

**House Study Bill 605 - Introduced**

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED DEPARTMENT OF  
PUBLIC SAFETY BILL)

**A BILL FOR**

1 An Act relating to domestic abuse and other offenses involving  
2 a domestic relationship, and providing penalties.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 236.5, subsection 1, paragraph b,  
2 subparagraph (6), Code 2016, is amended to read as follows:

3 (6) Unless prohibited pursuant to 28 U.S.C. §1738B, that the  
4 defendant pay the clerk a sum of money for the separate support  
5 and maintenance of the plaintiff and children under eighteen.  
6 The court may order the defendant to provide a certified  
7 statement regarding the defendant's financial ability to pay  
8 support and maintenance. If the defendant fails to provide  
9 full and accurate disclosure of the defendant's ability to pay  
10 support and maintenance, the court shall hold the defendant in  
11 contempt.

12 Sec. 2. Section 664A.7, subsection 5, Code 2016, is amended  
13 to read as follows:

14 5. a. Violation of a no-contact order entered for the  
15 offense or alleged offense of domestic abuse assault in  
16 violation of [section 708.2A](#) or a violation of a protective  
17 order issued pursuant to [chapter 232, 235F, 236, 598, or 915](#)  
18 constitutes a public offense and is punishable as a simple  
19 misdemeanor. Alternatively, the court may hold a person  
20 in contempt of court for such a violation, as provided in  
21 subsection 3.

22 b. If a person is convicted of a violation of a no-contact  
23 order or a protective order under this subsection, or  
24 alternatively if the person is held in contempt of court for  
25 such a violation, as provided in subsection 3, the court shall  
26 order the person to submit to a risk assessment pursuant to  
27 section 901.5C.

28 Sec. 3. Section 708.2A, subsection 7, paragraph b, Code  
29 2016, is amended by striking the paragraph and inserting in  
30 lieu thereof the following:

31 b. A person convicted of a violation referred to in  
32 subsection 4 shall be sentenced as provided under section  
33 902.13.

34 Sec. 4. Section 708.2B, Code 2016, is amended to read as  
35 follows:

1     **708.2B Treatment of domestic abuse offenders.**

2     1. As used in [this section](#), “*district department*” means  
3 a judicial district department of correctional services,  
4 established pursuant to [section 905.2](#). A person convicted of,  
5 or receiving a deferred judgment for, domestic abuse assault  
6 as defined in [section 708.2A](#), shall report to the district  
7 department in order to participate in a batterers’ treatment  
8 program for domestic abuse offenders. In addition, a person  
9 convicted of, or receiving a deferred judgment for, an assault,  
10 as defined in [section 708.1](#), which is domestic abuse, as  
11 defined in [section 236.2, subsection 2](#), paragraph “e”, may be  
12 ordered by the court to participate in a batterers’ treatment  
13 program. Participation in the batterers’ treatment program  
14 shall not require a person to be placed on probation, but  
15 a person on probation may participate in the program. The  
16 district departments may contract for services in completing  
17 the duties relating to the batterers’ treatment programs. The  
18 district departments shall assess the fees for participation  
19 in the program, and shall either collect or contract for the  
20 collection of the fees to recoup the costs of treatment,  
21 but may waive the fee or collect a lesser amount upon a  
22 showing of cause. The fees shall be used by each of the  
23 district departments or contract service providers for the  
24 establishment, administration, coordination, and provision of  
25 direct services of the batterers’ treatment programs.

26     2. In addition to the requirements of subsection 1, the  
27 court shall order a person convicted of domestic abuse assault  
28 in violation of section 708.2A to submit to a risk assessment  
29 pursuant to section 901.5C.

30     3. District departments or contract service providers shall  
31 receive upon request peace officers’ investigative reports  
32 regarding persons participating in programs under [this section](#).  
33 The receipt of reports under [this section](#) shall not waive the  
34 confidentiality of the reports under [section 22.7](#).

35     Sec. 5. Section 708.7, subsection 2, Code 2016, is amended

1 by adding the following new paragraph:

2 NEW PARAGRAPH. c. A person convicted of harassment in  
3 the first degree shall be sentenced under section 902.13 if  
4 the offense involved a domestic relationship and the sentence  
5 exceeds one year.

