

Senate File 237 - Introduced

SENATE FILE 237

BY JOCHUM

A BILL FOR

1 An Act relating to civil protective orders in sexual abuse
2 cases, and making penalties applicable.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 13.31, subsection 3, Code 2015, is
2 amended to read as follows:

3 3. Administer the domestic abuse program provided in
4 chapter 236 and the sexual abuse program provided in chapter
5 236A.

6 Sec. 2. Section 232.8, subsection 1, paragraph d,
7 subparagraph (1), Code 2015, is amended to read as follows:

8 (1) The juvenile court shall abide by the provisions of
9 sections 236.4, and 236.6, 236A.6, and 236A.8 in holding
10 hearings and making a disposition.

11 Sec. 3. Section 232.22, subsection 1, paragraph g, Code
12 2015, is amended to read as follows:

13 g. There is probable cause to believe that the child has
14 committed a delinquent act which would be domestic abuse under
15 chapter 236, ~~or~~ sexual abuse under chapter 236A, or a domestic
16 abuse assault under section 708.2A if committed by an adult.

17 Sec. 4. NEW SECTION. 236A.1 Short title.

18 This chapter may be cited as the "*Sexual Abuse Act*".

19 Sec. 5. NEW SECTION. 236A.2 Definitions.

20 For purposes of this chapter, unless a different meaning is
21 clearly indicated by the context:

22 1. "*Department*" means the department of justice.

23 2. "*Emergency shelter services*" include but are not limited
24 to secure crisis shelters or housing for victims of sexual
25 abuse.

26 3. "*Plaintiff*" includes a person filing an action on behalf
27 of an unemancipated minor.

28 4. "*Pro se*" means a person proceeding on the person's own
29 behalf without legal representation.

30 5. "*Sexual abuse*" means any commission of a crime defined in
31 chapter 709 or section 726.2 or 728.12. "Sexual abuse" also
32 means any commission of a crime in another jurisdiction under a
33 statute that is substantially similar to any crime defined in
34 chapter 709 or section 726.2 or 728.12.

35 6. "*Support services*" include but are not limited to legal

1 services, counseling services, transportation services, child
2 care services, and advocacy services.

3 Sec. 6. NEW SECTION. 236A.3 Commencement of actions —
4 waiver to juvenile court.

5 1. A person, including a parent or guardian on behalf of
6 an unemancipated minor, may seek relief from sexual abuse by
7 filing a verified petition in the district court. Venue shall
8 lie where either party resides. The petition shall state the
9 following:

10 a. Name of the plaintiff and the name and address of the
11 plaintiff's attorney, if any. If the plaintiff is proceeding
12 pro se, the petition shall state a mailing address for the
13 plaintiff. A mailing address may be provided by the plaintiff
14 pursuant to section 236A.11.

15 b. Name and address of the parent or guardian filing the
16 petition, if the petition is being filed on behalf of an
17 unemancipated minor. A mailing address may be provided by the
18 plaintiff pursuant to section 236A.11.

19 c. Name and address, if known, of the defendant.

20 d. Nature of the alleged sexual abuse.

21 e. Name and age of each child under eighteen whose welfare
22 may be affected by the controversy.

23 f. Desired relief, including a request for temporary or
24 emergency orders.

25 2. A temporary or emergency order shall be based on a
26 showing of a prima facie case of sexual abuse. If the factual
27 basis for the alleged sexual abuse is contested, the court
28 shall issue a protective order based upon a finding of sexual
29 abuse by a preponderance of the evidence.

30 3. a. The filing fee and court costs for an order for
31 protection and in a contempt action under this chapter shall be
32 waived for the plaintiff.

33 b. The clerk of court, the sheriff of any county in this
34 state, and other law enforcement and corrections officers shall
35 perform their duties relating to service of process without

1 charge to the plaintiff. When an order for protection is
2 entered by the court, the court may direct the defendant to pay
3 to the clerk of court the fees for the filing of the petition
4 and reasonable costs of service of process if the court
5 determines the defendant has the ability to pay the plaintiff's
6 fees and costs. In lieu of personal service of an order for
7 protection issued pursuant to this section, the sheriff of any
8 county in this state and other law enforcement and corrections
9 officers may serve a defendant with a short-form notification
10 pursuant to section 664A.4A.

