12 and collected, to be known as the journal publication fee and
13 used for the purposes provided for in section 618.13.
14 Sec. 31. Section 602.8105, subsection 1, paragraphs l, m,
15 and n, Code 1991, are amended to read as follows:
16 l. In criminal cases, the same fees for the same services
17 as in civil cases, and a five dollar fee to be remitted to the
18 treasurer of state by the clerk of the district court for
19 deposit in the domestic abuse services fund established in
20 section 236.15, to be paid by the county or city, which has
21 the duty to prosecute the criminal action, payable as provided
22 in section 602.8109. When judgment is rendered against the
23 defendant, costs collected from the defendant shall be paid to
24 the county or city which has the duty to prosecute the
25 criminal action to the extent necessary for reimbursement for
26 fees paid. However, the fees which are payable by the county
27 to the clerk of the district court for services rendered in
28 criminal actions prosecuted under state law and in habitual
29 offender actions pursuant to section 321.556, and the court
30 costs taxed in connection with the trial of those actions or
31 appeals from the judgments in those actions are waived.
32 m. For filing an application for a license to marry,
33 ~~fifteen~~ thirty dollars. The clerk of the district court shall
34 remit to the treasurer of state ~~five~~ twenty dollars for each
35 marriage license application filed. The treasurer of state

1 shall deposit five dollars of the funds received in the
2 general fund of the state, and fifteen dollars of the funds in
3 the domestic abuse services fund established in section
4 236.15. For issuing an application for an order of the
5 district court authorizing the issuance of a license to marry
6 prior to the expiration of three days from the date of filing
7 the application for the license, five dollars.
8 n. For entering a final decree of dissolution of marriage,
9 fifteen dollars. The fees shall be deposited in the ~~general~~
10 domestic abuse services fund ~~of the state~~ established in
11 section 236.15. ~~It is the intent of the general assembly that~~
12 ~~the funds generated from the dissolution fees be appropriated~~
13 ~~and used for sexual assault and domestic violence centers.~~
14 Sec. 32. Section 602.8106, subsection 1, Code 1991, is
15 amended to read as follows:
16 1. Notwithstanding section 602.8105, the fee for the
17 filing and docketing of a complaint or information for a
18 simple misdemeanor is ~~twenty~~ twenty-five dollars except that
19 the filing and docketing of a complaint or information for a
20 nonscheduled simple misdemeanor under chapter 321 is ~~fifteen~~
21 twenty dollars. The clerk of court shall remit five dollars
22 of the fees for the filing and docketing of a complaint or
23 information in misdemeanor matters to the treasurer of state
24 for deposit in the domestic abuse services fund established in
25 section 236.15. The fee for filing and docketing a complaint
26 or information or uniform citation and complaint for parking
27 violations under sections 321.236, 321.239, 321.358, 321.360,
28 and 321.361 is one dollar, effective January 1, 1991. The
29 court costs in cases of parking meter and overtime parking
30 violations which are denied, and charged and collected
31 pursuant to section 321.236, subsection 1, or pursuant to a
32 uniform citation and complaint are eight dollars per
33 information or complaint or per uniform citation and
34 complaint, effective January 1, 1991.
35 Sec. 33. Section 602.8106, subsection 5, unnumbered

1 paragraph 1, Code 1991, is amended to read as follows:
2 ~~All~~ Except for funds designated for deposit in the domestic
3 abuse services fund, all fees and costs for the filing of a
4 complaint or information or upon forfeiture of bail received
5 from a magistrate shall be distributed by the clerk as
6 follows:
7 Sec. 34. Section 631.6, subsection 1, Code 1991, is
8 amended to read as follows:
9 1. The docket fee for a small claims action is ~~fifteen~~
10 twenty dollars. Five dollars of the docket fee shall be
11 deposited in the court revenue distribution account
12 established under section 602.8108, five dollars shall be
13 remitted to the treasurer of state for deposit in the domestic
14 abuse services fund established in section 236.15, and ten
15 dollars of the fee shall be paid into the state treasury. Of
16 the amount paid into the state treasury, one dollar shall be
17 deposited in the judicial retirement fund established in
18 section 602.9104 to be used to pay retirement benefits of the
19 judicial retirement system, and the remainder shall be
20 deposited in the general fund of the state.
21 Sec. 35. Section 708.2A, Code 1991, is amended by striking
22 the section and inserting in lieu thereof the following:
23 708.2A DOMESTIC ABUSE ASSAULT -- MANDATORY MINIMUMS,
24 PENALTIES ENHANCED.
25 1. For the purposes of this chapter, "domestic abuse
26 assault" means an assault, as defined in section 708.1, which
27 is domestic abuse as defined in section 236.2.
28 2. On a first offense of domestic abuse assault, the
29 person commits:
30 a. A class "D" felony, if the person commits one or more
31 domestic abuse assaults within twenty-four hours following an
32 arrest or citation in lieu of arrest for domestic abuse
33 assault. This paragraph applies regardless of the
34 classification of the domestic abuse assaults under this
35 section or whether the same victim was involved.

1 b. An aggravated misdemeanor, if the domestic abuse
2 assault is committed with the intent to inflict a serious
3 injury upon another, or if the person uses or displays a
4 dangerous weapon in connection with the assault. This
5 paragraph does not apply if section 708.6 or 708.8 applies.
6 c. A serious misdemeanor, if the domestic abuse assault is
7 committed without the intent to inflict a serious injury upon
8 another, and the assault causes bodily injury or disabling
9 mental illness.
10 d. A simple misdemeanor for any other domestic abuse
11 assault, except as otherwise provided.
12 3. Except as otherwise provided in subsection 2, on a
13 second or subsequent domestic abuse assault, a person commits:
14 a. A serious misdemeanor, if the first offense was
15 classified as a simple misdemeanor, and the second offense
16 would otherwise be classified as a simple misdemeanor.
17 b. An aggravated misdemeanor, if the first offense was
18 classified as a simple misdemeanor, and the second offense
19 would otherwise be classified as a serious misdemeanor, or the
20 first offense was classified as a serious misdemeanor, and the
21 second offense would otherwise be classified as a simple or
22 serious misdemeanor.
23 c. A class "D" felony for any third or subsequent offense,
24 regardless of the classification of the prior offenses or
25 pending offense.
26 A conviction for, deferred judgment for, or plea of guilty
27 to, a violation of this section which occurred more than six
28 years prior to the date of the violation charged shall not be
29 considered in determining that the violation charged is a
30 second, third, or subsequent offense. For the purpose of
31 determining if a violation charged is a second, third, or
32 subsequent offense, deferred judgments issued pursuant to
33 section 907.3 for violations of section 708.2, which were
34 issued on domestic abuse assaults prior to July 1, 1991, and
35 convictions or the equivalent of deferred judgments for

1 violations in any other states under statutes substantially
2 corresponding to this section shall be counted as previous
3 offenses. The courts shall judicially notice the statutes of
4 other states which define offenses substantially equivalent to
5 the offenses defined in this section and can therefore be
6 considered corresponding statutes. Each previous violation on
7 which conviction or deferral of judgment was entered prior to
8 the date of the offense charged shall be considered and
9 counted as a separate previous offense. An offense shall be
10 considered a prior offense regardless of whether it was
11 committed upon the same victim.
12 4. A person convicted of violating this section shall not
13 be eligible for a deferred sentence or judgment, and shall
14 serve a minimum term of two days of the sentence imposed by
15 law, and shall not be eligible for suspension of the remaining
16 sentence. This section does not prohibit the court from
17 sentencing and the defendant from serving the maximum term of
18 confinement or from paying the maximum fine permitted pursuant
19 to chapters 902 and 903.
20 5. The clerk of the district court shall provide oral or
21 other notice and copies of a judgment entered under this
22 section to the applicable law enforcement agencies and the
23 twenty-four hour dispatcher for the law enforcement agencies,
24 in the manner provided for protective orders under section
25 236.5. The clerk shall provide oral or other notice and
26 copies of modifications of the judgment in the same manner.
27 6. In addition to the mandatory minimum term of
28 confinement imposed by this section, the court shall order the
29 defendant to participate in a batterers' treatment program as
30 required under section 708.2B. The clerk of the district
31 court shall send a copy of the judgment to the judicial
32 district department of correctional services.
33 Sec. 36. NEW SECTION. 708.2B TREATMENT OF DOMESTIC ABUSE
34 OFFENDERS.
35 As used in this section, "district department" means a

1 judicial district department of correctional services,
2 established pursuant to section 905.2. A person convicted of
3 domestic abuse assault shall report to the district department
4 in order to participate in a batterers' treatment program for
5 domestic abuse offenders. The district department shall
6 collect a two hundred fifty dollar repayment receipt from the
7 offender to pay for the treatment, but may waive the repayment
8 upon a showing of cause.
9 Sec. 37. Section 905.6, Code 1991, is amended by adding
10 the following new subsection:
11 NEW SUBSECTION. 8. Administer the batterers' treatment
12 program for domestic abuse offenders required in section
13 708.2B, pursuant to rules adopted by the board of corrections.
14 Sec. 38. Section 905.7, Code 1991, is amended by adding
15 the following new subsection:
16 NEW SUBSECTION. 8. Administer the batterers' treatment
17 program required in section 708.2B pursuant to procedures
18 established by the board of corrections.
19 Sec. 39. Section 907.3, unnumbered paragraph 1, Code 1991,
20 is amended to read as follows:
21 Pursuant to section 901.5, the trial court may, upon a plea
22 of guilty, a verdict of guilty, or a special verdict upon
23 which a judgment of conviction may be rendered, exercise any
24 of the options contained in this section. However, this
25 section does not apply to a forcible felony. In addition,
26 this section does not apply to an offense under section
27 708.2A, except that the court may suspend the remainder of a
28 sentence once the defendant has served the mandatory minimum
29 term imposed.
30 Sec. 40. Section 910A.11, subsection 1, unnumbered
31 paragraph 2, Code 1991, is amended to read as follows:
32 A temporary restraining order may be issued under this
33 subsection without written or oral notice to the adverse party
34 or the party's attorney in a civil action under this section
35 or in a criminal case if the court finds, upon written

1 certification of facts, that the notice should not be required
2 and that there is a reasonable probability that the party will
3 prevail on the merits. The temporary restraining order shall
4 set forth the reasons for the issuance of the order, be
5 specific in terms, and describe in reasonable detail the act
6 or acts being restrained.
7 Sec. 41. Section 910A.11, Code 1991, is amended by adding
8 the following new subsections:
9 NEW SUBSECTION. 3. Violation of a restraining or
10 protective order issued under this section constitutes
11 contempt of court, and may be punished by contempt
12 proceedings.
13 NEW SUBSECTION. 4. An application may be made pursuant to
14 this section in a criminal case, and if made, a district
15 associate judge having jurisdiction of the highest offense
16 charged in the criminal case or a district judge shall have
17 jurisdiction to enter an order under this section.
18 NEW SUBSECTION. 5. The clerk of court shall provide oral
19 or other notice and copies of restraining orders issued
20 pursuant to this section in a criminal case involving an
21 alleged violation of section 708.2A to the applicable law
22 enforcement agencies and the twenty-four hour dispatcher for
23 the law enforcement agencies, in the manner provided for
24 protective orders under section 236.5. The clerk shall
25 provide oral or other notice and copies of modifications or
26 vacations of these orders in the same manner.
27 Sec. 42. PILOT PROGRAM FOR DOMESTIC ABUSE PROSECUTION
28 PLANS AND PROCEDURES.
29 1. The prosecuting attorneys training coordinator shall
30 establish a pilot program pertaining to the prosecution of
31 domestic abuse assaults. For the purposes of this section,
32 "domestic abuse assault" means an assault, as defined in
33 section 708.1 which is domestic abuse as defined in section
34 236.2. The prosecuting attorneys training coordinator, in
35 consultation with the criminal and juvenile justice planning

1 council, shall select five county attorneys whose
2 jurisdictions have a dismissal rate in domestic abuse assault
3 cases of higher than fifty percent. If the prosecuting
4 attorneys training coordinator is unable to select five county
5 attorneys whose jurisdictions have a dismissal rate of over
6 fifty percent, the coordinator shall select county attorneys
7 with the highest dismissal rates available. These five county
8 attorneys shall participate in the pilot program.
9 2. The coordinator shall direct the five county attorneys
10 to develop and implement a written plan to expedite and
11 improve the efficiency and just disposition of domestic abuse
12 matters in their respective jurisdictions The county
13 attorneys shall solicit input from judges and law enforcement
14 agencies within their jurisdictions in developing the written
15 plan. The program participants shall seek assistance from
16 domestic abuse advocates and other interested members of the
17 public in the development of a model plan and in the
18 development or adaptation of the plans in each of the
19 jurisdictions represented by the five county attorneys. Once
20 a model plan is developed, the prosecuting attorneys training
21 coordinator shall make it available to all prosecuting
22 attorneys, regardless of whether the prosecuting attorneys are
23 participants in the pilot program. All plans must state goals
24 and contain policies and procedures to address the following
25 matters:
26 a. The early assignment of a prosecuting attorney, who has
27 the responsibility of handling a domestic abuse assault matter
28 through disposition, and who is also responsible for
29 establishing early contact with the victim.
30 b. The facilitation of the earliest possible contact
31 between the prosecuting attorney's office and the victim for
32 the purpose of acquainting the victim with the criminal
33 justice process, the use of subpoenas, the victim's role as a
34 witness in the prosecution, a victim's rights under chapter
35 236, and available domestic abuse and victim services.

1 c. The coordination of the prosecuting attorney's efforts
2 with those of a domestic abuse advocate or victim advocate,
3 where available, and to facilitate the early provision of
4 victim advocacy services.
5 d. Methods that will be used to identify, gather, and
6 preserve evidence, in addition to the victim's testimony, that
7 will enhance the ability to prosecute a case when a victim is
8 reluctant to assist, including, but not limited to, physical
9 evidence of the victim's injury, evidence relating to the
10 scene of the crime, eye witness testimony, and statements of
11 the victim made at or near the time of injury.
12 e. The education of local law enforcement agencies about
13 the contents of the plan and their role in assisting with its
14 implementation.
15 f. The use of subpoenas of victims and witnesses, where
16 appropriate.
17 g. Annual review of the plan to evaluate whether it is
18 meeting its goals effectively and whether improvements are
19 needed.
20 h. A timetable for implementation.
21 3. A copy of each plan shall be filed with the prosecuting
22 attorneys training coordinator by July 1, 1992. The county
23 attorneys selected for the pilot program shall file a status
24 report on the pilot program by July 1, 1993. The status
25 report must contain information on the number of prosecutions
26 and dismissals of domestic abuse cases in the county
27 attorney's office.
28 Sec. 43. RESTITUTION PLAN. The department of justice
29 shall develop a plan for the enforcement and collection of
30 victim restitution required under chapter 910, and shall
31 submit a report detailing the plan to the general assembly by
32 January 1, 1992.
33 Sec. 44. RETROACTIVE APPLICABILITY PROVISION. Section 21
34 of this Act is retroactively applicable to January 1, 1991,
35 for tax years beginning on or after that date.

1 Sec. 45. IMPLEMENTATION OF SPECIAL TRAINING AT
2 MITCHELLVILLE -- APPLICABILITY PROVISIONS -- EXISTING
3 EMPLOYEES. Persons employed at the Iowa correctional
4 institution for women prior to July 1, 1991, shall receive the
5 training required for new employees pursuant to the changes
6 creating a new paragraph "q" to section 246.108, subsection 1,
7 of section 26 of this Act, prior to January 1, 1992.
8 Sec. 46. IMPLEMENTATION AND EFFECTIVE DATE OF BATTERERS'
9 TREATMENT PROGRAMS.
10 1. The portion of section 35 of this Act which enacts new
11 subsection 6 of section 708.2A takes effect on January 1,
12 1992, in order to permit the judicial district departments of
13 correctional services to establish batterers' programs and for
14 the board of corrections to adopt appropriate rules for the
15 programs.
16 2. From July 1, 1991, through December 31, 1991, the court
17 shall order a defendant convicted of a violation of section
18 708.2A to participate in a batterers' treatment program
19 through other treatment or counseling services, until the
20 programs are established by the judicial district departments
21 of correctional services, to the extent that the court has the
22 authority under existing sentencing procedures. The court
23 shall order the defendant to pay for the treatment, unless
24 just cause is demonstrated for waiving the fee.
25 EXPLANATION
26 The bill provides several new requirements pertaining to
27 law enforcement, victim services, and domestic abuse.
28 The bill requires the Iowa law enforcement academy to
29 initiate proceedings concerning revocation of certification of
30 a law enforcement officer who has committed a felony or
31 aggravated misdemeanor. The bill requires the attorney
32 general to conduct a special investigation and recommend
33 whether an officer who has committed a serious misdemeanor
34 should have the certification revoked. The bill also requires
35 the law enforcement academy to adopt rules governing these

1 procedures. The bill also imposes notification requirements
2 upon law enforcement agencies and county attorneys that are
3 aware of indictable offenses committed by officers.
4 The bill increases the membership on the Iowa law
5 enforcement academy council by adding a victim service
6 provider. The bill also requires that one of the residents on
7 the council shall be a prosecuting attorney. The bill
8 requires the law enforcement academy to adopt rules specifying
9 a course of study and minimum continuing training requirements
10 related to domestic abuse. The bill requires the law
11 enforcement academy council to accredit training courses. The
12 bill also mandates that the academy conduct a task survey for
13 use as a curriculum and continuing education guide. The bill
14 establishes a law enforcement academy curriculum advisory
15 committee to review the task survey and make recommendations
16 concerning curriculum. Members of the committee are to be
17 reimbursed for expenses under the bill.
18 The bill requires the department of inspections and appeals
19 to adopt rules requiring hospitals to establish procedures
20 concerning domestic abuse matters as a condition of licensure.
21 The bill also provides that plaintiffs proceeding in
22 domestic abuse matters pro se (without legal representation)
23 may do so using forms prescribed by the attorney general and
24 distributed by the clerk of the district court. The bill also
25 provides that when a peace officer provides an abused person
26 with notice of the person's rights, the notice shall include a
27 statement that the person has a right to seek court assistance
28 to obtain protective orders without legal representation. The
29 bill requires that a plaintiff proceeding pro se must include
30 a mailing address in the petition.
31 The bill also eliminates court costs and costs of service
32 for the parties in actions involving domestic abuse protective
33 orders under chapter 236, except if the court assesses the
34 cost of court-ordered counseling as court costs.
35 The bill requires the clerk of the district court to notify

1 the applicable law enforcement agencies and dispatchers of the
2 entry of various protective and other orders in civil and
3 criminal matters under chapters 236, 708, and 910A, and
4 dissolution matters pursuant to chapter 598 within six hours
5 of filing the order, and requires that written copies of the
6 orders be provided within 24 hours of filing the orders. The
7 bill also requires peace officers to ask abused persons and
8 dispatchers if any prior orders have been entered.
9 The bill further provides that if a peace officer has
10 probable cause to believe a domestic abuse order has been
11 violated, but is unable to bring the person into custody
12 within 24 hours of making this determination, the peace
13 officer shall notify a magistrate for a determination of
14 whether a rule to show cause or arrest warrant should be
15 issued.
16 The bill further provides that in contempt proceedings
17 concerning a violation of a domestic abuse no-contact order, a
18 person found in contempt shall be confined in the county jail
19 for at least seven days.
20 The bill creates a domestic abuse services fund
21 administered by the department of justice and appropriated for
22 the purpose of providing services to victims of domestic abuse
23 and sexual assault, including shelters and for certain other
24 services provided by or through the department of justice, and
25 batterers' treatment funding. The bill provides that the fund
26 shall receive moneys from the following sources: (1) an
27 income tax checkoff for domestic abuse services, administered
28 pursuant to rules adopted by the department of revenue and
29 finance, in consultation with the crime victim assistance
30 board, which applies retroactively to the 1991 tax year; (2) a
31 $5 increase in court costs for filing and docketing a petition
32 in civil matters, a complaint or information in criminal
33 prosecutions, and small claims actions; (3) a $15 increase in
34 marriage application fees; and (4) designation of the $15 fee
35 for filing a dissolution of marriage decree. Current law

1 already permits the department to accept funds from other
2 agencies and private sources for the provision of domestic
3 abuse services (section 236.16).
4 The bill also requires the supreme court to prescribe a
5 standard form for no-contact orders, through court rule
6 proceedings.
7 The bill requires the department of justice to perform
8 certain duties, including awarding grants to batterers'
9 treatment programs. The bill requires the department to
10 designate and award moneys for the operation of a statewide
11 toll-free domestic abuse telephone hotline, and to provide
12 services relating to publicizing the hotline.
13 The bill requires the department of justice, in cooperation
14 with victim service providers, to encourage professional
15 organizations to establish training programs for professionals
16 working with domestic abuse. The bill does not specify
17 mandatory training hours for these professionals, as it does
18 for law enforcement officers. The bill also requires that
19 domestic abuse be included as a topic in the human growth and
20 development instruction for grades one through twelve.
21 The bill requires the director of the department of
22 corrections, subject to approval by the board of corrections,
23 to adopt rules requiring correctional institutions to
24 implement batterers' support groups. The bill also requires
25 rules relating to training requirements of staff at the Iowa
26 correctional institution for women pertaining to the needs of
27 female inmates. The bill contains an implementation provision
28 for current staff at the institution.
29 The bill recodifies current law pertaining to first-time
30 offenders in domestic abuse assault cases, by taking the
31 current classifications set forth in all assault cases in
32 section 708.2, and specifying that they apply to domestic
33 abuse assaults in section 708.2A, subsection 2. The bill also
34 creates a new offense in that subsection of a class "D" felony
35 when a defendant commits another domestic abuse assault within

1 24 hours of arrest for a domestic abuse assault. The bill
2 creates certain penalty enhancements for domestic abuse
3 assault repeat offenders. To constitute a repeat offense, the
4 offender must have committed the prior offense within the last
5 six years. The offender commits a serious misdemeanor if the
6 assault would otherwise be classified as a simple assault and
7 the offender has a prior conviction for a domestic abuse
8 simple assault. The offender commits an aggravated
9 misdemeanor if the offender has a prior simple misdemeanor
10 conviction and commits what would otherwise constitute a
11 serious misdemeanor, or the offender has a prior serious
12 misdemeanor conviction and commits what would otherwise be
13 classified as either a simple or serious misdemeanor. The
14 bill provides that the third or subsequent domestic abuse
15 assault, regardless of classification of any of the assaults,
16 is a class "D" felony.
17 The bill also establishes a mandatory minimum term of
18 confinement for domestic abuse assault pursuant to section
19 708.2A, of two days. The bill prohibits the entry of deferred
20 judgments, deferred sentences, and suspended sentences until
21 the mandatory minimum term has been served. The bill also
22 requires the court to order defendants to receive batterers'
23 treatment by reporting to the judicial district department of
24 correctional services, effective January 1, 1992. The bill
25 provides that the court shall order the offender to existing
26 programs in the interim to the extent of the court's
27 sentencing authority. The batterer is required to provide a
28 $250 repayment receipt in the district department program,
29 which may be waived upon a showing of cause, to pay for the
30 treatment. The bill requires the board of corrections to
31 adopt rules pertaining to procedures for the batterers'
32 programs.
33 The bill specifies circumstances in which a temporary
34 restraining order may be entered in a criminal case without
35 notice pursuant to the victim and witness protection Act. The

1 bill specifies that violation of restraining orders under the
2 victim and witness protection Act are punishable through
3 contempt proceedings, and clarifies the jurisdiction of a
4 district associate judge to issue these restraining orders.
5 The bill establishes a pilot program for domestic abuse
6 prosecution plans and procedures, in which the prosecuting
7 attorneys training coordinator, in consultation with the
8 criminal and juvenile justice planning council, selects five
9 county attorneys with high dismissal rates in domestic abuse
10 assault cases for participation in the pilot program. The
11 county attorneys are required to develop and implement written
12 plans to expedite and improve the disposition of domestic
13 abuse matters in their jurisdictions, and must seek assistance
14 from domestic abuse advocates and input from judges and law
15 enforcement agencies in developing the plans. The plans must
16 be filed with the prosecuting attorneys training coordinator,
17 as well as status reports.
18 The bill requires the department of justice to develop a
19 plan for the enforcement and collection of victim restitution,
20 and to submit a report to the general assembly.
21 The bill may include a state mandate as defined in section
22 25B.3.
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SENATE FILE 444
FISCAL NOTE

A fiscal note for Senate File 444 as sent to the Governor is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

1. Senate File 444 as sent to the Governor provides new requirements pertaining to law enforcement, victim services, and domestic abuse. The Department of Inspections and Appeals is required to develop rules to require hospitals to establish procedures concerning domestic abuse matters.

2. The legislation provides that plaintiffs who proceed in domestic abuse cases without legal representation, may do so on forms developed by the Attorney General's Office and distributed by the clerks of court.

3. The clerks of court are required to notify the county sheriff and dispatchers within 6 hours of filing the order in civil and criminal matters of domestic abuse, assault, victim and witness protection, and dissolution of marriage. The clerks are required to provide written copies of the orders within 24 hours of filing the orders. The county sheriff's dispatcher is required to notify all law enforcement agencies having jurisdiction over the matter.

4. The legislation provides that in contempt proceedings concerning violation of a domestic abuse no-contact order, a person found in contempt shall be confined in the county jail for at least 7 days. Violation of a restraining or protective order may be punished by contempt proceedings.

5. The following fees are increased or created:

   A. An income tax checkoff for domestic abuse services.
   B. A $5 increase in court fees for filing and docketing a petition in civil matters, a complaint or information in criminal prosecutions, and small claims actions.
   C. A $15 increase in marriage application fees.
   D. A $15 increase in the marriage dissolution decree fee.

6. The Department of Justice is required to award grants to care providers of victims, for operation of a toll-free domestic abuse telephone hotline, and to provide services to publicize the hotline.

7. The legislation provides a graduated penalty system for domestic abuse offenders. Penalties range from a simple to an aggravated misdemeanor. Judges may order offenders to receive batterer's treatment by reporting to Community Based Corrections (CBC), beginning January 1, 1993. Judges may order offenders to existing programs in the interim.

8. The CBC District Departments are required to establish batterer's treatment programs by January 1, 1992, and the programs are to be readily accessible by January 1, 1993. The offenders are required to pay a fee for the program, which may be waived upon a showing of cause. The repayment receipt is to be used to fund the operating costs of the programs. The enactment of these Sections is contingent upon appropriations being made this legislative session.

9. Batterer's support groups are required to be established in all of the prisons. Counseling staff at the Iowa Correctional Institution for Women (Mitchellville) are required to receive training concerning female inmate needs. Current employees are to receive the training by January 1, 1992, while new employees are required to receive the training during their orientation. The enactment of these Sections is contingent upon appropriations being made this legislative session.

Assumptions

1. The duties imposed in Paragraph 1 will increase expenditures for the Department of Inspections and Appeals.

2. The Judicial Department will have increased costs for the pro se procedures contained in Paragraph 2. Increased staff time will be incurred for clerks to distribute pro se forms and provide assistance. Assuming 4,000 arrests, and that 50% of those who do not proceed to trial will result in a pro se civil proceeding, would result in 1,020 pro se civil cases. Staff time is estimated to be $3,100.

3. The notification requirements for the clerks of court contained in Paragraph 3 will increase staff and mailing costs. Assuming one-half hour to process a case, clerks earn $12 per hour, and 2,980 dispositions, the cost is estimated to be $18,800. Counties will have increased liability and responsibilities due to the notification requirements.

4. The jail sentences imposed in Paragraph 4 will increase local governments' costs. The average daily operating cost for county jails is $39. The Iowa State Association of Counties has estimated increased costs to be $250,000 for those Sections included in Paragraphs 3, 4 and 7.

5. The following items relate to the increased fees and the income tax checkoff described in Paragraph 5. The Department of Revenue and Finance cannot estimate the amount of revenue that would be generated from an income tax checkoff for domestic abuse services, since a reliable projection of the participation rate is not available. The fee increases are based on the following estimated number of filings and are estimated to generate the following revenues.

   a. The $5 increase in the civil filing fee is estimated to generate $178,100 (35,632 cases x $5).
   b. The $15 increase in the marriage license application fee is estimated to generate $411,900 (27,460 applications x $15).
   c. The $15 increase in the divorce dissolution decree fee is estimated to generate $141,300 (9,418 dissolutions x $15).

d. The $5 increase for filing a simple misdemeanor case is estimated to generate $206,600 (59,034 cases x $5 - 30%). With the enactment of House File 534, 30% of the receipts will be deposited in the Judicial Retirement Fund.

e. The $5 increase for filing a non-scheduled simple misdemeanor is estimated to generate $153,900 (43,984 cases x $5 - 30%). With the enactment of House File 534, 30% of the receipts will be deposited in the Judicial Retirement Fund.

f. The $5 increase for filing small claims actions is estimated to generate $364,800 (72,959 cases x $5).

g. The $5 criminal services fee is estimated to generate $122,500 (35,000 cases x $5 - 30%). With the enactment of House File 534, 30% of the receipts will be deposited in the Judicial Retirement Fund.

