

MAR 8 1995

JUDICIARY

HOUSE FILE 299
BY BRAMMER

WITHDRAWN 1-12-96

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

A BILL FOR

1 An Act relating to domestic abuse and victim protection and
2 providing a penalty and a conditional effective date.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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WITHDRAWN

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1 Section 1. Section 80B.11, subsection 1, Code 1995, is
2 amended to read as follows:

3 1. a. Minimum entrance requirements, course of study,
4 attendance requirements, and equipment and facilities required
5 at approved law enforcement training schools. Minimum age
6 requirements for entrance to approved law enforcement training
7 schools shall be eighteen years of age.

8 b. Minimum course of study requirements shall include a
9 separate domestic abuse curriculum, which ~~may shall~~ include,
10 ~~but-is-not-limited-to,~~ a minimum of twelve hours of
11 instruction on domestic abuse dynamics and domestic abuse law
12 which may include outside speakers from domestic abuse
13 shelters and crime victim assistance organizations.

14 Sec. 2. Section 80B.11, subsection 3, Code 1995, is
15 amended by adding the following new unnumbered paragraph:

16 NEW UNNUMBERED PARAGRAPH. In-service training under this
17 subsection shall also include at least four hours of instruc-
18 tion per year on domestic abuse dynamics and domestic abuse
19 law.

20 Sec. 3. Section 236.2, subsection 2, paragraphs a through
21 d, Code 1995, are amended to read as follows:

22 a. The assault is between family or household members,
23 including minors, who resided together at the time of the
24 assault.

25 b. The assault is between separated spouses or persons
26 divorced from each other, including minors, and not residing
27 together at the time of the assault.

28 c. The assault is between persons, including minors, who
29 are parents of the same minor child, regardless of whether
30 they have been married or have lived together at any time.

31 d. The assault is between persons, including minors, who
32 have been family or household members residing together within
33 the past year and are not residing together at the time of the
34 assault.

35 Sec. 4. Section 236.3, unnumbered paragraph 1, Code 1995,

1 is amended to read as follows:

2 A person, including a parent or guardian on behalf of an
3 unemancipated minor, may seek relief from domestic abuse by
4 filing a verified petition in the district court. Venue shall
5 lie where either party resides. The petition shall state the:

6 Sec. 5. Section 236.3, Code 1995, is amended by adding the
7 following new subsection:

8 NEW SUBSECTION. 1A. If the petition is being filed on
9 behalf of an unemancipated minor, the name of the parent or
10 guardian filing the petition and the parent's or guardian's
11 address. For the purposes of this chapter, "plaintiff"
12 includes a person filing an action on behalf of an
13 unemancipated minor.

14 Sec. 6. Section 236.3B, Code 1995, is amended by adding
15 the following new unnumbered paragraph:

16 NEW UNNUMBERED PARAGRAPH. The county attorney may use the
17 fees distributed to the county treasurer in section 602.8105,
18 subsection 2, paragraph "a", to defray the costs of the
19 assistance authorized in this section.

20 Sec. 7. Section 236.5, Code 1995, is amended by adding the
21 following new subsection:

22 NEW SUBSECTION. 2A. The court may order that the
23 defendant pay the plaintiff's attorneys fees and court costs.

24 Sec. 8. Section 236.5, subsection 4, Code 1995, is amended
25 to read as follows:

26 4. A certified copy of any order or approved consent
27 agreement shall be issued to the plaintiff, the defendant, and
28 the county sheriff having jurisdiction to enforce the order or
29 consent agreement, ~~and~~ the twenty-four hour dispatcher for the
30 county sheriff, and the statewide protective order registry
31 established in section 236.19. Any subsequent amendment or
32 revocation of an order or consent agreement shall be forwarded
33 by the clerk to all individuals, and the county sheriff, and
34 the statewide registry previously notified. The clerk shall
35 notify the county sheriff and the twenty-four hour dispatcher