11 4. If the person against whom relief from sexual abuse is
12 being sought is seventeen years of age or younger, the district
13 court shall waive its jurisdiction over the action to the
14 juvenile court.

15 **Sec. 7. NEW SECTION. 236A.4 Plaintiffs proceeding pro se —**
16 **provision of forms and assistance.**

17 1. The department shall prescribe standard forms to be
18 used by plaintiffs seeking protective orders by proceeding pro
19 se in actions under this chapter. The standard forms shall
20 include language in fourteen point boldface type. Standard
21 forms prescribed by the department shall be the exclusive forms
22 used by plaintiffs proceeding pro se, and may be used by other
23 plaintiffs. The department shall distribute the forms to the
24 clerks of the district court.

25 2. The clerk of the district court shall furnish the
26 required forms to persons seeking protective orders through pro
27 se proceedings pursuant to this chapter.

28 **Sec. 8. NEW SECTION. 236A.5 Assistance by county attorney.**

29 A county attorney's office may provide assistance to a
30 person wishing to initiate proceedings pursuant to this chapter
31 or to a plaintiff at any stage of a proceeding under this
32 chapter, if the individual does not have sufficient funds
33 to pay for legal assistance and if the assistance does not
34 create a conflict of interest for the county attorney's office.
35 The assistance provided may include but is not limited to

1 assistance in obtaining or completing forms, filing a petition
2 or other necessary pleading, presenting evidence to the court,
3 and enforcing the orders of the court entered pursuant to this
4 chapter. Providing assistance pursuant to this section shall
5 not be considered the private practice of law for the purposes
6 of section 331.752.

7 Sec. 9. NEW SECTION. **236A.6 Hearings — temporary orders.**

8 1. Not less than five and not more than fifteen days after
9 commencing a proceeding and upon notice to the other party, a
10 hearing shall be held at which the plaintiff must prove the
11 allegation of sexual abuse by a preponderance of the evidence.

12 2. The court may enter any temporary order it deems
13 necessary to protect the plaintiff from sexual abuse prior to
14 the hearing upon good cause shown in an ex parte proceeding.
15 Present danger of sexual abuse to the plaintiff constitutes
16 good cause for purposes of this subsection.

17 3. If a hearing is continued, the court may make or extend
18 any temporary order under subsection 2 that it deems necessary.

19 4. Upon application of a party, the court shall issue
20 subpoenas requiring attendance and testimony of witnesses and
21 production of papers.

22 5. The court shall advise the defendant of a right to be
23 represented by counsel of the defendant's choosing and to have
24 a continuance to secure counsel.

25 6. Hearings shall be recorded.

26 Sec. 10. NEW SECTION. **236A.7 Disposition.**

27 1. Upon a finding that the defendant has engaged in sexual
28 abuse, the court may grant a protective order or approve a
29 consent agreement which may contain but is not limited to any
30 of the following provisions:

31 a. That the defendant cease sexual abuse of the plaintiff.

32 b. That the defendant stay away from the plaintiff's
33 residence, school, or place of employment.

34 2. An order for a protective order or approved consent
35 agreement shall be for a fixed period of time not to exceed one

1 year. The court may amend or extend its order or a consent
2 agreement at any time upon a petition filed by either party
3 and after notice and hearing. The court may extend the order
4 if the court, after hearing at which the defendant has the
5 opportunity to be heard, finds that the defendant continues to
6 pose a threat to the safety of the victim, persons residing
7 with the victim, or members of the victim's immediate family.
8 The number of extensions that can be granted by the court is
9 not limited.

10 3. The order shall state whether a person is to be taken
11 into custody by a peace officer for a violation of the terms
12 stated in the order.

13 4. The court may order that the defendant pay the
14 plaintiff's attorney fees and court costs.

15 5. An order or consent agreement under this section shall
16 not affect title to real property.

17 6. A copy of any order or approved consent agreement shall
18 be issued to the plaintiff, the defendant, the county sheriff
19 of the county in which the order or consent decree is initially
20 entered, and the twenty-four-hour dispatcher for the county
21 sheriff. Any subsequent amendment or revocation of an order
22 or consent agreement shall be forwarded by the clerk to all
23 individuals and the county sheriff previously notified.

