

# Senate Study Bill 183

## Conference Committee Text

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1 1 Section 1. Section [80B.11](#), subsection 1, Code 1995, is  
1 2 amended to read as follows:  
1 3 1. a. Minimum entrance requirements, course of study,  
1 4 attendance requirements, and equipment and facilities required  
1 5 at approved law enforcement training schools. Minimum age  
1 6 requirements for entrance to approved law enforcement training  
1 7 schools shall be eighteen years of age.  
1 8 b. Minimum course of study requirements shall include a  
1 9 separate domestic abuse curriculum, which

~~may~~  
- shall include

1 10

~~but is not limited to,~~  
- a minimum of twelve hours of  
1 11 instruction on domestic abuse dynamics and domestic abuse law  
1 12 which may include outside speakers from domestic abuse  
1 13 shelters and crime victim assistance organizations.

1 14 Sec. 2. Section [80B.11](#), subsection 3, Code 1995, is  
1 15 amended by adding the following new unnumbered paragraph:  
1 16 NEW UNNUMBERED PARAGRAPH. In-service training under this  
1 17 subsection shall also include at least four hours of instruc-  
1 18 tion per year on domestic abuse dynamics and domestic abuse  
1 19 law.

1 20 Sec. 3. Section [236.2](#), subsection 2, paragraphs a through  
1 21 d, Code 1995, are amended to read as follows:

1 22 a. The assault is between family or household members,  
1 23 including minors, who resided together at the time of the  
1 24 assault.

1 25 b. The assault is between separated spouses or persons  
1 26 divorced from each other, including minors, and not residing  
1 27 together at the time of the assault.

1 28 c. The assault is between persons, including minors, who  
1 29 are parents of the same minor child, regardless of whether  
1 30 they have been married or have lived together at any time.

1 31 d. The assault is between persons, including minors, who  
1 32 have been family or household members residing together within  
1 33 the past year and are not residing together at the time of the  
1 34 assault.

1 35 Sec. 4. Section [236.3](#), unnumbered paragraph 1, Code 1995,  
2 1 is amended to read as follows:

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

2 6 Sec. 5. Section [236.3](#), Code 1995, is amended by adding the  
2 7 following new subsection:

2 8 NEW SUBSECTION. 1A. If the petition is being filed on  
2 9 behalf of an unemancipated minor, the name of the parent or  
2 10 guardian filing the petition and the parent's or guardian's  
2 11 address. For the purposes of this chapter, "plaintiff"  
2 12 includes a person filing an action on behalf of an

2 13 unemancipated minor.

2 14 Sec. 6. Section [236.3B](#), Code 1995, is amended by adding  
2 15 the following new unnumbered paragraph:

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

2 20 Sec. 7. Section [236.5](#), Code 1995, is amended by adding the  
2 21 following new subsection:

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

2 24 Sec. 8. Section [236.5](#), subsection 4, Code 1995, is amended  
2 25 to read as follows:

2 26 4. A certified copy of any order or approved consent  
2 27 agreement shall be issued to the plaintiff, the defendant, and  
2 28 the county sheriff having jurisdiction to enforce the order or  
2 29 consent agreement,

~~and~~

- the twenty-four hour dispatcher for the  
2 30 county sheriff, and the statewide protective order registry  
2 31 established in section 236.19. Any subsequent amendment or  
2 32 revocation of an order or consent agreement shall be forwarded  
2 33 by the clerk to all individuals,

~~and~~

- the county sheriff, and  
2 34 the statewide registry previously notified. The clerk shall  
2 35 notify the county sheriff and the twenty-four hour dispatcher  
3 1 for the county sheriff in writing so that the county sheriff  
3 2 and the county sheriff's dispatcher receive written notice  
3 3 within six hours of filing the order, approved consent  
3 4 agreement, amendment, or revocation. The clerk may fulfill  
3 5 this requirement by sending the notice by facsimile or other  
3 6 electronic transmission which reproduces the notice in writing  
3 7 within six hours of filing the order. The county sheriff's  
3 8 dispatcher shall notify all law enforcement agencies having  
3 9 jurisdiction over the matter and the twenty-four hour  
3 10 dispatcher for the law enforcement agencies upon notification  
3 11 by the clerk. The clerk shall send or deliver a written copy  
3 12 of any such document to the law enforcement agencies and the  
3 13 twenty-four hour dispatcher within twenty-four hours of filing  
3 14 the document.