6. The Department of Justice will need an additional staff person for the duties imposed by Paragraph 6. This person would administer grants to providers, implement the hotline, plus work with organizations to establish training programs.

7. The following comments relate to the enhanced penalties imposed in Paragraph 7. It is not possible to estimate the fiscal impact of these Sections because no State, local, or federal agency monitors the actual number of domestic abuse cases which proceed through the criminal justice system. Only arrests are reported. Domestic abuse assault cases which do proceed through the courts are not monitored separately from other types of assault. Lastly, simple misdemeanor offenders are not subject to supervision, so the number of domestic abuse assault offenders who receive a simple misdemeanor penalty is not known. Increasing a penalty or creating a new crime may increase costs of the criminal justice system at the State and local levels. This includes the costs of incarceration pending sentencing, prosecution and defense, increased criminal court cases, community-based supervision, and incarceration at the State or local level upon sentencing. The average daily cost for county jail operations is $39. The Department of Corrections (DOC) estimates the average daily cost per State inmate at $50.

8. The CBC District Departments will need 8 additional parole/probation officers to implement the batterer's treatment programs in Paragraph 8. These costs, plus staff training, is estimated at $308,800. These costs would be borne by the offender (repayment receipt). The DOC has indicated that $100,000 is required to fund one-time expenses to implement the programs.

9. The DOC will need additional resources to comply with the requirements imposed in Paragraph 9 (batterer's support groups in the prisons and special training for employees at the Mitchellville Correctional Facility). The DOC estimates training costs to be $15,000 and staff costs to be $282,700 for 8 additional counselors.

Fiscal Impact

Paragraph	Source	Impact
One	State General Fund	$ 4,200 increased costs
Two	State General Fund	3,100 increased costs
Three	State General Fund	18,800 increased costs
	Local Governments	* included in Paragraph 4
Four	Local Governments	250,000 increased costs
Five	State General Fund	1,579,200 increased revenue
Six	State General Fund	60,000 increased costs
Seven	State General Fund	Cannot be estimated
	Local Governments	* included in Paragraph 4
Eight	State General Fund	** 100,000 increased costs
	Self-funded	308,800 increased costs
Nine	State General Fund	** 297,700 increased costs

**Requirements imposed by Paragraphs 8 and 9 are contingent upon appropriations being made for batterer's support groups in the prisons, specialized training for employees at the Mitchellville Correctional Facility, and batterer's treatment programs in CBC.

For those items which can be estimated, including revenue and expenditure increases, State General Fund receipts are estimated to increase by $1,493,100 during FY 1992. These figures do not include the costs for the batterer's treatment programs, the batterer's support groups, and specialized training requirements for the Mitchellville Correctional Facility's employees as these requirements are contingent upon appropriations being provided. Increased costs for the counties is estimated to be $250,000 during FY 1992.

Sources: Department of Human Rights
Department of Inspections and Appeals
Department of Corrections
Judicial Department
Iowa State Association of Counties
Department of Revenue and Finance
Iowa Law Enforcement Academy
Department of Justice
Department of Education

(LSB 2445sv.5, BAL)

FILED MAY 11, 1991 BY DENNIS PROUTY, FISCAL DIRECTOR

SENATE AMENDMENT TO HOUSE AMENDMENT TO SENATE FILE 444
H-4047

1 Amend the House amendment, S-3638, to Senate File
2 444, as amended, passed, and reprinted by the Senate,
3 as follows:
4 1. Page 1, by striking lines 3 through 8 and
5 inserting the following:
6 "___. Page 1, by striking lines 1 through 9."
7 2. Page 1, line 12, by inserting after the word
8 "abuse." the following: "The council shall submit an
9 annual report to the general assembly by January 15 of
10 each year relating to the continuing education
11 requirements devoted to the topic of domestic abuse,
12 including the number of hours required, the substance
13 of the classes offered, and other related matters."
14 3. Page 2, line 1, by striking the words "by
15 telephone or otherwise" and inserting the following:
16 "in writing so that the county sheriff and the county
17 sheriff's dispatcher receive written notice".
18 4. Page 2, by inserting after line 17 the
19 following:
20 "___. Page 8, by inserting after line 4 the
21 following:
22 "Sec. ___. Section 236.14, subsection 2,
23 unnumbered paragraph 1, Code 1991, is amended to read
24 as follows:
25 When a person arrested for a domestic abuse
26 assault, or taken into custody for contempt
27 proceedings pursuant to section 236.11, is brought
28 before a magistrate and the magistrate finds probable
29 cause to believe that domestic abuse or a violation of
30 an order or consent agreement has occurred and that
31 the presence of the alleged abuser in the victim's
32 residence poses a threat to the ~~victim's~~ safety of the
33 alleged victim, persons residing with the alleged
34 victim, or members of the alleged victim's immediate
35 family, the magistrate shall enter an order which
36 shall require the alleged abuser to have no contact
37 with the alleged victim, persons residing with the
38 alleged victim, or members of the alleged victim's
39 immediate family, and to refrain from harassing the
40 alleged victim, persons residing with the alleged
41 victim, or members of the alleged victim's ~~relatives~~
42 immediate family, in addition to any other conditions
43 of release determined and imposed by the magistrate
44 under section 811.2. A no-contact order requiring the
45 alleged abuser to have no contact with the alleged
46 victim's children shall prevail over any existing
47 order awarding custody or visitation rights, which may
48 be in conflict with the no-contact order.""
49 5. Page 3, by striking lines 2 through 5.
50 6. Page 3, by inserting after line 11 the fol-

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Page 2

1 lowing:
2 "___. Page 12, line 21, by striking the word
3 "support groups" and inserting the following:
4 "programs"."
5 7. Page 4, by inserting after line 17 the fol-
6 lowing:
7 "___. Page 15, by inserting after line 32 the
8 following:
9 "Sec. 100. Section 602.8105, subsection 1, Code
10 1991, is amended by adding the following new
11 unnumbered paragraph after paragraph u:
12 NEW UNNUMBERED PARAGRAPH. Notwithstanding any
13 other provision of law to the contrary, including but
14 not limited to the other provisions of this section,
15 five dollars of the fees imposed pursuant to paragraph
16 "a", the five dollar additional fee imposed pursuant
17 to paragraph "l", and fifteen dollars of the fees
18 imposed pursuant to paragraphs "m" and "n" shall be
19 remitted to the treasurer of state for deposit into
20 the general fund of the state, and shall not be
21 deposited in the court revenue distribution account,
22 and shall not be deposited in the judicial retirement
23 fund.""
24 8. Page 4, by inserting before line 22 the
25 following:
26 "___. Page 16, by inserting before line 26 the
27 following:
28 "Sec. 101. Section 602.8106, Code 1991, is amended
29 by adding the following new subsection:
30 NEW SUBSECTION. 6. Notwithstanding any other
31 provision of law to the contrary, including but not
32 limited to the other provisions of this section, five
33 dollars of the fee for filing and docketing of a
34 complaint or information for a simple misdemeanor and
35 five dollars of the fee for filing and docketing of a
36 complaint or information for a nonscheduled simple
37 misdemeanor imposed pursuant to subsection 1 shall be
38 remitted to the treasurer of state for deposit into
39 the general fund of the state, and shall not be
40 deposited in the court revenue distribution account,
41 and shall not be deposited in the judicial retirement
42 fund.""
43 9. Page 4, line 30, by inserting after the word
44 "fund" the following: "of the state. Notwithstanding
45 any other provision of law to the contrary, including
46 but not limited to the other provisions of this
47 section, the additional fee of five dollars imposed in
48 this paragraph shall not be deposited in the court
49 revenue distribution account, and shall not be
50 deposited in the judicial retirement fund".

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1 10. Page 5, line 11, by inserting after the
2 figure "907.3" the following: ", if the defendant has
3 not previously received a deferred sentence or
4 judgment for a violation of section 708.2 or 708.2A
5 which was issued on a domestic abuse assault.
6 However, once the defendant has received one deferred
7 sentence or judgment involving a violation of section
8 708.2 or 708.2A which was issued on a domestic abuse
9 assault, the defendant shall not be eligible to
10 receive another deferred sentence or judgment for a
11 violation of this section".
12 11. Page 5, by striking lines 12 and 13.
13 12. Page 5, line 15, by striking the word
14 "However" and inserting the following: "In addition".
15 13. Page 5, by striking lines 25 through 27 and
16 inserting the following: "inserting the following:
17 "domestic abuse offenders. Participation in the
18 batterers' treatment"".
19 14. Page 5, by inserting after line 46 the
20 following:
21 ""Sec. ___. Section 907.3, subsection 1, Code
22 1991, is amended by adding the following new
23 paragraph:
24 NEW PARAGRAPH. h. Prior to the commission of the
25 offense the defendant had been granted a deferred
26 judgment or deferred sentence for a violation of
27 section 708.2 or 708.2A which was issued on a domestic
28 abuse assault, or was granted similar relief anywhere
29 in the United States concerning that jurisdiction's
30 statutes which substantially correspond to domestic
31 abuse assault as provided in section 708.2A, and the
32 current offense is a violation of section 708.2A.
33 Sec. ___. Section 907.3, subsection 2, Code 1991,
34 is amended to read as follows:
35 2. At the time of or after pronouncing judgment
36 and with the consent of the defendant, the court may
37 defer the sentence and assign the defendant to the
38 judicial district department of correctional services.
39 However, the court shall not defer the sentence for a
40 violation of section 708.2A if the defendant has
41 previously received a deferred judgment or sentence
42 for a violation of section 708.2 or 708.2A which was
43 issued on a domestic abuse assault, or if similar
44 relief was granted anywhere in the United States
45 concerning that jurisdiction's statutes which
46 substantially correspond to domestic abuse assault as
47 provided in section 708.2A. Upon a showing that the
48 defendant is not fulfilling the conditions of
49 probation, the court may revoke probation and impose
50 any sentence authorized by law. Before taking such

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1 action, the court shall give the defendant an
2 opportunity to be heard on any matter relevant to the
3 proposed action. Upon violation of the conditions of
4 probation, the court may proceed as provided in
5 chapter 908."
6 15. Page 6, by inserting after line 10 the
7 following:
8 "___. Page 20, line 30, by inserting after the
9 word "judge" the following: "or magistrate"."
10 16. Page 6, by striking lines 11 and 12, and
11 inserting the following:
12 "___. Page 23, line 5, by inserting after the
13 figure "1993." the following: "The pilot program
14 shall terminate on July 1, 1994.""
15 17. Page 6, lines 23 and 24, by striking the word
16 and figures "January 1, 1993" and inserting the
17 following: "August 1, 1992".
18 18. Page 6, line 27, by striking the word
19 "December" and inserting the following: "July".
20 19. Page 6, line 28, by striking the word "may"
21 and inserting the following: "shall".
22 20. Page 6, by inserting after line 41 the
23 following:
24 "___. Page 24, by inserting after line 10 the
25 following:
26 "Sec. ___. INCREASE IN COURT COSTS AND FEES AND
27 RELATIONSHIP TO OTHER PROVISIONS OF LAW.
28 1. If House File 534 is enacted by the Seventy-
29 fourth General Assembly during its first regular
30 session, section 602.8105, subsection 1, paragraph
31 "m", Code 1991, shall be codified to read so that the
32 fee increase from fifteen to thirty dollars and the
33 sentence in this Act concerning issuance of a license
34 without the payment of fees shall prevail, and the
35 change in section 13 of House File 534 which strikes
36 two sentences from the current Code shall prevail.
37 All court cost and fee increases in this Act shall
38 prevail over any other provision to the contrary.
39 2. If House File 534 is not enacted by the
40 Seventy-fourth General Assembly during its first
41 regular session, sections 100 and 101 of this Act are
42 void and shall not take effect.""
43 21. Page 7, by striking lines 2 and 3.
44 22. By renumbering, relettering, or redesignating
45 and correcting internal references as necessary.

RECEIVED FROM THE SENATE

H-4047 FILED MAY 3, 1991

Amendment failed to concur 5/6/91 (p. 2138)
Senate Recedes 5/6/91 (p. 1714)

SENATE FILE 444

S-3702

1 Amend the House amendment, S-3638, to Senate File
2 444, as amended, passed, and reprinted by the Senate,
3 as follows:
4 1. Page 1, by striking lines 3 through 8 and
5 inserting the following:
6 "___. Page 1, by striking lines 1 through 9."
7 2. Page 1, line 12, by inserting after the word
8 "abuse." the following: "The council shall submit an
9 annual report to the general assembly by January 15 of
10 each year relating to the continuing education
11 requirements devoted to the topic of domestic abuse,
12 including the number of hours required, the substance
13 of the classes offered, and other related matters."
14 3. Page 2, line 1, by striking the words "by
15 telephone or otherwise" and inserting the following:
16 "in writing so that the county sheriff and the county
17 sheriff's dispatcher receive written notice".
18 4. Page 2, by inserting after line 17 the
19 following:
20 "___. Page 8, by inserting after line 4 the
21 following:
22 "Sec. ___. Section 236.14, subsection 2,
23 unnumbered paragraph 1, Code 1991, is amended to read
24 as follows:
25 When a person arrested for a domestic abuse
26 assault, or taken into custody for contempt
27 proceedings pursuant to section 236.11, is brought
28 before a magistrate and the magistrate finds probable
29 cause to believe that domestic abuse or a violation of
30 an order or consent agreement has occurred and that
31 the presence of the alleged abuser in the victim's
32 residence poses a threat to the ~~victim's~~ safety of the
33 alleged victim, persons residing with the alleged
34 victim, or members of the alleged victim's immediate
35 family, the magistrate shall enter an order which
36 shall require the alleged abuser to have no contact
37 with the alleged victim, persons residing with the
38 alleged victim, or members of the alleged victim's
39 immediate family, and to refrain from harassing the
40 alleged victim, persons residing with the alleged
41 victim, or members of the alleged victim's ~~relatives~~
42 immediate family, in addition to any other conditions
43 of release determined and imposed by the magistrate
44 under section 811.2. A no-contact order requiring the
45 alleged abuser to have no contact with the alleged
46 victim's children shall prevail over any existing
47 order awarding custody or visitation rights, which may
48 be in conflict with the no-contact order.""
49 5. Page 3, by striking lines 2 through 5.
50 6. Page 3, by inserting after line 11 the fol-

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1 lowing:
2 "___. Page 12, line 21, by striking the words
3 "support groups" and inserting the following:
4 "programs"."
5 7. Page 4, by inserting after line 17 the fol-
6 lowing:
7 "___. Page 15, by inserting after line 32 the
8 following:
9 "Sec. 100. Section 602.8105, subsection 1, Code
10 1991, is amended by adding the following new
11 unnumbered paragraph after paragraph u:
12 NEW UNNUMBERED PARAGRAPH. Notwithstanding any
13 other provision of law to the contrary, including but
14 not limited to the other provisions of this section,
15 five dollars of the fees imposed pursuant to paragraph
16 "a", the five dollar additional fee imposed pursuant
17 to paragraph "l", and fifteen dollars of the fees
18 imposed pursuant to paragraphs "m" and "n" shall be
19 remitted to the treasurer of state for deposit into
20 the general fund of the state, and shall not be
21 deposited in the court revenue distribution account,
22 and shall not be deposited in the judicial retirement
23 fund.""
24 8. Page 4, by inserting before line 22 the
25 following:
26 "___. Page 16, by inserting before line 26 the
27 following:
28 "Sec. 101. Section 602.8106, Code 1991, is amended
29 by adding the following new subsection:
30 NEW SUBSECTION. 6. Notwithstanding any other
31 provision of law to the contrary, including but not
32 limited to the other provisions of this section, five
33 dollars of the fee for filing and docketing of a
34 complaint or information for a simple misdemeanor and
35 five dollars of the fee for filing and docketing of a
36 complaint or information for a nonscheduled simple
37 misdemeanor imposed pursuant to subsection 1 shall be
38 remitted to the treasurer of state for deposit into
39 the general fund of the state, and shall not be
40 deposited in the court revenue distribution account,
41 and shall not be deposited in the judicial retirement
42 fund.""
43 9. Page 4, line 30, by inserting after the word
44 "fund" the following: "of the state. Notwithstanding
45 any other provision of law to the contrary, including
46 but not limited to the other provisions of this
47 section, the additional fee of five dollars imposed in
48 this paragraph shall not be deposited in the court
49 revenue distribution account, and shall not be
50 deposited in the judicial retirement fund".

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1 10. Page 5, line 11, by inserting after the
2 figure "907.3" the following: ", if the defendant has
3 not previously received a deferred sentence or
4 judgment for a violation of section 708.2 or 708.2A
5 which was issued on a domestic abuse assault.
6 However, once the defendant has received one deferred
7 sentence or judgment involving a violation of section
8 708.2 or 708.2A which was issued on a domestic abuse
9 assault, the defendant shall not be eligible to
10 receive another deferred sentence or judgment for a
11 violation of this section".
12 11. Page 5, by striking lines 12 and 13.
13 12. Page 5, line 15, by striking the word
14 "However" and inserting the following: "In addition".
15 13. Page 5, by striking lines 25 through 27 and
16 inserting the following: "inserting the following:
17 "domestic abuse offenders. Participation in the
18 batterers' treatment"".
19 14. Page 5, by inserting after line 46 the
20 following:
21 ""Sec. ___. Section 907.3, subsection 1, Code
22 1991, is amended by adding the following new
23 paragraph:
24 NEW PARAGRAPH. h. Prior to the commission of the
25 offense the defendant had been granted a deferred
26 judgment or deferred sentence for a violation of
27 section 708.2 or 708.2A which was issued on a domestic
28 abuse assault, or was granted similar relief anywhere
29 in the United States concerning that jurisdiction's
30 statutes which substantially correspond to domestic
31 abuse assault as provided in section 708.2A, and the
32 current offense is a violation of section 708.2A.
33 Sec. ___. Section 907.3, subsection 2, Code 1991,
34 is amended to read as follows:
35 2. At the time of or after pronouncing judgment
36 and with the consent of the defendant, the court may
37 defer the sentence and assign the defendant to the
38 judicial district department of correctional services.
39 However, the court shall not defer the sentence for a
40 violation of section 708.2A if the defendant has
41 previously received a deferred judgment or sentence
42 for a violation of section 708.2 or 708.2A which was
43 issued on a domestic abuse assault, or if similar
44 relief was granted anywhere in the United States
45 concerning that jurisdiction's statutes which
46 substantially correspond to domestic abuse assault as
47 provided in section 708.2A. Upon a showing that the
48 defendant is not fulfilling the conditions of
49 probation, the court may revoke probation and impose
50 any sentence authorized by law. Before taking such

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1 action, the court shall give the defendant an
2 opportunity to be heard on any matter relevant to the
3 proposed action. Upon violation of the conditions of
4 probation, the court may proceed as provided in
5 chapter 908."
6 15. Page 6, by inserting after line 10 the
7 following:
8 "___. Page 20, line 30, by inserting after the
9 word "judge" the following: "or magistrate".'
10 16. Page 6, by striking lines 11 and 12, and
11 inserting the following:
12 "___. Page 23, line 5, by inserting after the
13 figure "1993." the following: "The pilot program
14 shall terminate on July 1, 1994.""
15 17. Page 6, lines 23 and 24, by striking the word
16 and figures "January 1, 1993" and inserting the
17 following: "August 1, 1992".
18 18. Page 6, line 27, by striking the word
19 "December" and inserting the following: "July".
20 19. Page 6, line 28, by striking the word "may"
21 and inserting the following: "shall".
22 20. Page 6, by inserting after line 41 the
23 following:
24 "___. Page 24, by inserting after line 10 the
25 following:
26 "Sec. ___. INCREASE IN COURT COSTS AND FEES AND
27 RELATIONSHIP TO OTHER PROVISIONS OF LAW.
28 1. If House File 534 is enacted by the Seventy-
29 fourth General Assembly during its first regular
30 session, section 602.8105, subsection 1, paragraph
31 "m", Code 1991, shall be codified to read so that the
32 fee increase from fifteen to thirty dollars and the
33 sentence in this Act concerning issuance of a license
34 without the payment of fees shall prevail, and the
35 change in section 13 of House File 534 which strikes
36 two sentences from the current Code shall prevail.
37 All court cost and fee increases in this Act shall
38 prevail over any other provision to the contrary.
39 2. If House File 534 is not enacted by the
40 Seventy-fourth General Assembly during its first
41 regular session, sections 100 and 101 of this Act are
42 void and shall not take effect.""
43 21. Page 7, by striking lines 2 and 3.
44 22. By renumbering, relettering, or redesignating
45 and correcting internal references as necessary.

By AL STURGEON
HARRY G. SLIFE

S-3702 FILED MAY 3, 1991
ADOPTED (p 1650)

SENATE FILE 444
FISCAL NOTE

A fiscal note for **Senate File 444 as amended and passed by the House** is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

1. Senate File 444 as amended and passed by the House provides new requirements pertaining to law enforcement, victim services, and domestic abuse. The Department of Inspections and Appeals is required to develop rules to require hospitals to establish procedures concerning domestic abuse matters.

2. The legislation provides that plaintiffs who proceed in domestic abuse cases without legal representation, may do so on forms developed by the Attorney General's Office and distributed by the clerks of court.

3. The clerks of court are required to notify the county sheriff and dispatchers within 6 hours of filing the order in civil and criminal matters of domestic abuse, assault, victim and witness protection, and dissolution of marriage. The clerks are required to provide written copies of the orders within 24 hours of filing the orders. The county sheriff's dispatcher is required to notify all law enforcement agencies having jurisdiction over the matter.

4. The legislation provides that in contempt proceedings concerning violation of a domestic abuse no-contact order, a person found in contempt shall be confined in the county jail for at least 7 days. Violation of a restraining or protective order may be punished by contempt proceedings.

5. The following fees are increased or created:

   A. An income tax checkoff for domestic abuse services.
   B. A $5 increase in court fees for filing and docketing a petition in civil matters, a complaint or information in criminal prosecutions, and small claims actions.
   C. A $15 increase in marriage application fees.
   D. A $15 increase in the marriage dissolution decree fee.

6. The Department of Justice is required to award grants to care providers of victims, for operation of a toll-free domestic abuse telephone hotline, and to provide services to publicize the hotline.

7. The legislation provides a graduated penalty system for domestic abuse offenders. Penalties range from a simple to an aggravated misdemeanor. Judges may order offenders to receive batterer's treatment by reporting to Community Based Corrections (CBC), beginning January 1, 1993. Judges may order offenders to existing programs in the interim.

8. The CBC District Departments are required to establish batterer treatment programs by January 1, 1992, and the programs are to be readily accessible by January 1, 1993. The offenders are required to pay a fee for the program, which may be waived upon a showing of cause. The repayment receipt is to be used to fund the operating costs of the programs. The enactment of these Sections is contingent upon appropriations being made this legislative session.

9. Batterer's support groups are required to be established in all of the prisons. Counseling staff at the Iowa Correctional Institution for Women (Mitchellville) are required to receive training concerning female inmate needs. Current employees are to receive the training by January 1, 1992, while new employees are required to receive the training during their orientation. The enactment of these Sections is contingent upon appropriations being made this legislative session.

Assumptions

1. The duties imposed in Paragraph 1 will increase expenditures for the Department of Inspections and Appeals.

2. The Judicial Department will have increased costs for the pro se procedures contained in Paragraph 2. Increased staff time will be incurred for clerks to distribute pro se forms and provide assistance. Assuming 4,000 arrests, and that 50% of those who do not proceed to trial will result in a pro se civil proceeding, would result in 1,020 pro se civil cases. Staff time is estimated to be $3,100.

3. The notification requirements for the clerks of court contained in Paragraph 3 will increase staff and mailing costs. Assuming one-half hour to process a case, clerks earn $12 per hour, and 2,980 dispositions, the cost is estimated to be $18,800. Counties will have increased liability and responsibilities due to the notification requirements.

4. The jail sentences imposed in Paragraph 4 will increase local governments' costs. The average daily operating cost for county jails is $39. The Iowa State Association of Counties has estimated increased costs to be $250,000 for those Sections included in Paragraphs 3, 4 and 7.

5. The following items relate to the increased fees and the income tax checkoff described in Paragraph 5. The Department of Revenue and Finance cannot estimate the amount of revenue that would be generated from an income tax checkoff for domestic abuse services, since a reliable projection of the participation rate is not available. The fee increases are based on the following estimated number of filings and are estimated to generate the following revenues.

   a. The $5 increase in the civil filing fee is estimated to generate $178,100 (35,632 cases x $5).
   b. The $15 increase in the marriage license application fee is estimated to generate $411,900 (27,460 applications x $15).
   c. The $15 increase in the divorce dissolution decree fee is estimated to generate $141,300 (9,418 dissolutions x $15).

d. The $5 increase for filing a simple misdemeanor case is estimated to generate $295,200 (59,034 cases x $5).
e. The $5 increase for filing a non-scheduled simple misdemeanor is estimated to generate $219,900 (43,984 cases x $5).
f. The $5 increase for filing small claims actions is estimated to generate $364,800 (72,959 cases x $5).
g. The $5 criminal services fee is estimated to generate $175,000 (35,000 cases x $5).

6. The Department of Justice will need an additional staff person for the duties imposed by Paragraph 6. This person would administer grants to providers, implement the hotline, plus work with organizations to establish training programs.

7. The following comments relate to the enhanced penalties imposed in Paragraph 7. It is not possible to estimate the fiscal impact of these Sections because no State, local, or federal agency monitors the actual number of domestic abuse cases which proceed through the criminal justice system. Only arrests are reported. Domestic abuse assault cases which do proceed through the courts are not monitored separately from other types of assault. Lastly, simple misdemeanor offenders are not subject to supervision, so the number of domestic abuse assault offenders who receive a simple misdemeanor penalty is not known. Increasing a penalty or creating a new crime may increase costs of the criminal justice system at the State and local levels. This includes the costs of incarceration pending sentencing, prosecution and defense, increased criminal court cases, community-based supervision, and incarceration at the State or local level upon sentencing. The average daily cost for county jail operations is $39. The Department of Corrections (DOC) estimates the average daily cost per State inmate at $50.

8. The CBC District Departments will need 8 additional parole/probation officers to implement the batterer's treatment programs in Paragraph 8. These costs, plus staff training, is estimated at $308,800. These costs would be borne by the offender (repayment receipt). The DOC has indicated that $100,000 is required to fund one-time expenses to implement the programs.

9. The DOC will need additional resources to comply with the requirements imposed in Paragraph 9 (batterer's support groups in the prisons and special training for employees at the Mitchellville Correctional Facility). The DOC estimates training costs to be $15,000 and staff costs to be $282,700 for 8 additional counselors.

Fiscal Impact

Paragraph	Source	Impact
One	State General Fund	$ 4,200 increased costs
Two	State General Fund	3,100 increased costs
Three	State General Fund	18,800 increased costs
	Local Governments	* included in Paragraph 4
Four	Local Governments	250,000 increased costs
Five	State General Fund	1,786,200 increased revenue
Six	State General Fund	60,000 increased costs
Seven	State General Fund	Cannot be estimated
	Local Governments	* included in Paragraph 4
Eight	State General Fund	** 100,000 increased costs
	Self-funded	308,800 increased costs
Nine	State General Fund	** 297,700 increased costs

**Requirements imposed by Paragraphs 8 and 9 are contingent upon appropriations being made for batterer's support groups in the prisons, specialized training for employees at the Mitchellville Correctional Facility, and batterer's treatment programs in CBC.

For those items which can be estimated, including revenue and expenditure increases, State General Fund receipts are estimated to increase by $1,700,100 during FY 1992. These figures do not include the costs for the batterer's treatment programs, the batterer's support groups, and specialized training requirements for the Mitchellville Correctional Facility's employees as these requirements are contingent upon appropriations being provided. Increased costs for the counties is estimated to be $250,000 during FY 1992.

Sources: Department of Human Rights
Department of Inspections and Appeals
Department of Corrections
Judicial Department
Iowa State Association of Counties
Department of Revenue and Finance
Iowa Law Enforcement Academy
Department of Justice
Department of Education (LSB 2445SV.4, BAL)

FILED APRIL 30, 1991 BY DENNIS PROUTY, FISCAL DIRECTOR

SENATE FILE 444

H-3962

1 Amend the amendment, H-3919, to Senate File 444, as
2 amended, passed, and reprinted by the Senate, as
3 follows:
4 1. Page 4, by striking lines 13 and 14, and
5 inserting the following:
6 "___. Page 8, line 6, by striking the words and
7 figures "paragraphs 3 and 4, Code 1991, are" and
8 inserting the following: "paragraph 3, Code 1991,
9 is".
10 ___. Page 8, by striking lines 20 through 25."
11 2. Page 6, by striking lines 29 through 35, and
12 inserting the following:
13 "___. Page 18, by striking lines 22 through 30.
14 ___. Page 19, line 3, by striking the words
15 "mandatory minimum"."
16 3. Page 7, by striking lines 20 through 34, and
17 inserting the following: "line 9."
18 4. Page 8, by inserting after line 26 the
19 following:
20 "___. Title page, line 4, by striking the words
21 "imposing mandatory minimum sentences,".
22 5. By renumbering and correcting internal
23 references as necessary.