24 7. The clerk shall notify the county sheriff and the
25 twenty-four-hour dispatcher for the county sheriff in writing
26 so that the county sheriff and the county sheriff's dispatcher
27 receive written notice within six hours of filing the order,
28 approved consent agreement, amendment, or revocation. The
29 clerk may fulfill this requirement by sending the notice by
30 facsimile or other electronic transmission which reproduces the
31 notice in writing within six hours of filing the order.

32 8. The county sheriff's dispatcher shall notify all law
33 enforcement agencies having jurisdiction over the matter
34 and the twenty-four-hour dispatcher for the law enforcement
35 agencies upon notification by the clerk.

1 Sec. 11. NEW SECTION. **236A.8 Emergency orders.**

2 1. When the court is unavailable from the close of business
3 at the end of the day or week to the resumption of business
4 at the beginning of the day or week, a petition may be filed
5 before a district judge, or district associate judge designated
6 by the chief judge of the judicial district, who may grant
7 emergency relief in accordance with section 236A.7, subsection
8 1, paragraph "b", if the district judge or district associate
9 judge deems it necessary to protect the plaintiff from domestic
10 abuse, upon good cause shown in an ex parte proceeding.

11 Present danger of sexual abuse to the plaintiff constitutes
12 good cause for purposes of this subsection.

13 2. An emergency order issued under subsection 1 shall expire
14 seventy-two hours after issuance. When the order expires, the
15 plaintiff may seek a temporary order from the court pursuant
16 to section 236A.6.

17 3. A petition filed and emergency order issued under this
18 section and any documentation in support of the petition
19 and order shall be immediately certified to the court. The
20 certification shall commence a proceeding for purposes of
21 section 236A.3.

22 Sec. 12. NEW SECTION. **236A.9 Procedure.**

23 A proceeding under this chapter shall be held in accordance
24 with the rules of civil procedure, except as otherwise set
25 forth in this chapter and in chapter 664A, and is in addition
26 to any other civil or criminal remedy.

27 Sec. 13. NEW SECTION. **236A.10 Sexual abuse information.**

28 1. Criminal or juvenile justice agencies, as defined
29 in section 692.1, shall collect and maintain information
30 on incidents involving sexual abuse and shall provide the
31 information to the department of public safety in the manner
32 prescribed by the department of public safety.

33 2. The department of public safety may compile statistics
34 and issue reports on sexual abuse in Iowa, provided individual
35 identifying details of the sexual abuse are deleted. The

1 statistics and reports may include nonidentifying information
2 on the personal characteristics of perpetrators and victims.
3 The department of public safety may request the cooperation
4 of the department of justice in compiling the statistics and
5 issuing the reports. The department of public safety may
6 provide nonidentifying information on individual incidents
7 of sexual abuse to persons conducting bona fide research,
8 including but not limited to personnel of the department of
9 justice.

10 Sec. 14. NEW SECTION. 236A.11 Plaintiff's address —
11 confidentiality of records.

12 1. A person seeking relief from sexual abuse under this
13 chapter may use any of the following addresses as a mailing
14 address for purposes of filing a petition under this chapter,
15 as well as for the purpose of obtaining any utility or other
16 service:

17 a. The mailing address of a shelter or other agency.

18 b. A public or private post office box.

19 c. Any other mailing address, with the permission of the
20 resident of that address.

21 2. A person shall report any change of address, whether
22 designated according to subsection 1 or otherwise, to the clerk
23 of court no more than five days after the previous address on
24 record becomes invalid.

25 3. The entire file or a portion of the file in a sexual
26 abuse case shall be sealed by the clerk of court as ordered
27 by the court to protect the privacy interest or safety of any
28 person.

29 4. Notwithstanding subsection 3, court orders and support
30 payment records shall remain public records, although the court
31 may order that address and location information be redacted
32 from the public records.