1 for the county sheriff in writing so that the county sheriff
2 and the county sheriff's dispatcher receive written notice
3 within six hours of filing the order, approved consent
4 agreement, amendment, or revocation. The clerk may fulfill
5 this requirement by sending the notice by facsimile or other
6 electronic transmission which reproduces the notice in writing
7 within six hours of filing the order. The county sheriff's
8 dispatcher shall notify all law enforcement agencies having
9 jurisdiction over the matter and the twenty-four hour
10 dispatcher for the law enforcement agencies upon notification
11 by the clerk. The clerk shall send or deliver a written copy
12 of any such document to the law enforcement agencies and the
13 twenty-four hour dispatcher within twenty-four hours of filing
14 the document.

15 Sec. 9. Section 236.6, subsection 1, Code 1995, is amended
16 to read as follows:

17 1. When the court is unavailable from the close of
18 business at the end of the day or week to the resumption of
19 business at the beginning of the day or week, a petition may
20 be filed before a district judge, or a district associate
21 judge, or a lawyer magistrate designated by the chief judge of
22 the judicial district, who may grant emergency relief in
23 accordance with section 236.5, subsection 2, if the district
24 judge, or district associate judge, or magistrate deems it
25 necessary to protect the plaintiff from domestic abuse, upon
26 good cause shown in an ex parte proceeding. Present danger of
27 domestic abuse to the plaintiff constitutes good cause for
28 purposes of this subsection. A district associate judge or
29 magistrate shall only grant emergency relief under this
30 section if the designated district judge is not available in
31 person, by telephone, or by facsimile communication.

32 Sec. 10. Section 236.8, Code 1995, is amended to read as
33 follows:

34 236.8 CONTEMPT -- HEARINGS.

35 The A person commits a simple misdemeanor or the court may

1 hold a party person in contempt for a violation of an order or
2 court-approved consent agreement entered under this chapter,
3 for violation of a temporary or permanent protective order or
4 order to vacate the homestead under chapter 598, or for
5 violation of any order that establishes conditions of release
6 or is a protective order or sentencing order in a criminal
7 prosecution arising from a domestic abuse assault. If
8 convicted or held in contempt, the defendant shall serve a
9 jail sentence. Any jail sentence of more than one day imposed
10 under this section shall be served on consecutive days. A
11 defendant who is held in contempt or convicted may be ordered
12 by the court to pay the plaintiff's attorneys fees and court
13 costs incurred in the proceedings under this section.

14 A hearing in a contempt proceeding brought pursuant to this
15 section shall be held not less than five and not more than
16 fifteen days after the issuance of a rule to show cause, as
17 set by the court.

18 A person shall not be convicted of and held in contempt for
19 the same violation of an order or court-approved consent
20 agreement entered under this chapter, for the same violation
21 of a temporary or permanent protective order or order to
22 vacate the homestead under chapter 598, or for violation of
23 any order that establishes conditions of release or is a
24 protective order or sentencing order in a criminal prosecution
25 arising from a domestic abuse assault.

26 Sec. 11. Section 236.10, Code 1995, is amended to read as
27 follows:

28 236.10 CONFIDENTIALITY OF RECORDS.

29 The file in a domestic abuse case shall be sealed by the
30 clerk of court only upon the application of the petitioner
31 when it is complete and after the time for appeal has expired.
32 However, the clerk shall open the file upon application to and
33 order of the court for good cause shown.

34 Sec. 12. Section 236.12, Code 1995, is amended by adding
35 the following new subsection:

1 NEW SUBSECTION. 2A. A peace officer shall seize a
2 dangerous weapon displayed or used in an assault when
3 arresting a person under subsection 2, paragraph "d", and any
4 firearms owned or possessed by the person. A law enforcement
5 agency or peace officer shall not return possession of the
6 dangerous weapon or firearms to the person arrested if the
7 person is subject to an order or approved consent agreement
8 entered under this chapter, a temporary or permanent
9 protective order or order to vacate the homestead under
10 chapter 598, or an order establishing conditions of release or
11 a protective or sentencing order in a criminal prosecution
12 arising from a domestic abuse assault.