By MILLAGE of Scott

H-3962 FILED APRIL 29, 1991
LOST (p. 1889)

SENATE FILE 444

H-3967

1 Amend amendment, H-3919, to Senate File 444, as
2 amended, passed, and reprinted by the Senate, as
3 follows:
4 1. Page 1, by striking line 3 and inserting the
5 following:
6 "___. Page 1, line 5, by inserting after the word
7 "misdemeanor" the following: "in a domestic abuse
8 assault case".
9 ___. Page 1, by striking lines 8 and 9 and insert
10 the following: "criteria established by the
11 academy.""
12 2. By renumbering as necessary.

By BAKER of Polk

H-3967 FILED APRIL 29, 1991
ADOPTED (p. 1896)

SENATE FILE 444

H-3958

1 Amend Senate File 444, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. Page 17, by striking lines 14 through 18 and
4 inserting the following:
5 "a. A simple misdemeanor for a domestic abuse
6 assault, except as otherwise provided."
7 2. Page 17, by striking lines 23 and 24 and
8 inserting the following:
9 "c. An aggravated misdemeanor, if the domestic
10 abuse assault is committed with the intent to inflict
11 a serious injury upon another, or if the person uses
12 or displays a dangerous weapon in connection with the
13 assault. This paragraph does not apply if section
14 708.6 or 708.8 applies."
15 3. Page 17, line 31, by inserting after the word
16 "simple" the following: "or aggravated".
17 4. Page 17, line 33, by inserting after the word
18 "serious" the following: "or aggravated".
19 5. Page 18, line 5, by striking the word ",
20 third,".
21 6. Page 18, line 6, by striking the word ",
22 third,".

By HURLEY of Fayette

H-3958 FILED APRIL 29, 1991
ADOPTED (p. 1991)

SENATE FILE 444

H-3961

1 Amend the amendment, H-3919, to Senate File 444, as
2 amended, passed, and reprinted by the Senate, as
3 follows:
4 1. Page 3, line 29, by striking the word
5 "outstanding" and inserting the following:
6 "existing".

By DODERER of Johnson

H-3961 FILED APRIL 29, 1991
ADOPTED (p. 1987)

HOUSE AMENDMENT TO
SENATE FILE 444

S-3638

1 Amend Senate File 444, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. Page 1, line 5, by inserting after the word
4 "misdemeanor" the following: "in a domestic abuse
5 assault case".
6 2. Page 1, by striking lines 8 and 9 and
7 inserting the following: "criteria established by the
8 academy."
9 3. Page 1, by striking lines 10 through 21.
10 4. Page 2, by striking lines 2 through 15, and
11 inserting the following: "requirements shall mandate
12 training devoted to the topic of domestic abuse."
13 5. By striking page 2, line 16 through page 4,
14 line 33.
15 6. Page 5, lines 4 and 5, by striking the words
16 ", as a condition of continued or initial licensure".
17 7. Page 5, by inserting after line 32 the
18 following:
19 "Sec. ___. Section 236.5, subsection 2, paragraph
20 d, Code 1991, is amended to read as follows:
21 d. The awarding of temporary custody of or
22 establishing temporary visitation rights with regard
23 to children under eighteen. In awarding temporary
24 custody or temporary visitation rights, the court
25 shall give primary consideration to the safety of the
26 victim and the children. If the court finds that the
27 safety of the victim or the children will be
28 jeopardized by unsupervised or unrestricted
29 visitation, the court shall condition or restrict
30 visitation as to time, place, duration, or
31 supervision, or deny visitation entirely, as needed to
32 guard the safety of the victim and the children. The
33 court shall also investigate whether any other
34 existing orders awarding custody or visitation rights
35 should be modified."
36 8. By striking page 5, line 33, through page 6,
37 line 13, and inserting the following:
38 "Sec. ___. Section 236.5, subsection 4, Code 1991,
39 is amended to read as follows:
40 4. A certified copy of any order or approved
41 consent agreement shall be issued to the plaintiff,
42 the defendant and ~~law-enforcement-agencies~~ the county
43 sheriff having jurisdiction to enforce the order or
44 consent agreement, and the twenty-four hour dispatcher
45 for the ~~law-enforcement-agencies~~ county sheriff. Any
46 subsequent amendment or revocation of an order or
47 consent agreement shall be forwarded by the clerk to
48 all individuals and ~~agencies~~ the county sheriff
49 previously notified. The clerk shall notify the
50 county sheriff and the twenty-four hour dispatcher for

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1 the county sheriff by telephone or otherwise within
2 six hours of filing the order, approved consent,
3 agreement, amendment, or revocation. The county
4 sheriff's dispatcher shall notify all law enforcement
5 agencies having jurisdiction over the matter and the
6 twenty-four hour dispatcher for the law enforcement
7 agencies upon notification by the clerk. The clerk
8 shall send or deliver a written copy of any such docu-
9 ment to the law enforcement agencies and the twenty-
10 four hour dispatcher within twenty-four hours of
11 filing the document."
12 9. Page 7, by striking line 29, and inserting the
13 following: "officer shall either request a magistrate
14 to make a determination as to".
15 10. Page 7, line 31, by inserting after the word
16 "issued" the following: ", or refer the matter to the
17 county attorney".
18 11. Page 8, line 22, by striking the word "no-
19 contract" and inserting the following: "no-contact".
20 12. Page 8, lines 29 and 30, by striking the
21 words "-- DOMESTIC ABUSE SERVICES FUND ESTABLISHED".
22 13. Page 8, line 31, by striking the figure "1."
23 14. Page 8, line 35, by striking the word "and"
24 and inserting the following: "or".
25 15. Page 9, by striking lines 5 through 22.
26 16. Page 9, by striking line 28 and inserting the
27 following: "general fund of the state and used for
28 the purposes of providing emergency shelter services,
29 support services, and other services to victims of
30 domestic abuse or sexual assault."
31 17. Page 9, lines 31 and 32, by striking the
32 words "the domestic abuse services fund" and inserting
33 the following: "be used for the purposes of providing
34 services to victims of domestic abuse or sexual
35 assault".
36 18. By striking page 9, line 35 through page 10,
37 line 1, and inserting the following:
38 "It is the intent of the general assembly that the
39 funds generated from the checkoff be appropriated and
40 used for the purposes of providing services to victims
41 of domestic abuse or sexual assault."
42 19. Page 10, lines 3 and 4, by striking the words
43 "the domestic abuse services fund" and inserting the
44 following: "be used for the purposes of providing
45 services to victims of domestic abuse or sexual
46 assault".
47 20. Page 10, by striking lines 9 and 10 and
48 inserting the following: "to the treasurer of state."
49 21. Page 10, lines 21 and 22, by striking the
50 words "from the domestic abuse services fund".

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1 22. Page 11, by striking lines 14 through 17.
2 23. Page 11, line 19, by striking the word
3 "REQUIREMENTS".
4 24. Page 11, line 21, by striking the word
5 "shall" and inserting the following: "may".
6 25. Page 11, by striking lines 24 through 26, and
7 inserting the following: "prevention and services.
8 Domestic abuse".
9 26. Page 11, line 27, by striking the word
10 "shall" and inserting the following: "may".
11 27. Page 12, by striking lines 10 through 16.
12 28. Page 12, line 25, by inserting after the word
13 "women" the following: "who serve as counselors to
14 female inmates who are victims of domestic abuse or
15 sexual assault".
16 29. Page 13, by striking lines 21 through 32.
17 30. Page 14, by striking lines 19 through 21, and
18 inserting the following: "treasury. Of the amount
19 paid to the".
20 31. By striking page 14, line 30 through page 15,
21 line 32, and inserting the following:
22 "Sec. ___. Section 602.8105, subsection 1,
23 paragraph 1, Code 1991, is amended to read as follows:
24 1. In criminal cases, the same fees for the same
25 services as in civil cases, <u>and an additional five</u>
26 <u>dollar fee to be remitted to the treasurer of state by</u>
27 <u>the clerk of the district court for deposit in the</u>
28 <u>general fund of the state,</u> to be paid by the county or
29 city, which has the duty to prosecute the criminal
30 action, payable as provided in section 602.8109. When
31 judgment is rendered against the defendant, costs
32 collected from the defendant shall be paid to the
33 county or city which has the duty to prosecute the
34 criminal action to the extent necessary for
35 reimbursement for fees paid. However, the fees which
36 are payable by the county to the clerk of the district
37 court for services rendered in criminal actions
38 prosecuted under state law and in habitual offender
39 actions pursuant to section 321.556, and the court
40 costs taxed in connection with the trial of those
41 actions or appeals from the judgments in those actions
42 are waived.
43 Sec. ___. Section 602.8105, subsection 1,
44 paragraph m, Code 1991, is amended to read as follows:
45 m. For filing an application for a license to
46 marry, ~~fifteen~~ <u>thirty</u> dollars. The clerk of the
47 district court shall remit to the treasurer of state
48 ~~five~~ <u>twenty</u> dollars for each marriage license
49 application filed. The treasurer of state shall
50 deposit the funds received in the general fund of the

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1 state. For issuing an application for an order of the
2 district court authorizing the issuance of a license
3 to marry prior to the expiration of three days from
4 the date of filing the application for the license,
5 five dollars. The court shall authorize the issuance
6 of a marriage license without the payment of any fees
7 imposed by this paragraph upon a showing that the
8 applicant is unable to pay the fees.
9 Sec. ___. Section 602.8105, subsection 1,
10 paragraph n, Code 1991, is amended to read as follows:
11 n. For entering a final decree of dissolution of
12 marriage, ~~fifteen~~ thirty dollars. The fees shall be
13 deposited in the general fund of the state. It is the
14 intent of the general assembly that the funds
15 generated from the dissolution fees be appropriated
16 and used for sexual assault and domestic violence
17 centers."
18 32. Page 16, by striking lines 5 through 9, and
19 inserting the following: "twenty dollars. The fee
20 for filing and docketing a complaint".
21 33. Page 16, by striking lines 19 through 25.
22 34. By striking page 16, line 26 through page 17,
23 line 4, and inserting the following:
24 "Sec. ___. Section 631.6, subsection 1, Code 1991,
25 is amended by adding the following new unnumbered
26 paragraph:
27 NEW UNNUMBERED PARAGRAPH. The clerk shall collect
28 an additional fee of five dollars upon docketing a
29 small claims action, and shall remit the fee to the
30 treasurer of state for deposit in the general fund."
31 35. Page 17, by striking lines 14 through 18 and
32 inserting the following:
33 "a. A simple misdemeanor for a domestic abuse
34 assault, except as otherwise provided."
35 36. Page 17, by striking lines 23 and 24 and
36 inserting the following:
37 "c. An aggravated misdemeanor, if the domestic
38 abuse assault is committed with the intent to inflict
39 a serious injury upon another, or if the person uses
40 or displays a dangerous weapon in connection with the
41 assault. This paragraph does not apply if section
42 708.6 or 708.8 applies."
43 37. Page 17, line 31, by inserting after the word
44 "simple" the following: "or aggravated".
45 38. Page 17, line 33, by inserting after the word
46 "serious" the following: "or aggravated".
47 39. Page 18, line 5, by striking the word ",
48 third,".
49 40. Page 18, line 6, by striking the word ",
50 third,".

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1 41. Page 18, by striking lines 8 and 9, and
2 inserting the following: "section 907.3 for
3 violations of section 708.2 or 708.2A, which were
4 issued on domestic abuse assaults, and".
5 42. Page 18, lines 22 and 23, by striking the
6 words "not be eligible for a deferred sentence or
7 judgment, and shall".
8 43. Page 18, line 30, by inserting after the
9 figure "903" the following: ", and does not prohibit
10 the court from entering a deferred judgment or
11 sentence pursuant to section 907.3".
12 44. Page 19, line 4, by striking the word "shall"
13 and inserting the following: "may".
14 45. Page 19, line 6, by inserting after the
15 figure "708.2B." the following: "However, as a
16 condition of deferring judgment or sentence pursuant
17 to section 907.3, the court shall order the defendant
18 to participate in a batterers' treatment program."
19 46. Page 19, line 7, by inserting after the word
20 "judgment" the following: "or deferred judgment".
21 47. Page 19, line 13, by inserting after the word
22 "of" the following: ", or receiving a deferred
23 judgment for,".
24 48. Page 19, by striking lines 16 through 23, and
25 inserting the following: "domestic abuse offenders,
26 if ordered to do so by the court pursuant to section
27 708.2A. Participation in the batterers' treatment
28 program shall not require a person to be placed on
29 probation, but a person on probation may participate
30 in the program. The district departments may contract
31 for services in completing the duties relating to the
32 batterers' treatment programs. The district
33 departments shall assess the fees for participation in
34 the program, and shall either collect or contract for
35 the collection of the fees to recoup the costs of
36 treatment, but may waive the fee or collect a lesser
37 amount upon a showing of cause. The fees shall be
38 used by each of the district departments or contract
39 service providers for the establishment,
40 administration, coordination, and provision of direct
41 services of the batterers' treatment programs."
42 49. Page 19, by striking line 28 and inserting
43 the following: "708.2B."
44 50. Page 19, by striking lines 29 through 33.
45 51. By striking page 19, line 34 through page 20,
46 line 9 and inserting the following:
47 "Sec. ___. Section 907.3, subsection 3, Code 1991,
48 is amended to read as follows:
49 3. By record entry at the time of or after
50 sentencing, the court may suspend the sentence and

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1 place the defendant on probation upon such terms and
2 conditions as it may require including commitment to
3 an alternate jail facility or a community correctional
4 residential treatment facility for a specific number
5 of days to be followed by a term of probation as
6 specified in section 907.7. A person so committed who
7 has probation revoked shall be given credit for such
8 time served. However, the court shall not suspend the
9 minimum term of two days imposed pursuant to section
10 708.2A."
11 52. By striking page 21, line 7 through page 23,
12 line 8.
13 53. Page 23, line 20, by inserting after the
14 figure "1991," the following: "who serve as
15 counselors to female inmates who are victims of
16 domestic abuse or sexual assault,".
17 54. Page 23, by striking lines 29 through 31, and
18 inserting the following: "correctional services to
19 establish batterers' treatment programs. The district
20 departments shall establish at least one program in
21 each district by January 1, 1992, and shall establish
22 programs throughout the district so that the programs
23 are readily accessible to offenders by January 1,
24 1993."
25 55. Page 23, by striking lines 32 and 33, and
26 inserting the following:
27 "2. From July 1, 1991, through December 31, 1992,
28 the court may order a defendant who is convicted of,
29 or who receives a deferred judgment for, a violation
30 of section".
31 56. Page 24, by inserting before line 6, the
32 following:
33 "3. Notwithstanding any other provision of this
34 Act to the contrary, the portion of section 33 of this
35 Act which enacts new subsection 6 of section 708.2A,
36 and sections 34, 35, and subsections 1 and 2 of this
37 section of this Act shall only take effect upon
38 enactment of a provision by the Seventy-fourth General
39 Assembly during the 1991 regular session specifically
40 appropriating funds for the particular purposes
41 expressed in those sections."
42 57. Page 24, by striking lines 11 through 13.
43 58. Title page, line 2, by striking the words
44 "and certification".
45 59. Title page, lines 4 and 5, by striking the
46 words "establishing a domestic abuse services fund,".
47 60. Title page, line 7, by striking the words
48 "eliminating certain court costs,".
49 61. Title page, line 7, by striking the word
50 "batterers" and inserting the following:

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1 "batterers'".
2 62. Title page, line 8, by striking the words
3 "establishing a pilot program,".
4 63. By renumbering, relettering, or redesignating
5 and correcting internal references as necessary.

RECEIVED FROM THE HOUSE

S-3638 FILED APRIL 29, 1991
Senate amended; concurred 5/3/91 (J 1650)

SENATE FILE 444

H-3931

1 Amend the amendment, H-3919, to Senate File 444, as
2 amended, passed, and reprinted by the Senate, as
3 follows:
4 1. Page 5, by striking lines 12 through 14, and
5 inserting the following:
6 "___. Page 14, by striking lines 9 through 29."
7 2. Page 5, by striking lines 17 through 36.
8 3. Page 6, by striking lines 12 through 14, and
9 inserting the following:
10 "___. By striking page 15, line 33 through page
11 16, line 18."
12 4. Page 6, by striking lines 17 through 24, and
13 inserting the following: "line 4."
14 5. By renumbering, relettering, and correcting
15 internal references as necessary.

By MILLAGE of Scott

H-3931 FILED APRIL 26, 1991

Lost 4/29/91 (p. 1888)

SENATE FILE 444

H-3933

1 Amend amendment, H-3919, to Senate File 444, as
2 amended, passed, and reprinted by the Senate, as
3 follows:
4 1. Page 5, line 20, by striking the word "a" and
5 inserting the following: "an additional".

By SHERZAN of Polk

H-3933 FILED APRIL 26, 1991

Adopted 4/29/91 (p. 1888)

SENATE FILE 444

H-3941

1 Amend the amendment, H-3919, to Senate File 444, as
2 amended, passed, and reprinted by the Senate, as
3 follows:
4 1. By striking page 5, line 37, through page 6,
5 line 2.
6 2. By renumbering and correcting internal
7 references as necessary.

By McKEAN of Jones
MILLAGE of Scott
HURLEY of Fayette

H-3941 FILED APRIL 26, 1991

Lost 4/29 (p. 1889)

SENATE FILE 444

H-3957

1 Amend amendment, H-3919, to Senate File 444, as
2 amended, passed, and reprinted by the Senate, as
3 follows:
4 1. Page 3, by striking lines 6 through 11.
5 2. By renumbering as necessary.

By SHERZAN of Polk

H-3957 FILED APRIL 26, 1991

Adopted 4/29/91 (p. 1887)

SENATE FILE 444

H-3715

1 Amend Senate File 444, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. By striking page 5, line 33, through page 6,
4 line 13, and inserting the following:
5 "Sec. ___. Section 236.5, subsection 4, Code 1991,
6 is amended to read as follows:
7 4. A certified copy of any order or approved
8 consent agreement shall be issued to the plaintiff,
9 the defendant and ~~law-enforcement-agencies~~ the county
10 sheriff having jurisdiction to enforce the order or
11 consent agreement, and the twenty-four hour dispatcher
12 for the ~~law-enforcement-agencies~~ county sheriff. Any
13 subsequent amendment or revocation of an order or
14 consent agreement shall be forwarded by the clerk to
15 all individuals and ~~agencies~~ the county sheriff
16 previously notified. The clerk shall notify the
17 county sheriff and the twenty-four hour dispatcher for
18 the county sheriff by telephone or otherwise within
19 six hours of filing the order, approved consent
20 agreement, amendment, or revocation. The county
21 sheriff's dispatcher shall notify all law enforcement
22 agencies having jurisdiction over the matter and the
23 twenty-four hour dispatcher for the law enforcement
24 agencies upon notification by the clerk. The clerk
25 shall send or deliver a written copy of any such docu-
26 ment to the law enforcement agencies and the twenty-
27 four hour dispatcher within twenty-four hours of
28 filing the document."
29 2. By renumbering and correcting internal
30 references as necessary.

By MILLAGE of Scott

H-3715 FILED APRIL 18, 1991
w/d 4/29/91 (p. 1890)

SENATE FILE 444

H-3784

1 Amend Senate File 444, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. Page 14, line 30, by striking the letter ",
4 m,".
5 2. Page 15, by striking lines 13 through 26.
6 3. By renumbering, relettering, and correcting
7 internal references as necessary.

By MILLAGE of Scott

H-3784 FILED APRIL 23, 1991
w/d 4/29 (p. 1890)

SENATE FILE 444

H-3919

1 Amend Senate File 444, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. Page 1, by striking lines 1 through 9.
4 2. Page 1, by inserting after line 9, the
5 following:
6 "Sec. 100. Section 22.7, subsection 5, Code 1991,
7 is amended to read as follows:
8 5. Peace officers' investigative reports, except
9 where disclosure is authorized elsewhere in this Code.
10 However, the date, time, specific location, and
11 immediate facts and circumstances surrounding a crime
12 or incident shall not be kept confidential under this
13 section, except in ~~those unusual~~ the following
14 circumstances ~~where disclosure would plainly and~~
15 ~~seriously jeopardize an investigation or pose a clear~~
16 ~~and present danger to the safety of an individual.~~:
17 a. The crime or incident involves a violation of
18 sections 709.2 through 709.4, or section 709.11, and
19 the victim has requested that victim-identifying
20 information remain confidential, except that for good
21 cause and after reasonable notice to the victim or if
22 an indictment or information is filed against the
23 alleged perpetrator of the sexual abuse, the victim-
24 identifying information shall no longer remain
25 confidential. In cases involving sections 709.2
26 through 709.4, or section 709.11, law enforcement
27 officers shall inform the victim that victim-
28 identifying information shall remain confidential at
29 the request of the victim, except for good cause and
30 after reasonable notice to the victim. Law
31 enforcement officers shall also inform the victim that
32 if an indictment or information is filed against the
33 alleged perpetrator of the sexual abuse, victim-
34 identifying information shall no longer remain
35 confidential.
36 b. The crime or incident involves unusual
37 circumstances where disclosure would plainly and
38 seriously jeopardize an investigation or pose a clear
39 and present danger to the safety of an individual.
40 For the purposes of this subsection, "victim-
41 identifying information" means the victim's name and
42 address.
43 Sec. 101. Section 22.7, subsection 18, paragraph
44 c, Code 1991, is amended to read as follows:
45 c. Information contained in the communication is a
46 public record to the extent that ~~it~~ the information
47 indicates the date, time, specific location, and
48 immediate facts and circumstances surrounding the
49 occurrence of a crime or other illegal act, except ~~to~~
50 ~~the extent that its disclosure would plainly and~~

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1 ~~seriously-jeopardize-a-continuing-investigation-or~~
2 ~~pose-a-clear-and-present-danger-to-the-safety-of-any~~
3 ~~person.--In-any-action-challenging-the-failure-of-the~~
4 ~~lawful-custodian-to-disclose-any-particular~~
5 ~~information-of-the-kind-enumerated-in-this-paragraph,~~
6 ~~the-burden-of-proof-is-on-the-lawful-custodian-to~~
7 ~~demonstrate-that-the-disclosure-of-that-information~~
8 ~~would-jeopardize-such-an-investigation-or-would-pose~~
9 ~~such-a-clear-and-present-danger.~~ in the following
10 circumstances:
11 (1) The information involves a violation of
12 sections 709.2 through 709.4, or section 709.11, and
13 the victim has requested that victim-identifying
14 information remain confidential, except that for good
15 cause and after reasonable notice to the victim or if
16 an indictment or information is filed against the
17 alleged perpetrator of the sexual abuse, the victim-
18 identifying information shall no longer remain
19 confidential. In cases involving sections 709.2
20 through 709.4, or section 709.11, law enforcement
21 officers shall inform the victim that victim-
22 identifying information shall remain confidential at
23 the request of the victim, except for good cause and
24 after reasonable notice to the victim. Law
25 enforcement officers shall also inform the victim that
26 if an indictment or information is filed against the
27 alleged perpetrator of the sexual abuse victim-
28 identifying information shall no longer remain
29 confidential.
30 (2) The disclosure of the information would
31 plainly and seriously jeopardize a continuing
32 investigation or pose a clear and present danger to
33 the safety of an individual.
34 For the purposes of this subsection, "victim-
35 identifying information" means the victim's name and
36 address.
37 In any action challenging the failure of the lawful
38 custodian under this lettered paragraph to disclose
39 identifying information about a victim of sexual abuse
40 or other information of the kind enumerated in this
41 lettered paragraph, the burden of proof is on the
42 lawful custodian to demonstrate that good cause does
43 not exist for the disclosure of the identifying
44 information or that disclosure of other information of
45 the kind enumerated in this lettered paragraph would
46 jeopardize an investigation or would pose a clear and
47 present danger to the safety of an individual."
48 3. Page 1, by striking lines 10 through 21.
49 4. Page 2, by striking lines 2 through 15, and
50 inserting the following: "requirements shall mandate

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1 training devoted to the topic of domestic abuse."
2 5. By striking page 2, line 16 through page 4,
3 line 33.
4 6. Page 5, lines 4 and 5, by striking the words
5 ", as a condition of continued or initial licensure".
6 7. Page 5, line 18, by inserting before the word
7 "department" the following: "judicial".
8 8. Page 5, line 26, by inserting before the word
9 "department" the following: "judicial".
10 9. Page 5, line 28, by inserting before the word
11 "department" the following: "judicial".
12 10. Page 5, by inserting after line 32 the
13 following:
14 "Sec. ___. Section 236.5, subsection 2, paragraph
15 d, Code 1991, is amended to read as follows:
16 d. The awarding of temporary custody of or
17 establishing temporary visitation rights with regard
18 to children under eighteen. In awarding temporary
19 custody or temporary visitation rights, the court
20 shall give primary consideration to the safety of the
21 victim and the children. If the court finds that the
22 safety of the victim or the children will be
23 jeopardized by unsupervised or unrestricted
24 visitation, the court shall condition or restrict
25 visitation as to time, place, duration, or
26 supervision, or deny visitation entirely, as needed to
27 guard the safety of the victim and the children. The
28 court shall also investigate whether any other
29 outstanding orders awarding custody or visitation
30 rights should be modified."
31 11. By striking page 5, line 33, through page 6,
32 line 13, and inserting the following:
33 "Sec. ___. Section 236.5, subsection 4, Code 1991,
34 is amended to read as follows:
35 4. A certified copy of any order or approved
36 consent agreement shall be issued to the plaintiff,
37 the defendant and ~~law-enforcement-agencies~~ the county
38 sheriff having jurisdiction to enforce the order or
39 consent agreement, and the twenty-four hour dispatcher
40 for the ~~law-enforcement-agencies~~ county sheriff. Any
41 subsequent amendment or revocation of an order or
42 consent agreement shall be forwarded by the clerk to
43 all individuals and ~~agencies~~ the county sheriff
44 previously notified. The clerk shall notify the
45 county sheriff and the twenty-four hour dispatcher for
46 the county sheriff by telephone or otherwise within
47 six hours of filing the order, approved consent
48 agreement, amendment, or revocation. The county
49 sheriff's dispatcher shall notify all law enforcement
50 agencies having jurisdiction over the matter and the

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1 twenty-four hour dispatcher for the law enforcement
2 agencies upon notification by the clerk. The clerk
3 shall send or deliver a written copy of any such docu-
4 ment to the law enforcement agencies and the twenty-
5 four hour dispatcher within twenty-four hours of
6 filing the document."
7 12. Page 7, by striking line 29, and inserting
8 the following: "officer shall either request a
9 magistrate to make a determination as to".
10 13. Page 7, line 31, by inserting after the word
11 "issued" the following: ", or refer the matter to the
12 county attorney".
13 14. Page 8, line 22, by striking the word "no-
14 contract" and inserting the following: "no-contact".
15 15. Page 8, lines 29 and 30, by striking the
16 words "-- DOMESTIC ABUSE SERVICES FUND ESTABLISHED".
17 16 Page 8, line 31, by striking the figure "1."
18 17. Page 8, line 35, by striking the word "and"
19 and inserting the following: "or".
20 18. Page 9, by striking lines 5 through 22.
21 19. Page 9, by striking line 28 and inserting the
22 following: "general fund of the state and used for
23 the purposes of providing emergency shelter services,
24 support services, and other services to victims of
25 domestic abuse or sexual assault."
26 20. Page 9, lines 31 and 32, by striking the
27 words "the domestic abuse services fund" and inserting
28 the following: "be used for the purposes of providing
29 services to victims of domestic abuse or sexual
30 assault".
31 21. By striking page 9, line 35 through page 10,
32 line 1, and inserting the following:
33 "It is the intent of the general assembly that the
34 funds generated from the checkoff be appropriated and
35 used for the purposes of providing services to victims
36 of domestic abuse or sexual assault."
37 22. Page 10, lines 3 and 4, by striking the words
38 "the domestic abuse services fund" and inserting the
39 following: "be used for the purposes of providing
40 services to victims of domestic abuse or sexual
41 assault".
42 23. Page 10, by striking lines 9 and 10 and
43 inserting the following: "to the treasurer of state."
44 24. Page 10, lines 21 and 22, by striking the
45 words "from the domestic abuse services fund".
46 25. Page 11, by striking lines 14 through 17.
47 26. Page 11, line 19, by striking the word
48 "REQUIREMENTS".
49 27. Page 11, line 21, by striking the word
50 "shall" and inserting the following: "may".

