

Millage, Chair
Sukup
Bell

Succeeded By
SF (HF) 2560

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON JUDICIARY
BILL BY CHAIRPERSON LARSON)

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

A BILL FOR

1 An Act creating criminal offenses and modifying criminal
2 penalties for acts of terrorism by creating the offenses of
3 soliciting or providing material support or resources for acts
4 of terrorism, by creating the offense of threat of terrorism,
5 by creating the offense of obstruction of terrorism
6 prosecution, and by providing for life imprisonment for
7 certain acts of terrorism.

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

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1 DIVISION I

2 Section 1. LEGISLATIVE FINDINGS. The devastating
3 consequences of the 2001 attacks on the world trade center and
4 the pentagon underscore the compelling need for legislation
5 that is specifically designed to combat the acts of terrorism.
6 The bombings of United States embassies in Kenya and Tanzania,
7 the federal building in Oklahoma City, pan am flight 103 in
8 Lockerbie, Scotland, and the 1993 bombing of the world trade
9 center will forever serve to remind Iowa's citizens that
10 terrorism is a serious and deadly problem that disrupts public
11 order and threatens individual safety both at home and around
12 the world. Terrorism is inconsistent with a civilized society
13 and cannot be tolerated.

14 Although certain federal laws seek to curb the incidence of
15 terrorism, no corresponding state laws have been enacted that
16 facilitate prosecution and punishment of terrorists in state
17 courts.

18 No criminal penalties have been applied in this state to a
19 person who solicits or raises funds for, or provides other
20 material support or resources to, those who commit or
21 encourage the commission of horrific and cowardly acts of
22 terrorism. Criminal penalties also need to be applied to
23 persons who make terrorist threats.

24 A comprehensive state law is needed to address these
25 weaknesses in Iowa's justice system. Accordingly, the general
26 assembly finds that the state's laws must be strengthened to
27 ensure that terrorists, as well as those who solicit or
28 provide financial and other support to terrorists, are
29 prosecuted and punished in state courts with appropriate
30 severity.

31 DIVISION II

32 Sec. 2. Section 707.1, Code 2001, is amended by adding the
33 following new subsection:

34 NEW SUBSECTION. 6. The person kills another person while
35 participating in an act of terrorism as defined in section

1 708A.1.

2 Sec. 3. NEW SECTION. 708A.1 DEFINITIONS.

3 For purposes of this chapter:

4 1. "Material support or resources" means assisting or
5 providing money, financial securities, financial services,
6 lodging, training, safe houses, false documentation or
7 identification, communication equipment, facilities, weapons,
8 lethal substances, explosives, personnel, transportation, and
9 other physical assets, except medicine or religious materials.

10 2. "Renders criminal assistance" means a person who, with
11 intent to prevent the apprehension or obstruct the prosecution
12 or defense of any person, knowingly does any of the following
13 acts:

14 a. Destroys, alters, conceals, or disguises physical
15 evidence which would be admissible in the trial of another for
16 a public offense, or makes available false evidence or
17 furnishes false information with the intent that it be used in
18 the trial of that case.

19 b. Induces a witness having knowledge material to the
20 subject at issue to leave the state or hide, or to fail to
21 appear when subpoenaed.

22 c. Provides concealment or warns of impending apprehension
23 to any person being sought for the subject at issue.

24 d. Provides a weapon, disguise, transportation, or money
25 to any person being sought for the subject at issue.

26 e. Prevents or obstructs, by means of force, intimidation,
27 or deception, another person from performing an act which
28 might aid in the apprehension or prosecution or defense of any
29 person.

30 f. Profits or provides aid to any person who profits from
31 an advantage derived from the commission of a public offense.

32 3. "Terrorism" means an act intended to intimidate or
33 coerce a civilian population, or to influence the policy of a
34 unit of government by intimidation or coercion, or to affect
35 the conduct of a unit of government.

