

REPRINTED

FILED FEB 28 1996

SENATE FILE **2355**
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 2288)

Passed Senate, Date ^(P.946) 3-21-96 Passed House, Date _____
Vote: Ayes 48 Nays 0 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to domestic abuse, including law enforcement
2 training requirements, seizure of weapons, prosecution of
3 misdemeanors by county attorneys, and jurisdiction of district
4 associate judges.

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

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S.F. 2355

LED

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
18 instruction per year on domestic abuse dynamics and domestic
19 abuse law.

20 Sec. 3. Section 236.12, Code 1995, is amended by adding
21 the following new subsection:

22 NEW SUBSECTION. 5. A peace officer, when making an arrest
23 for domestic abuse shall seize all weapons which the officer
24 has reason to believe were involved in the domestic abuse or
25 the threatened domestic abuse. A peace officer may seize any
26 other weapon that is in the plain view of the officer or is
27 discovered pursuant to a consensual search, as necessary for
28 the protection of the officer or other persons.

29 Sec. 4. Section 331.756, subsection 4, Code Supplement
30 1995, is amended to read as follows:

31 4. Prosecute misdemeanors under chapter 236. The county
32 attorney shall prosecute other misdemeanors when not otherwise
33 engaged in the performance of other official duties.

34 Sec. 5. Section 602.6306, subsection 2, Code 1995, is
35 amended to read as follows:

1 2. District associate judges also have jurisdiction in
2 civil actions for money judgment where the amount in
3 controversy does not exceed ten thousand dollars, jurisdiction
4 over involuntary commitment, treatment, or hospitalization
5 proceedings under chapters 125 and 229, jurisdiction of
6 indictable misdemeanors, and felony violations of section
7 321J.2, jurisdiction to enter a temporary or emergency order
8 of protection under chapter 236, and to make court
9 appointments and set hearings in criminal matters,
10 jurisdiction to enter orders in probate which do not require
11 notice and hearing and to set hearings in actions under
12 chapter 633, and the jurisdiction provided in section 602.7101
13 when designated as a judge of the juvenile court. While
14 presiding in these subject matters a district associate judge
15 shall employ district judges' practice and procedure.

16 EXPLANATION

17 This bill provides that the minimum training requirements
18 for law enforcement officers include at least 12 hours of
19 training regarding domestic abuse dynamics and law. In-
20 service training requirements regarding domestic abuse under
21 the bill are set at four hours per year.

22 The bill also provides that a peace officer making an
23 arrest for domestic abuse shall seize all weapons the officer
24 has reason to believe were used in the actual or threatened
25 domestic abuse. The officer may seize other weapons in plain
26 view or discovered during a consensual search in order to
27 protect the officer or other persons.

28 The bill further provides that county attorneys are to
29 prosecute misdemeanors under chapter 236 (domestic abuse).
30 Currently, all misdemeanors may be prosecuted when the county
31 attorney is not engaged in other duties.

32 In addition, the bill authorizes district associate judges
33 to issue temporary or emergency orders in domestic abuse
34 cases.

35

SENATE FILE 2355
FISCAL NOTE

REQ. BY SENATOR NEUHAUSER

The estimate for Senate File 2355 is hereby submitted as a fiscal note pursuant to Joint Rule 17 and as a correctional impact statement pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 2355 requires law enforcement officer basic training include 12 hours on the dynamics of domestic abuse and domestic abuse law. Four hours per year of in-service training on domestic abuse is required. Changes in the law permits law officers to seize weapons in a domestic abuse situation. The Bill further provides that county attorneys will prosecute domestic abuse cases when not engaged in other duties and permits district associate judges to issue temporary or emergency orders in domestic abuse cases.

ASSUMPTIONS

1. The Department of Public Safety will provide the domestic abuse training as an extension of its basic training program. Thirty officers are trained annually and receive wages of \$12.10 per hour. The additional training will require 12 hours.
2. In-service training for 616 Department of Public Safety officers will require four hours of training annually at an average wage of \$24.62 per hour.
3. The Iowa Law Enforcement Academy currently provides six hours of training in domestic abuse cases. The training will be increased to 12 hours. The Academy will recover the costs of the training in the fees charged to local law enforcement agencies, including additional training required for Academy staff.