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1 28. Page 11, by striking lines 24 through 26, and
2 inserting the following: "prevention and services.
3 Domestic abuse".
4 29. Page 11, line 27, by striking the word
5 "shall" and inserting the following: "may".
6 30. Page 12, by striking lines 10 through 16.
7 31. Page 12, line 25, by inserting after the word
8 "women" the following: "who serve as counselors to
9 female inmates who are victims of domestic abuse or
10 sexual assault".
11 32. Page 13, by striking lines 21 through 32.
12 33. Page 14, by striking lines 19 through 21, and
13 inserting the following: "treasury. Of the amount
14 paid to the".
15 34. By striking page 14, line 30 through page 15,
16 line 32, and inserting the following:
17 "Sec. ___. Section 602.8105, subsection 1,
18 paragraph 1, Code 1991, is amended to read as follows:
19 1. In criminal cases, the same fees for the same
20 services as in civil cases, and a five dollar fee to
21 be remitted to the treasurer of state by the clerk of
22 the district court for deposit in the general fund of
23 the state, to be paid by the county or city, which has
24 the duty to prosecute the criminal action, payable as
25 provided in section 602.8109. When judgment is
26 rendered against the defendant, costs collected from
27 the defendant shall be paid to the county or city
28 which has the duty to prosecute the criminal action to
29 the extent necessary for reimbursement for fees paid.
30 However, the fees which are payable by the county to
31 the clerk of the district court for services rendered
32 in criminal actions prosecuted under state law and in
33 habitual offender actions pursuant to section 321.556,
34 and the court costs taxed in connection with the trial
35 of those actions or appeals from the judgments in
36 those actions are waived.
37 Sec. ___. Section 602.8105, subsection 1,
38 paragraph m, Code 1991, is amended to read as follows:
39 m. For filing an application for a license to
40 marry, ~~fifteen~~ thirty dollars. The clerk of the
41 district court shall remit to the treasurer of state
42 ~~five~~ twenty dollars for each marriage license
43 application filed. The treasurer of state shall
44 deposit the funds received in the general fund of the
45 state. For issuing an application for an order of the
46 district court authorizing the issuance of a license
47 to marry prior to the expiration of three days from
48 the date of filing the application for the license,
49 five dollars. The court shall authorize the issuance
50 of a marriage license without the payment of any fees

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1 imposed by this paragraph upon a showing that the
2 applicant is unable to pay the fees.
3 Sec. ___. Section 602.8105, subsection 1,
4 paragraph n, Code 1991, is amended to read as follows:
5 n. For entering a final decree of dissolution of
6 marriage, ~~fifteen~~ thirty dollars. The fees shall be
7 deposited in the general fund of the state. It is the
8 intent of the general assembly that the funds
9 generated from the dissolution fees be appropriated
10 and used for sexual assault and domestic violence
11 centers."
12 35. Page 16, by striking lines 5 through 9, and
13 inserting the following: "twenty dollars. The fee
14 for filing and docketing a complaint".
15 36. Page 16, by striking lines 19 through 25.
16 37. By striking page 16, line 26 through page 17,
17 line 4, and inserting the following:
18 "Sec. ___. Section 631.6, subsection 1, Code 1991,
19 is amended by adding the following new unnumbered
20 paragraph:
21 NEW UNNUMBERED PARAGRAPH. The clerk shall collect
22 an additional fee of five dollars upon docketing a
23 small claims action, and shall remit the fee to the
24 treasurer of state for deposit in the general fund."
25 38. Page 18, by striking lines 8 and 9, and
26 inserting the following: "section 907.3 for
27 violations of section 708.2 or 708.2A, which were
28 issued on domestic abuse assaults, and".
29 39. Page 18, lines 22 and 23, by striking the
30 words "not be eligible for a deferred sentence or
31 judgment, and shall".
32 40. Page 18, line 30, by inserting after the
33 figure "903" the following: ", and does not prohibit
34 the court from entering a deferred judgment or
35 sentence pursuant to section 907.3".
36 41. Page 19, line 4, by striking the word "shall"
37 and inserting the following: "may".
38 42. Page 19, line 6, by inserting after the
39 figure "708.2B." the following: "However, as a
40 condition of deferring judgment or sentence pursuant
41 to section 907.3, the court shall order the defendant
42 to participate in a batterers' treatment program."
43 43. Page 19, line 7, by inserting after the word
44 "judgment" the following: "or deferred judgment".
45 44. Page 19, line 13, by inserting after the word
46 "of" the following: ", or receiving a deferred
47 judgment for,".
48 45. Page 19, by striking lines 16 through 33, and
49 inserting the following: "domestic abuse offenders,
50 if ordered to do so by the court pursuant to section

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1 708.2A. Participation in the batterers' treatment
2 program shall not require a person to be placed on
3 probation, but a person on probation may participate
4 in the program. The district departments may contract
5 for services in completing the duties relating to the
6 batterers' treatment programs. The district
7 departments shall assess the fees for participation in
8 the program, and shall either collect or contract for
9 the collection of the fees to recoup the costs of
10 treatment, but may waive the fee or collect a lesser
11 amount upon a showing of cause. The fees shall be
12 used by each of the district departments or contract
13 service providers for the establishment,
14 administration, coordination, and provision of direct
15 services of the batterers' treatment programs."
16 46. Page 19, by striking line 28 and inserting
17 the following: "708.2B."
18 47. Page 19, by striking lines 29 through 33.
19 48. By striking page 19, line 34 through page 20,
20 line 9 and inserting the following:
21 "Sec. ___. Section 907.3, subsection 3, Code 1991,
22 is amended to read as follows:
23 3. By record entry at the time of or after
24 sentencing, the court may suspend the sentence and
25 place the defendant on probation upon such terms and
26 conditions as it may require including commitment to
27 an alternate jail facility or a community correctional
28 residential treatment facility for a specific number
29 of days to be followed by a term of probation as
30 specified in section 907.7. A person so committed who
31 has probation revoked shall be given credit for such
32 time served. <u>However, the court shall not suspend the</u>
33 <u>minimum term of two days imposed pursuant to section</u>
34 <u>708.2A."</u>
35 49. By striking page 21, line 7 through page 23,
36 line 8.
37 50. Page 23, line 20, by inserting after the
38 figure "1991," the following: "who serve as
39 counselors to female inmates who are victims of
40 domestic abuse or sexual assault,".
41 51. Page 23, by striking lines 29 through 31, and
42 inserting the following: "correctional services to
43 establish batterers' treatment programs. The district
44 departments shall establish at least one program in
45 each district by January 1, 1992, and shall establish
46 programs throughout the district so that the programs
47 are readily accessible to offenders by January 1,
48 1993."
49 52. Page 23, by striking lines 32 and 33, and
50 inserting the following:

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1 "2. From July 1, 1991, through December 31, 1992,
2 the court may order a defendant who is convicted of,
3 or who receives a deferred judgment for, a violation
4 of section".
5 53. Page 24, by inserting before line 6, the
6 following:
7 "3. Notwithstanding any other provision of this
8 Act to the contrary, the portion of section 33 of this
9 Act which enacts new subsection 6 of section 708.2A,
10 and sections 34, 35, and subsections 1 and 2 of this
11 section of this Act shall only take effect upon
12 enactment of a provision by the Seventy-fourth General
13 Assembly during the 1991 regular session specifically
14 appropriating funds for the particular purposes
15 expressed in those sections."
16 54. Page 24, by striking lines 11 through 13.
17 55. Page 24, by inserting after line 13, the
18 following:
19 "Sec. ___. AUTOMATIC REPEAL. Sections 100 and 101
20 of this Act are repealed effective July 1, 1994.
21 Effective July 1, 1994, the Code editor shall
22 reinstate the language of section 22.7, subsection 5,
23 and section 22.7, subsection 18, paragraph "c", as
24 those provisions read in the 1991 Code."
25 56. Title page, line 2, by striking the words
26 "and certification".
27 57. Title page, lines 4 and 5, by striking the
28 words "establishing a domestic abuse services fund,".
29 58. Title page, line 7, by striking the words
30 "eliminating certain court costs,".
31 59. Title page, line 7, by striking the word
32 "batterers" and inserting the following:
33 "batterers'".
34 60. Title page, line 8, by striking the words
35 "establishing a pilot program,".
36 61. Title page, line 9, by inserting after the
37 word "provisions" the following: ", and providing for
38 an automatic repeal."
39 62. By renumbering, relettering, and correcting
40 internal references as necessary.

By SHERZAN of Polk

H-3919 FILED APRIL 26, 1991

A- Adopted as amended by 3933, 3957, 3961, 3967 4/29/91 (g 1890)
B- 4/25 (g 1890)

SENATE FILE 444
FISCAL NOTE

A fiscal note for **Senate File 444 as amended and passed by the Senate** is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

1. Senate File 444 provides new requirements pertaining to law enforcement, victim services, and domestic abuse. Sections 1, 2, 3, 5, 6, and 7 require the Iowa Law Enforcement Academy (ILEA) to initiate proceedings for revocation of certification for law enforcement officers who have committed a felony or indictable misdemeanor. One member is added to the ILEA council. The ILEA is required to conduct a survey every 5 years for use as a curriculum and continuing education guide.

2. Sections 4, 8, 21 and 46 require the ILEA to adopt rules specifying a course of study for domestic abuse and minimum continuing training requirements. The ILEA council is required to accredit training courses. A Law Enforcement Academy Curriculum Advisory Committee is created to review the survey and make recommendations regarding curriculum. This Advisory Committee is established in FY 1993.

3. Section 9 requires the Department of Inspections and Appeals to develop rules to require hospitals to establish procedures concerning domestic abuse matters as a condition of licensure.

4. Sections 10, 11, 12, and 16 provide that plaintiffs who proceed in domestic abuse cases without legal representation, may do so on forms developed by the Attorney General's Office and distributed by the clerks of court.

5. Sections 13, 17, 27 and 39 require the clerks of court to notify law enforcement and dispatchers within 6 hours of filing the order in civil and criminal matters of domestic abuse, assault, victim and witness protection, and dissolution of marriage. The clerks are required to provide written copies of the orders within 24 hours of filing the orders.

6. Sections 15 and 26 impose notification requirements upon law enforcement agencies and county attorneys concerning indictable offenses committed by law enforcement officers. Section 17 provides that in contempt proceedings concerning violation of a domestic abuse no-contact order, a person found in contempt shall be confined in the county jail for at least 7 days. Section 39 provides that violation of a restraining or protective order may be punished by contempt proceedings.

7. Sections 18, 19, 28 through 32, and 42 create a Domestic Abuse Services Fund which is administered by the Department of Justice to provide services to victims of domestic abuse and sexual assault, and batterer's treatment funding. Receipts to the Fund are from:

A. An income tax checkoff for domestic abuse services.
B. A $5 increase in court fees for filing and docketing a petition in civil matters, a complaint or information in criminal prosecutions, and small claims actions.
C. A $15 increase in marriage application fees.
D. Diversion of the revenue from the marriage dissolution decree fee from the General Fund to the Domestic Abuse Services Fund.

8. Sections 20 and 21 require the Department of Justice to award grants to care providers of victims, batterer's programs, for operation of a toll-free domestic abuse telephone hotline, and to provide services to publicize the hotline. The Department of Justice is required to encourage professional organizations to establish training programs for people working with domestic abuse prevention and services.

9. Sections 22, 33, 37, 38, 39 and 44 increase current penalties and create new offenses for domestic abuse. A graduated penalty system is created for domestic abuse repeat offenders, and for offenders who repeat an assault within 24 hours of arrest or citation. Penalties range from a simple to an aggravated misdemeanor. The entry of deferred judgements and deferred sentences is prohibited, plus sentences cannot be suspended until the mandatory minimum term of 2 days has been served. Judges are required to order offenders to receive batterer's treatment by reporting to Community Based Corrections (CBC), beginning January 1, 1992. Judges shall order offenders to existing programs in the interim.

10. Sections 23, 34, 35, and 36 require the CBC District Departments to establish batterer's treatment programs. The offender is required to pay $250 for the program, which may be waived upon a showing of cause. The repayment receipt is to be used to fund the operating costs of the programs.

11. Sections 24, 43 and 45 require the Department of Corrections (DOC) to establish batterer's support groups in all of the prisons. Staff at the Iowa Correctional Institutions for Women (Mitchellville) are required to receive training concerning female inmates' needs. Current employees are to receive the training by January 1, 1992, while new employees are required to receive the training during their orientation. The enactment of these Sections is contingent upon appropriations being made this legislative session.

12. Section 25 requires that domestic abuse is to be included as a topic of instruction for grades 1 through 12.

13. Section 40 requires the Prosecuting Attorney Training Coordinator to establish a pilot program for domestic abuse prosecution plans and procedures. The county attorneys are required to develop and implement written plans to expedite and improve the disposition of domestic abuse matters in their jurisdictions. The plans, and status reports, are required to be filed with the Prosecuting Attorney Training Coordinator.

Assumptions

A. The ILEA will experience increased costs for the duties contained within Paragraph 1. These costs include the expenses of an additional council member, mailing costs, and contractual services ($30,000 during the first year to conduct the task survey).

B. The ILEA will experience increased costs in FY 1993 to implement the training requirements included in Paragraph 2. These costs include expenses of domestic abuse instructors, funds for 3 additional staff members, and expenses of the new council.

C. The duties imposed in Paragraph 3 will increase expenditures for the Department of Inspections and Appeals.

D. The Judicial Department will have increased costs for the pro se procedures contained in Paragraph 4. Increased staff time will be incurred for clerks to distribute pro se forms and provide assistance. Assuming 4,000 arrests, and that 50% of those who do not proceed to trial will result in a pro se civil proceeding, would result in 1,020 pro se civil cases. Staff time is estimated to be $3,100.

E. The notification requirements for the clerks of court contained in Paragraph 5 will increase staff and mailing costs. Assuming 1 hour to process a case, clerks earn $12 per hour, and 2,980 dispositions, the cost is estimated to be $36,600.

F. The notification requirements and jail sentences imposed in Paragraph 6 will increase local governments' costs. The average daily operating cost for county jails is $39. The Iowa State Association of Counties has estimated increased costs to be $200,000 for those Sections included in Paragraphs 6 and 9.

G. The following items relate to the creation of the Domestic Abuse Services Fund, increased fees, and the income tax checkoff described in Paragraph Seven. The Department of Revenue and Finance cannot estimate the amount of revenue that would be generated from an income tax checkoff for domestic abuse services, since a reliable projection of the participation rate is not available. The fee increases are based on the following estimated number of filings and are estimated to generate the following revenues. The $5 increase in the civil filing fee is estimated to generate $178,100 (35,632 cases x $5). The increase in the marriage license application fee is estimated to generate $411,900 (27,460 applications x $15). Diverting the revenue from the divorce dissolution decree fee is estimated to reduce General Fund receipts by $141,300 (9,418 dissolutions x $15). The increase for filing a simple misdemeanor case is estimated to generate $295,200 (59,034 cases x $5). The increase for filing a non-scheduled simple misdemeanor is estimated to generate $219,900 (43,984 cases x $5). The increase for filing small claims actions is estimated to generate $364,800 (72,959 cases x $5). The criminal services fee is estimated to generate $175,000 (35,000 cases x $5).

H. The Department of Justice will need an additional staff person for the duties imposed by Paragraph 8. This person would administer grants to providers, implement the hotline, plus work with organizations to establish training programs.

I. The following comments relate to the enhanced penalties imposed in Paragraph 9. It is not possible to estimate the fiscal impact of these Sections because no State, local, or federal agency monitors the actual number of domestic abuse cases which proceed through the criminal justice system. Only arrests are reported. Domestic abuse assault cases which do proceed through the courts are not monitored separately from other types of assault. Lastly, simple misdemeanor offenders are not subject to supervision, so the number of domestic abuse assault offenders who receive a simple misdemeanor penalty is not known. Increasing a penalty or creating a new crime may increase costs of the criminal justice system at the State and local levels. This includes the costs of incarceration pending sentencing, prosecution and defense, increased criminal court cases, community-based supervision, and incarceration at the State or local level upon sentencing. The average daily cost for county jail operations is $39. The DOC estimates the average daily cost per State inmate at $50.

J. Also in relation to Paragraph 9, there were 5,927 domestic abuse cases reported during calendar 1989. Of these, 4,044 resulted in an arrest. Of those arrested, 98% involved assault. For the cases reported in 1989, 91% were for 1 assault, 7% were for 2 assaults, and 2% were for 3 or more assaults. Assuming 4,000 arrests for domestic abuse and subtracting those which do not involve assault, results in 3,920 arrests which could proceed as a criminal action. Assuming 50% of these cases proceed to trial and are tried successfully, this would result in 1,960 offenders. Of these, 1,784 (91%) may be for 1 offense, 137 (7%) may be for 2 offenses, while 39 (2%) may be for 3 or more offenses. These figures do not address the provisions which increase the penalty depending upon the intent of the offender, nor do these figures address the provisions which relate to prior offenses in the last 6 years.

K. The CBC District Departments will need 8 additional parole/probation officers to implement the batterer's treatment programs in Paragraph 10. These costs, plus staff training, is estimated at $308,800. These costs would be borne by the offender ($250 repayment receipt) or the Domestic Abuse Services Fund.

L. The DOC will need additional resources to comply with the requirements imposed in Paragraph 11 (batterer's support groups in the prisons and special training for employees at the Mitchellville Correctional Facility). The DOC estimates training costs to be $15,000 and staff costs to be $282,700 for 8 additional counselors.

M. The Department of Education will need additional funds for contractual and clerical services to develop and implement domestic abuse education materials, as directed by Paragraph 12.

N. The Prosecuting Attorney Training Coordinator will need additional funds so as to establish a pilot project for domestic abuse prosecution, as directed by Paragraph 13.

Fiscal Impact

Paragraph	Source	Impact
One	State General Fund	$ 36,200 increased costs
Two	State General Fund	144,700 increased costs
Three	State General Fund	4,200 increased costs
Four	State General Fund	3,100 decreased revenue
Five	State General Fund	36,600 increased costs
Six	Local Governments	* 200,000 increased costs
Seven	State General Fund	141,300 decreased revenue
	Dom. Abuse Services Fund	1,786,200 increased revenue
Eight	Dom. Abuse Serv. Fund	60,000 increased costs
Nine	State General Fund	Cannot be estimated
	Local Governments	* included in Paragraph 6
Ten	Self-funded or Dom. Abuse Serv. Fund	308,800 increased costs
Eleven	State General Fund	** 297,700 increased costs
Twelve	State General Fund	25,500 increased costs
Thirteen	State General Fund	20,000 increased costs

**Requirements imposed by Paragraph 11 are contingent upon appropriations being made for batterer's support groups in the prisons and specialized training for employees at the Mitchellville Correctional Facility.

For those items which can be estimated, including revenue decreases and expenditure increases, the impact on the State General Fund is estimated to be $266,900 during FY 1992 and $144,700 during FY 1993. These figures do not include the costs for the batterer's support groups and specialized training requirements for the Mitchellville Correctional Facility's employees. The impact on the counties is estimated to be $200,000 during FY 1992. The balance of the newly created Domestic Abuse Services Fund is estimated to be $1,726,200. This figure includes the costs of the Department of Justice, but does not include costs for grants to batterer treatment programs.

Sources: Department of Human Rights
Department of Inspections and Appeals
Department of Corrections
Judicial Department
Iowa State Association of Counties
Department of Revenue and Finance
Iowa Law Enforcement Academy
Department of Justice
Department of Education

(LSB 2445sv.3, BAL)

FILED APRIL 9, 1991 BY DENNIS PROUTY, FISCAL DIRECTOR

Hse Judiciary 4/8/91 Do Pass 4/10/91

SENATE FILE 444
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 248)

(AS AMENDED AND PASSED BY THE SENATE APRIL 5, 1991)

▬▬▬▬ - New Language by the Senate
* - Language Stricken by the Senate

Rec. S.3638 as amended 3702

Passed Senate, Date 5/3/91 (p. 1650) Passed House, Date 4/29/91 (p. 1891)
Vote: Ayes 48 Nays 0 Vote: Ayes 91 Nays 5
Approved May 29, 1991
Repassed Senate 5/8/91 (p. 1714)
49-0

A BILL FOR

1 An Act relating to law enforcement, victim services, and domestic
2 abuse, establishing certain training and certification
3 requirements, establishing and increasing certain criminal
4 penalties, imposing mandatory minimum sentences, establishing
5 a domestic abuse services fund, establishing an income tax
6 checkoff for domestic abuse, increasing certain court costs
7 and fees, eliminating certain court costs, requiring batterers
8 treatment by offenders, establishing a pilot program, and
9 containing effective date and applicability provisions.
10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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S.F. 444

S.F. 444 H.F. _____

1 Section 1. NEW SECTION. 13.11 INVESTIGATIONS OF LAW
2 ENFORCEMENT OFFICERS INVOLVED IN PUBLIC OFFENSES.
3 The attorney general shall conduct investigations of law
4 enforcement officers who have been convicted or received a
5 deferred judgment for an indictable misdemeanor, and shall
6 make recommendations to the Iowa law enforcement academy as to
7 whether an officer's certification should be revoked under the
8 criteria established by the academy pursuant to section
9 80B.11.
10 Sec. 2. Section 80B.6, unnumbered paragraph 1 and
11 subsection 1, Code 1991, are amended to read as follows:
12 There is created the Iowa law enforcement academy council
13 which shall consist of the following ~~seven~~ eight members
14 appointed by the governor subject to confirmation by the
15 senate to terms of four years commencing as provided in
16 section 69.19:
17 1. Three residents of the state, one of whom is a former
18 or current prosecuting attorney.
19 Sec. 3. Section 80B.6, Code 1991, is amended by adding the
20 following new subsection:
21 NEW SUBSECTION. 6. A victim service provider.
22 Sec. 4. Section 80B.11, subsections 1 and 2, Code 1991,
23 are amended to read as follows:
24 1. Minimum entrance requirements, course of study,
25 attendance requirements, and equipment and facilities required
26 at approved law enforcement training schools. Minimum age
27 requirements for entrance to approved law enforcement training
28 schools shall be eighteen years of age. Minimum course of
29 study requirements shall include a separate domestic abuse
30 curriculum, which may include, but is not limited to, outside
31 speakers from domestic abuse shelters and crime victim
32 assistance organizations.
33 2. Minimum basic training requirements law enforcement
34 officers employed after July 1, 1968, must complete in order
35 to remain eligible for continued employment and the time

1 within which such basic training must be completed. Minimum
2 requirements shall mandate that at least one-half of the hours
3 required per year are devoted to the topic of human relations,
4 which includes, but is not limited to, interpersonal
5 relations, domestic abuse, child abuse, sexual abuse, stress
6 management, familial relationships, and related topics. The
7 rules shall include procedures for reporting the completion of
8 accredited continuing training requirements as a condition for
9 continued certification. These rules shall include procedures
10 for the law enforcement academy curriculum advisory committee
11 to review the reports and make recommendations to the council
12 regarding the adequacy of the reports. The rules shall
13 include procedures for accreditation of continuing training
14 courses, upon recommendation by the law enforcement academy
15 curriculum advisory committee pursuant to section 80B.18.
16 Sec. 5. Section 80B.11, subsection 6, Code 1991, is
17 amended to read as follows:
18 6. Grounds for revocation of a law enforcement officer's
19 certification. The rules shall require revocation of
20 certification if, upon conducting the applicable revocation
21 proceedings, the council determines that the law enforcement
22 officer has been convicted of or received a deferred judgment
*23 for a felony. The rules shall establish review procedures and
24 criteria for possible revocation of the certification of law
25 enforcement officers who are convicted of or receive deferred
26 judgments for commission of an indictable misdemeanor, or for
27 law enforcement officers whose conduct falls within the other
28 criteria for revocation set forth in section 80B.13. These
29 rules shall include procedures for reporting of law
30 enforcement officers who have been convicted of or received a
31 deferred judgment for an indictable offense to the academy,
32 and to the attorney general, for the purpose of conducting
33 investigations under section 13.11. The rules shall include
34 procedures for law enforcement agencies to notify the academy
35 and the attorney general, if applicable, when aware of the

1 conviction of or deferred judgment for an indictable offense
2 by a law enforcement officer or any individual who currently
3 has law enforcement certification, whether or not the
4 individual is presently serving as a law enforcement officer.
5 Procedures for receiving similar notification by county
6 attorneys shall be implemented. county attorneys. The rules
7 shall contain procedures for cooperation with the attorney
8 general in investigations in matters involving indictable
9 misdemeanors, conducted pursuant to section 13.11. The rules
10 shall require the initiation of revocation proceedings upon
11 recommendation by the attorney general.
12 Sec. 6. Section 80B.13, subsection 8, unnumbered paragraph
13 1, Code 1991, is amended to read as follows:
14 Revoke a law enforcement officer's certification. The
15 council shall revoke a law enforcement officer's certification
16 for the conviction of or upon entry of a deferred judgment for
17 a felony, upon conducting the applicable revocation
18 proceedings. The council shall initiate revocation
19 proceedings upon recommendation of the attorney general in
20 indictable misdemeanor cases, as provided in sections 13.11
21 and 80B.11. In addition the council may consider revocation
22 proceedings when an employing agency recommends to the council
23 that revocation would be appropriate with regard to a current
24 or former employee.
25 Sec. 7. NEW SECTION. 80B.17 TASK SURVEY AS CURRICULUM
26 GUIDE.
27 The academy shall conduct a task survey at least every five
28 years, to be used as a guide for adjusting curriculum and
29 continuing education requirements. The task survey shall
30 examine the proportion of a law enforcement officer's time
31 required to perform each of the officer's major duties.
32 Sec. 8. NEW SECTION. 80B.18 CURRICULUM ADVISORY
33 COMMITTEE.
34 1. A law enforcement academy curriculum advisory committee
35 is established. The committee shall consist of the following

1 members appointed pursuant to rules adopted by the director,
2 subject to the approval of the council:
3 a. One person engaged full time in law enforcement.
4 b. A peace officer instructor who instructs in a law
5 enforcement related training area.
6 c. An instructor from a community college.
7 d. A county attorney or assistant county attorney.
8 e. A public defender or an attorney practicing primarily
9 in criminal defense.
10 f. A person representing the department of justice.
11 g. Two public members, one of whom has received victim
12 services, and one who is a victim service provider.
13 2. The committee shall make recommendations to the academy
14 concerning curriculum and continuing education courses. In
15 making recommendations, the committee shall consider the task
16 survey conducted pursuant to section 80B.17. The committee
17 shall use the task survey to make a specific recommendation
18 concerning the number of hours of study in the curriculum
19 which should be devoted exclusively to domestic abuse training
20 covering the topics set forth in section 236.17.
21 3. The director, subject to the approval of the council,
22 shall adopt rules establishing procedures of operation for the
23 committee, and other matters necessary for the implementation
24 of this section.
25 4. The members of the committee shall be reimbursed for
26 actual and necessary expenses incurred in the performance of
27 their duties.
28 5. The committee shall review reports concerning the
29 completion of accredited continuing training requirements
30 pursuant to rules adopted under section 80B.11. The committee
31 shall review applications for accreditation of continuing
32 training courses and make recommendations according to the
33 procedures adopted by rule pursuant to section 80B.11.
34 Sec. 9. Section 135B.6, Code 1991, is amended by adding
35 the following new unnumbered paragraph:

1 NEW UNNUMBERED PARAGRAPH. The department shall adopt rules
2 requiring hospitals to establish and implement protocols for
3 responding to the needs of patients who are victims of
4 domestic abuse, as defined in section 236.2, as a condition of
5 continued or initial licensure.
6 Sec. 10. Section 236.2, Code 1991, is amended by adding
7 the following new subsection:
8 NEW SUBSECTION. 4A. "Pro se" means a person proceeding on
9 the person's own behalf without legal representation.
10 Sec. 11. Section 236.3, subsection 1, Code 1991, is
11 amended to read as follows:
12 1. Name of the plaintiff and the name and address of the
13 plaintiff's attorney, if any. If the plaintiff is proceeding
14 pro se, the petition shall state a mailing address for the
15 plaintiff.
16 Sec. 12. NEW SECTION. 236.3A PLAINTIFFS PROCEEDING PRO
17 SE -- PROVISION OF FORMS AND ASSISTANCE.
18 1. The department shall prescribe standard forms to be
19 used by plaintiffs seeking protective orders by proceeding pro
20 se in actions under this chapter. The standard forms shall
21 include language in fourteen-point boldface type, with a box
22 which may be checked by the plaintiff, indicating that the
23 plaintiff wishes to proceed by filing an affidavit pursuant to
24 section 236.3, because the plaintiff does not have sufficient
25 funds to pay the cost of filing and service. Standard forms
26 prescribed by the department shall be the exclusive forms used
27 by plaintiffs proceeding pro se, and may be used by other
28 plaintiffs. The department shall distribute the forms to the
29 clerks of the district courts.
30 2. The clerk of the district court shall furnish the
31 required forms to persons seeking protective orders through
32 pro se proceedings pursuant to this chapter.
33 Sec. 13. Section 236.5, subsection 4, Code 1991, is
34 amended to read as follows:
35 4. A certified copy of any order or approved consent