33 Sec. 15. NEW SECTION. 236A.12 Duties of peace officer —
34 magistrate.

35 1. A peace officer shall use every reasonable means to

1 enforce an order or court-approved consent agreement entered
2 under this chapter, an order that establishes conditions
3 of release or is a protective order or sentencing order in
4 a criminal prosecution arising from a sexual abuse, or a
5 protective order under chapter 232. If a peace officer has
6 reason to believe that sexual abuse has occurred, the peace
7 officer shall ask the abused person if any prior orders
8 exist, and shall contact the twenty-four-hour dispatcher to
9 inquire if any prior orders exist. If a peace officer has
10 probable cause to believe that a person has violated an order
11 or approved consent agreement entered under this chapter,
12 an order establishing conditions of release or a protective
13 or sentencing order in a criminal prosecution arising from
14 sexual abuse, or, if the person is an adult, a violation
15 of a protective order under chapter 232, the peace officer
16 shall take the person into custody and shall take the person
17 without unnecessary delay before the nearest or most accessible
18 magistrate in the judicial district in which the person was
19 taken into custody. The magistrate shall make an initial
20 preliminary determination whether there is probable cause to
21 believe that an order or consent agreement existed and that
22 the person taken into custody has violated its terms. The
23 magistrate's decision shall be entered in the record.

24 2. If a peace officer has probable cause to believe that
25 a person has violated an order or approved consent agreement
26 entered under this chapter, an order establishing conditions
27 of release or a protective or sentencing order in a criminal
28 prosecution arising from a sexual abuse, or a protective order
29 under chapter 232, and the peace officer is unable to take the
30 person into custody within twenty-four hours of making the
31 probable cause determination, the peace officer shall either
32 request a magistrate to make a determination as to whether a
33 rule to show cause or arrest warrant should be issued, or refer
34 the matter to the county attorney.

35 3. If the magistrate finds probable cause, the magistrate

1 shall order the person to appear either before the court which
2 issued the original order or approved the consent agreement,
3 or before the court in the jurisdiction where the alleged
4 violation took place, at a specified time not less than five
5 days nor more than fifteen days after the initial appearance
6 under this section. The magistrate shall cause the original
7 court to be notified of the contents of the magistrate's order.

8 4. A peace officer shall not be held civilly or criminally
9 liable for acting pursuant to this section provided that the
10 peace officer acts in good faith, on probable cause, and the
11 officer's acts do not constitute a willful and wanton disregard
12 for the rights or safety of another.

13 Sec. 16. NEW SECTION. 236A.13 **Prevention of further abuse**
14 **— notification of rights — arrest — liability.**

15 1. If a peace officer has reason to believe that sexual
16 abuse has occurred, the officer shall use all reasonable means
17 to prevent further abuse including but not limited to the
18 following:

19 a. If requested, remaining on the scene as long as there
20 is a danger to an abused person's physical safety without the
21 presence of a peace officer, including but not limited to
22 staying in the dwelling unit, or if unable to remain on the
23 scene, assisting the person in leaving the residence.

24 b. Assisting an abused person in obtaining medical treatment
25 necessitated by an assault, including providing assistance to
26 the abused person in obtaining transportation to the emergency
27 room of the nearest hospital.

28 c. Providing an abused person with immediate and adequate
29 notice of the person's rights. The notice shall consist of
30 handing the person a document that includes the telephone
31 numbers of shelters, support groups, and crisis lines operating
32 in the area and contains a copy of the following statement
33 written in English and Spanish; asking the person to read the
34 card; and asking whether the person understands the rights:

35 You have the right to ask the court for the following help on

1 a temporary basis:

2 [1] Keeping your attacker away from you, your home, and your
3 place of work.

4 [2] The right to stay at your home without interference from
5 your attacker.

6 You have the right to seek help from the court to seek
7 a protective order with or without the assistance of legal
8 representation. You have the right to seek help from the
9 courts without the payment of court costs if you do not have
10 sufficient funds to pay the costs.

11 You have the right to file criminal charges for threats,
12 assaults, or other related crimes.

13 You have the right to seek restitution against your attacker
14 for harm to yourself or your property.

15 If you are in need of medical treatment, you have the right
16 to request that the officer present assist you in obtaining
17 transportation to the nearest hospital or otherwise assist you.

18 If you believe that police protection is needed for your
19 physical safety, you have the right to request that the officer
20 present remain at the scene until you and other affected
21 parties can leave or until safety is otherwise ensured.

22 2. A peace officer is not civilly or criminally liable for
23 actions pursuant to this section taken in good faith.

24 Sec. 17. NEW SECTION. **236A.14 Prohibition against referral.**

25 In a criminal action arising from sexual abuse, as defined
26 in section 236A.2, the prosecuting attorney or court shall
27 not refer or order the parties involved to mediation or other
28 nonjudicial procedures prior to judicial resolution of the
29 action.

