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Place On Calendar

HOUSE FILE 2336
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 2030)

Passed House, Date 3/3/98 ^(P. 419) Passed Senate, Date 3/23/98 (p. 804)
 Vote: Ayes 93 Nays 1 Vote: Ayes 49 Nays 0
 Approved April 16, 1998 MTR-Vilsack 3/23/98 (p. 848)
MTR-W/D 3/26/98 (p. 1078)

A BILL FOR

1 An Act relating to the assumption of risk by and liability of
 2 forcible felons and persons aiding and abetting in the
 3 commission of forcible felonies for damages resulting from the
 4 offenders' criminal conduct.

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

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HF 2336

1 Section 1. NEW SECTION. 670A.1 DEFINITIONS.

2 As used in this chapter, unless the context otherwise
3 requires:

4 1. "Act" means an act as defined under section 702.2.

5 2. "Convicted" means a finding of guilt, irrespective of
6 imposition or execution of any sentence; a final and valid
7 admission of guilt or a guilty plea; an entry of judgment of
8 conviction; an adjudication of delinquency; a plea of guilty
9 to a delinquency petition; the entry into an informal
10 adjustment agreement or an agreement to the entry of a consent
11 decree regarding a delinquent act.

12 3. "Course of criminal conduct" means an act which when
13 committed constitutes a crime and includes any acts of a
14 victim in defending or attempting to defend against the crime.

15 4. "Crime" means a forcible felony as defined under
16 section 702.11.

17 5. "Perpetrator" means a person who has committed the acts
18 constituting a crime and includes a person who has been
19 convicted of a crime and any person who jointly participates
20 or aids and abets in the commission of a crime.

21 6. "Victim" means a person who is the object of a course
22 of criminal conduct and also includes persons who provide
23 reasonable assistance to or who defend another person who is
24 exposed to or has suffered serious injury at the time of or
25 immediately after the commission of a crime.

26 Sec. 2. NEW SECTION. 670A.2 PERPETRATOR LIABILITY.

27 1. A perpetrator assumes the risk of and is liable for any
28 loss, injury, or death which results from or arises out of the
29 perpetrator's course of criminal conduct. A crime victim is
30 not liable for any damages caused by any acts of the victim in
31 defending or attempting to defend against the crime if the
32 victim used reasonable force when committing the acts. A
33 perpetrator's assumption of risk and liability does not
34 eliminate a victim's duty to protect against any conditions
35 which the victim knows or has reason to know may create an

1 unreasonable risk of harm. This section shall not apply to
2 perpetrators who, because of mental illness or defect, are
3 incapable of knowing the nature and quality of their acts or
4 are incapable of distinguishing between right and wrong in
5 relation to those acts.

6 2. For purposes of this section, a certified copy of a
7 guilty plea, an order entering a judgment of guilt, a court
8 record of conviction or adjudication, an order adjudicating a
9 child delinquent, or a record of an informal adjustment
10 agreement shall be conclusive proof of a perpetrator's
11 assumption of risk of and liability for any damage or harm
12 caused to a victim.

13 3. In addition to any claim for damages, the court shall
14 award a victim reasonable expenses, including attorney's fees
15 and disbursements, which are incurred in the prosecution of
16 the damages claim.

17 4. Except as necessary to preserve evidence, the court
18 shall stay any action for damages under this section during
19 the pendency of any criminal action which pertains to the
20 course of criminal conduct which forms the basis for a claim
21 for relief under this section.

22 EXPLANATION

23 This bill provides that perpetrators of forcible felonies
24 assume the risk of loss and liability for damages caused as a
25 result of the perpetrators' criminal conduct. The term
26 perpetrator includes both the principal actor and any others
27 who either jointly participate in or aid or abet in the
28 commission of a forcible felony. A certified copy of a guilty
29 plea, an order entering a judgment of guilt, a court record of
30 conviction or adjudication, an order adjudicating a child
31 delinquent, or a record of an informal adjustment agreement
32 constitute conclusive proof of assumption of risk and
33 liability for damages caused by the perpetrator of the crime.
34 Victims seeking damage awards under the new provision also
35 must be awarded compensation for attorney fees and other

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1 reasonable expenses incurred in seeking those damages.
2 Actions under the new provision will be stayed during the
3 pendency of any criminal action pertaining to the crime.

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HOUSE FILE 2336

AN ACT

RELATING TO THE ASSUMPTION OF RISK BY AND LIABILITY OF
FORCIBLE FELONS AND PERSONS AIDING AND ABETTING IN
THE COMMISSION OF FORCIBLE FELONIES FOR DAMAGES RESULT-
ING FROM THE OFFENDERS' CRIMINAL CONDUCT.

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

Section 1. NEW SECTION. 670A.1 DEFINITIONS.

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requires:

1. "Act" means an act as defined under section 702.2.
2. "Convicted" means a finding of guilt, irrespective of
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admission of guilt or a guilty plea; an entry of judgment of
conviction; an adjudication of delinquency; a plea of guilty
to a delinquency petition; the entry into an informal
adjustment agreement or an agreement to the entry of a consent
decree regarding a delinquent act.
3. "Course of criminal conduct" means an act which when
committed constitutes a crime and includes any acts of a
victim in defending or attempting to defend against the crime.
4. "Crime" means a forcible felony as defined under
section 702.11.
5. "Perpetrator" means a person who has committed the acts
constituting a crime and includes a person who has been

convicted of a crime and any person who jointly participates
or aids and abets in the commission of a crime.

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of criminal conduct and also includes persons who provide
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shall stay any action for damages under this section during

the pendency of any criminal action which pertains to the course of criminal conduct which forms the basis for a claim for relief under this section.

RON J. CORBETT
Speaker of the House

MARY E. KRAMER
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2336, Seventy-seventh General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Approved April 16, 1998

TERRY E. BRANSTAD
Governor