1 agreement shall be issued to the plaintiff, the defendant and
2 law enforcement agencies having jurisdiction to enforce the
3 order or consent agreement, and the twenty-four hour
4 dispatcher for the law enforcement agencies. Any subsequent
5 amendment or revocation of an order or consent agreement shall
6 be forwarded by the clerk to all individuals and agencies
7 previously notified. The clerk shall contact the law
8 enforcement agencies and the twenty-four hour dispatcher by
9 telephone or otherwise within six hours of filing the order,
10 approved consent agreement, amendment, or revocation, and
11 shall send or deliver a written copy to law enforcement
12 agencies and the twenty-four hour dispatcher within twenty-
13 four hours of filing the document.
14 Sec. 14. Section 236.8, Code 1991, is amended to read as
15 follows:
16 236.8 CONTEMPT.
17 The court may hold a party in contempt for a violation of
18 an order or court-approved consent agreement entered under
19 this chapter, for violation of a temporary or permanent
20 protective order or order to vacate the homestead under
21 chapter 598, or for violation of any order that establishes
22 conditions of release or is a protective order or sentencing
23 order in a criminal prosecution arising from a domestic abuse
24 assault. If held in contempt, the defendant shall serve a
25 jail sentence ~~which may be on weekends~~. Any jail sentence
26 imposed under this section shall be served on consecutive
27 days.
28 Sec. 15. Section 236.11, unnumbered paragraph 1, Code
29 1991, is amended to read as follows:
30 A peace officer shall use every reasonable means to enforce
31 an order or court-approved consent agreement entered under
32 this chapter, a temporary or permanent protective order or
33 order to vacate the homestead under chapter 598, or any order
34 that establishes conditions of release or is a protective
35 order or sentencing order in a criminal prosecution arising

1 from a domestic abuse assault. If a peace officer has reason
2 to believe that domestic abuse has occurred, the peace officer
3 shall ask the abused person if any prior orders exist, and
4 shall contact the twenty-four hour dispatcher to inquire if
5 any prior orders exist. If a peace officer has probable cause
6 to believe that a person has violated an order or approved
7 consent agreement entered under this chapter, a temporary or
8 permanent protective order or order to vacate the homestead
9 under chapter 598, or any order establishing conditions of
10 release or a protective or sentencing order in a criminal
11 prosecution arising from a domestic abuse assault, the peace
12 officer shall take the person into custody and shall take the
13 person without unnecessary delay before the nearest or most
14 accessible magistrate in the judicial district in which the
15 person was taken into custody. The magistrate shall make an
16 initial preliminary determination whether there is probable
17 cause to believe that an order or consent agreement existed
18 and that the person taken into custody has violated its terms.
19 The magistrate's decision shall be entered in the record.
20 If a peace officer has probable cause to believe that a
21 person has violated an order or approved consent agreement
22 entered under this chapter, a temporary or permanent
23 protective order or order to vacate the homestead under
24 chapter 598, or any order establishing conditions of release
25 or a protective or sentencing order in a criminal prosecution
26 arising from a domestic abuse assault, and the peace officer
27 is unable to take the person into custody within twenty-four
28 hours of making the probable cause determination, the peace
29 officer shall notify a magistrate for a determination as to
30 whether a rule to show cause or arrest warrant should be
31 issued.
32 Sec. 16. Section 236.12, subsection 1, paragraph c, Code
33 1991, is amended by adding the following new unnumbered
34 paragraph after subparagraph (4):
35 NEW UNNUMBERED PARAGRAPH. You have the right to seek help

1 from the court to seek a protective order with or without the
2 assistance of legal representation. You have the right to
3 seek help from the courts without the payment of court costs
4 if you do not have sufficient funds to pay the costs.
5 Sec. 17. Section 236.14, subsection 2, unnumbered
6 paragraphs 3 and 4, Code 1991, are amended to read as follows:
7 The clerk of the court or other person designated by the
8 court shall provide a copy of this order to the victim
9 pursuant to chapter 910A. The order has force and effect
10 until it is modified or terminated by subsequent court action
11 in the contempt proceeding or the criminal or juvenile court
12 action and is reviewable in the manner prescribed in section
13 811.2. The clerk of the district court shall also provide
14 oral or other notice and copies of the no-contact order to the
15 applicable law enforcement agencies and the twenty-four hour
16 dispatcher for the law enforcement agencies, in the manner
17 provided for protective orders under section 236.5. The clerk
18 shall provide oral or other notice and copies of modifications
19 or vacations of these orders in the same manner.
20 Violation of this no-contact order is punishable by summary
21 contempt proceedings. If held in contempt for violation of a
22 no-contract order, the person shall be confined in the county
23 jail for a minimum of seven days. A jail sentence imposed
24 pursuant to this paragraph shall be served on consecutive
25 days.
* 26 Sec. 18. Section 236.15, Code 1991, is amended to read as
27 follows:
28 236.15 APPLICATION FOR DESIGNATION AND FUNDING AS A
29 PROVIDER OF SERVICES FOR VICTIMS OF DOMESTIC ABUSE -- DOMESTIC
30 ABUSE SERVICES FUND ESTABLISHED.
31 1. Upon receipt of state or federal funding designated for
32 victims of domestic abuse by the department, a public or
33 private nonprofit organization may apply to the department for
34 designation and funding as a provider of emergency shelter
35 services and support services to victims of domestic abuse and

1 sexual assault. The application shall be submitted on a form
2 prescribed by the department and shall include, but not be
3 limited to, information regarding services to be provided,
4 budget, and security measures.
5 2. The domestic abuse services fund is established as a
6 separate fund in the state treasury under the control of the
7 department. The department, in consultation with the crime
8 victim assistance board, shall administer the funds, which
9 shall be dedicated to and are appropriated for the provision
10 of financial assistance to sexual assault and domestic
11 violence centers and batterers' treatment programs, and for
12 the performance of the other duties imposed upon the
13 department under section 236.16. It is the intent of the
14 general assembly that costs associated with batterers'
15 treatment programs shall not be borne by the general fund, and
16 that in administering the domestic abuse services fund, the
17 department shall award sufficient funds to the judicial
18 district departments of correctional services to cover the
19 necessary expenses of the program which cannot be funded
20 wholly from batterers. Notwithstanding section 8.33, any
21 balance in the fund on June 30 of any fiscal year shall not
22 revert to the general fund of the state.
23 Sec. 19. NEW SECTION. 236.15A INCOME TAX CHECKOFF FOR
24 DOMESTIC ABUSE SERVICES.
25 A person who files an individual or a joint income tax
26 return with the department of revenue and finance under
27 section 422.13 may designate any amount to be paid to the
28 domestic abuse services fund established in section 236.15.
29 If the refund due on the return or the payment remitted with
30 the return is insufficient to pay the additional amount
31 designated by the taxpayer to the domestic abuse services
32 fund, the amount designated shall be reduced to the remaining
33 amount of refund or the remaining amount remitted with the
34 return.
35 The revenues received shall be deposited in the domestic

1 abuse services fund.
2 The director of revenue and finance shall draft the income
3 tax form to allow the designation of contributions to the
4 domestic abuse services fund on the tax return.
5 The department of revenue and finance on or before January
6 31 of the year following the preceding calendar year shall
7 certify the total amount designated on the tax return forms
8 due in the preceding calendar year and shall report the amount
9 to the treasurer of state. The treasurer of state shall
10 credit the amount to the domestic abuse services fund.
11 The department of revenue and finance shall consult the
12 crime victim assistance board concerning the adoption of rules
13 to implement this section. However, before a checkoff
14 pursuant to this section shall be permitted, all liabilities
15 on the books of the department of revenue and finance and
16 accounts identified as owing under section 421.17 and the
17 political contribution allowed under section 56.18 shall be
18 satisfied.
19 Sec. 20. Section 236.16, subsection 1, Code 1991, is
20 amended by adding the following new paragraphs:
21 NEW PARAGRAPH. c. Designate and award moneys from the
22 domestic abuse services fund for publicizing and staffing a
23 statewide, toll-free telephone hotline for use by victims of
24 domestic abuse. The department may award a grant to a public
25 agency or a private, nonprofit organization for the purpose of
26 operating the hotline. The operation of the hotline shall
27 include informing victims of their rights and of various
28 community services that are available, referring victims to
29 service providers, receiving complaints concerning misconduct
30 by peace officers and encouraging victims to refer such
31 complaints to the office of citizens' aide, providing
32 counseling services to victims over the telephone, and
33 providing domestic abuse victim advocacy.
34 NEW PARAGRAPH. d. Advertise the toll-free telephone
35 hotline through the use of public service announcements,

1 billboards, print and broadcast media services, and other
2 appropriate means, and contact media organizations to
3 encourage the provision of free or inexpensive advertising
4 concerning the hotline and its services.
5 NEW PARAGRAPH. e. Develop, with the assistance of the
6 entity operating the telephone hotline and other domestic
7 abuse victim services providers, brochures explaining the
8 rights of victims set forth under section 236.12 and the
9 services of the telephone hotline, and distribute the
10 brochures to law enforcement agencies, victim service
11 providers, health practitioners, charitable and religious
12 organizations, and other entities that may have contact with
13 victims of domestic abuse.
14 NEW PARAGRAPH. f. Designate and award grants to
15 batterers' treatment programs. Grant awards for batterers'
16 treatment programs shall be awarded only to supplement those
17 programs which cannot be funded wholly from batterers.
18 Sec. 21. NEW SECTION. 236.17 DOMESTIC ABUSE TRAINING
19 REQUIREMENTS.
20 The department, in cooperation with victim service
21 providers, shall work with various professional organizations
22 to encourage organizations to establish training programs for
23 professionals who work in the area of domestic abuse
24 prevention and services. The Iowa law enforcement academy
25 shall require domestic abuse training for law enforcement
26 officers as set forth in section 80B.11. Domestic abuse
27 training shall include, but is not limited to, the following
28 areas:
29 1. The enforcement of both civil and criminal remedies in
30 domestic abuse matters.
31 2. The nature, extent, and causes of domestic abuse.
32 3. The legal rights and remedies available to domestic
33 abuse victims, including crime victim compensation.
34 4. Services available to domestic abuse victims and their
35 children, including the domestic abuse telephone hotline.

1 5. The mandatory arrest provisions of section 236.12, and
2 other duties of peace officers pursuant to this chapter.
3 6. Techniques for intervention in domestic abuse cases.
4 Sec. 22. NEW SECTION. 236.18 REFERENCE TO CERTAIN
5 CRIMINAL PROVISIONS.
6 In addition to the criminal penalties contained in this
7 chapter, certain criminal penalties and provisions pertaining
8 to domestic abuse assaults are set forth in sections 708.2A
9 and 708.2B.
10 Sec. 23. Section 246.105, Code 1991, is amended by adding
11 the following new subsection:
12 NEW SUBSECTION. 9A. Adopt rules in accordance with
13 chapter 17A concerning procedures to be followed by the
14 judicial district departments of correctional services in
15 implementing batterers' treatment programs pursuant to section
16 708.2B.
17 Sec. 24. Section 246.108, subsection 1, Code 1991, is
18 amended by adding the following new paragraphs:
19 NEW PARAGRAPH. p. Adopt rules subject to the approval of
20 the board, requiring the establishment and implementation of
21 batterers' support groups in all of the institutions under the
22 jurisdiction of the department.
23 NEW PARAGRAPH. q. Adopt rules subject to the approval of
24 the board, requiring special training for employees of the
25 Iowa correctional institution for women. The rules shall
26 require that these employees receive training concerning the
27 needs of female inmates. The rules shall mandate that the
28 training include, but is not limited to, problems associated
29 with battered spouse syndrome. As used in this paragraph,
30 "battered spouse syndrome" means the psychological condition
31 of a victim of repeated physical and psychological abuse by a
32 spouse, former spouse, cohabitant, or former cohabitant, which
33 is also recognized in the medical and scientific community as
34 the "battered women's syndrome." The rules shall require new
35 employees to receive the training during the employees'

1 initial orientation to the institution.
2 Sec. 25. Section 279.50, subsection 4, unnumbered
3 paragraph 2, Code 1991, is amended to read as follows:
4 Each school board shall provide instruction in human growth
5 and development including instruction regarding human
6 sexuality, self-esteem, stress management, interpersonal
7 relationships, domestic abuse, and acquired immune deficiency
8 syndrome as required in section 256.11, in grades one through
9 twelve. Each school board shall annually provide to a parent
10 or guardian of any pupil enrolled in the school district,
11 information about the human growth and development curriculum
12 used in the pupil's grade level and the procedure for
13 inspecting the instructional materials prior to their use in
14 the classroom. A pupil shall not be required to take
15 instruction in human growth and development if the pupil's
16 parent or guardian files with the appropriate principal a
17 written request that the pupil be excused from the
18 instruction. Notification that the written request may be
19 made shall be included in the information provided by the
20 school district.
21 Sec. 26. Section 331.756, Code 1991, is amended by adding
22 the following new subsection:
23 NEW SUBSECTION. 16A. Notify the Iowa law enforcement
24 academy within thirty days of when the county attorney becomes
25 aware of any former or current law enforcement officer who has
26 been convicted of or received a deferred judgment for an
27 indictable offense, under procedures established pursuant to
28 section 80B.11. The county attorney shall also notify the
29 attorney general within thirty days of when the county
30 attorney becomes aware of any former or current law
31 enforcement officer who has been convicted of or received a
32 deferred judgment for an indictable misdemeanor.
33 Sec. 27. NEW SECTION. 598.42 NOTICE OF CERTAIN ORDERS BY
34 CLERK OF COURT.
35 The clerk of the district court shall provide oral or other

1 notice and copies of temporary or permanent protective orders
2 and orders to vacate the homestead entered pursuant to this
3 chapter to the applicable law enforcement agencies and the
4 twenty-four hour dispatcher for the law enforcement agencies,
5 in the manner provided for protective orders under section
6 236.5. The clerk shall provide oral or other notice and
7 copies of modifications or vacations of these orders in the
8 same manner.
9 Sec. 28. Section 602.8105, subsection 1, paragraph a, Code
10 1991, is amended to read as follows:
11 a. For filing and docketing a petition other than for
12 modification of a dissolution decree to which a written
13 stipulation is attached at the time of filing containing the
14 agreement of the parties to the terms of the modification, or
15 an appeal or writ of error, ~~forty-five~~ fifty dollars. Four
16 dollars of the fee shall be deposited in the court revenue
17 distribution account established under section 602.8108, and
18 forty-one dollars of the fee shall be paid into the state
19 treasury. Five dollars of the fee shall be remitted to the
20 treasurer of state for deposit in the domestic abuse services
21 fund established in section 236.15. Of the amount paid to the
22 state treasury, one dollar shall be deposited in the judicial
23 retirement fund established in section 602.9104 to be used to
24 pay retirement benefits of the judicial retirement system, and
25 the remainder shall be deposited in the general fund of the
26 state. In counties having a population of one hundred
27 thousand or over, an additional five dollars shall be charged
28 and collected, to be known as the journal publication fee and
29 used for the purposes provided for in section 618.13.
30 Sec. 29. Section 602.8105, subsection 1, paragraphs l, m,
31 and n, Code 1991, are amended to read as follows:
32 l. In criminal cases, the same fees for the same services
33 as in civil cases, and a five dollar fee to be remitted to the
34 treasurer of state by the clerk of the district court for
35 deposit in the domestic abuse services fund established in

1 section 236.15, to be paid by the county or city, which has
2 the duty to prosecute the criminal action, payable as provided
3 in section 602.8109. When judgment is rendered against the
4 defendant, costs collected from the defendant shall be paid to
5 the county or city which has the duty to prosecute the
6 criminal action to the extent necessary for reimbursement for
7 fees paid. However, the fees which are payable by the county
8 to the clerk of the district court for services rendered in
9 criminal actions prosecuted under state law and in habitual
10 offender actions pursuant to section 321.556, and the court
11 costs taxed in connection with the trial of those actions or
12 appeals from the judgments in those actions are waived.
13 m. For filing an application for a license to marry,
14 ~~fifteen~~ thirty dollars. The clerk of the district court shall
15 remit to the treasurer of state ~~five~~ twenty dollars for each
16 marriage license application filed. The treasurer of state
17 shall deposit five dollars of the funds received in the
18 general fund of the state, and fifteen dollars of the funds in
19 the domestic abuse services fund established in section
20 236.15. For issuing an application for an order of the
21 district court authorizing the issuance of a license to marry
22 prior to the expiration of three days from the date of filing
23 the application for the license, five dollars. The court
24 shall authorize the issuance of a marriage license without the
25 payment of any fees imposed by this paragraph upon a showing
26 that the applicant is unable to pay the fees.
27 n. For entering a final decree of dissolution of marriage,
28 fifteen dollars. The fees shall be deposited in the ~~general~~
29 domestic abuse services fund ~~of the state~~ established in
30 section 236.15. ~~It is the intent of the general assembly that~~
31 ~~the funds generated from the dissolution fees be appropriated~~
32 ~~and used for sexual assault and domestic violence centers.~~
33 Sec. 30. Section 602.8106, subsection 1, Code 1991, is
34 amended to read as follows:
35 1. Notwithstanding section 602.8105, the fee for the

filing and docketing of a complaint or information for a simple misdemeanor is ~~twenty~~ twenty-five dollars except that the filing and docketing of a complaint or information for a nonscheduled simple misdemeanor under chapter 321 is ~~fifteen~~ twenty dollars. The clerk of court shall remit five dollars of the fees for the filing and docketing of a complaint or information in misdemeanor matters to the treasurer of state for deposit in the domestic abuse services fund established in section 236.15. The fee for filing and docketing a complaint or information or uniform citation and complaint for parking violations under sections 321.236, 321.239, 321.358, 321.360, and 321.361 is one dollar, effective January 1, 1991. The court costs in cases of parking meter and overtime parking violations which are denied, and charged and collected pursuant to section 321.236, subsection 1, or pursuant to a uniform citation and complaint are eight dollars per information or complaint or per uniform citation and complaint, effective January 1, 1991.

Sec. 31. Section 602.8106, subsection 5, unnumbered paragraph 1, Code 1991, is amended to read as follows:

~~All~~ Except for funds designated for deposit in the domestic abuse services fund, all fees and costs for the filing of a complaint or information or upon forfeiture of bail received from a magistrate shall be distributed by the clerk as follows:

Sec. 32. Section 631.6, subsection 1, Code 1991, is amended to read as follows:

1. The docket fee for a small claims action is ~~fifteen~~ twenty dollars. Five dollars of the docket fee shall be deposited in the court revenue distribution account established under section 602.8108, five dollars shall be remitted to the treasurer of state for deposit in the domestic abuse services fund established in section 236.15, and ten dollars of the fee shall be paid into the state treasury. Of the amount paid into the state treasury, one dollar shall be

1 deposited in the judicial retirement fund established in
2 section 602.9104 to be used to pay retirement benefits of the
3 judicial retirement system, and the remainder shall be
4 deposited in the general fund of the state.
5 Sec. 33. Section 708.2A, Code 1991, is amended by striking
6 the section and inserting in lieu thereof the following:
7 708.2A DOMESTIC ABUSE ASSAULT -- MANDATORY MINIMUMS,
8 PENALTIES ENHANCED.
9 1. For the purposes of this chapter, "domestic abuse
10 assault" means an assault, as defined in section 708.1, which
11 is domestic abuse as defined in section 236.2.
12 2. On a first offense of domestic abuse assault, the
13 person commits:
14 a. An aggravated misdemeanor, if the domestic abuse
15 assault is committed with the intent to inflict a serious
16 injury upon another, or if the person uses or displays a
17 dangerous weapon in connection with the assault. This
18 paragraph does not apply if section 708.6 or 708.8 applies.
19 b. A serious misdemeanor, if the domestic abuse assault is
20 committed without the intent to inflict a serious injury upon
21 another, and the assault causes bodily injury or disabling
22 mental illness.
23 c. A simple misdemeanor for any other domestic abuse
24 assault, except as otherwise provided.
25 3. Except as otherwise provided in subsection 2, on a
26 second or subsequent domestic abuse assault, a person commits:
27 a. A serious misdemeanor, if the first offense was
28 classified as a simple misdemeanor, and the second offense
29 would otherwise be classified as a simple misdemeanor.
30 b. An aggravated misdemeanor, if the first offense was
31 classified as a simple misdemeanor, and the second offense
32 would otherwise be classified as a serious misdemeanor, or the
33 first offense was classified as a serious misdemeanor, and the
34 second offense would otherwise be classified as a simple or
35 serious misdemeanor.

1 A conviction for, deferred judgment for, or plea of guilty
2 to, a violation of this section which occurred more than six
3 years prior to the date of the violation charged shall not be
4 considered in determining that the violation charged is a
5 second, third, or subsequent offense. For the purpose of
6 determining if a violation charged is a second, third, or
7 subsequent offense, deferred judgments issued pursuant to
8 section 907.3 for violations of section 708.2, which were
9 issued on domestic abuse assaults prior to July 1, 1991, and
10 convictions or the equivalent of deferred judgments for
11 violations in any other states under statutes substantially
12 corresponding to this section shall be counted as previous
13 offenses. The courts shall judicially notice the statutes of
14 other states which define offenses substantially equivalent to
15 the offenses defined in this section and can therefore be
16 considered corresponding statutes. Each previous violation on
17 which conviction or deferral of judgment was entered prior to
18 the date of the offense charged shall be considered and
19 counted as a separate previous offense. An offense shall be
20 considered a prior offense regardless of whether it was
21 committed upon the same victim.
22 4. A person convicted of violating this section shall not
23 be eligible for a deferred sentence or judgment, and shall
24 serve a minimum term of two days of the sentence imposed by
25 law, and shall not be eligible for suspension of the minimum
26 sentence. The minimum term shall be served on consecutive
27 days. This section does not prohibit the court from
28 sentencing and the defendant from serving the maximum term of
29 confinement or from paying the maximum fine permitted pursuant
30 to chapters 902 and 903.
31 5. The clerk of the district court shall provide oral or
32 other notice and copies of a judgment entered under this
33 section to the applicable law enforcement agencies and the
34 twenty-four hour dispatcher for the law enforcement agencies,
35 in the manner provided for protective orders under section

1 236.5. The clerk shall provide oral or other notice and
2 copies of modifications of the judgment in the same manner.
3 6. In addition to the mandatory minimum term of
4 confinement imposed by this section, the court shall order the
5 defendant to participate in a batterers' treatment program as
6 required under section 708.2B. The clerk of the district
7 court shall send a copy of the judgment to the judicial
8 district department of correctional services.
9 Sec. 34. NEW SECTION. 708.2B TREATMENT OF DOMESTIC ABUSE
10 OFFENDERS.
11 As used in this section, "district department" means a
12 judicial district department of correctional services,
13 established pursuant to section 905.2. A person convicted of
14 domestic abuse assault shall report to the district department
15 in order to participate in a batterers' treatment program for
16 domestic abuse offenders. The district department shall
17 collect a two hundred fifty dollar repayment receipt from the
18 offender to pay for the treatment, but may waive the repayment
19 upon a showing of cause. The repayment receipts shall be used
20 by each of the district departments for the establishment,
21 administration, coordination, and provision of direct services
22 of the batterers' treatment programs, and for the supervision
23 of offenders enrolled in the program.
24 Sec. 35. Section 905.6, Code 1991, is amended by adding
25 the following new subsection:
26 NEW SUBSECTION. 8. Administer the batterers' treatment
27 program for domestic abuse offenders required in section
28 708.2B, pursuant to rules adopted by the board of corrections.
29 Sec. 36. Section 905.7, Code 1991, is amended by adding
30 the following new subsection:
31 NEW SUBSECTION. 8. Administer the batterers' treatment
32 program required in section 708.2B pursuant to procedures
33 established by the board of corrections.
34 Sec. 37. Section 907.3, unnumbered paragraph 1, Code 1991,
35 is amended to read as follows:

1 Pursuant to section 901.5, the trial court may, upon a plea
2 of guilty, a verdict of guilty, or a special verdict upon
3 which a judgment of conviction may be rendered, exercise any
4 of the options contained in this section. However, this
5 section does not apply to a forcible felony. In addition,
6 this section does not apply to an offense under section
7 708.2A, except that the court may suspend the remainder of a
8 sentence once the defendant has served the mandatory minimum
9 term imposed.
10 Sec. 38. Section 910A.11, subsection 1, unnumbered
11 paragraph 2, Code 1991, is amended to read as follows:
12 A temporary restraining order may be issued under this
13 subsection without written or oral notice to the adverse party
14 or the party's attorney in a civil action under this section
15 or in a criminal case if the court finds, upon written
16 certification of facts, that the notice should not be required
17 and that there is a reasonable probability that the party will
18 prevail on the merits. The temporary restraining order shall
19 set forth the reasons for the issuance of the order, be
20 specific in terms, and describe in reasonable detail the act
21 or acts being restrained.
22 Sec. 39. Section 910A.11, Code 1991, is amended by adding
23 the following new subsections:
24 NEW SUBSECTION. 3. Violation of a restraining or
25 protective order issued under this section constitutes
26 contempt of court, and may be punished by contempt
27 proceedings.
28 NEW SUBSECTION. 4. An application may be made pursuant to
29 this section in a criminal case, and if made, a district
30 associate judge having jurisdiction of the highest offense
31 charged in the criminal case or a district judge shall have
32 jurisdiction to enter an order under this section.
33 NEW SUBSECTION. 5. The clerk of court shall provide oral
34 or other notice and copies of restraining orders issued
35 pursuant to this section in a criminal case involving an

1 alleged violation of section 708.2A to the applicable law
2 enforcement agencies and the twenty-four hour dispatcher for
3 the law enforcement agencies, in the manner provided for
4 protective orders under section 236.5. The clerk shall
5 provide oral or other notice and copies of modifications or
6 vacations of these orders in the same manner.
7 Sec. 40. PILOT PROGRAM FOR DOMESTIC ABUSE PROSECUTION
8 PLANS AND PROCEDURES.
9 1. The prosecuting attorneys training coordinator shall
10 establish a pilot program pertaining to the prosecution of
11 domestic abuse assaults. For the purposes of this section,
12 "domestic abuse assault" means an assault, as defined in
13 section 708.1 which is domestic abuse as defined in section
14 236.2. The prosecuting attorneys training coordinator, in
15 consultation with the criminal and juvenile justice planning
16 council, shall select five county attorneys whose
17 jurisdictions have a dismissal rate in domestic abuse assault
18 cases of higher than fifty percent. If the prosecuting
19 attorneys training coordinator is unable to select five county
20 attorneys whose jurisdictions have a dismissal rate of over
21 fifty percent, the coordinator shall select county attorneys
22 with the highest dismissal rates available. These five county
23 attorneys shall participate in the pilot program.
24 2. The coordinator shall direct the five county attorneys
25 to develop and implement a written plan to expedite and
26 improve the efficiency and just disposition of domestic abuse
27 matters in their respective jurisdictions. The county
28 attorneys shall solicit input from the chief judge of the
29 judicial district in which their county is located and law
30 enforcement agencies within their jurisdictions in developing
31 the written plan. The program participants shall seek
32 assistance from domestic abuse advocates and other interested
33 members of the public in the development of a model plan and
34 in the development or adaptation of the plans in each of the
35 jurisdictions represented by the five county attorneys. Once

1 a model plan is developed, the prosecuting attorneys training
2 coordinator shall make it available to all prosecuting
3 attorneys, regardless of whether the prosecuting attorneys are
4 participants in the pilot program. All plans must state goals
5 and contain policies and procedures to address the following
6 matters:
7 a. The early assignment of a prosecuting attorney, who has
8 the responsibility of handling a domestic abuse assault matter
9 through disposition, and who is also responsible for
10 establishing early contact with the victim.
11 b. The facilitation of the earliest possible contact
12 between the prosecuting attorney's office and the victim for
13 the purpose of acquainting the victim with the criminal
14 justice process, the use of subpoenas, the victim's role as a
15 witness in the prosecution, a victim's rights under chapter
16 236, and available domestic abuse and victim services.
17 c. The coordination of the prosecuting attorney's efforts
18 with those of a domestic abuse advocate or victim advocate,
19 where available, and to facilitate the early provision of
20 victim advocacy services.
21 d. Methods that will be used to identify, gather, and
22 preserve evidence, in addition to the victim's testimony, that
23 will enhance the ability to prosecute a case when a victim is
24 reluctant to assist, including, but not limited to, physical
25 evidence of the victim's injury, evidence relating to the
26 scene of the crime, eye witness testimony, and statements of
27 the victim made at or near the time of injury.
28 e. The education of local law enforcement agencies about
29 the contents of the plan and their role in assisting with its
30 implementation.
31 f. The use of subpoenas of victims and witnesses, where
32 appropriate.
33 g. Annual review of the plan to evaluate whether it is
34 meeting its goals effectively and whether improvements are
35 needed.