6 Sec. 6. Section 708.11, Code 2016, is amended by adding the  
7 following new subsection:

8 NEW SUBSECTION. 3A. A person convicted under subsection 3,  
9 paragraph "a", or subsection 3, paragraph "b", subparagraph (1),  
10 shall be sentenced under section 902.13 if the offense involved  
11 a domestic relationship.

12 Sec. 7. NEW SECTION. **901.5C Domestic abuse assault**  
13 **— no-contact order or protective order violations — risk**  
14 **assessment.**

15 1. If a person is convicted of domestic abuse assault in  
16 violation of section 708.2A, a violation of a no-contact order  
17 or a protective order under section 664A.7, subsection 5, or  
18 alternatively the person is held in contempt of court for such  
19 a violation, as provided in section 664A.7, subsection 3, and  
20 ordered to be supervised by the judicial district department  
21 of correctional services or to participate in a batterers'  
22 treatment program for domestic abuse offenders, the court shall  
23 order the person to submit to a risk assessment.

24 2. The risk assessment shall be performed by the judicial  
25 district department of correctional services or a contract  
26 service provider of a batterers' treatment program for domestic  
27 abuse offenders, using a validated risk assessment developed  
28 by the board of parole and approved by the department of  
29 corrections. The court shall consider the risk assessment  
30 in determining the appropriate conditions for release. In  
31 determining whether to release a defendant, the court shall  
32 determine whether sufficient conditions for release are  
33 available that are designed to reduce the risk to another  
34 individual, detect threatening or criminal behavior, and  
35 increase the safety of individuals and the general public, and

1 balance those determinations with the potential risk of harm  
2 if the defendant is released.

3 3. The court may order the defendant to participate in a  
4 program that includes the use of an electronic tracking and  
5 monitoring system as a condition of release. When ordering  
6 the use of an electronic tracking and monitoring system  
7 the court shall consider the safety of the victim and other  
8 legitimate factors that may impact all of the parties. If  
9 an electronic tracking and monitoring system is ordered, the  
10 court shall order the defendant to pay the costs associated  
11 with the imposition of the system. If the defendant fails to  
12 pay the fees of the electronic tracking and monitoring system  
13 in a timely manner, the court may impose garnishment of the  
14 defendant's wages in order to meet the payment obligation.

15 Sec. 8. NEW SECTION. 902.13 **Minimum sentence for certain**  
16 **domestic abuse assault, harassment, and stalking offenses.**

17 1. As used in this section, unless the context otherwise  
18 requires:

19 a. (1) "*Family or household members*" means spouses, persons  
20 cohabiting, parents, or other persons related by consanguinity  
21 or affinity.

22 (2) "*Family or household members*" does not include children  
23 under age eighteen of persons listed in subparagraph (1).

24 b. "*Offense involving a domestic relationship*" means an  
25 offense involving any of the following circumstances:

26 (1) The offense is between family or household members who  
27 resided together at the time of the offense.

28 (2) The offense is between separated spouses or persons  
29 divorced from each other and not residing together at the time  
30 of the offense.

31 (3) The offense is between persons who are parents of the  
32 same minor child, regardless of whether they have been married  
33 or have lived together at any time.

34 (4) The offense is between persons who have been family or  
35 household members residing together within the past year and

1 are not residing together at the time of the offense.

2 2. A person who has been convicted of a third or subsequent  
3 offense of domestic abuse assault under section 708.2A,  
4 subsection 4, shall be denied parole or work release until the  
5 person has served a minimum term of confinement of three years.

6 3. A person who has been convicted of the offense of  
7 harassment in the first degree under section 708.7, subsection  
8 2, and the offense involved a domestic relationship, shall be  
9 denied parole or work release until the person has served a  
10 minimum term of confinement of one year.

11 4. A person who has been convicted of a third or subsequent  
12 offense of stalking under section 708.11, subsection  
13 3, paragraph "a", and the offense involved a domestic  
14 relationship, shall be denied parole or work release until the  
15 person has served a minimum term of confinement of five years.

16 5. A person who has been convicted of the offense of  
17 stalking under section 708.11, subsection 3, paragraph  
18 "b", subparagraph (1), and the offense involved a domestic  
19 relationship, shall be denied parole or work release until the  
20 person has served a minimum term of confinement of three years.