13 Sec. 13. Section 236.14, subsection 2, unnumbered
14 paragraph 4, Code 1995, is amended to read as follows:

15 The clerk of the district court shall also provide notice
16 and copies of the no-contact order to the applicable law
17 enforcement agencies and the twenty-four hour dispatcher for
18 the law enforcement agencies, and the statewide protective
19 order registry established in section 236.19, in the manner
20 provided for protective orders under section 236.5. The clerk
21 shall provide notice and copies of modifications or vacations
22 of these orders in the same manner.

23 Sec. 14. NEW SECTION. 236.19 STATEWIDE PROTECTIVE ORDER
24 REGISTRY.

25 A central registry of protective orders is established in
26 the department of public safety. The registry shall be
27 staffed and accessible on a continuous basis for use by law
28 enforcement agencies and peace officers. The registry shall
29 contain the following:

30 1. Orders and court-approved consent agreements entered
31 under this chapter.

32 2. Temporary and permanent protective orders and orders to
33 vacate the homestead entered under chapter 598.

34 3. Orders establishing conditions of release, protective
35 orders, and sentencing orders in criminal prosecutions arising

1 from a domestic abuse assault.

2 The registry may be colocated with another department of
3 public safety facility which operates twenty-four hours a day
4 on a year-round basis.

5 Sec. 15. NEW SECTION. 236.20 FOREIGN PROTECTIVE ORDERS
6 -- REGISTRATION -- ENFORCEMENT.

7 1. As used in this section, "foreign protective order"
8 means a protective order entered in a state other than Iowa
9 which would be an order or court-approved consent agreement
10 entered under this chapter, a temporary or permanent
11 protective order or order to vacate the homestead under
12 chapter 598, or an order that establishes conditions of
13 release or is a protective order or sentencing order in a
14 criminal prosecution arising from a domestic abuse assault if
15 it had been entered in Iowa.

16 2. A copy of a foreign protective order authenticated in
17 accordance with the statutes of this state may be filed with
18 the clerk of the district court of the county in which the
19 person in whose favor the order was entered resides. The
20 clerk shall provide a copy of the order to the statewide
21 protective order registry in the manner provided in section
22 236.5.

23 3. A foreign protective order so filed has the same effect
24 and shall be enforced in the same manner as a protective order
25 issued in this state.

26 Sec. 16. Section 331.756, subsection 4, Code 1995, is
27 amended to read as follows:

28 4. Prosecute misdemeanors when not otherwise engaged in
29 the performance of other official duties. However, the county
30 attorney shall not decline to prosecute misdemeanors under
31 chapter 236.

32 Sec. 17. Section 331.756, Code 1995, is amended by adding
33 the following new subsection:

34 NEW SUBSECTION. 48A. Develop written procedures and
35 policies to be followed in the prosecution of domestic abuse

1 cases under chapters 236 and 708.

2 Sec. 18. Section 598.42, Code 1995, is amended to read as
3 follows:

4 598.42 NOTICE OF CERTAIN ORDERS BY CLERK OF COURT.

5 The clerk of the district court shall provide notice and
6 copies of temporary or permanent protective orders and orders
7 to vacate the homestead entered pursuant to this chapter to
8 the applicable law enforcement agencies, and the twenty-four
9 hour dispatcher for the law enforcement agencies, and the
10 statewide protective order registry established in section

11 236.19 in the manner provided for protective orders under
12 section 236.5. The clerk shall provide notice and copies of
13 modifications or vacations of these orders in the same manner.