1 h. A timetable for implementation.
2 3. A copy of each plan shall be filed with the prosecuting
3 attorneys training coordinator by July 1, 1992. The county
4 attorneys selected for the pilot program shall file a status
5 report on the pilot program by July 1, 1993. The status
6 report must contain information on the number of prosecutions
7 and dismissals of domestic abuse cases in the county
8 attorney's office.
9 Sec. 41. RESTITUTION PLAN. The department of justice
10 shall develop a plan for the enforcement and collection of
11 victim restitution required under chapter 910, and shall
12 submit a report detailing the plan to the general assembly by
13 January 1, 1992.
14 Sec. 42. RETROACTIVE APPLICABILITY PROVISION. Section 19
15 of this Act is retroactively applicable to January 1, 1991,
16 for tax years beginning on or after that date.
17 Sec. 43. IMPLEMENTATION OF SPECIAL TRAINING AT
18 MITCHELLVILLE -- APPLICABILITY PROVISIONS -- EXISTING
19 EMPLOYEES. Persons employed at the Iowa correctional
20 institution for women prior to July 1, 1991, shall receive the
21 training required for new employees pursuant to the changes
22 creating a new paragraph "q" to section 246.108, subsection 1,
23 of section 24 of this Act, prior to January 1, 1992.
24 Sec. 44. IMPLEMENTATION AND EFFECTIVE DATE OF BATTERERS'
25 TREATMENT PROGRAMS.
26 1. The portion of section 33 of this Act which enacts new
27 subsection 6 of section 708.2A takes effect on January 1,
28 1992, in order to permit the judicial district departments of
29 correctional services to establish batterers' programs and for
30 the board of corrections to adopt appropriate rules for the
31 programs.
32 2. From July 1, 1991, through December 31, 1991, the court
33 shall order a defendant convicted of a violation of section
34 708.2A to participate in a batterers' treatment program
35 through other treatment or counseling services, until the

1 programs are established by the judicial district departments
2 of correctional services, to the extent that the court has the
3 authority under existing sentencing procedures. The court
4 shall order the defendant to pay for the treatment, unless
5 just cause is demonstrated for waiving the fee.
6 Sec. 45. EFFECTIVENESS CONTINGENT UPON SEPARATE FUNDING.
7 Sections 24 and 43 of this Act take effect upon enactment of a
8 provision by the Seventy-fourth General Assembly during the
9 1991 regular session specifically appropriating funds for the
10 particular purposes expressed in those sections.
11 Sec. 46. EFFECTIVE DATE PROVISION -- LAW ENFORCEMENT
12 ACADEMY CURRICULUM ADVISORY COMMITTEE. Section 8 of this Act
13 takes effect on July 1, 1992.
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SENATE FILE 444
FISCAL NOTE

A fiscal note for **Senate File 444** is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

1. Senate File 444 provides new requirements pertaining to law enforcement, victim services, and domestic abuse. Sections 1 through 9, and 23, require the Iowa Law Enforcement Academy (ILEA) to initiate proceedings for revocation of certification for law enforcement officers who have committed a felony or aggravated misdemeanor. One member is added to the ILEA council. ILEA is required to adopt rules specifying a course of study for domestic abuse and minimum continuing training requirements. The ILEA council is required to accredit training courses. ILEA is required to conduct a survey every 5 years for use as a curriculum and continuing education guide. A Law Enforcement Academy Curriculum Advisory Committee is created to review the survey and make recommendations regarding curriculum.

2. Section 10 requires the Department of Inspections and Appeals to develop rules to require hospitals to establish procedures concerning domestic abuse matters as a condition of licensure.

3. Sections 11, 12, 14, and 17 provide that plaintiffs who proceed in domestic abuse cases without legal representation, may do so on forms developed by the Attorney General's Office and distributed by the clerks of court.

4. Section 13 eliminates court costs and costs of services for the parties in actions involving domestic abuse protective orders, except for court-ordered counseling.

5. Sections 15, 18, 29 and 41 require the clerks of court to notify law enforcement and dispatchers within 6 hours of filing the order in civil and criminal matters of domestic abuse, assault, victim and witness protection, and dissolution of marriage. The clerks are required to provide written copies of the orders within 24 hours of filing the orders.

6. Sections 16 and 28 impose notification requirements upon law enforcement agencies and county attorneys concerning indictable offenses committed by law enforcement officers. Section 18 provides that in contempt proceedings concerning violation of a domestic abuse no-contact order, a person found in contempt shall be confined in the county jail for at least 7 days. Section 41 provides that violation of a restraining or protective order may be punished by contempt proceedings.

7. Sections 20, 21, 30 through 34, and 44 create a Domestic Abuse Services Fund which is administered by the Department of Justice to provide services to victims of domestic abuse and sexual assault, and batterer's

treatment funding. Receipts to the Fund are from:

A. An income tax checkoff for domestic abuse services.
B. A $5 increase in court fees for filing and docketing a petition in civil matters, a complaint or information in criminal prosecutions, and small claims actions.
C. A $15 increase in marriage application fees.
D. Diversion of the revenue from the marriage dissolution decree fee from the General Fund to the Domestic Abuse Services Fund.

8. Section 22 requires the Department of Justice to award grants to care providers of victims, batterer's programs, for operation of a toll-free domestic abuse telephone hotline, and to provide services to publicize the hotline. The Department of Justice is required to encourage professional organizations to establish training programs for people working with domestic abuse prevention and services.

9. Section 27 requires that domestic abuse is to be included as a topic of instruction for grades 1 through 12.

10. Sections 26 and 45 require the Department of Corrections (DOC) to establish batterer's support groups in all of the prisons. Staff at the Iowa Correctional Institutions for Women (Mitchellville) are required to receive training concerning female inmates' needs. Current employees are to receive the training by January 1, 1992, while new employees are required to receive the training prior to employment.

11. Sections 25, 35, 36, 37, 39 and 46 increase current penalties and create new offenses for domestic abuse. A graduated penalty system is created for domestic abuse repeat offenders, and for offenders who repeat an assault within 24 hours of arrest or citation. Penalties range from a simple misdemeanor to a Class D felony. The entry of deferred judgements and deferred sentences is prohibitted, plus sentences cannot be suspended until the mandatory minimum term of 2 days has been served. Judges are required to order offenders to receive batterer's treatment by reporting to Community Based Corrections, beginning January 1, 1992. Judges shall order offenders to existing programs in the interim. The offender is required to pay $250 for the batterer program, which may be waived upon a showing of cause.

12. Section 42 requires the Prosecuting Attorney Training Coordinator to establish a pilot program for domestic abuse prosecution plans and procedures. The county attorneys are required to develop and implement written plans to expedite and improve the disposition of domestic abuse matters in their jurisdictions. The plans, and status reports, are required to be filed with the Prosecuting Attorney Training Coordinator.

Assumptions

1. No State, local, or federal agency monitors the actual number of domestic abuse cases which proceed through the criminal justice system. Only arrests are reported. Domestic abuse assault cases which do proceed through the courts are not monitored separately from other types of

assault. Lastly, simple misdemeanor offenders are not subject to supervision, so the number of domestic abuse assault offenders who receive a simple misdemeanor penalty are not known. Therefore, it is not possible to estimate the fiscal impact of increasing penalties and creating new crimes. Increasing a penalty or creating a new crime may increase costs of the criminal justice system at the State and local levels. This includes the costs of incarceration pending sentencing, prosecution and defense, increased criminal court cases, community-based supervision, and incarceration at the State or local level upon sentencing.

2. There were 5,927 domestic abuse cases reported during calendar 1989. Of these, 4,044 resulted in an arrest. Of those arrested, 98% involved assault. For the cases reported in 1989, 91% were for 1 assault, 7% were for 2 assaults, and 2% were for 3 or more assaults. Assuming 4,000 arrests for domestic abuse and subtracting those which do not involve assault, results in 3,920 arrests which could proceed as a criminal action. Assuming 50% of these cases proceed to trial and are tried successfully, this would result in 1,960 offenders. Of these, 1,784 (91%) may be for 1 offense, 137 (7%) may be for 2 offenses, while 39 (2%) may be for 3 or more offenses. These figures do not address the provisions which increase the penalty depending upon the intent of the offender, nor do these figures address the provisions which relate to prior offenses in the last 6 years.

3. The elimination of court costs and costs of services for domestic abuse protective orders will decrease General Fund revenues. The Judicial Department does not monitor the number of protective orders issued per year. Assuming 2,980 protective orders are issued at the current filing fee of $70, State General Fund revenues would decrease by an estimated $208,600.

4. The fee increases are based on the following estimated number of filings and are estimated to generate the following revenues. The $5 increase in the civil and small claims filing fee plus the criminal service fee is estimated to generate $542,955 (108,591 cases x $5). The $15 increase for marriage license applications is estimated to generate $411,900 (27,460 applications x $15). The $5 increase for filing simple misdemeanor cases is estimated to generate $515,000 (103,018 cases x $5). The dissolution decree fee is estimated to generate $141,300 (9,418 cases x $15). This revenue would be diverted from the General Fund to the Domestic Abuse Services Fund.

E 4 , FISCAL NOTE, SENATE FILE 444

-4-

Fiscal Impact

graph	Source	Impact
	State General Fund	$139,900 increased costs
	State General Fund	4,200 increased costs
e	State General Fund	3,100 increased costs
	State General Fund	208,600 decreased revenue
	State General Fund	36,600 increased costs
	Local Governments	* 200,000 increased costs
n	State General Fund	141,300 decreased revenue
	Dom. Abuse Services Fund	1,611,200 increased revenue
t	Dom. Abuse Serv. Fund	60,000 increased costs
	State General Fund	25,500 increased costs
	State General Fund	297,700 increased costs
en	State General Fund	308,800 increased costs
	Local Governments	* included in Paragraph 6
ve	State General Fund	20,000 increased costs

For those items which can be estimated, including revenue decreases and expenditure increases, the impact on the State General Fund is estimated to be $1,185,700. The impact on the counties is estimated to be $200,000. The balance in the newly created Domestic Abuse Services Fund is estimated to be $1,551,200. This figure includes the costs of the Department of Justice, but does not include costs for grants to batterer treatment programs.

Sources: Department of Human Rights
Department of Inspections and Appeals
Department of Corrections
Judicial Department
Iowa State Association of Counties
Department of Revenue and Finance
Iowa Law Enforcement Academy
Department of Justice
Department of Education

(LSB 2445sv.2, BAL)

LED MARCH 27, 1991 BY DENNIS PROUTY, FISCAL DIRECTOR

SENATE FILE 444

S-3228

1 Amend Senate File 444 as follows:
2 1. Page 6, line 1, by striking the words "supreme
3 court" and inserting the following: "department".
4 2. Page 8, by striking lines 16 through 22.
5 3. Page 15, line 7, by inserting after the word
6 "dollars." the following: "The court shall authorize
7 the issuance of a marriage license without the payment
8 of any fees imposed by this paragraph upon a showing
9 that the applicant is unable to pay the fees."
10 4. Page 18, line 15, by striking the word
11 "remaining" and inserting the following: "minimum".
12 5. Page 21, line 13, by striking the word
13 "judges" and inserting the following: "the chief
14 judge of the judicial district in which their county
15 is located".
16 6. By renumbering and correcting internal
17 references as necessary.

By AL STURGEON

S-3228 FILED MARCH 28, 1991
ADOPTED (p. 945)

SENATE FILE 444

S-3232

1 Amend Senate File 444 as follows:
2 1. Page 12, by striking lines 23 and 24 and
3 inserting the following: "employees to receive the
4 training during the employees' initial orientation to
5 the institution."

By MICHAEL GRONSTAL

S-3232 FILED MARCH 28, 1991
ADOPTED (p. 946)

SENATE FILE 444

S-3234

1 Amend Senate File 444 as follows:
2 1. By striking page 1, line 21 through page 2,
3 line 12.
4 2. Page 3, by striking lines 18 through 24.
5 3. By striking page 3, line 25 through page 4,
6 line 23.
7 4. Page 11, by striking lines 12 through 14 and
8 inserting the following: "prevention and services.
9 Domestic abuse".
10 5. By renumbering and correcting internal
11 references as necessary.

By JAMES KERSTEN

S-3234 FILED MARCH 28, 1991
RULED OUT OF ORDER (p. 945)

SENATE FILE 444

S-3218

1 Amend Senate File 444 as follows:
2 1. Page 6, by inserting after line 21, the
3 following:
4 "Sec. ___. Section 236.8, Code 1991, is amended to
5 read as follows:
6 236.8 CONTEMPT.
7 The court may hold a party in contempt for a
8 violation of an order or court-approved consent
9 agreement entered under this chapter, for violation of
10 a temporary or permanent protective order or order to
11 vacate the homestead under chapter 598, or for
12 violation of any order that establishes conditions of
13 release or is a protective order or sentencing order
14 in a criminal prosecution arising from a domestic
15 abuse assault. If held in contempt, the defendant
16 shall serve a jail sentence ~~which may be on weekends.~~
17 Any jail sentence imposed under this section shall be
18 served on consecutive days."
19 2. Page 8, line 15, by inserting after the word
20 "days." the following: "A jail sentence imposed
21 pursuant to this paragraph shall be served on
22 consecutive days."
23 3. Page 18, line 16, by inserting after the word
24 "sentence." the following: "The minimum term shall be
25 served on consecutive days."
26 4. By renumbering as necessary.

By JEAN LLOYD-JONES

S-3218 FILED MARCH 28, 1991
ADOPTED (p. 945)

SENATE FILE 444

S-3223

1 Amend Senate File 444 as follows:
2 1. Page 16, by striking lines 30 through 35.
3 2. Page 17, line 1, by striking the letter "b"
4 and inserting the following: "a".
5 3. Page 17, line 6, by striking the letter "c"
6 and inserting the following: "b".
7 4. Page 17, line 10, by striking the letter "d"
8 and inserting the following: "c".
9 5. Page 17, by striking lines 23 through 25.

By LARRY MURPHY
MICHAEL E. GRONSTAL
RICHARD DRAKE

S-3223 FILED MARCH 28, 1991
ADOPTED (p. 946)

SENATE FILE 444

S-3225

1 Amend Senate File 444 as follows:
2 1. Page 1, line 4, by striking the words
3 "committed serious misdemeanors" and inserting the
4 following: "been convicted or received a deferred
5 judgment for an indictable misdemeanor".
6 2. Page 1, line 17, by inserting before the word
7 "prosecuting" the following: "former or current".
8 3. Page 1, by striking lines 31 through 33, and
9 inserting the following: "assistance organizations."
10 4. Page 2, by striking lines 9 through 12, and
11 inserting the following: "accredited continuing
12 training requirements as a condition for continued
13 certification. These rules shall include procedures
14 for the law enforcement academy curriculum advisory
15 committee to review the reports and make
16 recommendations to the council regarding the adequacy
17 of the reports. The rules shall include procedures
18 for accreditation of continuing training courses, upon
19 recommendation by the law enforcement academy
20 curriculum advisory committee pursuant to section
21 80B.18."
22 5. Page 2, line 20, by striking the words "or an
23 aggravated misdemeanor".
24 6. Page 2, line 24, by striking the words "a
25 serious" and inserting the following: "an
26 indictable".
27 7. Page 2, by striking line 28 and inserting the
28 following: "who have been convicted of or received a
29 deferred judgment for an indictable offense to the
30 academy, and to".
31 8. Page 2, by striking lines 33 and 34, and
32 inserting the following: "conviction of or deferred
33 judgment for an indictable offense by a law
34 enforcement officer or any individual who currently
35 has law enforcement certification, whether or not the
36 individual is presently serving as a law enforcement
37 officer. Procedures for receiving similar
38 notification by county attorneys shall be
39 implemented."
40 9. Page 3, line 2, by striking the word "serious"
41 and inserting the following: "indictable".
42 10. Page 3, by striking lines 10 through 13, and
43 inserting the following: "for the conviction of or
44 upon entry of a deferred judgment for a felony, upon
45 conducting the applicable revocation proceedings. The
46 council shall initiate revocation proceedings upon
47 recommendation of the attorney general in indictable
48 misdemeanor cases, as provided".
49 11. Page 3, by striking lines 18 through 24.
50 12. Page 4, by striking lines 11 and 12, and

S-3225
Page 2

1 inserting the following:
2 "g. Two public members, one of whom has received
3 victim services, and one who is a victim service
4 provider."
5 13. Page 4, line 16, by inserting after the
6 figure "80B.17." the following: "The committee shall
7 use the task survey to make a specific recommendation
8 concerning the number of hours of study in the
9 curriculum which should be devoted exclusively to
10 domestic abuse training covering the topics set forth
11 in section 236.17."
12 14. Page 4, by inserting after line 23, the
13 following:
14 " . The committee shall review reports
15 concerning the completion of accredited continuing
16 training requirements pursuant to rules adopted under
17 section 80B.11. The committee shall review
18 applications for accreditation of continuing training
19 courses and make recommendations according to the
20 procedures adopted by rule pursuant to section
21 80B.11."
22 15. Page 13, by striking lines 12 through 16 and
23 inserting the following: "academy within thirty days
24 of when the county attorney becomes aware of any
25 former or current law enforcement officer who has been
26 convicted of or received a deferred judgment for an
27 indictable offense, under procedures established
28 pursuant to section 80B.11. The county attorney shall
29 also notify the attorney general within thirty days of
30 when the county attorney becomes aware of any former
31 or current law enforcement officer who has been
32 convicted of or received a deferred judgment for an
33 indictable misdemeanor."
34 16. By numbering and correcting internal
35 references as necessary.

By LARRY MURPHY
AL STURGEON

S-3225 FILED MARCH 28, 1991
ADOPTED (p. 945)

SENATE FILE 444

S-3322

1 Amend Senate File 444 as follows:
2 1. Page 5, by striking lines 6 through 28.
3 2. Page 5, line 33, by inserting after the word
4 "chapter." the following: "The standard forms shall
5 include language in fourteen-point boldface type, with
6 a box which may be checked by the plaintiff,
7 indicating that the plaintiff wishes to proceed by
8 filing an affidavit pursuant to section 236.3, because
9 the plaintiff does not have sufficient funds to pay
10 the cost of filing and service."
11 3. Page 7, line 31, by inserting after the word
12 "representation." the following: "You have the right
13 to seek help from the courts without the payment of
14 court costs if you do not have sufficient funds to pay
15 the costs."
16 4. Page 9, line 10, by inserting after the figure
17 "236.16." the following: "It is the intent of the
18 general assembly that costs associated with batterers'
19 treatment programs shall not be borne by the general
20 fund, and that in administering the domestic abuse
21 services fund, the department shall award sufficient
22 funds to the judicial district departments of
23 correctional services to cover the necessary expenses
24 of the program which cannot be funded wholly from
25 batterers."
26 5. Page 11, line 5, by inserting after the word
27 "programs." the following: "Grant awards for
28 batterers' treatment programs shall be awarded only to
29 supplement those programs which cannot be funded
30 wholly from batterers."
31 6. Page 19, line 8, by inserting after the word
32 "cause." the following: "The repayment receipts shall
33 be used by each of the district departments for the
34 establishment, administration, coordination, and
35 provision of direct services of the batterers'
36 treatment programs, and for the supervision of
37 offenders enrolled in the program."
38 7. Page 23, by inserting after line 24 the
39 following:
40 "Sec. ___. EFFECTIVENESS CONTINGENT UPON SEPARATE
41 FUNDING. Sections 26 and 45 of this Act take effect
42 upon enactment of a provision by the Seventy-fourth
43 General Assembly during the 1991 regular session
44 specifically appropriating funds for the particular
45 purposes expressed in those sections.
46 Sec. ___. EFFECTIVE DATE PROVISION -- LAW EN-
47 FORCEMENT ACADEMY CURRICULUM ADVISORY COMMITTEE.
48 Section 9 of this Act takes effect on July 1, 1992."
49 8. By renumbering and correcting internal
50 references as necessary.

By COMMITTEE ON APPROPRIATONS
LEONARD L. BOSWELL, Chairperson

S-3322 FILED APRIL 4, 1991
Adopted 4/5 (y. 1077)

STURGEON, CH.
DRAKE
SLIFE
GRONSTAL
ROSENBERG
MURPHY
HESTER

SSB 248
JUDICIARY

SENATE FILE 444
BY (PROPOSED COMMITTEE ON JUDICIARY BILL BY CHAIRPERSON STURGEON)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

An Act relating to law enforcement, victim services, and domestic abuse, establishing certain training and certification requirements, imposing liability on governmental entities for failure to make domestic abuse arrests, establishing and increasing certain criminal penalties, imposing mandatory minimum sentences, establishing a domestic abuse services fund, establishing an income tax checkoff for domestic abuse, increasing certain court costs and fees, requiring batterers treatment by offenders, establishing a pilot program, and containing a retroactive applicability provision.

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

TLSB 2445SC 74
mc/cf/24

S.F. _____ H.F. _____

1 Section 1. NEW SECTION. 13.11 INVESTIGATIONS OF LAW
2 ENFORCEMENT OFFICERS INVOLVED IN PUBLIC OFFENSES.
3 The attorney general shall conduct investigations of law
4 enforcement officers who have committed serious misdemeanors,
5 and shall make recommendations to the Iowa law enforcement
6 academy as to whether an officer's certification should be
7 revoked under the criteria established by the academy pursuant
8 to section 80B.11.
9 Sec. 2. Section 25A.14, Code 1991, is amended by adding
10 the following new unnumbered paragraph:
11 NEW UNNUMBERED PARAGRAPH. This section does not exempt the
12 state from liability for the failure of a peace officer to
13 comply with the mandatory arrest provisions contained in
14 section 236.12.
15 Sec. 3. Section 80B.6, unnumbered paragraph 1, Code 1991,
16 is amended to read as follows:
17 There is created the Iowa law enforcement academy council
18 which shall consist of the following ~~seven~~ nine members
19 appointed by the governor subject to confirmation by the
20 senate to terms of four years commencing as provided in
21 section 69.19:
22 Sec. 4. Section 80B.6, Code 1991, is amended by adding the
23 following new subsections:
24 NEW SUBSECTION. 6. A representative from the department
25 of justice.
26 NEW SUBSECTION. 7. A victim service provider.
27 Sec. 5. Section 80B.11, subsections 1 and 2, Code 1991,
28 are amended to read as follows:
29 1. Minimum entrance requirements, course of study,
30 attendance requirements, and equipment and facilities required
31 at approved law enforcement training schools. Minimum age
32 requirements for entrance to approved law enforcement training
33 schools shall be eighteen years of age. Minimum course of
34 study requirements shall include a separate domestic abuse
35 curriculum, which includes outside speakers from domestic

1 abuse shelters and crime victim assistance organizations and
2 at least ten hours of study devoted exclusively to domestic
3 abuse training covering the topics set forth in section
4 236.17.
5 2. Minimum basic training requirements law enforcement
6 officers employed after July 1, 1968, must complete in order
7 to remain eligible for continued employment and the time
8 within which such basic training must be completed. Minimum
9 requirements shall include at least six hours per year devoted
10 to the topic of human relations, with three of those six hours
11 focusing upon domestic abuse. The rules shall include
12 procedures for reporting the completion of accredited basic
13 training requirements as a condition for continued
14 certification, and procedures for council accreditation of
15 basic training courses as provided in section 80B.16.
16 Sec. 6. Section 80B.11, subsection 6, Code 1991, is
17 amended to read as follows:
18 6. Grounds for revocation of a law enforcement officer's
19 certification. The rules shall require revocation of
20 certification if the law enforcement officer is convicted of
21 or receives a deferred judgment for a felony or an aggravated
22 misdemeanor. The rules shall establish review procedures and
23 criteria for possible revocation of the certification of law
24 enforcement officers who are convicted of or receive deferred
25 judgments for commission of a serious misdemeanor. These
26 rules shall include procedures for reporting of law
27 enforcement officers who have committed public offenses to the
28 academy and the attorney general for the purpose of conducting
29 investigations under section 13.11. The rules shall contain
30 procedures for cooperation with the attorney general in
31 investigations in matters involving serious misdemeanors,
32 conducted pursuant to section 13.11. The rules shall require
33 revocation of certification upon recommendation by the
34 attorney general.
35 Sec. 7. Section 80B.11, Code 1991, is amended by adding

1 the following new subsection:
2 NEW SUBSECTION. 9. Time limitations requiring
3 certification within at least six months of initial employment
4 for all law enforcement officers.
5 Sec. 8. NEW SECTION. 80B.16 DUTIES OF COUNCIL PERTAINING
6 TO BASIC TRAINING.
7 The council shall review all basic training courses for
8 which law enforcement officers seek accreditation to fulfill
9 continuing education requirements, and shall either accredit
10 the course for a specified number of hours or refuse to
11 accredit the course.
12 Sec. 9. NEW SECTION. 80B.17 TASK SURVEY AS CURRICULUM
13 GUIDE.
14 The academy shall conduct a task survey biennially, to be
15 used as a guide for adjusting curriculum requirements. The
16 task survey shall examine the proportion of a law enforcement
17 officer's time required to perform each of the officer's major
18 duties.
19 Sec. 10. NEW SECTION. 80B.18 CURRICULUM ADVISORY
20 COMMITTEE.
21 1. A law enforcement academy curriculum advisory committee
22 is established. The committee shall consist of the following
23 members appointed pursuant to rules adopted by the director,
24 subject to the approval of the council:
25 a. One person engaged full time in law enforcement.
26 b. A peace officer instructor who instructs in a law
27 enforcement related training area.
28 c. An instructor from a community college.
29 d. A county attorney or assistant county attorney.
30 e. A public defender or an attorney practicing primarily
31 in criminal defense.
32 f. A person representing the department of justice.
33 g. A public member who has received victim services.
34 h. Two victim service providers.
35 2. The committee shall make recommendations to the academy

1 concerning curriculum. In making recommendations, the
2 committee shall consider the task survey conducted pursuant to
3 section 80B.17.
4 3. The director, subject to the approval of the council,
5 shall adopt rules establishing procedures of operation for the
6 committee, and other matters necessary for the implementation
7 of this section.
8 4. The members of the committee shall be reimbursed for
9 actual and necessary expenses incurred in the performance of
10 their duties.
11 Sec. 11. Section 236.2, Code 1991, is amended by adding
12 the following new subsection:
13 NEW SUBSECTION. 4A. "Pro se" means a person proceeding on
14 the person's own behalf without legal representation.
15 Sec. 12. Section 236.3, subsection 1, Code 1991, is
16 amended to read as follows:
17 1. Name of the plaintiff and the name and address of the
18 plaintiff's attorney, if any. If the plaintiff is proceeding
19 pro se, the petition shall state a mailing address for the
20 plaintiff.
21 Sec. 13. NEW SECTION. 236.3A PLAINTIFFS PROCEEDING PRO
22 SE -- PROVISION OF FORMS AND ASSISTANCE.
23 1. The supreme court shall prescribe standard forms to be
24 used by plaintiffs proceeding pro se in actions under this
25 chapter. Standard forms prescribed by the supreme court shall
26 be the exclusive forms used by plaintiffs proceeding pro se,
27 and may be used by other plaintiffs.
28 2. The clerk of the district court shall furnish the
29 required forms to persons who request to file petitions pro se
30 pursuant to this chapter. The clerk shall assist pro se
31 plaintiffs in procuring service of process, and in completing
32 the affidavit concerning the lack of funds for payment of
33 costs permitted in section 236.3, if necessary. The clerk
34 shall furnish pro se plaintiffs with any additional pleadings
35 forms as required during the course of the proceedings. The

1 clerk shall assist pro se plaintiffs in completing the forms.
2 Sec. 14. Section 236.4, subsection 2, Code 1991, is
3 amended to read as follows:
4 2. The court may enter any temporary order it deems
5 necessary to protect the plaintiff from domestic abuse prior
6 to the hearing, upon good cause shown in an ex parte
7 proceeding. The court may conduct ex parte proceedings by
8 telephone. Present danger of domestic abuse to the plaintiff
9 constitutes good cause for purposes of this subsection.
10 Sec. 15. Section 236.5, subsection 4, Code 1991, is
11 amended to read as follows:
12 4. A certified copy of any order or approved consent
13 agreement shall be issued to the plaintiff, the defendant and
14 law enforcement agencies having jurisdiction to enforce the
15 order or consent agreement, and the twenty-four hour
16 dispatcher for the law enforcement agencies. Any subsequent
17 amendment or revocation of an order or consent agreement shall
18 be forwarded by the clerk to all individuals and agencies
19 previously notified. The clerk shall contact the law
20 enforcement agencies and the twenty-four hour dispatcher by
21 telephone or otherwise within six hours of filing the order,
22 approved consent agreement, amendment, or revocation, and
23 shall send or deliver a written copy to law enforcement
24 agencies and the twenty-four hour dispatcher within twenty-
25 four hours of filing the document.
26 Sec. 16. Section 236.11, unnumbered paragraph 1, Code
27 1991, is amended to read as follows:
28 A peace officer shall use every reasonable means to enforce
29 an order or court-approved consent agreement entered under
30 this chapter, a temporary or permanent protective order or
31 order to vacate the homestead under chapter 598, or any order
32 that establishes conditions of release or is a protective
33 order or sentencing order in a criminal prosecution arising
34 from a domestic abuse assault. If a peace officer has reason
35 to believe that domestic abuse has occurred, the peace officer