21 Sec. 9. Section 903A.2, subsection 1, paragraph a,  
22 unnumbered paragraph 1, Code 2016, is amended to read as  
23 follows:

24 Category "A" sentences are those sentences which are not  
25 subject to a maximum accumulation of earned time of fifteen  
26 percent of the total sentence of confinement under section  
27 902.12 or 902.13. To the extent provided in subsection 5,  
28 category "A" sentences also include life sentences imposed  
29 under section 902.1. An inmate of an institution under the  
30 control of the department of corrections who is serving a  
31 category "A" sentence is eligible for a reduction of sentence  
32 equal to one and two-tenths days for each day the inmate  
33 demonstrates good conduct and satisfactorily participates in  
34 any program or placement status identified by the director to  
35 earn the reduction. The programs include but are not limited

1 to the following:

2 Sec. 10. Section 903A.2, subsection 1, paragraph b, Code  
3 2016, is amended to read as follows:

4 b. (1) Category "B" sentences are those sentences which  
5 are subject to a maximum accumulation of earned time of  
6 fifteen percent of the total sentence of confinement under  
7 section 902.12 or 902.13. An inmate of an institution under  
8 the control of the department of corrections who is serving a  
9 category "B" sentence is eligible for a reduction of sentence  
10 equal to fifteen eighty-fifths of a day for each day of good  
11 conduct by the inmate.

12 (2) An inmate required to participate in a domestic abuse  
13 treatment program shall not be eligible for a reduction of  
14 sentence unless the inmate participates in and completes a  
15 domestic abuse treatment program established by the director.

16 Sec. 11. Section 904A.4, subsection 8, Code 2016, is amended  
17 to read as follows:

18 8. a. The board of parole shall implement a risk assessment  
19 program which shall provide risk assessment analysis for the  
20 board.

21 b. The board of parole shall also develop a risk assessment  
22 validated for domestic abuse-related offenses in consultation  
23 with the department of corrections. The board may adopt rules  
24 pursuant to chapter 17A relating to the use of the domestic  
25 abuse risk assessment.

26 Sec. 12. NEW SECTION. 905.16 Electronic tracking and  
27 monitoring system.

28 1. A person placed on probation, parole, work release,  
29 special sentence, or any other type of conditional release  
30 for any of the following offenses may be supervised by an  
31 electronic tracking and monitoring system in addition to any  
32 other conditions of supervision:

33 a. Domestic abuse assault in violation of section 708.2A,  
34 subsection 4.

35 b. Harassment in the first degree in violation of section

1 708.7, subsection 2, if the offense involved a domestic  
2 relationship as defined in section 902.13.

3 c. Stalking under section 708.11, subsection 3, paragraph  
4 "b", if the offense involved a domestic relationship as defined  
5 in section 902.13.

6 d. Stalking under section 708.11, subsection 3, paragraph  
7 "c", subparagraph (1), if the offense involved a domestic  
8 relationship as defined in section 902.13.

9 2. When considering whether to order the use of an  
10 electronic tracking and monitoring system the court shall  
11 consider the safety of the victim and other legitimate factors  
12 that may impact all of the parties.

13 Sec. 13. Section 907.3, subsection 1, paragraph a, Code  
14 2016, is amended by adding the following new subparagraphs:

15 NEW SUBPARAGRAPH. (013) The offense is a violation referred  
16 to in section 708.2A, subsection 4.

17 NEW SUBPARAGRAPH. (0013) The offense is a violation  
18 of section 708.7, subsection 2, and the offense involved a  
19 domestic relationship as defined in section 902.13.

20 NEW SUBPARAGRAPH. (00013) The offense is a violation  
21 referred to in section 708.11, subsection 3, paragraph "a",  
22 and the offense involved a domestic relationship as defined in  
23 section 902.13.

24 NEW SUBPARAGRAPH. (000013) The offense is a violation of  
25 section 708.11, subsection 3, paragraph "b", subparagraph (1),  
26 and the offense involved a domestic relationship as defined in  
27 section 902.13.

28 Sec. 14. Section 907.3, subsection 2, paragraph a, Code  
29 2016, is amended by adding the following new subparagraphs:

30 NEW SUBPARAGRAPH. (8) The offense is a violation referred  
31 to in section 708.2A, subsection 4.

32 NEW SUBPARAGRAPH. (9) The offense is a violation of section  
33 708.7, subsection 2, and the offense involved a domestic  
34 relationship as defined in section 902.13.

