

FEB 20 2003  
Place On Calendar

HOUSE FILE 250  
BY COMMITTEE ON PUBLIC SAFETY

(SUCCESSOR TO HSB 92)

Passed House, Date Passed 3/4/03 Passed Senate, Date 4/15/04  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved 3/6/04

**A BILL FOR**

1 An Act relating to the criminal penalties for an assault on  
2 members of certain occupations.

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

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HF 250

1 Section 1. Section 708.3A, subsections 1 through 4, Code  
2 2003, are amended to read as follows:

3 1. A person who commits an assault, as defined in section  
4 708.1, against a peace officer, jailer, correctional staff,  
5 member or employee of the board of parole, health care  
6 provider, employee of the department of human services, or  
7 fire fighter, whether paid or volunteer, with the knowledge  
8 that the person against whom the assault is committed is a  
9 peace officer, jailer, correctional staff, member or employee  
10 of the board of parole, health care provider, employee of the  
11 department of human services, or fire fighter and with the  
12 intent to inflict a serious injury upon the peace officer,  
13 jailer, correctional staff, member or employee of the board of  
14 parole, health care provider, employee of the department of  
15 human services, or fire fighter, is guilty of a class "D"  
16 felony.

17 2. A person who commits an assault, as defined in section  
18 708.1, against a peace officer, jailer, correctional staff,  
19 member or employee of the board of parole, health care  
20 provider, employee of the department of human services, or  
21 fire fighter, whether paid or volunteer, who knows that the  
22 person against whom the assault is committed is a peace  
23 officer, jailer, correctional staff, member or employee of the  
24 board of parole, health care provider, employee of the  
25 department of human services, or fire fighter and who uses or  
26 displays a dangerous weapon in connection with the assault, is  
27 guilty of a class "D" felony.

28 3. A person who commits an assault, as defined in section  
29 708.1, against a peace officer, jailer, correctional staff,  
30 member or employee of the board of parole, health care  
31 provider, employee of the department of human services, or  
32 fire fighter, whether paid or volunteer, who knows that the  
33 person against whom the assault is committed is a peace  
34 officer, jailer, correctional staff, member or employee of the  
35 board of parole, health care provider, employee of the

1 department of human services, or fire fighter, and who causes  
2 bodily injury or mental illness, is guilty of an aggravated  
3 misdemeanor.

4 4. Any other assault, as defined in section 708.1,  
5 committed against a peace officer, jailer, correctional staff,  
6 member or employee of the board of parole, health care  
7 provider, employee of the department of human services, or  
8 fire fighter, whether paid or volunteer, by a person who knows  
9 that the person against whom the assault is committed is a  
10 peace officer, jailer, correctional staff, member or employee  
11 of the board of parole, health care provider, employee of the  
12 department of human services, or fire fighter, is a serious  
13 misdemeanor.

14 Sec. 2. Section 708.3A, Code 2003, is amended by adding  
15 the following new subsection:

16 NEW SUBSECTION. 8. As used in this section, "employee of  
17 the department of human services" means a person who is an  
18 employee of an institution controlled by the director of human  
19 services that is listed in section 218.1, or who is an  
20 employee of the civil commitment unit for sex offenders  
21 operated by the department of human services. A person who  
22 commits an assault under this section against an employee of  
23 the department of human services at a department of human  
24 services' institution or unit is presumed to know that the  
25 person against whom the assault is committed is an employee of  
26 the department of human services.

27 EXPLANATION

28 This bill amends Code section 708.3A relating to an assault  
29 on a peace officer, jailer, correctional staff, health care  
30 provider, or fire fighter. The bill adds a "member or  
31 employee of the board of parole" and an "employee of the  
32 department of human services" to the list of occupations  
33 covered under Code section 708.3A. The bill effectively  
34 increases the penalty for most assaults on a member or  
35 employee of the board of parole or an employee of the

1 department of human services. However, the bill does not  
2 increase the penalty for a class "D" felony assault.