1 Sec. 4. NEW SECTION. 708A.2 VALUE FOR PURPOSES OF
2 MATERIAL SUPPORT AND RESOURCES.

3 The value of property or services is its highest value by
4 any reasonable standard at the time the material support or
5 resources is given. Any reasonable standard includes but is
6 not limited to market value within the community, actual
7 value, or replacement value.

8 If credit, property, or services are obtained by two or
9 more acts from the same person or location, or from different
10 persons by two or more acts which occur in approximately the
11 same location or time period so that the material support or
12 resources are attributable to a single scheme, plan, or
13 conspiracy, the acts may be considered as a single act of
14 support or resources and the value may be the total value of
15 all credit, property, and services involved.

16 Sec. 5. NEW SECTION. 708A.3 SOLICITING OR PROVIDING
17 MATERIAL SUPPORT OR RESOURCES FOR TERRORISM,

18 1. A person who provides material support or resources to
19 a person who commits or attempts to commit terrorism and the
20 value of the material support or resources is in excess of one
21 thousand dollars commits a class "B" felony.

22 2. A person who provides material support or resources to
23 a person who commits or attempts to commit terrorism and the
24 value of the material support or resources does not exceed one
25 thousand dollars commits a class "C" felony.

26 Sec. 6. NEW SECTION. 708A.4 THREAT OF TERRORISM.

27 A person who threatens to commit terrorism or threatens to
28 cause terrorism to be committed and who causes a reasonable
29 expectation or fear of the imminent commission of such an act
30 of terrorism commits a class "D" felony.

31 Sec. 7. NEW SECTION. 708A.5 OBSTRUCTION OF TERRORISM
32 PROSECUTION.

33 1. A person who renders criminal assistance to another
34 person who commits terrorism that results in the murder of a
35 third person while knowing that the other person was engaged

1 in terrorism commits a class "B" felony.

2 2. A person who renders criminal assistance to another
3 person who commits terrorism while knowing that the other
4 person was engaged in an act of terrorism commits a class "C"
5 felony.

6 DIVISION III

7 Sec. 8. Section 708.6, Code 2001, is amended to read as
8 follows:

9 708.6 ~~TERRORISM~~ INTIMIDATION WITH A DANGEROUS WEAPON.

10 A person commits a class "C" felony when the person, with
11 the intent to injure or provoke fear or anger in another,
12 shoots, throws, launches, or discharges a dangerous weapon at,
13 into, or in a building, vehicle, airplane, railroad engine,
14 railroad car, or boat, occupied by another person, or within
15 an assembly of people, and thereby places the occupants or
16 people in reasonable apprehension of serious injury or
17 threatens to commit such an act under circumstances raising a
18 reasonable expectation that the threat will be carried out.

19 A person commits a class "D" felony when the person shoots,
20 throws, launches, or discharges a dangerous weapon at, into,
21 or in a building, vehicle, airplane, railroad engine, railroad
22 car, or boat, occupied by another person, or within an
23 assembly of people, and thereby places the occupants or people
24 in reasonable apprehension of serious injury or threatens to
25 commit such an act under circumstances raising a reasonable
26 expectation that the threat will be carried out.

27 Sec. 9. Section 723A.1, subsection 1, paragraph c, Code
28 2001, is amended to read as follows:

29 c. An offense constituting a violation of section 708.6
30 involving ~~an act of terrorism~~ intimidation with a dangerous
31 weapon.

32 EXPLANATION

33 This bill establishes new criminal offenses related to acts
34 of terrorism. The bill defines an act of terrorism as an
35 intended act to intimidate or coerce a civilian population, or

1 to influence the policy of a unit of government by
2 intimidation or coercion, or to affect the conduct of a unit
3 of government.

4 CLASS "A" FELONY. The bill provides that a person who
5 kills another person while participating in an act of
6 terrorism, commits as class "A" felony.