FISCAL IMPACT

The cost of the additional training for Department of Public Safety officers and trainees is estimated to be \$67,000 annually.

The Iowa Law Enforcement Academy estimates fees charged to local law enforcement agencies will be increased by \$120,000, in FY 1997 and \$106,000 in FY 1998 to cover the additional training costs.

SOURCES

Department of Public Safety
Iowa Law Enforcement Academy
Judicial Department

(LSB 4310sv, MDF)

FILED MARCH 12, 1996

BY DENNIS PROUTY, FISCAL DIRECTOR

SENATE FILE 2355

S-5293

1 Amend Senate File 2355 as follows:

2 1. Page 1, by striking lines 22 through 28 and
3 inserting the following:

4 "NEW SUBSECTION. 2A. A peace officer shall seize
5 a weapon used in an assault or domestic abuse when
6 arresting a person under subsection 2, paragraph "d",
7 and, at the request of the victim, any weapon owned or
8 possessed by the person.

9 A weapon seized under this subsection shall be
10 returned to the person arrested or the owner if either
11 of the following apply:

12 a. Not later than thirty days following the arrest
13 or following the filing of a petition by the owner of
14 the weapon, or at the time when the weapon is no
15 longer needed as evidence in a criminal proceeding
16 related to the arrest, whichever is later.

17 b. To the person arrested, not later than thirty
18 days following the expiration of the first no-contact
19 order issued against the person arrested following the
20 arrest at which the weapon was seized."

By ALLEN BORLAUG

Lost 3/19/96 P. 884

S-5293 FILED MARCH 12, 1996

SENATE FILE 2355

S-5326

1 Amend Senate File 2355 as follows:

2 1. Page 1, line 10, by striking the word "twelve"
3 and inserting the following: "six".

4 2. Page 1, lines 16 and 17, by striking the words
5 "under this subsection".

6 3. Page 1, line 17, by striking the words "at
7 least four hours of".

By RANDAL J. GIANNETTO

S-5326 FILED MARCH 12, 1996

Adopted 3-19-96

(P. 883)

S-5291

1 Amend Senate File 2355 as follows:

2 1. Page 2, by inserting after line 15 the
3 following:4 "Sec. _____. Notwithstanding section 708.2A, a
5 court, located in a county which has been designated
6 by the supreme court as a county establishing an
7 alternative batterers' treatment pilot program, shall
8 sentence a person who pleads guilty to or is convicted
9 of domestic abuse assault under section 708.2A to
10 either a batterers' treatment program under section
11 708.2B or the alternative batterers' pilot program
12 established in the county.13 The judicial district in which the county is
14 located shall report to the general assembly not later
15 than January 15 of each year regarding the alternative
16 batterers' pilot program. The judicial district shall
17 submit a final report not later than August 1, 1998,
18 regarding the pilot program.19 This section is repealed effective June 30, 1998,
20 except that the date for submission of the final
21 report shall remain August 1, 1998."22 2. Title page, line 3, by striking the word
23 "and".24 3. Title page, line 4, by inserting after the
25 word "judges" the following: ", establishing a pilot
26 program, and establishing a repeal date".

27 4. By renumbering as necessary.

By ELAINE SZYMONIAK

S-5291 FILED MARCH 12, 1996

*adopted 3/19/96
(p. 884)*

SENATE FILE 2355

S-5292

1 Amend Senate File 2355 as follows:

2 1. Page 1, line 17, by striking the word "four"
3 and inserting the following: "two".4 2. Page 1, line 18, by striking the word "per"
5 and inserting the following: "every other".

By ELAINE SZYMONIAK

S-5292 FILED MARCH 12, 1996

*Out of Order 3-19-96
(p. 883)*

SENATE FILE 2355

S-5260

1 Amend Senate File 2355 as follows:

2 1. Page 1, by striking lines 20 through 28.

3 2. Title page, line 2, by striking the words
4 "seizure of weapons,".

5 3. By renumbering as necessary.