3 The bill provides that if a person assaults a member or  
4 employee of the board of parole or an employee of the  
5 department of human services with the intent to inflict  
6 serious injury or uses or displays a dangerous weapon in  
7 connection with the assault, that person commits a class "D"  
8 felony. If a person assaults a member or employee of the  
9 board of parole or an employee of the department of human  
10 services, and causes bodily injury or mental illness, that  
11 person commits an aggravated misdemeanor and if the person  
12 commits any other type of assault, that person commits a  
13 serious misdemeanor.

14 The bill defines an "employee of the department of human  
15 services" to mean a person who is an employee of an  
16 institution controlled by the department listed in Code  
17 section 218.1 or who is an employee of the civil commitment  
18 unit for sex offenders.

19 A serious misdemeanor is punishable by confinement for no  
20 more than one year and a fine of at least \$250 but not more  
21 than \$1,500. An aggravated misdemeanor is punishable by  
22 confinement for no more than two years and a fine of at least  
23 \$500 but not more than \$5,000. A class "D" felony is  
24 punishable by confinement for no more than five years and a  
25 fine of at least \$750 but not more than \$7,500.

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HOUSE FILE 250

H-1026

- 1 Amend House File 250 as follows:  
2 1. Page 1, line 1, by striking the figure "4" and  
3 inserting the following: "5".  
4 2. Page 1, lines 7 and 8, by striking the words  
5 "with the knowledge that" and inserting the following:  
6 "with the knowledge that who is on duty or working and  
7 acting within the scope of their employment, or  
8 because".  
9 3. Page 1, line 21, by striking the words "who  
10 knows that" and inserting the following: "who knows  
11 that who is on duty or working and acting within the  
12 scope of their employment, or because".  
13 4. Page 1, line 32, by striking the words "who  
14 knows that" and inserting the following: "who knows  
15 that who is on duty or working and acting within the  
16 scope of their employment, or because".  
17 5. Page 2, lines 8 and 9, by striking the words  
18 "by a person who knows that" and inserting the  
19 following: "by a person who knows that who is on duty  
20 or working and acting within the scope of their  
21 employment, or because".  
22 6. Page 2, by inserting after line 13 the  
23 following:  
24 "5. As used in this section, "health care  
25 provider" means an emergency medical care provider as  
26 defined in chapter 147A or a person licensed or  
27 registered under chapter 148, 148C, 148D, 150, 150A,  
28 or 152 who is providing or who is attempting to  
29 provide emergency medical services, as defined in  
30 section 147A.1, or who is providing or who is  
31 attempting to provide health services as defined in  
32 section 135.61 in a hospital. ~~A person who commits an~~  
33 ~~assault under this section against a health care~~  
34 ~~provider in a hospital, or at the scene or during out-~~  
35 ~~of-hospital patient transportation in an ambulance, is~~  
36 ~~presumed to know that the person against whom the~~  
37 ~~assault is committed is a health care provider."~~  
38 7. Page 2, by striking lines 21 through 26 and  
39 inserting the following: "operated by the department  
40 of human services."

By HOGG of Linn

H-1026 FILED FEBRUARY 25, 2003

*Withdrawn*

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HF 250 - Assaults on Certain Occupations (LSB 1025 HV)

Analyst: Beth Lenstra (Phone: (515) 281-6301) (beth.lenstra@legis.state.ia.us)

Fiscal Note Version — New

Requested by Representative Jim R. Van Fossen

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### **Description**

House File 250 expands protected classes under Section 708.3A, Code of Iowa, for peace officers, jailers, correctional staff, fire fighters, and health care providers to include members and employees of the Board of Parole and certain employees of the Department of Human Services (DHS). The DHS employees covered by HF 250 are those who work at the Civil Commitment Unit for Sexual Offenders; the State Resource Centers at Glenwood and Woodward; the Mental Health Institutes at Cherokee, Clarinda, Independence, and Mount Pleasant; the State Training School; and the Iowa Juvenile Home. A person convicted of assaulting a member of a protected class is subject to enhanced penalties.