3 15 Sec. 9. Section [236.6](#), subsection 1, Code 1995, is amended  
3 16 to read as follows:

3 17 1. When the court is unavailable from the close of  
3 18 business at the end of the day or week to the resumption of  
3 19 business at the beginning of the day or week, a petition may  
3 20 be filed before a district judge,

~~or~~

- a district associate  
3 21 judge, or a lawyer magistrate designated by the chief judge of  
3 22 the judicial district, who may grant emergency relief in  
3 23 accordance with section 236.5, subsection 2, if the district  
3 24 judge,

~~or~~

- district associate judge, or magistrate deems it  
3 25 necessary to protect the plaintiff from domestic abuse, upon  
3 26 good cause shown in an ex parte proceeding. Present danger of  
3 27 domestic abuse to the plaintiff constitutes good cause for  
3 28 purposes of this subsection. A district associate judge or  
3 29 magistrate shall only grant emergency relief under this  
3 30 section if the designated district judge is not available in  
3 31 person, by telephone, or by facsimile communication.

3 32 Sec. 10. Section [236.8](#), Code 1995, is amended to read as

3 33 follows:  
3 34 236.8 CONTEMPT &dash; HEARINGS.  
3 35

~~The~~  
- A person commits a simple misdemeanor or the court may  
4 1 hold a

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

4 14 A hearing in a contempt proceeding brought pursuant to this  
4 15 section shall be held not less than five and not more than  
4 16 fifteen days after the issuance of a rule to show cause, as  
4 17 set by the court.

4 18 A person shall not be convicted of and held in contempt for  
4 19 the same violation of an order or court-approved consent  
4 20 agreement entered under this chapter, for the same violation  
4 21 of a temporary or permanent protective order or order to  
4 22 vacate the homestead under chapter 598, or for violation of  
4 23 any order that establishes conditions of release or is a  
4 24 protective order or sentencing order in a criminal prosecution  
4 25 arising from a domestic abuse assault.

4 26 Sec. 11. Section [236.10](#), Code 1995, is amended to read as  
4 27 follows:

4 28 236.10 CONFIDENTIALITY OF RECORDS.

4 29 The file in a domestic abuse case shall be sealed by the  
4 30 clerk of court only upon the application of the petitioner  
4 31 when it is complete and after the time for appeal has expired.  
4 32 However, the clerk shall open the file upon application to and  
4 33 order of the court for good cause shown.

4 34 Sec. 12. Section [236.12](#), Code 1995, is amended by adding  
4 35 the following new subsection:

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

5 13 Sec. 13. Section [236.14](#), subsection 2, unnumbered  
5 14 paragraph 4, Code 1995, is amended to read as follows:

5 15 The clerk of the district court shall also provide notice  
5 16 and copies of the no-contact order to the applicable law  
5 17 enforcement agencies and the twenty-four hour dispatcher for  
5 18 the law enforcement agencies, and the statewide protective  
5 19 order registry established in section 236.19, in the manner  
5 20 provided for protective orders under section 236.5. The clerk  
5 21 shall provide notice and copies of modifications or vacations  
5 22 of these orders in the same manner.

5 23 Sec. 14. NEW SECTION. 236.19 STATEWIDE PROTECTIVE ORDER

5 24 REGISTRY.

5 25 A central registry of protective orders is established in  
5 26 the department of public safety. The registry shall be  
5 27 staffed and accessible on a continuous basis for use by law  
5 28 enforcement agencies and peace officers. The registry shall  
5 29 contain the following:

5 30 1. Orders and court-approved consent agreements entered  
5 31 under this chapter.