14 Sec. 19. Section 602.6306, subsection 2, Code 1995, is
15 amended to read as follows:

16 2. District associate judges also have jurisdiction in
17 civil actions for money judgment where the amount in
18 controversy does not exceed ten thousand dollars, jurisdiction
19 over involuntary commitment, treatment, or hospitalization
20 proceedings under chapters 125 and 229, jurisdiction of
21 indictable misdemeanors, and felony violations of section
22 321J.2, jurisdiction to enter a temporary or emergency order
23 of protection under chapter 236, and to make court

24 appointments and set hearings in criminal matters,
25 jurisdiction to enter orders in probate which do not require
26 notice and hearing and to set hearings in actions under
27 chapter 633, and the jurisdiction provided in section 602.7101
28 when designated as a judge of the juvenile court. While
29 presiding in these subject matters a district associate judge
30 shall employ district judges' practice and procedure.

31 Sec. 20. Section 602.6405, subsection 1, Code 1995, is
32 amended to read as follows:

33 1. Magistrates have jurisdiction of simple misdemeanors,
34 including traffic and ordinance violations, and preliminary
35 hearings, search warrant proceedings, county and municipal

1 infractions, and small claims. Magistrates have jurisdiction
2 to determine the disposition of livestock or another animal,
3 as provided in sections 717.5 and 717B.4, if the magistrate
4 determines the value of the livestock or animal is less than
5 ten thousand dollars. Magistrates have jurisdiction to
6 exercise the powers specified in sections 556F.2 and 556F.12,
7 and to hear complaints or preliminary informations, issue
8 warrants, order arrests, make commitments, and take bail.
9 Magistrates have jurisdiction over violations of section
10 123.49, subsection 2, paragraph "h". Magistrates who are
11 admitted to the practice of law in this state have
12 jurisdiction over all proceedings for the involuntary
13 commitment, treatment, or hospitalization of individuals under
14 chapters 125 and 229, except as otherwise provided under
15 section 229.6A and to enter a temporary or emergency order of
16 protection under chapter 236; nonlawyer magistrates have
17 jurisdiction over emergency detention and hospitalization
18 proceedings under sections 125.91 and 229.22. Magistrates
19 have jurisdiction to conduct hearings authorized under section
20 809.4 and section 809.10, subsection 2.

21 Sec. 21. Section 602.8105, subsection 2, paragraph a, Code
22 1995, is amended to read as follows:

23 a. For filing an application for a license to marry,
24 ~~thirty~~ forty dollars. For issuing an application for an order
25 of the district court authorizing the issuance of a license to
26 marry prior to the expiration of three days from the date of
27 filing the application for the license, five dollars. The
28 court shall authorize the issuance of a marriage license
29 without the payment of any fees imposed by this paragraph upon
30 a showing that the applicant is unable to pay the fees.

31 Notwithstanding section 602.8108 or any other provision of
32 law to the contrary, ten dollars of the marriage license fee
33 shall be distributed by the clerk of the district court to the
34 county treasurer for use by the county attorney in providing
35 legal assistance to pro se plaintiffs in domestic abuse

1 actions under section 236.3 or in contempt actions under
2 section 236.8.

3 Sec. 22. Section 708.2A, subsection 6, Code 1995, is
4 amended to read as follows:

5 6. The clerk of the district court shall provide notice
6 and copies of a judgment entered under this section to the
7 applicable law enforcement agencies, and the twenty-four hour
8 dispatcher for the law enforcement agencies, and the statewide
9 protective order registry established in section 236.19 in the
10 manner provided for protective orders under section 236.5.
11 The clerk shall provide notice and copies of modifications of
12 the judgment in the same manner.

13 Sec. 23. Section 708.2B, Code 1995, is amended by adding
14 the following new unnumbered paragraph:

15 NEW UNNUMBERED PARAGRAPH. District departments or contract
16 service providers shall receive upon request peace officers'
17 investigative reports regarding persons participating in
18 programs under this section. The receipt of reports under
19 this section shall not waive the confidentiality of the
20 reports under section 22.7.