35 NEW SUBPARAGRAPH. (10) The offense is a violation of

1 section 708.11, subsection 3, paragraph "a", and the offense  
2 involved a domestic relationship as defined in section 902.13.  
3 NEW SUBPARAGRAPH. (11) The offense is a violation of  
4 section 708.11, subsection 3, paragraph "b", subparagraph (1),  
5 and the offense involved a domestic relationship as defined in  
6 section 902.13.

7 Sec. 15. Section 907.3, subsection 3, Code 2016, is amended  
8 by adding the following new paragraph:

9 NEW PARAGRAPH. *0a.* The sentence imposed under section  
10 902.13 for a violation referred to in section 708.2A,  
11 subsection 4.

12 EXPLANATION

13 The inclusion of this explanation does not constitute agreement with  
14 the explanation's substance by the members of the general assembly.

15 This bill relates to domestic abuse and other offenses  
16 involving a domestic relationship, and provides penalties.

17 DOMESTIC ABUSE — PAYMENT OF SUPPORT AND MAINTENANCE. The  
18 bill specifies that upon a finding that a defendant has engaged  
19 in domestic abuse pursuant to Code chapter 236 (not a criminal  
20 proceeding), the court may order the defendant to provide a  
21 certified statement to the court regarding the defendant's  
22 ability to pay support and maintenance when ordering the  
23 defendant to pay such support and maintenance. Under the bill,  
24 if the defendant fails to provide the certified financial  
25 statement providing full and accurate disclosure, the court  
26 shall hold the defendant in contempt of court.

27 MANDATORY RISK ASSESSMENT. Under the bill, if a person  
28 convicted of a violation of a no-contact order or a protective  
29 order pursuant to Code chapter 664A, or alternatively the  
30 person is held in contempt of court for such a violation, and  
31 ordered to be supervised by the judicial district department  
32 of correctional services or to participate in a batterers'  
33 treatment program, the court shall order the person to submit  
34 to a risk assessment pursuant to new Code section 901.5C. If  
35 a person is convicted of domestic abuse assault under Code

1 section 708.2A, the bill requires the person to submit to a  
2 risk assessment.

3       REQUIREMENTS OF MANDATORY RISK ASSESSMENT. The bill  
4 requires the risk assessment be performed by the judicial  
5 district department of correctional services or a contract  
6 service provider of a batterers' treatment program for domestic  
7 abuse offenders, using a validated risk assessment developed  
8 by the board of parole and approved by the department of  
9 corrections. The bill also requires the court to consider  
10 the risk assessment in determining the appropriate conditions  
11 for release. In determining whether to release a defendant,  
12 the court shall determine whether sufficient conditions for  
13 release are available that are designed to reduce the risk to  
14 another individual, detect threatening or criminal behavior,  
15 and increase the safety of individuals and the general public,  
16 and balance those determinations with the potential risk of  
17 harm if the defendant is released.

18       ELECTRONIC TRACKING AND MONITORING. The bill provides  
19 that the court may order the defendant to participate in a  
20 program that includes the use of an electronic tracking and  
21 monitoring system as a condition of release in a mandatory  
22 risk assessment situation for violating a no-contact order or  
23 protective order, being convicted of domestic abuse assault,  
24 or as a condition of release for a bailable defendant if the  
25 defendant is a risk to another person. The bill specifies that  
26 when ordering the use of an electronic tracking and monitoring  
27 system the court shall consider the safety of the victim and  
28 other legitimate factors that may impact all of the parties.  
29 If an electronic tracking and monitoring system is ordered,  
30 the court is required to order the defendant to pay the costs  
31 associated with the imposition of the system. If the defendant  
32 fails to pay the fees of the electronic tracking and monitoring  
33 system in a timely manner, the bill provides that the court may  
34 impose garnishment of the defendant's wages in order to meet  
35 the payment obligation.

1 The bill also specifies that a person placed on probation,  
2 parole, work release, special sentence, or any other type of  
3 conditional release may be supervised by an electronic tracking  
4 and monitoring system in addition to any other conditions  
5 of supervision if the person was convicted of any of the  
6 following offenses: domestic abuse assault in violation of  
7 Code section 708.2A(4); harassment in the first degree in  
8 violation of Code section 708.7(2), and the offense involved a  
9 domestic relationship; stalking in violation of Code section  
10 708.11(3)(a), and the offense involved a domestic relationship;  
11 and stalking in violation of Code section 708.11(3)(b)(1), and  
12 the offense involved a domestic relationship.