5 32 2. Temporary and permanent protective orders and orders to  
5 33 vacate the homestead entered under chapter 598.

5 34 3. Orders establishing conditions of release, protective  
5 35 orders, and sentencing orders in criminal prosecutions arising  
6 1 from a domestic abuse assault.

6 2 The registry may be colocated with another department of  
6 3 public safety facility which operates twenty-four hours a day  
6 4 on a year-round basis.

6 5 Sec. 15. NEW SECTION. 236.20 FOREIGN PROTECTIVE ORDERS  
6 6 &endash; REGISTRATION &endash; ENFORCEMENT.

6 7 1. As used in this section, "foreign protective order"  
6 8 means a protective order entered in a state other than Iowa  
6 9 which would be an order or court-approved consent agreement  
6 10 entered under this chapter, a temporary or permanent  
6 11 protective order or order to vacate the homestead under  
6 12 chapter 598, or an order that establishes conditions of  
6 13 release or is a protective order or sentencing order in a  
6 14 criminal prosecution arising from a domestic abuse assault if  
6 15 it had been entered in Iowa.

6 16 2. A copy of a foreign protective order authenticated in  
6 17 accordance with the statutes of this state may be filed with  
6 18 the clerk of the district court of the county in which the  
6 19 person in whose favor the order was entered resides. The  
6 20 clerk shall provide a copy of the order to the statewide  
6 21 protective order registry in the manner provided in section  
6 22 236.5.

6 23 3. A foreign protective order so filed has the same effect  
6 24 and shall be enforced in the same manner as a protective order  
6 25 issued in this state.

6 26 Sec. 16. Section 331.756, subsection 4, Code 1995, is  
6 27 amended to read as follows:

6 28 4. Prosecute misdemeanors when not otherwise engaged in  
6 29 the performance of other official duties. However, the county  
6 30 attorney shall not decline to prosecute misdemeanors under  
6 31 chapter 236.

6 32 Sec. 17. Section 331.756, Code 1995, is amended by adding  
6 33 the following new subsection:

6 34 NEW SUBSECTION. 48A. Develop written procedures and  
6 35 policies to be followed in the prosecution of domestic abuse  
7 1 cases under chapters 236 and 708.

7 2 Sec. 18. Section 598.42, Code 1995, is amended to read as  
7 3 follows:

7 4 598.42 NOTICE OF CERTAIN ORDERS BY CLERK OF COURT.

7 5 The clerk of the district court shall provide notice and  
7 6 copies of temporary or permanent protective orders and orders  
7 7 to vacate the homestead entered pursuant to this chapter to  
7 8 the applicable law enforcement agencies.

~~and~~

- the twenty-four

7 9 hour dispatcher for the law enforcement agencies, and the  
7 10 statewide protective order registry established in section  
7 11 236.19 in the manner provided for protective orders under  
7 12 section 236.5. The clerk shall provide notice and copies of  
7 13 modifications or vacations of these orders in the same manner.

7 14 Sec. 19. Section 602.6306, subsection 2, Code 1995, is  
7 15 amended to read as follows:

7 16 2. District associate judges also have jurisdiction in  
7 17 civil actions for money judgment where the amount in

7 18 controversy does not exceed ten thousand dollars, jurisdiction  
7 19 over involuntary commitment, treatment, or hospitalization  
7 20 proceedings under chapters 125 and 229, jurisdiction of  
7 21 indictable misdemeanors, and felony violations of section  
7 22 321J.2, jurisdiction to enter a temporary or emergency order  
7 23 of protection under chapter 236, and to make court  
7 24 appointments and set hearings in criminal matters,  
7 25 jurisdiction to enter orders in probate which do not require  
7 26 notice and hearing and to set hearings in actions under  
7 27 chapter 633, and the jurisdiction provided in section 602.7101  
7 28 when designated as a judge of the juvenile court. While  
7 29 presiding in these subject matters a district associate judge  
7 30 shall employ district judges' practice and procedure.