### **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 policies and practices will not change over the projection period.
3. A lag of six months is assumed, from the law's effective date to the date of first entry of affected offenders into the correctional system.
4. There are 16.0 FTE positions for the Board of Parole. The DHS has 2,672.1 FTE positions that would be covered under HF 250.
5. The DHS estimates there are 85 major assaults annually against employees covered under HF 250. Of these, 19 assaults were at the juvenile facilities. These offenders will remain under juvenile court supervision; they will not be waived to the adult court system and tried for the assault. Therefore, these assaults are not included in the calculations for the correctional and fiscal impact of HF 250.
6. One of the assaults occurred in the Civil Commitment Unit for Sex Offenders. This offender was convicted of assault and sentenced to time served. The offender remained under civil commitment.
7. The average daily cost for parole or probation is \$1.82. The average length of stay for a Class D felony conviction is 26 months on probation or 13 months on parole. The average length of stay for an aggravated misdemeanor conviction is 19 months on probation or 5 months on parole. The average length of stay for a serious misdemeanor conviction is 14 months on probation and 5 months on parole. Offenders convicted of simple misdemeanors are seldom supervised.
8. The marginal cost per day for state prisons is \$12 per offender. The average length of stay for new admissions for a Class D felony conviction against a person is 23 months, an aggravated misdemeanor conviction against a person is 9 months, and a serious misdemeanor is 7 months.

9. The median cost per case for indigent defense is \$1,000 for a Class D felony or aggravated misdemeanor case, \$500 for a serious misdemeanor case, and \$250 for a simple misdemeanor case.
10. The average cost per case for the court system is \$15 for a simple misdemeanor. The average cost for a serious or aggravated misdemeanor trial ranges from \$76 to \$466, depending on if a jury is used. A Class D felony trial costs \$195 on average without a jury, and \$1,235 with a jury. Court system costs include the time of a court reporter, court attendant, Clerk of Court staff, and a judicial officer.
11. The marginal cost per day for county jails ranges from \$15 to \$25. The average length of stay is 32 days for a serious misdemeanor assault conviction and 51 days for an aggravated misdemeanor assault conviction.

### **Correctional Impact**

There is no significant correctional impact associated with adding employees and Board members of the Board of Parole as a protected class.

During FY 2004, 23 convicted offenders will be sentenced to a higher penalty under HF 250. This will result in two more Class D felony convictions that would have been aggravated misdemeanor convictions under current law. There will be 17 aggravated misdemeanor convictions under HF 250 that would have been serious misdemeanor convictions under current law. There will be four serious misdemeanor convictions that would have been simple misdemeanor convictions under current law.

These offenders will be sentenced as follows: four to prison, one to probation, and eight to jail. One offender will remain in civil commitment status. Nine offenders will receive a sentence other than incarceration or supervision, such as community service, deferred judgment, or a fine.

During FY 2005 (annualized impact), 47 offenders will be sentenced to a higher penalty than under current law. These offenders will be sentenced as follows: 9 to prison, 1 to probation, and 15 to jail. One offender will remain in civil commitment status. There will be 21 offenders annually who will receive a sentence other than incarceration or supervision.

The prison population will increase by four offenders in FY 2004, and increase by nine offenders each year thereafter. Admissions to probation supervision will increase by one offender annually.

There will be a net decrease in county jail admissions of one offender in FY 2004. There will be an increase of 120 jail bed days because the length of stay in jail for each offender admitted will increase. In FY 2004, there will be nine fewer serious misdemeanor convictions sentenced to jail with an average length of stay of 32 days. There will be eight more aggravated misdemeanant convictions sentenced to jail with an average length of stay of 51 days.

In FY 2005, jail admissions will experience a net decrease by three offenders, but there will be an increase of 189 jail bed days. The length of stay in jail for each offender admitted will increase. In FY 2005, there will be 18 fewer serious misdemeanor convictions sentenced to jail with an average length of stay of 32 days. There will be 15 more aggravated misdemeanant convictions sentenced to jail with an average length of stay of 51 days.

### **Fiscal Impact**

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The estimated fiscal impact of HF 250 to the State General Fund is an increase in expenditures of \$31,000 during FY 2004, and \$64,000 during FY 2005. Breakdown of expenditures is as follows:

	<u>FY 2004</u>	<u>FY 2005</u>
Dept. of Corrections – Prisons	\$ 18,000	\$ 39,000
Community-Based Corrections	1,000	2,000
Indigent Defense	10,000	19,000
Judicial Branch	2,000	4,000
Total	<u>\$ 31,000</u>	<u>\$ 64,000</u>

The fiscal impact on county jails is anticipated to be \$2,000 in FY 2004 and \$4,000 in FY 2005.