1 shall ask the abused person if any prior orders exist, and
2 shall contact the twenty-four hour dispatcher to inquire if
3 any prior orders exist. If a peace officer has probable cause
4 to believe that a person has violated an order or approved
5 consent agreement entered under this chapter, a temporary or
6 permanent protective order or order to vacate the homestead
7 under chapter 598, or any order establishing conditions of
8 release or a protective or sentencing order in a criminal
9 prosecution arising from a domestic abuse assault, the peace
10 officer shall take the person into custody and shall take the
11 person without unnecessary delay before the nearest or most
12 accessible magistrate in the judicial district in which the
13 person was taken into custody. The magistrate shall make an
14 initial preliminary determination whether there is probable
15 cause to believe that an order or consent agreement existed
16 and that the person taken into custody has violated its terms.
17 The magistrate's decision shall be entered in the record.
18 Sec. 17. Section 236.12, subsection 1, paragraph c, Code
19 1991, is amended by adding the following new unnumbered
20 paragraph after subparagraph (4):
21 NEW UNNUMBERED PARAGRAPH. You have the right to seek help
22 from the court with or without the assistance of legal
23 representation.
24 Sec. 18. Section 236.12, subsection 4, Code 1991, is
25 amended to read as follows:
26 4. A peace officer is not civilly or criminally liable for
27 actions pursuant to this section taken in good faith.
28 However, a municipality as defined in section 613A.1, or the
29 state may be civilly liable for damages occurring as a result
30 of a peace officer's failure to follow the mandatory arrest
31 provisions of this section, if the peace officer is an
32 employee of the municipality or the state.
33 Sec. 19. Section 236.14, subsection 2, unnumbered
34 paragraph 4, Code 1991, is amended to read as follows:
35 Violation of this no-contact order is punishable by summary

1 contempt proceedings, or as provided in subsection 3.
2 Sec. 20. Section 236.14, Code 1991, is amended by adding
3 the following new subsection:
4 NEW SUBSECTION. 3. A person who knowingly violates a no-
5 contact order issued pursuant to this section commits a
6 serious misdemeanor. A person convicted of violating this
7 section shall not be eligible for a deferred sentence or
8 judgment, and shall serve a minimum of seven days of the
9 sentence imposed by law, and shall not be eligible for
10 suspension of the remainder of the sentence or for parole
11 until the person has served the minimum sentence of
12 confinement imposed by this section.
13 Sec. 21. Section 236.15, Code 1991, is amended to read as
14 follows:
15 236.15 APPLICATION FOR DESIGNATION AND FUNDING AS A
16 PROVIDER OF SERVICES FOR VICTIMS OF DOMESTIC ABUSE -- DOMESTIC
17 ABUSE SERVICES FUND ESTABLISHED.
18 1. Upon receipt of state or federal funding designated for
19 victims of domestic abuse by the department, a public or
20 private nonprofit organization may apply to the department for
21 designation and funding as a provider of emergency shelter
22 services and support services to victims of domestic abuse and
23 sexual assault. The application shall be submitted on a form
24 prescribed by the department and shall include, but not be
25 limited to, information regarding services to be provided,
26 budget, and security measures.
27 2. The domestic abuse services fund is established as a
28 separate fund in the state treasury under the control of the
29 department. The department, in consultation with the crime
30 victim assistance board, shall administer the funds, which
31 shall be dedicated to and are appropriated for the provision
32 of financial assistance to sexual assault and domestic
33 violence centers, and for the performance of the other duties
34 imposed upon the department under section 236.16.
35 Notwithstanding section 8.33, any balance in the fund on June

1 30 of any fiscal year shall not revert to the general fund of
2 the state.
3 Sec. 22. NEW SECTION. 236.15A INCOME TAX CHECKOFF FOR
4 DOMESTIC ABUSE SERVICES.
5 A person who files an individual or a joint income tax
6 return with the department of revenue and finance under
7 section 422.13 may designate any amount to be paid to the
8 domestic abuse services fund established in section 236.15.
9 If the refund due on the return or the payment remitted with
10 the return is insufficient to pay the additional amount
11 designated by the taxpayer to the domestic abuse services
12 fund, the amount designated shall be reduced to the remaining
13 amount of refund or the remaining amount remitted with the
14 return.
15 The revenues received shall be deposited in the domestic
16 abuse services fund.
17 The director of revenue and finance shall draft the income
18 tax form to allow the designation of contributions to the
19 domestic abuse services fund on the tax return.
20 The department of revenue and finance on or before January
21 31 of the year following the preceding calendar year shall
22 certify the total amount designated on the tax return forms
23 due in the preceding calendar year and shall report the amount
24 to the treasurer of state. The treasurer of state shall
25 credit the amount to the domestic abuse services fund.
26 The department of revenue and finance shall consult the
27 crime victim assistance board concerning the adoption of rules
28 to implement this section. However, before a checkoff
29 pursuant to this section shall be permitted, all liabilities
30 on the books of the department of revenue and finance and
31 accounts identified as owing under section 421.17 and the
32 political contribution allowed under section 56.18 shall be
33 satisfied.
34 Sec. 23. Section 236.16, subsection 1, Code 1991, is
35 amended by adding the following new paragraphs:

1 NEW PARAGRAPH. c. Designate and award moneys from the
2 domestic abuse services fund for publicizing and staffing a
3 statewide, toll-free telephone hotline for use by victims of
4 domestic abuse. The department may award a grant to a public
5 agency or a private, nonprofit organization for the purpose of
6 operating the hotline. The operation of the hotline shall
7 include informing victims of their rights and of various
8 community services that are available, referring victims to
9 service providers, receiving complaints concerning misconduct
10 by peace officers and encouraging victims to refer such
11 complaints to the office of citizens' aide, providing
12 counseling services to victims over the telephone, and
13 providing domestic abuse victim advocacy.
14 NEW PARAGRAPH. d. Advertise the toll-free telephone
15 hotline through the use of public service announcements,
16 billboards, print and broadcast media services, and other
17 appropriate means, and contact media organizations to
18 encourage the provision of free or inexpensive advertising
19 concerning the hotline and its services.
20 NEW PARAGRAPH. e. Develop, with the assistance of the
21 entity operating the telephone hotline and other domestic
22 abuse victim services providers, brochures explaining the
23 rights of victims set forth under section 236.12 and the
24 services of the telephone hotline, and distribute the
25 brochures to law enforcement agencies, victim service
26 providers, health practitioners, charitable and religious
27 organizations, and other entities that may have contact with
28 victims of domestic abuse.
29 Sec. 24. NEW SECTION. 236.17 DOMESTIC ABUSE TRAINING
30 REQUIREMENTS.
31 The prosecuting attorneys training coordination council and
32 the supreme court, in cooperation with the Iowa state bar
33 association and the Iowa hospital association, shall
34 establish, and encourage other organizations to establish,
35 training programs for professionals who work in the area of

1 domestic abuse prevention and services. The Iowa law
2 enforcement academy shall require domestic abuse training for
3 law enforcement officers as set forth in section 80B.11.
4 Domestic abuse training shall include, but is not limited to,
5 the following areas:
6 1. The enforcement of both civil and criminal remedies in
7 domestic abuse matters.
8 2. The nature, extent, and causes of domestic abuse.
9 3. The legal rights and remedies available to domestic
10 abuse victims, including crime victim compensation.
11 4. Services available to domestic abuse victims and their
12 children, including the domestic abuse telephone hotline.
13 5. The mandatory arrest provisions of section 236.12, and
14 other duties of peace officers pursuant to this chapter.
15 6. Techniques for intervention in domestic abuse cases.
16 Sec. 25. NEW SECTION. 236.18 REFERENCE TO CERTAIN
17 CRIMINAL PROVISIONS.
18 In addition to the criminal penalties contained in this
19 chapter, certain criminal penalties and provisions pertaining
20 to domestic abuse assaults are set forth in sections 708.2A
21 and 708.2B.
22 Sec. 26. Section 246.105, Code 1991, is amended by adding
23 the following new subsection:
24 NEW SUBSECTION. 9A. Adopt rules in accordance with
25 chapter 17A concerning procedures to be followed by the
26 judicial district departments of correctional services in
27 implementing batterers' treatment programs pursuant to section
28 708.2B.
29 Sec. 27. Section 279.50, subsection 4, unnumbered
30 paragraph 2, Code 1991, is amended to read as follows:
31 Each school board shall provide instruction in human growth
32 and development including instruction regarding human
33 sexuality, self-esteem, stress management, interpersonal
34 relationships, domestic abuse, and acquired immune deficiency
35 syndrome as required in section 256.11, in grades one through

1 twelve. Each school board shall annually provide to a parent
2 or guardian of any pupil enrolled in the school district,
3 information about the human growth and development curriculum
4 used in the pupil's grade level and the procedure for
5 inspecting the instructional materials prior to their use in
6 the classroom. A pupil shall not be required to take
7 instruction in human growth and development if the pupil's
8 parent or guardian files with the appropriate principal a
9 written request that the pupil be excused from the
10 instruction. Notification that the written request may be
11 made shall be included in the information provided by the
12 school district.
13 Sec. 28. NEW SECTION. 598.42 NOTICE OF CERTAIN ORDERS BY
14 CLERK OF COURT.
15 The clerk of the district court shall provide notice and
16 copies of temporary or permanent protective orders and orders
17 to vacate the homestead entered pursuant to this chapter to
18 the applicable law enforcement agencies and the twenty-four
19 hour dispatcher for the law enforcement agencies, in the
20 manner provided for protective orders under section 236.5.
21 The clerk shall provide notice and copies of modifications or
22 vacations of these orders in the same manner.
23 Sec. 29. Section 602.8105, subsection 1, paragraph a, Code
24 1991, is amended to read as follows:
25 a. For filing and docketing a petition other than for
26 modification of a dissolution decree to which a written
27 stipulation is attached at the time of filing containing the
28 agreement of the parties to the terms of the modification, or
29 an appeal or writ of error, ~~forty-five~~ fifty dollars. Four
30 dollars of the fee shall be deposited in the court revenue
31 distribution account established under section 602.8108, and
32 forty-one dollars of the fee shall be paid into the state
33 treasury. Five dollars of the fee shall be remitted to the
34 treasurer of state for deposit in the domestic abuse services
35 fund established in section 236.15. Of the amount paid to the

1 state treasury, one dollar shall be deposited in the judicial
2 retirement fund established in section 602.9104 to be used to
3 pay retirement benefits of the judicial retirement system, and
4 the remainder shall be deposited in the general fund of the
5 state. In counties having a population of one hundred
6 thousand or over, an additional five dollars shall be charged
7 and collected, to be known as the journal publication fee and
8 used for the purposes provided for in section 618.13.
9 Sec. 30. Section 602.8105, subsection 1, paragraphs 1, m,
10 and n, Code 1991, are amended to read as follows:
11 1. In criminal cases, the same fees for the same services
12 as in civil cases, and a five dollar fee to be remitted to the
13 treasurer of state by the clerk of the district court for
14 deposit in the domestic abuse services fund established in
15 section 236.15, to be paid by the county or city, which has
16 the duty to prosecute the criminal action, payable as provided
17 in section 602.8109. When judgment is rendered against the
18 defendant, costs collected from the defendant shall be paid to
19 the county or city which has the duty to prosecute the
20 criminal action to the extent necessary for reimbursement for
21 fees paid. However, the fees which are payable by the county
22 to the clerk of the district court for services rendered in
23 criminal actions prosecuted under state law and in habitual
24 offender actions pursuant to section 321.556, and the court
25 costs taxed in connection with the trial of those actions or
26 appeals from the judgments in those actions are waived.
27 m. For filing an application for a license to marry,
28 ~~fifteen~~ thirty dollars. The clerk of the district court shall
29 remit to the treasurer of state ~~five~~ twenty dollars for each
30 marriage license application filed. The treasurer of state
31 shall deposit five dollars of the funds received in the
32 general fund of the state, and fifteen dollars of the funds in
33 the domestic abuse services fund established in section
34 236.15. For issuing an application for an order of the
35 district court authorizing the issuance of a license to marry

1 prior to the expiration of three days from the date of filing
2 the application for the license, five dollars.
3 n. For entering a final decree of dissolution of marriage,
4 fifteen dollars. The fees shall be deposited in the ~~general~~
5 domestic abuse services fund ~~of the state~~ established in
6 section 236.15. ~~It is the intent of the general assembly that~~
7 ~~the funds generated from the dissolution fees be appropriated~~
8 ~~and used for sexual assault and domestic violence centers.~~
9 Sec. 31. Section 602.8106, subsection 1, Code 1991, is
10 amended to read as follows:
11 1. Notwithstanding section 602.8105, the fee for the
12 filing and docketing of a complaint or information for a
13 simple misdemeanor is ~~twenty~~ twenty-five dollars except that
14 the filing and docketing of a complaint or information for a
15 nonscheduled simple misdemeanor under chapter 321 is ~~fifteen~~
16 twenty dollars. The clerk of court shall remit five dollars
17 of the fees for the filing and docketing of a complaint or
18 information in misdemeanor matters to the treasurer of state
19 for deposit in the domestic abuse services fund established in
20 section 236.15. The fee for filing and docketing a complaint
21 or information or uniform citation and complaint for parking
22 violations under sections 321.236, 321.239, 321.358, 321.360,
23 and 321.361 is one dollar, effective January 1, 1991. The
24 court costs in cases of parking meter and overtime parking
25 violations which are denied, and charged and collected
26 pursuant to section 321.236, subsection 1, or pursuant to a
27 uniform citation and complaint are eight dollars per
28 information or complaint or per uniform citation and
29 complaint, effective January 1, 1991.
30 Sec. 32. Section 602.8106, subsection 5, unnumbered
31 paragraph 1, Code 1991, is amended to read as follows:
32 ~~All~~ Except for funds designated for deposit in the domestic
33 abuse services fund, all fees and costs for the filing of a
34 complaint or information or upon forfeiture of bail received
35 from a magistrate shall be distributed by the clerk as

1 follows:
2 Sec. 33. Section 613A.4, Code 1991, is amended by adding
3 the following new unnumbered paragraph:
4 NEW UNNUMBERED PARAGRAPH. This section does not exempt a
5 municipality from liability for the failure of a peace officer
6 to comply with the mandatory arrest provisions contained in
7 section 236.12.
8 Sec. 34. Section 631.6, subsection 1, Code 1991, is
9 amended to read as follows:
10 1. The docket fee for a small claims action is ~~fifteen~~
11 twenty dollars. Five dollars of the docket fee shall be
12 deposited in the court revenue distribution account
13 established under section 602.8108, five dollars shall be
14 remitted to the treasurer of state for deposit in the domestic
15 abuse services fund established in section 236.15, and ten
16 dollars of the fee shall be paid into the state treasury. Of
17 the amount paid into the state treasury, one dollar shall be
18 deposited in the judicial retirement fund established in
19 section 602.9104 to be used to pay retirement benefits of the
20 judicial retirement system, and the remainder shall be
21 deposited in the general fund of the state.
22 Sec. 35. Section 708.2A, Code 1991, is amended by striking
23 the section and inserting in lieu thereof the following:
24 708.2A DOMESTIC ABUSE ASSAULT -- MANDATORY MINIMUMS,
25 PENALTIES ENHANCED.
26 1. For the purposes of this chapter, "domestic abuse
27 assault" means an assault, as defined in section 708.1, which
28 is domestic abuse as defined in section 236.2.
29 2. On a first offense of domestic abuse assault, the
30 person commits:
31 a. A class "D" felony, if the person commits one or more
32 domestic abuse assaults within twenty-four hours following an
33 arrest or citation in lieu of arrest for domestic abuse
34 assault. This paragraph applies regardless of the
35 classification of the domestic abuse assaults under this

1 section or whether the same victim was involved.
2 b. An aggravated misdemeanor, if the domestic abuse
3 assault is committed with the intent to inflict a serious
4 injury upon another, or if the person uses or displays a
5 dangerous weapon in connection with the assault. This
6 paragraph does not apply if section 708.6 or 708.8 applies.
7 c. A serious misdemeanor, if the domestic abuse assault is
8 committed without the intent to inflict a serious injury upon
9 another, and the assault causes bodily injury or disabling
10 mental illness.
11 d. A simple misdemeanor for any other domestic abuse
12 assault, except as otherwise provided.
13 3. Except as otherwise provided in subsection 2, on a
14 second or subsequent domestic abuse assault, a person commits:
15 a. A serious misdemeanor, if the first offense was
16 classified as a simple misdemeanor, and the second offense
17 would otherwise be classified as a simple misdemeanor.
18 b. An aggravated misdemeanor, if the first offense was
19 classified as a simple misdemeanor, and the second offense
20 would otherwise be classified as a serious misdemeanor, or the
21 first offense was classified as a serious misdemeanor, and the
22 second offense would otherwise be classified as a simple or
23 serious misdemeanor.
24 c. A class "D" felony for any third or subsequent offense,
25 regardless of the classification of the prior offenses or
26 pending offense.
27 A conviction for, deferred judgment for, or plea of guilty
28 to, a violation of this section which occurred more than six
29 years prior to the date of the violation charged shall not be
30 considered in determining that the violation charged is a
31 second, third, or subsequent offense. For the purpose of
32 determining if a violation charged is a second, third, or
33 subsequent offense, deferred judgments issued pursuant to
34 section 907.3 for violations of section 708.2, which were
35 issued on domestic abuse assaults prior to July 1, 1991, and

1 convictions or the equivalent of deferred judgments for
2 violations in any other states under statutes substantially
3 corresponding to this section shall be counted as previous
4 offenses. The courts shall judicially notice the statutes of
5 other states which define offenses substantially equivalent to
6 the offenses defined in this section and can therefore be
7 considered corresponding statutes. Each previous violation on
8 which conviction or deferral of judgment was entered prior to
9 the date of the offense charged shall be considered and
10 counted as a separate previous offense. An offense shall be
11 considered a prior offense regardless of whether it was
12 committed upon the same victim.
13 4. A person convicted of violating this section shall not
14 be eligible for a deferred sentence or judgment, and shall
15 serve the following minimum term of the sentence imposed by
16 law, and shall not be eligible for suspension of the remaining
17 sentence or for parole until the person has served the minimum
18 sentence of confinement imposed by this section:
19 a. For a class "D" felony, one year.
20 b. For an aggravated misdemeanor, thirty days.
21 c. For a serious or simple misdemeanor, two days.
22 This section does not prohibit the court from sentencing
23 and the defendant from serving the maximum term of confinement
24 or from paying the maximum fine permitted pursuant to chapters
25 902 and 903.
26 5. In addition to the mandatory minimum term of
27 confinement imposed by this section, the court shall order the
28 defendant to participate in a batterers' treatment program as
29 required under section 708.2B. The clerk of the district
30 court shall send a copy of the judgment to the judicial
31 district department of correctional services.
32 6. The clerk of the district court shall provide notice
33 and copies of a judgment entered under this section to the
34 applicable law enforcement agencies and the twenty-four hour
35 dispatcher for the law enforcement agencies, in the manner

1 provided for protective orders under section 236.5. The clerk
2 shall provide notice and copies of modifications of the
3 judgment in the same manner.
4 Sec. 36. NEW SECTION. 708.2B TREATMENT OF DOMESTIC ABUSE
5 OFFENDERS.
6 As used in this section, "district department" means a
7 judicial district department of correctional services,
8 established pursuant to section 905.2. Upon serving the term
9 of confinement imposed pursuant to section 708.2A, a person
10 convicted of domestic abuse assault shall report to the
11 district department in order to participate in a batterers'
12 treatment program for domestic abuse offenders. The district
13 department shall collect a two hundred fifty dollar repayment
14 receipt from the offender to pay for the treatment, but may
15 waive the repayment upon a showing of cause.
16 Sec. 37. Section 905.6, Code 1991, is amended by adding
17 the following new subsection:
18 NEW SUBSECTION. 8. Administer the batterers' treatment
19 program for domestic abuse offenders required in section
20 708.2B, pursuant to rules adopted by the board of corrections.
21 Sec. 38. Section 905.7, Code 1991, is amended by adding
22 the following new subsection:
23 NEW SUBSECTION. 8. Administer the batterers' treatment
24 program required in section 708.2B pursuant to procedures
25 established by the board of corrections.
26 Sec. 39. Section 907.3, unnumbered paragraph 1, Code 1991,
27 is amended to read as follows:
28 Pursuant to section 901.5, the trial court may, upon a plea
29 of guilty, a verdict of guilty, or a special verdict upon
30 which a judgment of conviction may be rendered, exercise any
31 of the options contained in this section. However, this
32 section does not apply to a forcible felony. In addition,
33 this section does not apply to an offense under section 236.14
34 or 708.2A, except that the court may suspend the remainder of
35 a sentence once the defendant has served the mandatory minimum

1 term imposed.
2 Sec. 40. PILOT PROGRAM FOR DOMESTIC ABUSE PROSECUTION
3 PLANS AND PROCEDURES.
4 1. The prosecuting attorneys training coordinator shall
5 establish a pilot program pertaining to the prosecution of
6 domestic abuse assaults. For the purposes of this section,
7 "domestic abuse assault" means an assault, as defined in
8 section 708.1 which is domestic abuse as defined in section
9 236.2. The prosecuting attorneys training coordinator shall
10 select five county attorneys whose jurisdictions have a
11 dismissal rate in domestic abuse assault cases of higher than
12 fifty percent. If the prosecuting attorneys training
13 coordinator is unable to select five county attorneys whose
14 jurisdictions have a dismissal rate of over fifty percent, the
15 coordinator shall select county attorneys with the highest
16 dismissal rates available. These five county attorneys shall
17 participate in the pilot program.
18 2. The coordinator shall direct the five county attorneys
19 to develop and implement a written plan to expedite and
20 improve the efficiency and just disposition of domestic abuse
21 matters in their respective jurisdictions. The program
22 participants shall seek assistance from domestic abuse
23 advocates and other interested members of the public in the
24 development of a model plan and in the development or
25 adaptation of the plans in each of the jurisdictions
26 represented by the five county attorneys. Once a model plan
27 is developed, the prosecuting attorneys training coordinator
28 shall make it available to all prosecuting attorneys,
29 regardless of whether the prosecuting attorneys are
30 participants in the pilot program. All plans must state goals
31 and contain policies and procedures to address the following
32 matters:
33 a. The early assignment of a prosecuting attorney, who has
34 the responsibility of handling a domestic abuse assault matter
35 through disposition, and who is also responsible for

1 establishing early contact with the victim.
2 b. The facilitation of the earliest possible contact
3 between the prosecuting attorney's office and the victim for
4 the purpose of acquainting the victim with the criminal
5 justice process, the use of subpoenas, the victim's role as a
6 witness in the prosecution, a victim's rights under chapter
7 236, and available domestic abuse and victim services.
8 c. The coordination of the prosecuting attorney's efforts
9 with those of a domestic abuse advocate or victim advocate,
10 where available, and to facilitate the early provision of
11 victim advocacy services.
12 d. Methods that will be used to identify, gather, and
13 preserve evidence, in addition to the victim's testimony, that
14 will enhance the ability to prosecute a case when a victim is
15 reluctant to assist, including, but not limited to, physical
16 evidence of the victim's injury, evidence relating to the
17 scene of the crime, eye witness testimony, and statements of
18 the victim made at or near the time of injury.
19 e. The education of local law enforcement agencies about
20 the contents of the plan and their role in assisting with its
21 implementation.
22 f. The use of subpoenas of victims and witnesses, where
23 appropriate.
24 g. Annual review of the plan to evaluate whether it is
25 meeting its goals effectively and whether improvements are
26 needed.
27 h. A timetable for implementation.
28 3. A copy of each plan shall be filed with the prosecuting
29 attorneys training coordinator by July 1, 1992. The county
30 attorneys selected for the pilot program shall file a status
31 report on the pilot program by July 1, 1993. The status
32 report must contain information on the number of prosecutions
33 and dismissals of domestic abuse cases in the county
34 attorney's office.
35 Sec. 41. RESTITUTION PLAN. The department of justice

1 shall develop a plan for the enforcement and collection of
2 victim restitution required under chapter 910, and shall
3 submit a report detailing the plan to the general assembly by
4 January 1, 1992.
5 Sec. 42. RETROACTIVE APPLICABILITY PROVISION. Section 22
6 of this Act is retroactively applicable to January 1, 1991,
7 for tax years beginning on or after that date.
8 EXPLANATION
9 The bill provides several new requirements pertaining to
10 law enforcement, victim services, and domestic abuse.
11 The bill requires the Iowa law enforcement academy to
12 revoke the certification of a law enforcement officer who has
13 committed a felony or aggravated misdemeanor. The bill
14 requires the attorney general to conduct a special
15 investigation and recommend whether an officer who has
16 committed a serious misdemeanor should have the certification
17 revoked. The bill also requires the law enforcement academy
18 to adopt rules governing these procedures.
19 The bill further provides that the state, counties, and
20 cities may be civilly liable as a result of a peace officer's
21 failure to follow the mandatory arrest provisions in chapter
22 236 pertaining to domestic abuse.
23 The bill increases the membership on the Iowa law
24 enforcement academy council by adding two members, a
25 representative from the department of justice and a victim
26 service provider. The bill requires the law enforcement
27 academy to adopt rules specifying a course of study and
28 minimum continuing training requirements related to domestic
29 abuse. The bill requires the law enforcement academy council
30 to accredit basic training courses. The bill also mandates
31 that the academy conduct a task survey for use as a curriculum
32 guide. The bill establishes a law enforcement academy
33 curriculum advisory committee to review the task survey and
34 make recommendations concerning curriculum. Members of the
35 committee are to be reimbursed for expenses under the bill.