30 Sec. 18. NEW SECTION. **236A.15 Application for designation**
31 **and funding as a provider of services for victims of sexual**
32 **abuse.**

33 Upon receipt of state or federal funding designated for
34 victims of sexual abuse by the department, a public or private
35 nonprofit organization may apply to the department for

1 designation and funding as a provider of emergency shelter
2 services and support services to victims of sexual abuse. The
3 application shall be submitted on a form prescribed by the
4 department and shall include but not be limited to information
5 regarding services to be provided, budget, and security
6 measures.

7 Sec. 19. NEW SECTION. 236A.16 Department powers and duties.

8 1. The department shall do all of the following:

9 a. Designate and award grants for existing and pilot
10 programs pursuant to this chapter to provide emergency shelter
11 services and support services to victims of sexual abuse.

12 b. Design and implement a uniform method of collecting data
13 from sexual abuse organizations funded under this chapter.

14 c. Designate and award moneys for publicizing and staffing
15 a statewide, toll-free telephone hotline for use by victims of
16 sexual abuse. The department may award a grant to a public
17 agency or a private, nonprofit organization for the purpose
18 of operating the hotline. The operation of the hotline shall
19 include informing victims of their rights and of various
20 community services that are available, referring victims to
21 service providers, receiving complaints concerning misconduct
22 by peace officers and encouraging victims to refer such
23 complaints to the office of ombudsman, providing counseling
24 services to victims over the telephone, and providing sexual
25 abuse victim advocacy.

26 d. Advertise the toll-free telephone hotline through the
27 use of public service announcements, billboards, print and
28 broadcast media services, and other appropriate means, and
29 contact media organizations to encourage the provision of free
30 or inexpensive advertising concerning the hotline and its
31 services.

32 e. Develop, with the assistance of the entity operating
33 the telephone hotline and other sexual abuse victim services
34 providers, brochures explaining the rights of victims set
35 forth under section 236A.13 and the services of the telephone

1 hotline, and distribute the brochures to law enforcement
2 agencies, victim service providers, health practitioners,
3 charitable and religious organizations, and other entities that
4 may have contact with victims of sexual abuse.

5 2. The department shall consult and cooperate with all
6 public and private agencies which may provide services
7 to victims of sexual abuse, including but not limited to
8 legal services, social services, prospective employment
9 opportunities, and unemployment benefits.

10 3. The department may accept, use, and dispose of
11 contributions of money, services, and property made available
12 by an agency or department of the state or federal government,
13 or a private agency or individual.

14 Sec. 20. NEW SECTION. 236A.17 Sexual abuse training
15 requirements.

16 The department, in cooperation with victim service
17 providers, shall work with various professional organizations
18 to encourage organizations to establish training programs for
19 professionals who work in the area of sexual abuse prevention
20 and services. Sexual abuse training may include but is not
21 limited to the following areas:

22 1. The enforcement of both civil and criminal remedies in
23 sexual abuse matters.

24 2. The nature, extent, and causes of sexual abuse.

25 3. The legal rights and remedies available to sexual abuse
26 victims, including crime victim compensation.

27 4. Services available to sexual abuse victims including the
28 sexual abuse telephone hotline.

29 5. The duties of peace officers pursuant to this chapter.

30 6. Techniques for intervention in sexual abuse cases.

31 Sec. 21. NEW SECTION. 236A.18 Reference to certain criminal
32 provisions.

33 In addition to the provisions contained in this chapter,
34 certain criminal penalties and provisions pertaining to sexual
35 abuse are set forth in chapters 664A and 709 and section 726.2

1 or 728.12.

2 Sec. 22. NEW SECTION. 236A.19 Foreign protective orders
3 — registration — enforcement.

4 1. As used in this section, "*foreign protective order*" means
5 a protective order entered by a court of another state, Indian
6 tribe, or United States territory that would be an order or
7 court-approved consent agreement entered under this chapter, an
8 order that establishes conditions of release, or a protective
9 order or sentencing order in a criminal prosecution arising
10 from a sexual abuse if it had been entered in Iowa.

11 2. A certified or authenticated copy of a permanent foreign
12 protective order may be filed with the clerk of the district
13 court in any county that would have venue if the original
14 action was being commenced in this state or in which the person
15 in whose favor the order was entered may be present.