13 The bill further specifies that when considering whether to  
14 order the use of an electronic tracking and monitoring system  
15 the court shall consider the safety of the victim and other  
16 legitimate factors that may impact all of the parties.

17 MANDATORY MINIMUM SENTENCE — DOMESTIC ABUSE ASSAULT. If  
18 a person is convicted of a third or subsequent domestic abuse  
19 assault as referred to in Code section 708.2A(4), the bill  
20 requires the person to serve a three-year mandatory minimum  
21 prison sentence. A person who commits a third or subsequent  
22 domestic abuse assault commits a class "D" felony. The bill  
23 and current law also prohibit a person convicted of such a  
24 domestic abuse from receiving a deferred judgment or sentence,  
25 or a suspended sentence.

26 MANDATORY MINIMUM SENTENCE — DOMESTIC RELATIONSHIP.  
27 The bill defines "domestic relationship" similarly to the  
28 relationships required to commit "domestic abuse" in Code  
29 section 236.2 except that certain "intimate relationships"  
30 are excluded. If a person is convicted of harassment in the  
31 first degree in violation of Code section 708.7(2), and the  
32 offense involved a domestic relationship, the bill requires  
33 the person serve a one-year mandatory minimum sentence, if  
34 the court sentences the person to a term of confinement that  
35 exceeds one year. A person who commits harassment in the

1 first degree commits an aggravated misdemeanor. The bill  
2 also prohibits a person convicted of the harassment offense  
3 from receiving a deferred judgment or sentence. If a person  
4 convicted of a third or subsequent stalking in violation of  
5 Code section 708.11(3)(a), and the offense involved a domestic  
6 relationship, the bill requires the person serve a mandatory  
7 five-year minimum prison sentence. A person who commits such  
8 a stalking offense commits a class "C" felony. The bill also  
9 prohibits the person from receiving a deferred judgment or  
10 sentence. If a person convicted of stalking in violation  
11 of Code section 708.11(3)(b)(1), and the offense involved a  
12 domestic relationship, the bill requires the person serve a  
13 mandatory three-year minimum prison sentence. A person who  
14 commits such a stalking offense commits a class "D" felony.  
15 The bill also prohibits the person from receiving a deferred  
16 judgment or sentence.

17 ACCUMULATION OF EARNED TIME. The bill changes the following  
18 offenses from a category "A" sentence under Code section 903A.2  
19 to a category "B" sentence under Code section 903A.2: a third  
20 or subsequent offense of domestic abuse assault in Code section  
21 708.2A(4); harassment in the first degree in Code section  
22 708.7(2), if the offense involved a domestic relationship  
23 and the sentence by the court exceeds one year; a third or  
24 subsequent offense of stalking under Code section 708.11(3)(a),  
25 if the offense involved a domestic relationship; and stalking  
26 under Code section 708.11(3)(b)(1), if the offense involved a  
27 domestic relationship. Changing an offense from a category  
28 "A" sentence to a category "B" sentence in effect reduces the  
29 maximum accumulation of earned time from one and two-tenths  
30 days for each day the inmate demonstrates good conduct and  
31 satisfactorily participates in any program or placement to a  
32 maximum accumulation of earned time of fifteen eighty-fifths  
33 of a day for each day of good conduct. However, the category  
34 "B" offenses in the bill are not limited to serving at least  
35 seven-tenths of the maximum term of the person's sentence as

1 provided in Code section 902.12 but are required to serve the  
2 mandatory minimum sentence in new Code section 902.13 in the  
3 bill.

4 The bill also specifies that an inmate sentenced under new  
5 Code section 902.13 is required to participate in a domestic  
6 abuse treatment program, if required, and is not eligible for  
7 a reduction of sentence unless the defendant participates and  
8 completes such a program. If a defendant participates and  
9 completes the domestic abuse treatment program, the defendant  
10 is entitled to a reduction of fifteen eighty-fifths of a day  
11 for each day the defendant demonstrates good conduct and  
12 participates in a program or placement.

13 BOARD OF PAROLE — RULES. The bill requires the board  
14 of parole to develop a validated risk assessment model for  
15 domestic abuse assault in consultation with the department of  
16 corrections.