21 Sec. 24. Section 910A.11, subsection 5, Code 1995, is
22 amended to read as follows:

23 5. The clerk of the district court shall provide notice
24 and copies of restraining orders issued pursuant to this
25 section in a criminal case involving an alleged violation of
26 section 708.2A to the applicable law enforcement agencies, and
27 the twenty-four hour dispatcher for the law enforcement
28 agencies, and the statewide protective order registry
29 established in section 236.19, in the manner provided for
30 protective orders under section 236.5. The clerk shall
31 provide notice and copies of modifications or vacations of
32 these orders in the same manner.

33 Sec. 25. CONDITIONAL EFFECTIVENESS PROVISION. A state
34 mandate in this bill shall not take effect unless an
35 appropriation is made which complies with section 25B.2,

1 subsection 3.

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EXPLANATION

3 This bill provides the following:

4 1. Section 80B.11, regarding training requirements for
5 students at the Iowa law enforcement academy is amended to
6 require at least 12 hours of instruction on the dynamics and
7 law of domestic abuse. The bill also adds four hours of
8 domestic abuse dynamics and law training to the in-service
9 training requirements for law enforcement officers.

10 2. The definition of domestic abuse assault in section
11 236.2 is amended to include assaults occurring by or against
12 juveniles who are married, living or have lived together, or
13 have children in common.

14 3. Section 236.3 is amended to allow a parent or guardian
15 to file a domestic abuse action on behalf of an unemancipated
16 juvenile.

17 4. A person who is found to have committed domestic abuse
18 or who violates a protective order and is found in contempt
19 may be required to pay the court costs and attorneys fees of
20 the plaintiff in the action. Section 236.8 is also amended to
21 provide that a person who violates a protective order may be
22 convicted of a simple misdemeanor or found in contempt. A
23 person shall not be convicted of a simple misdemeanor and
24 found in contempt for the same protective order violation.

25 5. Section 236.10 is amended to provide that the file in a
26 domestic abuse case may be sealed only at the request of the
27 petitioner in the case.

28 6. Section 236.19 is created to establish a statewide
29 protective order registry. The registry would receive all
30 protective orders issued in the state in domestic abuse or
31 marriage dissolution actions or for victim and witness
32 protection and also foreign protective orders and would
33 operate on a 24-hour-a-day basis.

34 7. Section 236.20 is created to provide for the
35 registration and enforcement of protective orders entered in

1 states other than Iowa. A foreign order which is filed with
2 the clerk of the district court for the county in which the
3 person in whose favor the order was issued resides is entitled
4 to enforcement as if it had been entered by an Iowa court.

5 8. The provision authorizing county attorneys to prosecute
6 misdemeanors only when not performing other duties is amended
7 to provide an exception for misdemeanors under chapter 236
8 requiring the county attorney to prosecute those. County
9 attorneys are also directed to develop written policies for
10 use in prosecuting domestic abuse cases.

11 9. District associate judges and lawyer magistrates are
12 authorized to enter temporary or emergency protective orders
13 under chapter 236 when so designated by the chief judge of the
14 judicial district and when the district court judge is not
15 available in person or by telephone or fax.

16 10. The fee for a marriage license is increased from \$30
17 to \$40 with the increase being used to fund county attorney
18 participation in domestic abuse cases.

19 11. Judicial district departments of correctional services
20 or contract providers of batterers' education services are
21 authorized to obtain peace officers' investigative reports
22 regarding domestic abuse cases. Providing the reports to the
23 batterers' programs does not otherwise waive the
24 confidentiality of the reports and make them public records.

25 The bill may contain a state mandate under chapter 25B.
26 Any mandate contained in the bill will not take effect unless
27 an appropriation is made in accordance with section 25B.2,
28 subsection 3, fully or proportionately funding the cost of the
29 mandate.

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