By MERLIN E. BARTZ

S-5260 FILED MARCH 11, 1996

*Lost
3-19-96
(p. 883)*

SENATE FILE 2355

S-5439

1 Amend the amendment, S-5425, to Senate File 2355,
 2 as follows:
 3 1. Page 1, by inserting after line 1 the
 4 following:
 5 "____. Page 1, line 22, by inserting after the
 6 figure "5." the following: "a."
 7 2. Page 1, by striking lines 4 through 6 and
 8 inserting the following:
 9 "b. Notwithstanding chapter 809, a weapon seized
 10 under this subsection shall be returned to the owner
 11 of the weapon within seventy-two hours of the seizure
 12 of the weapon under this section if a criminal charge
 13 is not filed against the person within that time
 14 period.
 15 c. A weapon seized under this subsection shall be
 16 returned to the owner of the weapon or disposed of in
 17 accordance with chapter 809 if a criminal charge is
 18 filed within seventy-two hours after the arrest of the
 19 person."

Adopted 3/21/96 (p.945) By ALLEN BORLAUG

S-5439 FILED MARCH 20, 1996

SENATE FILE 2355

S-5460

1 Amend the amendment, S-5425, to Senate File 2355,
 2 as follows:
 3 1. Page 1, by inserting after line 1 the
 4 following:
 5 "____. Page 1, by striking lines 26 through 28 and
 6 inserting the following: "other weapon that is in
 7 plain view of the officer."
 8 2. Page 1, line 2, by striking the words and
 9 figure "after line 28" and inserting the following:
 10 "before line 29".
 11 3. By renumbering as necessary.

Adopted 3/21/96 (p.946) By BERL E. PRIEBE
 ALLEN BORLAUG
 MERLIN E. BARTZ

S-5460 FILED MARCH 20, 1996

SENATE FILE 2355

S-5425

1 Amend Senate File 2355 as follows:
 2 1. Page 1, by inserting after line 28 the
 3 following:
 4 "A weapon seized under this subsection shall be
 5 returned to the owner of the weapon or disposed of in
 6 accordance with chapter 809."

By TOM VILSACK STEVEN D. HANSEN
 ELAINE SZYMONIAK BERL E. PRIEBE

S-5425 FILED MARCH 20, 1996

Adopted 3/21/96 (p.946)

SENATE FILE 2355

S-5468

1 Amend Senate File 2355 as follows:
2 1. Page 2, by inserting after line 15 the
3 following:
4 "Sec. ____ . Section 702.11, Code 1995, is amended
5 to read as follows:
6 702.11 FORCIBLE FELONY.
7 A "forcible felony" is any felonious child
8 endangerment, assault, murder, sexual abuse,
9 kidnapping, robbery, arson in the first degree, or
10 burglary in the first degree. However, sexual abuse
11 in the third degree committed between spouses, sexual
12 abuse in violation of section 709.4, subsection 2,
13 paragraph "c", subparagraph (4), or sexual
14 exploitation by a counselor or therapist in violation
15 of section 709.15, or sexual exploitation by a law
16 enforcement officer in violation of section 709.15A is
17 not a "forcible felony".
18 Sec. ____ . NEW SECTION. 709.15A SEXUAL
19 EXPLOITATION BY A LAW ENFORCEMENT OFFICER -- PENALTY.
20 1. As used in this section:
21 a. "Law enforcement officer" means a peace officer
22 employed by the state or a political subdivision of
23 the state.
24 b. "Sexual exploitation by a law enforcement
25 officer" occurs when a sex act, as defined in section
26 702.17, occurs between a law enforcement officer and a
27 victim at any time between the time the victim is
28 responded to or the victim's case is opened and the
29 time a conviction or plea of guilty is obtained or the
30 case is closed.
31 c. "Victim" means a person who is the subject of
32 an act being investigated or responded to by a law
33 enforcement officer as a crime.
34 2. A law enforcement officer who commits sexual
35 exploitation commits a class "D" felony."

By JIM LIND
ELAINE SZYMONIAK

S-5468 FILED MARCH 21, 1996

ADOPTED

(p. 946)

SENATE FILE 2355
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 2288)

(AS AMENDED AND PASSED BY THE SENATE MARCH 21, 1996)

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

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

A BILL FOR

1 An Act relating to domestic abuse, including law enforcement
 2 training requirements, seizure of weapons, prosecution of
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 4 associate judges, establishing a pilot program, and
 5 establishing a repeal date.

