

Senate Study Bill 2028

Conference Committee Text

PAG LIN

1 1 Section 1. Section 708.7, subsection 1, paragraph a,
1 2 subparagraph (2), Code 1995, is amended by striking the
1 3 subparagraph.
1 4 Sec. 2. Section 712.6, Code 1995, is amended to read as
1 5 follows:
1 6 712.6 POSSESSION OF EXPLOSIVE OR INCENDIARY MATERIALS OR
1 7 DEVICES ~~&endash;~~ ACTUAL OR SIMULATED.
1 8 1.

~~Any~~

- A person who

~~shall possess any~~

- possesses an actual

1 9 or simulated incendiary or explosive device or material with
1 10 the intent to use such device or material to commit any public
1 11 offense shall be guilty of a class "C" felony.

1 12 2. A person who possesses an actual or simulated
1 13 incendiary or explosive device or material and who is not a
1 14 person authorized under section 724.2 to possess the device or
1 15 material commits a class "D" felony.

1 16 3. A person who places a simulated explosive or incendiary
1 17 device in or near a building, vehicle, airplane, railroad
1 18 engine, railroad car, or boat occupied by another person
1 19 commits a class "D" felony.

1 20 Sec. 3. NEW SECTION. 724A.1 LEGISLATIVE FINDINGS &endash;
1 21 UNLAWFUL PARAMILITARY ACTIVITY.

1 22 The general assembly recognizes the constitutional rights
1 23 of every citizen to hold and express beliefs on any subject
1 24 and to associate with others who share similar beliefs. The
1 25 general assembly also finds that activities which involve the
1 26 training of people to commit unlawful acts of violence or
1 27 which further conspiracies to commit unlawful acts of violence
1 28 against persons or property, whether public or private, are a
1 29 threat to public order and safety, are not protected by either
1 30 the United States or state constitutions, and should be
1 31 subject to criminal prosecution and penalties. The general
1 32 assembly further finds that the provisions of this chapter
1 33 promote the health, safety, and welfare of the citizens of
1 34 Iowa and do not interfere with the exercise of the rights of
1 35 free speech and association.

2 1 Sec. 4. NEW SECTION. 724A.2 DEFINITIONS.

2 2 1. "Civil disorder" means the unlawful use, by one or more
2 3 individuals, of an offensive weapon as defined in section
2 4 724.1, dangerous weapon as defined in section 702.7, firearm,
2 5 or a technique or means capable of causing injury or death to
2 6 an individual or damage to property which causes an immediate
2 7 danger, or results in damage or injury, to a person or to
2 8 public or private property.

2 9 2. "Terrorism" means the same as defined in section 708.6.

2 10 Sec. 5. NEW SECTION. 724A.3 UNLAWFUL TRAINING ACTIVITY.

2 11 A person commits unlawful training activity by doing any of
2 12 the following:

2 13 1. Providing or participating in, alone or with one or
2 14 more persons, instruction or training in the use, application,
2 15 or construction of an offensive weapon as defined in section

2 16 724.1, dangerous weapon as defined in section 702.7, firearm,
2 17 or the use or application of a technique or means capable of
2 18 causing injury or death to an individual or damage to property
2 19 when the person intends, or knows or has reason to know, that
2 20 the instruction or training will be unlawfully employed for
2 21 use in, or in furtherance of, terrorism, a violation of
2 22 section 729.5, or civil disorder.

2 23 2. Conspiring with or assembling with one or more persons
2 24 to provide or participate in instruction or training in the
2 25 use, application, or construction of an offensive weapon as
2 26 defined in section 724.1, dangerous weapon as defined in
2 27 section 702.7, firearm, or the use or application of a
2 28 technique or means capable of causing injury or death to an
2 29 individual or damage to property when the person intends, or
2 30 knows or has reason to know, that the instruction or training
2 31 will be unlawfully employed for use in, or in furtherance of,
2 32 terrorism, a violation of section 729.5, or civil disorder

2 33 Unlawful training activity is a class "D" felony.

2 34 Sec. 6. NEW SECTION. 724A.4 CERTAIN ACTIVITY NOT
2 35 PROHIBITED.

3 1 This chapter does not prohibit otherwise lawful activities
3 2 involving weapons, firearms, processes, or techniques which do
3 3 not violate section 724A.3 including but not limited to the
3 4 following:

3 5 1. Training or teaching of the use of weapons for law
3 6 enforcement, hunting, recreation, or competition purposes.

3 7 2. Classes in the safe use and handling of firearms or
3 8 martial arts or self-defense classes.