7 SOLICITING OR PROVIDING SUPPORT FOR AN ACT OF TERRORISM.
8 The bill provides that a person shall not provide material
9 support or resources to a person who commits an act of
10 terrorism. If the value of the material support or resources
11 given exceeds \$1,000, the person is guilty of a class "B"
12 felony; if the value does not exceed \$1,000, the person is
13 guilty of a class "C" felony. The bill defines material
14 support or resources as providing money, financial securities,
15 financial services, lodging, training, safe houses, false
16 documentation, communication equipment, facilities, weapons,
17 lethal substances, explosives, personnel, transportation, and
18 other physical assets.

19 THREAT OF TERRORISM. The bill provides that a person shall
20 not threaten to commit or cause an act of terrorism to be
21 committed to such an extent that the act raises a reasonable
22 expectation the threat will be carried out. A person who
23 commits a threat of terrorism is guilty of a class "D" felony.

24 OBSTRUCTION OF TERRORISM PROSECUTION. The bill provides
25 that a person who renders criminal assistance to a person who
26 commits an act of terrorism that resulted in the death of
27 another person is guilty of a class "B" felony. If the person
28 renders criminal assistance but no death results from the act,
29 the person is guilty of a class "C" felony. The bill defines
30 criminal assistance as a person who knowingly attempts to
31 prevent the apprehension or obstructs the prosecution or
32 defense of another person who has committed an act of
33 terrorism.

34 INTIMIDATION WITH A DANGEROUS WEAPON. The bill changes the
35 name of the current criminal offense of "terrorism" to the

1 criminal offense of "intimidation with a dangerous weapon".
 2 PENALTIES. A class "A" felony is punishable by confinement
 3 for life without possibility of parole. A class "B" felony is
 4 punishable by confinement for no more than 25 years. A class
 5 "C" felony is punishable by confinement for no more than 10
 6 years and a fine of at least \$1,000 but not more than \$10,000.
 7 A class "D" felony is punishable by confinement for no more
 8 than five years and a fine of at least \$750 but not more than
 9 \$7,500.

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Substituted for by SF 2146

3-11-02

(p.694)

FEB 27 2002

Place On Calendar

HOUSE FILE 2560

BY COMMITTEE ON JUDICIARY

WITHDRAWN
3-11-02

(SUCCESSOR TO HSB 700)

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16 people in reasonable apprehension of serious injury or
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31 prevent the apprehension or obstructs the prosecution or
32 defense of another person who has committed an act of
33 terrorism.

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35 name of the current criminal offense of "terrorism" to the

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3 for life without possibility of parole. A class "B" felony is
4 punishable by confinement for no more than 25 years. A class
5 "C" felony is punishable by confinement for no more than 10
6 years and a fine of at least \$1,000 but not more than \$10,000.
7 A class "D" felony is punishable by confinement for no more
8 than five years and a fine of at least \$750 but not more than
9 \$7,500.

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HOUSE FILE 2560

H-8227

- 1 Amend House File 2560 as follows:
2 1. Page 1 by striking lines 1 through 30.
3 2. Page 1, by striking line 31 and inserting the
4 following:
5 "DIVISION I"
6 3. Page 2, line 4, by inserting after the word
7 "means" the following: "knowingly".
8 4. Page 2, line 9, by inserting after the word
9 "materials" the following: ", for the purpose of
10 assisting a person in the commission of an act of
11 terrorism".
12 5. Page 2, by striking lines 30 and 31.
13 6. Page 2, lines 34 and 35, by striking the words
14 "or to affect the conduct of a unit of government" and
15 inserting the following: "by shooting, throwing,
16 launching, discharging, or otherwise using a dangerous
17 weapon at, into, or in a building, vehicle, airplane,
18 railroad engine, railroad car, or boat, occupied by
19 another person, or within an assembly of people".
20 7. Page 4, by striking line 6 and inserting the
21 following:
22 "DIVISION II"
23 8. Page 4, line 10, by striking the letter "'C'"
24 and inserting the following: ""C" "B"".
25 9. Page 4, line 19, by striking the letter "'D'"
26 and inserting the following: ""D" "C"".
27 10. Title page, by striking lines 1 through 7 and
28 inserting the following: "An Act establishing
29 criminal offenses for acts of terrorism, changing
30 related penalties, and providing a penalty."
31 11. By renumbering as necessary.