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S.F. 2355

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 six hours of instruction
11 on domestic abuse dynamics and domestic abuse law which may
12 include outside speakers from domestic abuse shelters and
13 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 shall also
*17 include instruction per year on domestic abuse dynamics and
18 domestic abuse law.

19 Sec. 3. Section 236.12, Code 1995, is amended by adding
20 the following new subsection:

21 NEW SUBSECTION. 5. A peace officer, when making an arrest
22 for domestic abuse shall seize all weapons which the officer
23 has reason to believe were involved in the domestic abuse or
24 the threatened domestic abuse. A peace officer may seize any
25 other weapon that is in plain view of the officer.

26 A weapon seized under this subsection shall be returned to
27 the owner of the weapon or disposed of in accordance with
28 chapter 809.

29 Sec. 4. Section 331.756, subsection 4, Code Supplement
30 1995, is amended to read as follows:

31 4. Prosecute misdemeanors under chapter 236. The county
32 attorney shall prosecute other misdemeanors when not otherwise
33 engaged in the performance of other official duties.

34 Sec. 5. Section 602.6306, subsection 2, Code 1995, is
35 amended to read as follows:

1 2. District associate judges also have jurisdiction in
2 civil actions for money judgment where the amount in
3 controversy does not exceed ten thousand dollars, jurisdiction
4 over involuntary commitment, treatment, or hospitalization
5 proceedings under chapters 125 and 229, jurisdiction of
6 indictable misdemeanors, and felony violations of section
7 321J.2, jurisdiction to enter a temporary or emergency order
8 of protection under chapter 236, and to make court
9 appointments and set hearings in criminal matters,
10 jurisdiction to enter orders in probate which do not require
11 notice and hearing and to set hearings in actions under
12 chapter 633, and the jurisdiction provided in section 602.7101
13 when designated as a judge of the juvenile court. While
14 presiding in these subject matters a district associate judge
15 shall employ district judges' practice and procedure.

16 Sec. 6. Section 702.11, Code 1995, is amended to read as
17 follows:

18 702.11 FORCIBLE FELONY.

19 A "forcible felony" is any felonious child endangerment,
20 assault, murder, sexual abuse, kidnapping, robbery, arson in
21 the first degree, or burglary in the first degree. However,
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25 counselor or therapist in violation of section 709.15, or
26 sexual exploitation by a law enforcement officer in violation
27 of section 709.15A is not a "forcible felony".

28 Sec. 7. NEW SECTION. 709.15A SEXUAL EXPLOITATION BY A
29 LAW ENFORCEMENT OFFICER -- PENALTY.

30 1. As used in this section:

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33 b. "Sexual exploitation by a law enforcement officer"
34 occurs when a sex act, as defined in section 702.17, occurs
35 between a law enforcement officer and a victim at any time

1 between the time the victim is responded to or the victim's
2 case is opened and the time a conviction or plea of guilty is
3 obtained or the case is closed.

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6 officer as a crime.

7 2. A law enforcement officer who commits sexual
8 exploitation commits a class "D" felony.

9 Sec. 8. Notwithstanding section 708.2A, a court, located
10 in a county which has been designated by the supreme court as
11 a county establishing an alternative batterers' treatment
12 pilot program, shall sentence a person who pleads guilty to or
13 is convicted of domestic abuse assault under section 708.2A to
14 either a batterers' treatment program under section 708.2B or
15 the alternative batterers' pilot program established in the
16 county.

17 The judicial district in which the county is located shall
18 report to the general assembly not later than January 15 of
19 each year regarding the alternative batterers' pilot program.
20 The judicial district shall submit a final report not later
21 than August 1, 1998, regarding the pilot program.

22 This section is repealed effective June 30, 1998, except
23 that the date for submission of the final report shall remain
24 August 1, 1998.

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Szymoniak
Hammond
Neuhauser
Maddox
Boettger

SSB-2288

Judiciary

Succeeded By

(SF) HF 2355

SENATE FILE

BY (PROPOSED COMMITTEE ON

JUDICIARY BILL BY

CHAIRPERSON GIANNETTO)

Passed Senate, Date _____ Passed House, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

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