3 9 3. The activities of the national guard or of the armed
3 10 forces of the United States.

3 11 Nothing in this chapter shall make unlawful any act of any
3 12 law enforcement officer performed otherwise lawfully in the
3 13 course of the officer's official duties.

3 14 Sec. 7. Section 729.5, subsection 1, unnumbered paragraph
3 15 1, Code 1995, is amended to read as follows:

3 16 A person, who acts alone, or who conspires with another
3 17 person or persons, to injure, oppress, threaten, or intimidate
3 18 or interfere with any citizen in the free exercise or
3 19 enjoyment of any right or privilege secured to that person by
3 20 the constitution or laws of the state of Iowa or by the
3 21 constitution or laws of the United States

~~3 22 , and assembles with~~

3 22

~~3 23 one or more persons for the purpose of teaching or being~~

3 23

~~3 24 instructed in any technique or means capable of causing~~

3 24

~~3 25 property damage, bodily injury or death when the person or~~

3 25

~~3 26 persons intend to employ those techniques or means in~~

3 26

~~3 27 furtherance of the conspiracy, is on conviction, guilty of~~

3 27 commits a class "D" felony.

3 28 EXPLANATION

3 29 This bill creates the offense of unlawful training activity

3 30 and makes related changes to provisions regarding the
3 31 possession of real or simulated explosive devices and
3 32 regarding violation of individual rights. The bill makes
3 33 unlawful training activity a class "D" felony.
3 34 The bill provides that a person commits the offense of
3 35 unlawful training activity in either of two ways: first, when
4 1 the person provides or participates in training involving
4 2 offensive or dangerous weapons, firearms, or any technique or
4 3 means capable of causing injury or death to people or property
4 4 with the intent, or when the person knows or should know, that
4 5 the instruction or training will be unlawfully employed for
4 6 use in terrorism, violation of individual rights, or civil
4 7 disorder; second, if a person conspires or assembles with
4 8 others to provide or participate in the instruction or
4 9 training with the intent, or where the person knows or should
4 10 know, that the instruction or training will be unlawfully
4 11 employed for use in terrorism, violation of individual rights,
4 12 or civil disorder.

4 13 The bill defines civil disorder as the unlawful use of an
4 14 offensive or dangerous weapon, firearm, or the use of a
4 15 technique or other means which is capable of injuring or
4 16 killing people or damaging public or private property. As
4 17 used in the bill, terrorism has the same meaning as in section
4 18 708.6.

4 19 The bill also strikes language regarding bomb threats from
4 20 chapter 708 (assault and related offenses) and moves it to
4 21 chapter 712 (arson and related offenses). A person who places
4 22 a simulated explosive device near an occupied building or
4 23 vehicle commits a class "D" felony. The bill eliminates the
4 24 requirement of intent to harass or intimidate from this
4 25 offense. The bill makes it a class "C" felony for a person to
4 26 possess a simulated explosive or incendiary device with the
4 27 intent to use the device to commit a crime. The bill also
4 28 makes it a class "D" felony for a person to possess an actual
4 29 or simulated explosive or incendiary device who is not
4 30 authorized to under chapter 724.

4 31 BACKGROUND STATEMENT
4 32 SUBMITTED BY THE AGENCY

4 33 The public has become aware recently of groups which
4 34 espouse views and ideals that favor expression of disagreement
4 35 with government policies and actions in unlawful and violent
5 1 ways. The potential exists that some of these groups or their
5 2 members will commence plans or prepare to conduct unlawful
5 3 actions intended to demonstrate their views.

5 4 Review of Iowa's current statutes indicates insufficient
5 5 authority exists as a basis for law enforcement response to
5 6 the kind of unlawful training activity possible today by these
5 7 groups or individuals. Many states have enacted laws that
5 8 provide law enforcement and prosecutors clear authority to
5 9 investigate and criminally prosecute unlawful activities by
5 10 groups or individuals regarding training in techniques of
5 11 violence. Enactment of such a statute in Iowa would provide a
5 12 means of responding to such activity should it appear.

5 13 The Iowa department of public safety proposes creation of a
5 14 new Code chapter defining civil disorder and unlawful training
5 15 activity and providing criminal penalties. Various legitimate
5 16 activities would be exempted from application of the statute.
5 17 Conviction of violating the chapter would be a class "D"
5 18 felony.

5 19 The proposed legislation also moves language regarding
5 20 possession of explosive or incendiary materials with intent to
5 21 commit a public offense from chapter 708 (assault) to chapter
5 22 712 (arson). Also added is a proscription on possession of
5 23 simulated explosive devices with intent to commit a public
5 24 offense.