By MILLAGE of Scott

H-8227 FILED MARCH 11, 2002

Adapted
3-11-02
(P. 694)

Legislative Fiscal Bureau

Fiscal Note

HF 2560 - Terrorism Crimes (LSB 6680 HV)

Analyst: Beth Lenstra (Phone: (515) 231-6301) (beth.lenstra@legis.state.ia.us)

Fiscal Note Version - New

Requested by Representative David Millage

Description

House File 2560 defines terrorism and provides that a person who kills another while participating in an act of terrorism commits a Class A felony. The Bill provides that soliciting or providing support for an act of terrorism is a Class B or Class C felony, depending on the value of the material support or resources. A person who makes a threat of terrorism commits a Class D felony. A person who obstructs the prosecution of terrorism that resulted in the death of another, commits a Class B felony. A person who obstructs prosecution of terrorism that does not result in death commits a Class C felony. The Bill changes the current criminal offense of "terrorism" to "intimidation with a dangerous weapon."

Assumptions

1. Charge, conviction, and sentencing patterns and trends will not change over the projection period.
2. Prisoner length of stay, revocation rates, and other corrections' practices and policies will not change over the projection period.
3. The law will become effective July 1, 2002. A lag of six months is assumed, from the effective date of the change in the law to the date of first entry of affected offenders into the correctional system.
4. "Civilian population" in HF 2560 means large numbers of people. Certain acts of arson or vandalism are not subject to the amended definition of terrorism.
5. Acts of terrorism as defined in the Bill will continue to be rare events in Iowa.
6. There is no significant correctional or fiscal impact due to the proposed Class A felony offense. Homicides while participating in a forcible felony are already punishable by life in prison without parole.
7. Average length of stay in prison is 87 months for a Class B felony, 51 months for a Class C felony, and 25 months for a Class D felony. The marginal cost per day for State prisons is \$16 per inmate.
8. Average length of stay on parole is 36 months for a Class B felony, 30 months for a Class C felony, and 29 months for a Class D felony. The marginal cost per day for parole supervision is \$1.55 per offender.
9. The median cost for indigent defense per case is \$3,500 for a Class B felony, \$1,200 for a Class C felony, and \$1,000 for a Class D felony.
10. The average cost per felony case for the Judicial Branch ranges from \$200 to \$600, depending on whether a jury trial occurs. These figures include the costs of a District Court Judge, Clerk of Court staff, a court reporter, and a court attendant.

Correctional Impact

There is no data with which to estimate the correctional impact of creating these new offenses. However, there will be a correctional impact to the extent that convictions under this statute occur, but the impact is not expected to be significant.

Fiscal Impact

The fiscal impact of HF 2560 cannot be determined due to insufficient information; however, it is not anticipated to be significant.

Total State costs for one Class B felony conviction is approximately \$48,000. This amount includes costs of indigent defense and the Judicial Branch, plus the costs of housing the offender in prison for 87 months, and supervising the offender in the community for 36 months.

Total State costs for one Class C felony conviction is approximately \$27,000. This amount includes costs of indigent defense and the Judicial Branch, plus the costs of housing the offender in prison for 51 months, and supervising the offender in the community for 30 months.

Total State costs for one Class D felony conviction is approximately \$15,000. This amount includes costs of indigent defense and the Judicial Branch, plus the costs of housing the offender in prison for 25 months, and supervising the offender in the community for 29 months.

While the fiscal impact on counties cannot be determined, it does not appear to be significant.

Sources

Department of Human Rights, Criminal and Juvenile Justice Planning Division
Department of Corrections
State Public Defender's Office
Iowa Supreme Court

/s/ Dennis C Prouty

February 28, 2002

The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and 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.