7 31 Sec. 20. Section 602.6405, subsection 1, Code 1995, is  
7 32 amended to read as follows:

7 33 1. Magistrates have jurisdiction of simple misdemeanors,  
7 34 including traffic and ordinance violations, and preliminary  
7 35 hearings, search warrant proceedings, county and municipal  
8 1 infractions, and small claims. Magistrates have jurisdiction  
8 2 to determine the disposition of livestock or another animal,  
8 3 as provided in sections 717.5 and 717B.4, if the magistrate  
8 4 determines the value of the livestock or animal is less than  
8 5 ten thousand dollars. Magistrates have jurisdiction to  
8 6 exercise the powers specified in sections 556F.2 and 556F.12,  
8 7 and to hear complaints or preliminary informations, issue  
8 8 warrants, order arrests, make commitments, and take bail.  
8 9 Magistrates have jurisdiction over violations of section  
8 10 123.49, subsection 2, paragraph "h". Magistrates who are  
8 11 admitted to the practice of law in this state have  
8 12 jurisdiction over all proceedings for the involuntary  
8 13 commitment, treatment, or hospitalization of individuals under  
8 14 chapters 125 and 229, except as otherwise provided under  
8 15 section 229.6A and to enter a temporary or emergency order of  
8 16 protection under chapter 236; nonlawyer magistrates have  
8 17 jurisdiction over emergency detention and hospitalization  
8 18 proceedings under sections 125.91 and 229.22. Magistrates  
8 19 have jurisdiction to conduct hearings authorized under section  
8 20 809.4 and section 809.10, subsection 2.

8 21 Sec. 21. Section 602.8105, subsection 2, paragraph a, Code  
8 22 1995, is amended to read as follows:

8 23 a. For filing an application for a license to marry,  
8 24

~~thirty~~

- ~~forty~~ dollars. For issuing an application for an order  
8 25 of the district court authorizing the issuance of a license to  
8 26 marry prior to the expiration of three days from the date of  
8 27 filing the application for the license, five dollars. The  
8 28 court shall authorize the issuance of a marriage license  
8 29 without the payment of any fees imposed by this paragraph upon  
8 30 a showing that the applicant is unable to pay the fees.  
8 31 Notwithstanding section 602.8108 or any other provision of  
8 32 law to the contrary, ten dollars of the marriage license fee  
8 33 shall be distributed by the clerk of the district court to the  
8 34 county treasurer for use by the county attorney in providing  
8 35 legal assistance to pro se plaintiffs in domestic abuse  
9 1 actions under section 236.3 or in contempt actions under  
9 2 section 236.8.

9 3 Sec. 22. Section 708.2A, subsection 6, Code 1995, is  
9 4 amended to read as follows:

9 5 6. The clerk of the district court shall provide notice  
9 6 and copies of a judgment entered under this section to the  
9 7 applicable law enforcement agencies.

~~and~~

- the twenty-four hour

9 8 dispatcher for the law enforcement agencies, and the statewide

9 9 protective order registry established in section 236.19 in the  
9 10 manner provided for protective orders under section 236.5.  
9 11 The clerk shall provide notice and copies of modifications of  
9 12 the judgment in the same manner.  
9 13 Sec. 23. Section 708.2B, Code 1995, is amended by adding  
9 14 the following new unnumbered paragraph:  
9 15 NEW UNNUMBERED PARAGRAPH. District departments or contract  
9 16 service providers shall receive upon request peace officers'  
9 17 investigative reports regarding persons participating in  
9 18 programs under this section. The receipt of reports under  
9 19 this section shall not waive the confidentiality of the  
9 20 reports under section 22.7.  
9 21 Sec. 24. Section 910A.11, subsection 5, Code 1995, is  
9 22 amended to read as follows:  
9 23 5. The clerk of the district court shall provide notice  
9 24 and copies of restraining orders issued pursuant to this  
9 25 section in a criminal case involving an alleged violation of  
9 26 section 708.2A to the applicable law enforcement agencies.