**Sources**

Department of Human Rights, Criminal and Juvenile Justice Planning Division  
Department of Corrections  
Department of Human Services  
State Public Defender's Office  
Judicial Branch  
Iowa State Sheriff's and Deputies Association

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*/s/ Dennis C Prouty*

February 27, 2003



Van Fossen, J.R. Chair  
Ford  
Klemme

HSB 92

PUBLIC SAFETY

Succeeded By  
SF 0 250\_

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED BOARD OF PAROLE BILL)

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

**A BILL FOR**

1 An Act relating to the criminal penalties for an assault on  
2 members of certain occupations.

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

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1 Section 1. Section 708.3A, Code 2003, is amended by adding  
2 the following new subsection before subsection 1:

3 NEW SUBSECTION. 0A. A person who commits an assault, as  
4 defined in section 708.1, against a peace officer, jailer,  
5 correctional staff, member or employee of the board of parole,  
6 health care provider, or fire fighter whether paid or  
7 volunteer, with the knowledge that the person against whom the  
8 assault is committed is a peace officer, jailer, correctional  
9 staff, member or employee of the board of parole, health care  
10 provider, or fire fighter, and causes serious injury upon the  
11 peace officer, jailer, correctional staff, member or employee  
12 of the board of parole, health care provider, or fire fighter,  
13 is guilty of a class "C" felony.

14 Sec. 2. Section 708.3A, subsections 1 through 4, Code  
15 2003, are amended to read as follows:

16 1. A person who commits an assault, as defined in section  
17 708.1, against a peace officer, jailer, correctional staff,  
18 member or employee of the board of parole, health care  
19 provider, or fire fighter, whether paid or volunteer, with the  
20 knowledge that the person against whom the assault is  
21 committed is a peace officer, jailer, correctional staff,  
22 member or employee of the board of parole, health care  
23 provider, or fire fighter and with the intent to inflict a  
24 serious injury upon the peace officer, jailer, correctional  
25 staff, member or employee of the board of parole, health care  
26 provider, or fire fighter, is guilty of a class "D" felony.

27 2. A person who commits an assault, as defined in section  
28 708.1, against a peace officer, jailer, correctional staff,  
29 member or employee of the board of parole, health care  
30 provider, or fire fighter, whether paid or volunteer, who  
31 knows that the person against whom the assault is committed is  
32 a peace officer, jailer, correctional staff, member or  
33 employee of the board of parole, health care provider, or fire  
34 fighter and who uses or displays a dangerous weapon in  
35 connection with the assault, is guilty of a class "D" felony.

1 3. A person who commits an assault, as defined in section  
2 708.1, against a peace officer, jailer, correctional staff,  
3 member or employee of the board of parole, health care  
4 provider, or fire fighter, whether paid or volunteer, who  
5 knows that the person against whom the assault is committed is  
6 a peace officer, jailer, correctional staff, member or  
7 employee of the board of parole, health care provider, or fire  
8 fighter, and who causes bodily injury or mental illness, is  
9 guilty of an aggravated misdemeanor.

10 4. Any other assault, as defined in section 708.1,  
11 committed against a peace officer, jailer, correctional staff,  
12 member or employee of the board of parole, health care  
13 provider, or fire fighter, whether paid or volunteer, by a  
14 person who knows that the person against whom the assault is  
15 committed is a peace officer, jailer, correctional staff,  
16 member or employee of the board of parole, health care  
17 provider, or fire fighter, is a serious misdemeanor.

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#### EXPLANATION

19 This bill amends Code section 708.3A relating to an assault  
20 on a peace officer, jailer, correctional staff, health care  
21 provider, or fire fighter. The bill adds a "member or  
22 employee of the board of parole" to the list of occupations  
23 covered under Code section 708.3A. The bill effectively  
24 increases the penalty for an assault on a member or employee  
25 of the board of parole.

