

FEB 17 1998  
JUDICIARY

HOUSE FILE 2302  
BY DODERER

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act providing for a civil cause of action for damages arising  
2 from domestic abuse.

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

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HF 2302

1 Section 1. NEW SECTION. 236.14A CIVIL ACTION FOR  
2 DAMAGES.

3 1. A victim of domestic abuse shall have a civil cause of  
4 action against the person who committed the abuse for damages  
5 proximately caused by the abuse.

6 2. The cause of action in subsection 1 may be asserted in  
7 an independent action, or in conjunction with any of the  
8 following actions:

9 a. A request for relief from domestic abuse sought  
10 pursuant to this chapter.

11 b. A petition for dissolution or any request for relief  
12 from domestic abuse sought pursuant to chapter 598.

13 c. Any civil contempt proceeding arising from violation of  
14 any order that establishes conditions of release or is a  
15 protective order or sentencing order in a criminal prosecution  
16 arising from a domestic abuse assault.

17 d. A request for relief from domestic abuse sought  
18 pursuant to chapter 232.

19 3. A cause of action under this section shall not be  
20 subject to the provisions of chapter 668, or to the limitation  
21 in section 614.1, subsection 2.

22 4. The plaintiff may recover punitive damages pursuant to  
23 chapter 668A, if requested in the complaint. Any punitive  
24 damages ordered to be paid other than to the plaintiff,  
25 pursuant to section 668A.1, subsection 2, paragraph "b", shall  
26 be directed to the victim compensation fund established in  
27 section 912.14 and used to fund programs that provide services  
28 and support to victims of domestic abuse or sexual assault,  
29 including but not limited to programs funded pursuant to  
30 section 236.15, rather than to the civil reparations trust  
31 fund, notwithstanding section 668A.1, subsection 2, paragraph  
32 "b".

33 5. Either party shall be entitled to a jury trial, if  
34 written demand is made as provided in the rules of civil  
35 procedure.

1 6. The plaintiff, if successful, may also recover costs  
2 and reasonable attorney fees.

3 Sec. 2. Section 598.3, Code 1997, is amended to read as  
4 follows:

5 598.3 KIND OF ACTION -- JOINDER.

6 1. An action for dissolution of marriage shall be by  
7 equitable proceedings, and no cause of action, save for  
8 alimony, shall be joined therewith, except that a civil cause  
9 of action for damages resulting from domestic abuse may be  
10 asserted pursuant to section 236.14A. Such

11 2. Dissolution actions shall not be subject to  
12 counterclaim or cross petition by the respondent, with the  
13 exception of claims permitted pursuant to subsection 1.

14 3. After the appearance of the respondent, no dismissal of  
15 the cause of action shall be allowed unless both the  
16 petitioner and the respondent sign the dismissal.

17 Sec. 3. Section 598.5, Code Supplement 1997, is amended by  
18 adding the following new subsection:

19 NEW SUBSECTION. 5A. State whether or not a separate  
20 action for damages from domestic abuse has been commenced and  
21 whether such action is pending in any court in this state or  
22 elsewhere, and whether there are any outstanding protective  
23 orders issued, or consent agreements approved by a court in  
24 any domestic abuse action, in this state or elsewhere.

25 Sec. 4. Section 598.21, subsection 1, Code Supplement  
26 1997, is amended by adding the following new paragraph:

27 NEW PARAGRAPH. n. The history of domestic abuse between  
28 the parties, including any damages claimed by the victim of  
29 domestic abuse, pursuant to an action under section 236.14A.

30 Sec. 5. Section 598.21, subsection 3, Code Supplement  
31 1997, is amended by adding the following new paragraph:

32 NEW PARAGRAPH. k. The history of domestic abuse between  
33 the parties, including any damages claimed by the victim of  
34 domestic abuse, pursuant to an action under section 236.14A.

35 Sec. 6. Section 614.1, subsection 2, Code Supplement 1997,

1 is amended to read as follows:

2 2. INJURIES TO PERSON OR REPUTATION -- RELATIVE RIGHTS --  
3 STATUTE PENALTY. Those founded on injuries to the person or  
4 reputation, including injuries to relative rights, whether  
5 based on contract or tort, or for a statute penalty, within  
6 two years. This limitation shall not apply to an action  
7 brought pursuant to section 236.14A.

8 Sec. 7. Section 668.16, Code 1997, is amended to read as  
9 follows:

10 668.16 APPLICABILITY OF THIS CHAPTER.

11 This chapter does not apply to Article 3 or 4 of chapter  
12 554, or to actions commenced pursuant to section 236.14A.

13 EXPLANATION

14 This bill creates an express civil cause of action for  
15 damages sustained as a result of domestic abuse. The cause of  
16 action could be instituted independently or in conjunction  
17 with an action for relief from domestic abuse, or with a  
18 petition for dissolution. The two-year statute of limitations  
19 for damage actions for personal injuries in Code section 614.1  
20 would not apply to such actions. Claims of contributory or  
21 comparative negligence pursuant to Code chapter 668 could not  
22 be asserted. Punitive damages could be requested. Either  
23 party could request a jury trial. A successful plaintiff  
24 could recover costs and reasonable attorney fees.

25 Punitive damages that would be allocated to the civil  
26 reparations trust fund under Code section 668A, subsection 2,  
27 would be directed instead to the crime victim compensation  
28 fund to fund services to victims of domestic abuse or sexual  
29 assault.

30 Related changes are made to Code chapter 598, regarding the  
31 assertion of such a cause of action in conjunction with a  
32 petition for dissolution. Code section 598.3 is amended to  
33 specifically allow the joinder of such a claim or  
34 counterclaim. Code section 598.5 is amended to require  
35 information be placed in the petition relating to any civil

1 action for damages or protective orders issued due to domestic  
2 abuse. Code section 598.21 is amended to specifically require  
3 the judge to consider the history of domestic abuse between  
4 the parties, including any damage actions, in making the  
5 division of property and any award of support.

6 Corresponding changes are made to Code section 614.1,  
7 regarding the statute of limitations for personal injury  
8 actions, and to Code section 668.16, regarding the assertion  
9 of comparative or contributory fault.

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