1 The bill also provides that plaintiffs proceeding in
2 domestic abuse matters pro se (without legal representation)
3 may do so using forms prescribed by the clerk of the district
4 court. The bill requires the clerk to assist pro se
5 plaintiffs in completing the forms, procuring service of
6 process, and in completing the affidavit concerning the lack
7 of funds for payment of costs, if applicable. The bill also
8 provides that when a peace officer provides an abused person
9 with notice of the person's rights, the notice shall include a
10 statement that the person has a right to seek court assistance
11 without legal representation. The bill requires that a
12 plaintiff proceeding pro se must include a mailing address in
13 the petition, and permits the court to conduct ex parte
14 domestic abuse proceedings by telephone.
15 The bill requires the clerk of the district court to notify
16 the applicable law enforcement agencies and dispatchers of the
17 entry of various protective and other orders in civil and
18 criminal matters under chapters 236 and 708, and dissolution
19 matters pursuant to chapter 598 within six hours of filing the
20 order, and requires that written copies of the orders be
21 provided within 24 hours of filing the orders. The bill also
22 requires peace officers to ask abused persons and dispatchers
23 if any prior orders have been entered.
24 The bill further provides that in lieu of contempt
25 proceedings, a violator of a domestic abuse no-contact order
26 commits a serious misdemeanor and shall serve a mandatory
27 minimum term of seven days, without possibility of suspension
28 or deferral.
29 The bill creates a domestic abuse services fund
30 administered by the department of justice and appropriated for
31 the purpose of providing services to victims of domestic abuse
32 and sexual assault, including shelters and for certain other
33 services provided by or through the department of justice.
34 The bill provides that the fund shall receive moneys from the
35 following sources: (1) an income tax checkoff for domestic

1 abuse services, administered pursuant to rules adopted by the
2 department of revenue and finance, in consultation with the
3 crime victim assistance board, which applies retroactively to
4 the 1991 tax year; (2) a $5 increase in court costs for filing
5 and docketing a petition in civil matters, a complaint or
6 information in criminal prosecutions, and small claims
7 actions; (3) a $15 increase in marriage application fees; and
8 (4) designation of the $15 fee for filing a dissolution of
9 marriage decree. Current law already permits the department
10 to accept funds from other agencies and private sources for
11 the provision of domestic abuse services (section 236.16).
12 The bill requires the department of justice to perform
13 certain duties. The bill requires the department to designate
14 and award moneys for the operation of a statewide toll-free
15 domestic abuse telephone hotline, and to provide services
16 relating to publicizing the hotline.
17 The bill requires the prosecuting attorneys training
18 coordination council and the supreme court, in cooperation
19 with the Iowa state bar association and the Iowa hospital
20 association, to establish and encourage other organizations to
21 establish training programs for professionals working with
22 domestic abuse. The bill does not specify mandatory training
23 hours for these professionals, as it does for law enforcement
24 officers. The bill also requires that domestic abuse be
25 included as a topic in the human growth and development
26 instruction for grades one through twelve.
27 The bill recodifies current law pertaining to first-time
28 offenders in domestic abuse assault cases, by taking the
29 current classifications set forth in all assault cases in
30 section 708.2, and specifying that they apply to domestic
31 abuse assaults in section 708.2A, subsection 2. The bill also
32 creates a new offense in that subsection of a class "D" felony
33 when a defendant commits another domestic abuse assault within
34 24 hours of arrest for a domestic abuse assault. The bill
35 creates certain penalty enhancements for domestic abuse

1 assault repeat offenders. To constitute a repeat offense, the
2 offender must have committed the prior offense within the last
3 six years. The offender commits a serious misdemeanor if the
4 assault would otherwise be classified as a simple assault and
5 the offender has a prior conviction for a domestic abuse
6 simple assault. The offender commits an aggravated
7 misdemeanor if the offender has a prior simple misdemeanor
8 conviction and commits what would otherwise constitute a
9 serious misdemeanor, or the offender has a prior serious
10 misdemeanor conviction and commits what would otherwise be
11 classified as either a simple or serious misdemeanor. The
12 bill provides that the third or subsequent domestic abuse
13 assault, regardless of classification of any of the assaults,
14 is a class "D" felony.
15 The bill also establishes certain mandatory minimum terms
16 of confinement for domestic abuse assault pursuant to section
17 708.2A, of two days for a simple or serious misdemeanor, 30
18 days for an aggravated misdemeanor, and one year for a class
19 "D" felony. The bill prohibits the entry of deferred
20 judgments, deferred sentences, suspended sentences, and parole
21 until the mandatory minimum terms have been served. The bill
22 also requires the court to order defendants to receive
23 batterers' treatment by reporting to the judicial district
24 department of correctional services. The batterer is required
25 to provide a $250 repayment receipt, which may be waived upon
26 a showing of cause, to pay for the treatment. The bill
27 requires the board of corrections to adopt rules pertaining to
28 procedures for the batterers' programs.
29 The bill establishes a pilot program for domestic abuse
30 prosecution plans and procedures, in which the prosecuting
31 attorneys training coordinator selects five county attorneys
32 with high dismissal rates in domestic abuse assault cases for
33 participation in the pilot program. The county attorneys are
34 required to develop and implement written plans to expedite
35 and improve the disposition of domestic abuse matters in their

1 jurisdictions, and must seek assistance from domestic abuse
2 advocates in developing the plans. The plans must be filed
3 with the prosecuting attorneys training coordinator, as well
4 as status reports.
5 The bill requires the department of justice to develop a
6 plan for the enforcement and collection of victim restitution,
7 and to submit a report to the general assembly.
8 The bill may include a state mandate as defined in section
9 25B.3.
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SENATE FILE 444

AN ACT

RELATING TO LAW ENFORCEMENT, VICTIM SERVICES, AND DOMESTIC ABUSE, ESTABLISHING CERTAIN TRAINING REQUIREMENTS, ESTABLISHING AND INCREASING CERTAIN CRIMINAL PENALTIES, IMPOSING MANDATORY MINIMUM SENTENCES, ESTABLISHING AN INCOME TAX CHECKOFF FOR DOMESTIC ABUSE, INCREASING CERTAIN COURT COSTS AND FEES, REQUIRING BATTERERS' TREATMENT BY OFFENDERS, AND CONTAINING EFFECTIVE DATE AND APPLICABILITY PROVISIONS.

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

Section 1. NEW SECTION. 13.11 INVESTIGATIONS OF LAW ENFORCEMENT OFFICERS INVOLVED IN PUBLIC OFFENSES.

The attorney general shall conduct investigations of law enforcement officers who have been convicted or received a deferred judgment for an indictable misdemeanor in a domestic abuse assault case, and shall make recommendations to the Iowa law enforcement academy as to whether an officer's certification should be revoked under the criteria established by the academy.

Sec. 2. Section 80B.11, subsections 1 and 2, Code 1991, are amended to read as follows:

1. Minimum entrance requirements, course of study, attendance requirements, and equipment and facilities required at approved law enforcement training schools. Minimum age requirements for entrance to approved law enforcement training

schools shall be eighteen years of age. Minimum course of study requirements shall include a separate domestic abuse curriculum, which may include, but is not limited to, outside speakers from domestic abuse shelters and crime victim assistance organizations.

2. Minimum basic training requirements law enforcement officers employed after July 1, 1968, ~~must~~ complete in order to remain eligible for continued employment and the time within which such basic training must be completed. Minimum requirements shall mandate training devoted to the topic of domestic abuse.

Sec. 3. Section 135B.6, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The department shall adopt rules requiring hospitals to establish and implement protocols for responding to the needs of patients who are victims of domestic abuse, as defined in section 236.2.

Sec. 4. Section 236.2, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. "Pro se" means a person proceeding on the person's own behalf without legal representation.

Sec. 5. Section 236.3, subsection 1, Code 1991, is amended to read as follows:

1. Name of the plaintiff and the name and address of the plaintiff's attorney, if any. If the plaintiff is proceeding pro se, the petition shall state a mailing address for the plaintiff.

Sec. 6. NEW SECTION. 236.3A PLAINTIFFS PROCEEDING PRO SE -- PROVISION OF FORMS AND ASSISTANCE.

1. The department shall prescribe standard forms to be used by plaintiffs seeking protective orders by proceeding pro se in actions under this chapter. The standard forms shall include language in fourteen-point boldface type, with a box which may be checked by the plaintiff, indicating that the plaintiff wishes to proceed by filing an affidavit pursuant to section 236.3, because the plaintiff does not have sufficient funds to pay the cost of filing and service. Standard forms

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prescribed by the department shall be the exclusive forms used by plaintiffs proceeding pro se, and may be used by other plaintiffs. The department shall distribute the forms to the clerks of the district courts.

2. The clerk of the district court shall furnish the required forms to persons seeking protective orders through pro se proceedings pursuant to this chapter.

Sec. 7. Section 236.5, subsection 2, paragraph d, Code 1991, is amended to read as follows:

d. The awarding of temporary custody of or establishing temporary visitation rights with regard to children under eighteen. In awarding temporary custody or temporary visitation rights, the court shall give primary consideration to the safety of the victim and the children. If the court finds that the safety of the victim or the children will be jeopardized by unsupervised or unrestricted visitation, the court shall condition or restrict visitation as to time, place, duration, or supervision, or deny visitation entirely, as needed to guard the safety of the victim and the children. The court shall also investigate whether any other existing orders awarding custody or visitation rights should be modified.

Sec. 8. Section 236.5, subsection 4, Code 1991, is amended to read as follows:

4. A certified copy of any order or approved consent agreement shall be issued to the plaintiff, the defendant and ~~law-enforcement-agencies~~ the county sheriff having jurisdiction to enforce the order or consent agreement, and the twenty-four hour dispatcher for the ~~law-enforcement agencies~~ county sheriff. Any subsequent amendment or revocation of an order or consent agreement shall be forwarded by the clerk to all individuals and ~~agencies~~ the county sheriff previously notified. The clerk shall notify the county sheriff and the twenty-four hour dispatcher for the county sheriff by telephone or otherwise within six hours of filing the order, approved consent agreement, amendment, or revocation. The county sheriff's dispatcher shall notify all

law enforcement agencies having jurisdiction over the matter and the twenty-four hour dispatcher for the law enforcement agencies upon notification by the clerk. The clerk shall send or deliver a written copy of any such document to the law enforcement agencies and the twenty-four hour dispatcher within twenty-four hours of filing the document.

Sec. 9. Section 236.8, Code 1991, is amended to read as follows:

236.8 CONTEMPT.

The court may hold a party in contempt for a violation of an order or court-approved consent agreement entered under this chapter, for violation of a temporary or permanent protective order or order to vacate the homestead under chapter 598, or for violation of any order that establishes conditions of release or is a protective order or sentencing order in a criminal prosecution arising from a domestic abuse assault. If held in contempt, the defendant shall serve a jail sentence ~~which may be on weekends.~~ Any jail sentence imposed under this section shall be served on consecutive days.

Sec. 10. Section 236.11, unnumbered paragraph 1, Code 1991, is amended to read as follows:

A peace officer shall use every reasonable means to enforce an order or court-approved consent agreement entered under this chapter, a temporary or permanent protective order or order to vacate the homestead under chapter 598, or any order that establishes conditions of release or is a protective order or sentencing order in a criminal prosecution arising from a domestic abuse assault. If a peace officer has reason to believe that domestic abuse has occurred, the peace officer shall ask the abused person if any prior orders exist, and shall contact the twenty-four hour dispatcher to inquire if any prior orders exist. If a peace officer has probable cause to believe that a person has violated an order or approved consent agreement entered under this chapter, a temporary or permanent protective order or order to vacate the homestead under chapter 598, or any order establishing conditions of

release or a protective or sentencing order in a criminal prosecution arising from a domestic abuse assault, the peace officer shall take the person into custody and shall take the person without unnecessary delay before the nearest or most accessible magistrate in the judicial district in which the person was taken into custody. The magistrate shall make an initial preliminary determination whether there is probable cause to believe that an order or consent agreement existed and that the person taken into custody has violated its terms. The magistrate's decision shall be entered in the record.

If a peace officer has probable cause to believe that a person has violated an order or approved consent agreement entered under this chapter, a temporary or permanent protective order or order to vacate the homestead under chapter 598, or any order establishing conditions of release or a protective or sentencing order in a criminal prosecution arising from a domestic abuse assault, and the peace officer is unable to take the person into custody within twenty-four hours of making the probable cause determination, the peace officer shall either request a magistrate to make a determination as to whether a rule to show cause or arrest warrant should be issued, or refer the matter to the county attorney.

Sec. 11. Section 236.12, subsection 1, paragraph c, Code 1991, is amended by adding the following new unnumbered paragraph after subparagraph (4):

NEW UNNUMBERED PARAGRAPH. You have the right to seek help from the court to seek a protective order with or without the assistance of legal representation. You have the right to seek help from the courts without the payment of court costs if you do not have sufficient funds to pay the costs.

Sec. 12. Section 236.14, subsection 2, unnumbered paragraphs 3 and 4, Code 1991, are amended to read as follows:

The clerk of the court or other person designated by the court shall provide a copy of this order to the victim pursuant to chapter 910A. The order has force and effect until it is modified or terminated by subsequent court action

in the contempt proceeding or the criminal or juvenile court action and is reviewable in the manner prescribed in section 811.2. The clerk of the district court shall also provide oral or other notice and copies of the no-contact order to the applicable law enforcement agencies and the twenty-four hour dispatcher for the law enforcement agencies, in the manner provided for protective orders under section 236.5. The clerk shall provide oral or other notice and copies of modifications or vacations of these orders in the same manner.

Violation of this no-contact order is punishable by summary contempt proceedings. If held in contempt for violation of a no-contact order, the person shall be confined in the county jail for a minimum of seven days. A jail sentence imposed pursuant to this paragraph shall be served on consecutive days.

Sec. 13. Section 236.15, Code 1991, is amended to read as follows:

236.15 APPLICATION FOR DESIGNATION AND FUNDING AS A PROVIDER OF SERVICES FOR VICTIMS OF DOMESTIC ABUSE.

Upon receipt of state or federal funding designated for victims of domestic abuse by the department, a public or private nonprofit organization may apply to the department for designation and funding as a provider of emergency shelter services and support services to victims of domestic abuse or sexual assault. The application shall be submitted on a form prescribed by the department and shall include, but not be limited to, information regarding services to be provided, budget, and security measures.

Sec. 14. NEW SECTION. 236.15A INCOME TAX CHECKOFF FOR DOMESTIC ABUSE SERVICES.

A person who files an individual or a joint income tax return with the department of revenue and finance under section 422.13 may designate any amount to be paid to the general fund of the state and used for the purposes of providing emergency shelter services, support services, and other services to victims of domestic abuse or sexual assault. If the refund due on the return or the payment remitted with

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the return is insufficient to pay the additional amount designated by the taxpayer to be used for the purposes of providing services to victims of domestic abuse or sexual assault, the amount designated shall be reduced to the remaining amount of refund or the remaining amount remitted with the return.

It is the intent of the general assembly that the funds generated from the checkoff be appropriated and used for the purposes of providing services to victims of domestic abuse or sexual assault.

The director of revenue and finance shall draft the income tax form to allow the designation of contributions to be used for the purposes of providing services to victims of domestic abuse or sexual assault on the tax return.

The department of revenue and finance on or before January 31 of the year following the preceding calendar year shall certify the total amount designated on the tax return forms due in the preceding calendar year and shall report the amount to the treasurer of state.

The department of revenue and finance shall consult the crime victim assistance board concerning the adoption of rules to implement this section. However, before a checkoff pursuant to this section shall be permitted, all liabilities on the books of the department of revenue and finance and accounts identified as owing under section 421.17 and the political contribution allowed under section 56.18 shall be satisfied.

Sec. 15. Section 236.16, subsection 1, Code 1991, is amended by adding the following new paragraphs:

NEW PARAGRAPH. c. Designate and award moneys for publicizing and staffing a statewide, toll-free telephone hotline for use by victims of domestic abuse. The department may award a grant to a public agency or a private, nonprofit organization for the purpose of operating the hotline. The operation of the hotline shall include informing victims of their rights and of various community services that are available, referring victims to service providers, receiving

complaints concerning misconduct by peace officers and encouraging victims to refer such complaints to the office of citizens' aide, providing counseling services to victims over the telephone, and providing domestic abuse victim advocacy.

NEW PARAGRAPH. d. Advertise the toll-free telephone hotline through the use of public service announcements, billboards, print and broadcast media services, and other appropriate means, and contact media organizations to encourage the provision of free or inexpensive advertising concerning the hotline and its services.

NEW PARAGRAPH. e. Develop, with the assistance of the entity operating the telephone hotline and other domestic abuse victim services providers, brochures explaining the rights of victims set forth under section 236.12 and the services of the telephone hotline, and distribute the brochures to law enforcement agencies, victim service providers, health practitioners, charitable and religious organizations, and other entities that may have contact with victims of domestic abuse.

Sec. 16. NEW SECTION. 236.17 DOMESTIC ABUSE TRAINING.

The department, in cooperation with victim service providers, may work with various professional organizations to encourage organizations to establish training programs for professionals who work in the area of domestic abuse prevention and services. Domestic abuse training may include, but is not limited to, the following areas:

1. The enforcement of both civil and criminal remedies in domestic abuse matters.

2. The nature, extent, and causes of domestic abuse.

3. The legal rights and remedies available to domestic abuse victims, including crime victim compensation.

4. Services available to domestic abuse victims and their children, including the domestic abuse telephone hotline.

5. The mandatory arrest provisions of section 236.12, and other duties of peace officers pursuant to this chapter.

6. Techniques for intervention in domestic abuse cases.

Sec. 17. NEW SECTION. 236.18 REFERENCE TO CERTAIN CRIMINAL PROVISIONS.

In addition to the criminal penalties contained in this chapter, certain criminal penalties and provisions pertaining to domestic abuse assaults are set forth in sections 708.2A and 708.2B.

Sec. 18. Section 246.108, subsection 1, Code 1991, is amended by adding the following new paragraphs:

NEW PARAGRAPH. p. Adopt rules subject to the approval of the board, requiring the establishment and implementation of batterers' support groups in all of the institutions under the jurisdiction of the department.

NEW PARAGRAPH. q. Adopt rules subject to the approval of the board, requiring special training for employees of the Iowa correctional institution for women who serve as counselors to female inmates who are victims of domestic abuse or sexual assault. The rules shall require that these employees receive training concerning the needs of female inmates. The rules shall mandate that the training include, but is not limited to, problems associated with battered spouse syndrome. As used in this paragraph, "battered spouse syndrome" means the psychological condition of a victim of repeated physical and psychological abuse by a spouse, former spouse, cohabitant, or former cohabitant, which is also recognized in the medical and scientific community as the "battered women's syndrome." The rules shall require new employees to receive the training during the employees' initial orientation to the institution.

Sec. 19. Section 279.50, subsection 4, unnumbered paragraph 2, Code 1991, is amended to read as follows:

Each school board shall provide instruction in human growth and development including instruction regarding human sexuality, self-esteem, stress management, interpersonal relationships, domestic abuse, and acquired immune deficiency syndrome as required in section 256.11, in grades one through twelve. Each school board shall annually provide to a parent or guardian of any pupil enrolled in the school district,

information about the human growth and development curriculum used in the pupil's grade level and the procedure for inspecting the instructional materials prior to their use in the classroom. A pupil shall not be required to take instruction in human growth and development if the pupil's parent or guardian files with the appropriate principal a written request that the pupil be excused from the instruction. Notification that the written request may be made shall be included in the information provided by the school district.

Sec. 20. NEW SECTION. 598.42 NOTICE OF CERTAIN ORDERS BY CLERK OF COURT.

The clerk of the district court shall provide oral or other notice and copies of temporary or permanent protective orders and orders to vacate the homestead entered pursuant to this chapter to the applicable law enforcement agencies and the twenty-four hour dispatcher for the law enforcement agencies, in the manner provided for protective orders under section 236.5. The clerk shall provide oral or other notice and copies of modifications or vacations of these orders in the same manner.

Sec. 21. Section 602.8105, subsection 1, paragraph a, Code 1991, is amended to read as follows:

a. For filing and docketing a petition other than for modification of a dissolution decree to which a written stipulation is attached at the time of filing containing the agreement of the parties to the terms of the modification, or an appeal or writ of error, ~~forty-five~~ fifty dollars. Four dollars of the fee shall be deposited in the court revenue distribution account established under section 602.8108, and forty-one dollars of the fee shall be paid into the state treasury. Of the amount paid to the state treasury, one dollar shall be deposited in the judicial retirement fund established in section 602.9104 to be used to pay retirement benefits of the judicial retirement system, and the remainder shall be deposited in the general fund of the state. In counties having a population of one hundred thousand or over,

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an additional five dollars shall be charged and collected, to be known as the journal publication fee and used for the purposes provided for in section 618.13.

Sec. 22. Section 602.8105, subsection 1, paragraph 1, Code 1991, is amended to read as follows:

1. In criminal cases, the same fees for the same services as in civil cases, and an additional five dollar fee to be remitted to the treasurer of state by the clerk of the district court for deposit in the general fund of the state, to be paid by the county or city, which has the duty to prosecute the criminal action, payable as provided in section 602.8109. When judgment is rendered against the defendant, costs collected from the defendant shall be paid to the county or city which has the duty to prosecute the criminal action to the extent necessary for reimbursement for fees paid. However, the fees which are payable by the county to the clerk of the district court for services rendered in criminal actions prosecuted under state law and in habitual offender actions pursuant to section 321.556, and the court costs taxed in connection with the trial of those actions or appeals from the judgments in those actions are waived.

Sec. 23. Section 602.8105, subsection 1, paragraph m, Code 1991, is amended to read as follows:

m. For filing an application for a license to marry, ~~fifteen~~ thirty dollars. The clerk of the district court shall remit to the treasurer of state ~~five~~ twenty dollars for each marriage license application filed. The treasurer of state shall deposit the funds received in the general fund of the state. For issuing an application for an order of the district court authorizing the issuance of a license to marry prior to the expiration of three days from the date of filing the application for the license, five dollars. The court shall authorize the issuance of a marriage license without the payment of any fees imposed by this paragraph upon a showing that the applicant is unable to pay the fees.

Sec. 24. Section 602.8105, subsection 1, paragraph n, Code 1991, is amended to read as follows:

n. For entering a final decree of dissolution of marriage, ~~fifteen~~ thirty dollars. The fees shall be deposited in the general fund of the state. It is the intent of the general assembly that the funds generated from the dissolution fees be appropriated and used for sexual assault and domestic violence centers.

Sec. 25. Section 602.8106, subsection 1, Code 1991, is amended to read as follows:

1. Notwithstanding section 602.8105, the fee for the filing and docketing of a complaint or information for a simple misdemeanor is ~~twenty~~ twenty-five dollars except that the filing and docketing of a complaint or information for a nonscheduled simple misdemeanor under chapter 321 is ~~fifteen~~ twenty dollars. The fee for filing and docketing a complaint or information or uniform citation and complaint for parking violations under sections 321.236, 321.239, 321.358, 321.360, and 321.361 is one dollar, effective January 1, 1991. The court costs in cases of parking meter and overtime parking violations which are denied, and charged and collected pursuant to section 321.236, subsection 1, or pursuant to a uniform citation and complaint are eight dollars per information or complaint or per uniform citation and complaint, effective January 1, 1991.

Sec. 26. Section 631.6, subsection 1, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The clerk shall collect an additional fee of five dollars upon docketing a small claims action, and shall remit the fee to the treasurer of state for deposit in the general fund.

Sec. 27. Section 708.2A, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

708.2A DOMESTIC ABUSE ASSAULT -- MANDATORY MINIMUMS, PENALTIES ENHANCED.

1. For the purposes of this chapter, "domestic abuse assault" means an assault, as defined in section 708.1, which is domestic abuse as defined in section 236.2.

2. On a first offense of domestic abuse assault, the person commits:

a. A simple misdemeanor for a domestic abuse assault, except as otherwise provided.

b. A serious misdemeanor, if the domestic abuse assault is committed without the intent to inflict a serious injury upon another, and the assault causes bodily injury or disabling mental illness.

c. An aggravated misdemeanor, if the domestic abuse assault is committed with the intent to inflict a serious injury upon another, or if the person uses or displays a dangerous weapon in connection with the assault. This paragraph does not apply if section 708.6 or 708.8 applies.

3. Except as otherwise provided in subsection 2, on a second or subsequent domestic abuse assault, a person commits:

a. A serious misdemeanor, if the first offense was classified as a simple misdemeanor, and the second offense would otherwise be classified as a simple misdemeanor.

b. An aggravated misdemeanor, if the first offense was classified as a simple or aggravated misdemeanor, and the second offense would otherwise be classified as a serious misdemeanor, or the first offense was classified as a serious or aggravated misdemeanor, and the second offense would otherwise be classified as a simple or serious misdemeanor.

A conviction for, deferred judgment for, or plea of guilty to, a violation of this section which occurred more than six years prior to the date of the violation charged shall not be considered in determining that the violation charged is a second or subsequent offense. For the purpose of determining if a violation charged is a second or subsequent offense, deferred judgments issued pursuant to section 907.3 for violations of section 708.2 or 708.2A, which were issued on domestic abuse assaults, and convictions or the equivalent of deferred judgments for violations in any other states under statutes substantially corresponding to this section shall be counted as previous offenses. The courts shall judicially notice the statutes of other states which define offenses

substantially equivalent to the offenses defined in this section and can therefore be considered corresponding statutes. Each previous violation on which conviction or deferral of judgment was entered prior to the date of the offense charged shall be considered and counted as a separate previous offense. An offense shall be considered a prior offense regardless of whether it was committed upon the same victim.

4. A person convicted of violating this section shall serve a minimum term of two days of the sentence imposed by law, and shall not be eligible for suspension of the minimum sentence. The minimum term shall be served on consecutive days. This section does not prohibit the court from sentencing and the defendant from serving the maximum term of confinement or from paying the maximum fine permitted pursuant to chapters 902 and 903, and does not prohibit the court from entering a deferred judgment or sentence pursuant to section 907.3.

5. The clerk of the district court shall provide oral or other notice and copies of a judgment entered under this section to the applicable law enforcement agencies and the twenty-four hour dispatcher for the law enforcement agencies, in the manner provided for protective orders under section 236.5. The clerk shall provide oral or other notice and copies of modifications of the judgment in the same manner.

6. In addition to the mandatory minimum term of confinement imposed by this section, the court may order the defendant to participate in a batterers' treatment program as required under section 708.2B. However, as a condition of deferring judgment or sentence pursuant to section 907.3, the court shall order the defendant to participate in a batterers' treatment program. The clerk of the district court shall send a copy of the judgment or deferred judgment to the judicial district department of correctional services.

Sec. 28. NEW SECTION. 708.2B TREATMENT OF DOMESTIC ABUSE OFFENDERS.

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As used in this section, "district department" means a judicial district department of correctional services, established pursuant to section 905.2. A person convicted of, or receiving a deferred judgment for, domestic abuse assault shall report to the district department in order to participate in a batterers' treatment program for domestic abuse offenders, if ordered to do so by the court pursuant to section 708.2A. Participation in the batterers' treatment program shall not require a person to be placed on probation, but a person on probation may participate in the program. The district departments may contract for services in completing the duties relating to the batterers' treatment programs. The district departments shall assess the fees for participation in the program, and shall either collect or contract for the collection of the fees to recoup the costs of treatment, but may waive the fee or collect a lesser amount upon a showing of cause. The fees shall be used by each of the district departments or contract service providers for the establishment, administration, coordination, and provision of direct services of the batterers' treatment programs.

Sec. 29. Section 905.6, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 8. Administer the batterers' treatment program for domestic abuse offenders required in section 708.2B.

Sec. 30. Section 907.3, subsection 3, Code 1991, is amended to read as follows:

3. By record entry at the time of or after sentencing, the court may suspend the sentence and place the defendant on probation upon such terms and conditions as it may require including commitment to an alternate jail facility or a community correctional residential treatment facility for a specific number of days to be followed by a term of probation as specified in section 907.7. A person so committed who has probation revoked shall be given credit for such time served. However, the court shall not suspend the minimum term of two days imposed pursuant to section 708.2A.

Sec. 31. Section 910A.11, subsection 1, unnumbered paragraph 2, Code 1991, is amended to read as follows:

A temporary restraining order may be issued under this subsection without written or oral notice to the adverse party or the party's attorney in a civil action under this section or in a criminal case if the court finds, upon written certification of facts, that the notice should not be required and that there is a reasonable probability that the party will prevail on the merits. The temporary restraining order shall set forth the reasons for the issuance of the order, be specific in terms, and describe in reasonable detail the act or acts being restrained.

Sec. 32. Section 910A.11, Code 1991, is amended by adding the following new subsections:

NEW SUBSECTION. 3. Violation of a restraining or protective order issued under this section constitutes contempt of court, and may be punished by contempt proceedings.

NEW SUBSECTION. 4. An application may be made pursuant to this section in a criminal case, and if made, a district associate judge having jurisdiction of the highest offense charged in the criminal case or a district judge shall have jurisdiction to enter an order under this section.

NEW SUBSECTION. 5. The clerk of court shall provide oral or other notice and copies of restraining orders issued pursuant to this section in a criminal case involving an alleged violation of section 708.2A to the applicable law enforcement agencies and the twenty-four hour dispatcher for the law enforcement agencies, in the manner provided for protective orders under section 236.5. The clerk shall provide oral or other notice and copies of modifications or vacations of these orders in the same manner.

Sec. 33. RESTITUTION PLAN. The department of justice shall develop a plan for the enforcement and collection of victim restitution required under chapter 910, and shall submit a report detailing the plan to the general assembly by January 1, 1992.

Sec. 34. RETROACTIVE APPLICABILITY PROVISION. Section 14 of this Act is retroactively applicable to January 1, 1991, for tax years beginning on or after that date.

Sec. 35. IMPLEMENTATION OF SPECIAL TRAINING AT MITCHELLVILLE -- APPLICABILITY PROVISIONS -- EXISTING EMPLOYEES. Persons employed at the Iowa correctional institution for women prior to July 1, 1991, who serve as counselors to female inmates who are victims of domestic abuse or sexual assault, shall receive the training required for new employees pursuant to the changes creating a new paragraph "q" to section 246.108, subsection 1, of section 18 of this Act, prior to January 1, 1992.

Sec. 36. IMPLEMENTATION AND EFFECTIVE DATE OF BATTERERS' TREATMENT PROGRAMS.

1. The portion of section 27 of this Act which enacts new subsection 6 of section 708.2A takes effect on January 1, 1992, in order to permit the judicial district departments of correctional services to establish batterers' treatment programs. The district departments shall establish at least one program in each district by January 1, 1992, and shall establish programs throughout the district so that the programs are readily accessible to offenders by January 1, 1993.

2. From July 1, 1991, through December 31, 1992, the court may order a defendant who is convicted of, or who receives a deferred judgment for, a violation of section 708.2A to participate in a batterers' treatment program through other treatment or counseling services, until the programs are established by the judicial district departments of correctional services, to the extent that the court has the authority under existing sentencing procedures. The court shall order the defendant to pay for the treatment, unless just cause is demonstrated for waiving the fee.

3. Notwithstanding any other provision of this Act to the contrary, the portion of section 27 of this Act which enacts new subsection 6 of section 708.2A, and sections 28, 29, and subsections 1 and 2 of this section of this Act shall only

take effect upon enactment of a provision by the Seventy-fourth General Assembly during the 1991 regular session specifically appropriating funds for the particular purposes expressed in those sections.

Sec. 37. EFFECTIVENESS CONTINGENT UPON SEPARATE FUNDING. Sections 18 and 35 of this Act take effect upon enactment of a provision by the Seventy-fourth General Assembly during the 1991 regular session specifically appropriating funds for the particular purposes expressed in those sections.

JOE J. WELSH
President of the Senate

ROBERT C. ARNOULD
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 444, Seventy-fourth General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved May 29, 1991

TERRY E. BRANSTAD
Governor

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