26 The bill provides that if a person assaults a member or  
27 employee of the board of parole with the intent to inflict  
28 serious injury or uses or displays a dangerous weapon in  
29 connection with the assault, that person commits a class "D"  
30 felony. If a person assaults a member or employee of the  
31 board of parole and causes bodily injury or mental illness,  
32 that person commits an aggravated misdemeanor and if the  
33 person commits any other type of assault, that person commits  
34 a serious misdemeanor.

35 The bill also creates a penalty for an assault that causes

1 serious injury to a person who is a member of a listed  
2 occupation under Code section 708.3A. Under the bill, if a  
3 person assaults a peace officer, jailer, correctional staff,  
4 member or employee of the board of parole, health care  
5 provider, or fire fighter, and causes serious injury, the  
6 person commits a class "C" felony. Existing law does not  
7 provide for an enhanced penalty for an assault that causes  
8 serious injury to a person who is a member of a listed  
9 occupation under Code section 708.3A.

10 A serious misdemeanor is punishable by confinement for no  
11 more than one year and a fine of at least \$250 but not more  
12 than \$1,500. An aggravated misdemeanor is punishable by  
13 confinement for no more than two years and a fine of at least  
14 \$500 but not more than \$5,000. A class "D" felony is  
15 punishable by confinement for no more than five years and a  
16 fine of at least \$750 but not more than \$7,500. A class "C"  
17 felony is punishable by confinement for no more than 10 years  
18 and a fine of at least \$1,000 but not more than \$10,000.

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HOUSE FILE 250

AN ACT

RELATING TO THE CRIMINAL PENALTIES FOR AN ASSAULT ON MEMBERS OF CERTAIN OCCUPATIONS.

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

Section 1. Section 708.3A, subsections 1 through 4, Code 2003, are amended to read as follows:

1. A person who commits an assault, as defined in section 708.1, against a peace officer, jailer, correctional staff, member or employee of the board of parole, health care provider, employee of the department of human services, or fire fighter, whether paid or volunteer, with the knowledge that the person against whom the assault is committed is a peace officer, jailer, correctional staff, member or employee of the board of parole, health care provider, employee of the department of human services, or fire fighter and with the intent to inflict a serious injury upon the peace officer, jailer, correctional staff, member or employee of the board of parole, health care provider, employee of the department of human services, or fire fighter, is guilty of a class "D" felony.

2. A person who commits an assault, as defined in section 708.1, against a peace officer, jailer, correctional staff, member or employee of the board of parole, health care provider, employee of the department of human services, or fire fighter, whether paid or volunteer, who knows that the person against whom the assault is committed is a peace

officer, jailer, correctional staff, member or employee of the board of parole, health care provider, employee of the department of human services, or fire fighter and who uses or displays a dangerous weapon in connection with the assault, is guilty of a class "D" felony.

3. A person who commits an assault, as defined in section 708.1, against a peace officer, jailer, correctional staff, member or employee of the board of parole, health care provider, employee of the department of human services, or fire fighter, whether paid or volunteer, who knows that the person against whom the assault is committed is a peace officer, jailer, correctional staff, member or employee of the board of parole, health care provider, employee of the department of human services, or fire fighter, and who causes bodily injury or mental illness, is guilty of an aggravated misdemeanor.

4. Any other assault, as defined in section 708.1, committed against a peace officer, jailer, correctional staff, member or employee of the board of parole, health care provider, employee of the department of human services, or fire fighter, whether paid or volunteer, by a person who knows that the person against whom the assault is committed is a peace officer, jailer, correctional staff, member or employee of the board of parole, health care provider, employee of the department of human services, or fire fighter, is a serious misdemeanor.

Sec. 2. Section 708.3A, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 8. As used in this section, "employee of the department of human services" means a person who is an employee of an institution controlled by the director of human services that is listed in section 218.1, or who is an employee of the civil commitment unit for sex offenders operated by the department of human services. A person who commits an assault under this section against an employee of

the department of human services at a department of human services' institution or unit is presumed to know that the person against whom the assault is committed is an employee of the department of human services.

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CHRISTOPHER C. RANTS  
Speaker of the House

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JEFFREY M. LAMBERTI  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 250, Eightieth General Assembly.

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MARGARET THOMSON  
Chief Clerk of the House

Approved \_\_\_\_\_, 2004

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THOMAS J. VILSACK  
Governor