~~and~~

9 27 the twenty-four hour dispatcher for the law enforcement  
9 28 agencies, and the statewide protective order registry  
9 29 established in section 236.19, in the manner provided for  
9 30 protective orders under section 236.5. The clerk shall  
9 31 provide notice and copies of modifications or vacations of  
9 32 these orders in the same manner.

9 33 Sec. 25. CONDITIONAL EFFECTIVENESS PROVISION. This bill  
9 34 shall not take effect unless an appropriation is made which  
9 35 complies with section 25B.2, subsection 3.

10 1 EXPLANATION

10 2 This bill provides the following:

10 3 1. Section 80B.11, regarding training requirements for  
10 4 students at the Iowa law enforcement academy is amended to  
10 5 require at least 12 hours of instruction on the dynamics and  
10 6 law of domestic abuse. The bill also adds four hours of  
10 7 domestic abuse dynamics and law training to the in-service  
10 8 training requirements for law enforcement officers.

10 9 2. The definition of domestic abuse assault in section  
10 10 236.2 is amended to include assaults occurring by or against  
10 11 juveniles who are married, living or have lived together, or  
10 12 have children in common.

10 13 3. Section 236.3 is amended to allow a parent or guardian  
10 14 to file a domestic abuse action on behalf of an unemancipated  
10 15 juvenile.

10 16 4. A person who is found to have committed domestic abuse  
10 17 or who violates a protective order and is found in contempt  
10 18 may be required to pay the court costs and attorneys fees of  
10 19 the plaintiff in the action. Section 236.8 is also amended to  
10 20 provide that a person who violates a protective order may be  
10 21 convicted of a simple misdemeanor or found in contempt. A  
10 22 person shall not be convicted of a simple misdemeanor and  
10 23 found in contempt for the same protective order violation.

10 24 5. Section 236.10 is amended to provide that the file in a  
10 25 domestic abuse case may be sealed only at the request of the  
10 26 petitioner in the case.

10 27 6. Section 236.19 is created to establish a statewide  
10 28 protective order registry. The registry would receive all  
10 29 protective orders issued in the state in domestic abuse or  
10 30 marriage dissolution actions or for victim and witness  
10 31 protection and also foreign protective orders and would  
10 32 operate on a 24-hour-a-day basis.

10 33 7. Section 236.20 is created to provide for the  
10 34 registration and enforcement of protective orders entered in  
10 35 states other than Iowa. A foreign order which is filed with  
11 1 the clerk of the district court for the county in which the  
11 2 person in whose favor the order was issued resides is entitled

11 3 to enforcement as if it had been entered by an Iowa court.  
11 4 8. The provision authorizing county attorneys to prosecute  
11 5 misdemeanors only when not performing other duties is amended  
11 6 to provide an exception for misdemeanors under chapter 236,  
11 7 requiring the county attorney to prosecute those. County  
11 8 attorneys are also directed to develop written policies for  
11 9 use in prosecuting domestic abuse cases.  
11 10 9. District associate judges and lawyer magistrates are  
11 11 authorized to enter temporary or emergency protective orders  
11 12 under chapter 236 when so designated by the chief judge of the  
11 13 judicial district and when the district court judge is not  
11 14 available in person or by telephone or fax.  
11 15 10. The fee for a marriage license is increased from \$30  
11 16 to \$40 with the increase being used to fund county attorney  
11 17 participation in domestic abuse cases.  
11 18 11. Judicial district departments of correctional services  
11 19 or contract providers of batterers' education services are  
11 20 authorized to obtain peace officers' investigative reports  
11 21 regarding domestic abuse cases. Providing the reports to the  
11 22 batterers' programs does not otherwise waive the  
11 23 confidentiality of the reports and make them public records.  
11 24 The bill may contain a state mandate under chapter 25B.  
11 25 The bill will not take effect unless an appropriation is made  
11 26 in accordance with section 25B.2, subsection 3, fully or  
11 27 proportionately funding the cost of the mandate.  
11 28 LSB 1697SC 76  
11 29 mk/jw/5