16 a. The clerk shall file foreign protective orders that are
17 not certified or authenticated, if supported by an affidavit of
18 a person with personal knowledge, subject to the penalties for
19 perjury. The person protected by the order may provide this
20 affidavit.

21 b. The clerk shall provide copies of the order as required
22 by section 236A.7, except that notice shall not be provided to
23 the respondent without the express written direction of the
24 person in whose favor the order was entered.

25 3. a. A valid foreign protective order has the same effect
26 and shall be enforced in the same manner as a protective order
27 issued in this state whether or not filed with a clerk of court
28 or otherwise placed in a registry of protective orders.

29 b. A foreign protective order is valid if it meets all of
30 the following:

31 (1) The order states the name of the protected individual
32 and the individual against whom enforcement is sought.

33 (2) The order has not expired.

34 (3) The order was issued by a court or tribunal that had
35 jurisdiction over the parties and subject matter under the law

1 of the foreign jurisdiction.

2 (4) The order was issued in accordance with the respondent's
3 due process rights, either after the respondent was provided
4 with reasonable notice and an opportunity to be heard before
5 the court or tribunal that issued the order, or in the case
6 of an ex parte order, the respondent was granted notice and
7 opportunity to be heard within a reasonable time after the
8 order was issued.

9 c. Proof that a foreign protective order failed to meet all
10 of the factors listed in paragraph "b" shall be an affirmative
11 defense in any action seeking enforcement of the order.

12 4. A peace officer shall treat a foreign protective order as
13 a valid legal document and shall make an arrest for a violation
14 of the foreign protective order in the same manner that a peace
15 officer would make an arrest for a violation of a protective
16 order issued within this state.

17 a. The fact that a foreign protective order has not been
18 filed with the clerk of court or otherwise placed in a registry
19 shall not be grounds to refuse to enforce the terms of the
20 order unless it is apparent to the officer that the order is
21 invalid on its face.

22 b. A peace officer acting reasonably and in good faith in
23 connection with the enforcement of a foreign protective order
24 shall be immune from civil and criminal liability in any action
25 arising in connection with such enforcement

26 5. Filing and service costs in connection with foreign
27 protective orders are waived as provided in section 236A.3.

28 Sec. 23. NEW SECTION. 236A.20 Mutual protective orders
29 prohibited — exceptions.

30 A court in an action under this chapter shall not issue
31 mutual protective orders against the victim and the abuser
32 unless both file a petition requesting a protective order.

33 Sec. 24. Section 331.424, subsection 1, paragraph a,
34 subparagraph (6), Code 2015, is amended to read as follows:

35 (6) The maintenance and operation of the courts, including

1 but not limited to the salary and expenses of the clerk of the
2 district court and other employees of the clerk's office, and
3 bailiffs, court costs if the prosecution fails or if the costs
4 cannot be collected from the person liable, costs and expenses
5 of prosecution under section 189A.17, salaries and expenses
6 of juvenile court officers under chapter 602, court-ordered
7 costs in domestic abuse cases under section 236.5, sexual abuse
8 cases under section 236A.7, and elder abuse cases under section
9 235F.6, the county's expense for confinement of prisoners under
10 chapter 356A, temporary assistance to the county attorney,
11 county contributions to a retirement system for bailiffs,
12 reimbursement for judicial magistrates under section 602.6501,
13 claims filed under section 622.93, interpreters' fees under
14 section 622B.7, uniform citation and complaint supplies under
15 section 805.6, and costs of prosecution under section 815.13.

16 Sec. 25. Section 507B.4, subsection 3, paragraph g,
17 subparagraph (3), Code 2015, is amended to read as follows:

18 (3) Making or permitting any discrimination in the sale of
19 insurance solely on the basis of domestic abuse as defined in
20 section 236.2 or sexual abuse as defined in section 236A.2.

21 Sec. 26. Section 664A.1, subsection 2, Code 2015, is amended
22 to read as follows:

23 2. "*Protective order*" means a protective order issued
24 pursuant to chapter 232, a court order or court-approved
25 consent agreement entered pursuant to this chapter or chapter
26 235F, a court order or court-approved consent agreement entered
27 pursuant to chapter 236 or 236A, including a valid foreign
28 protective order under section 236.19, subsection 3, or section
29 236A.19, subsection 3, a temporary or permanent protective
30 order or order to vacate the homestead under chapter 598, or an
31 order that establishes conditions of release or is a protective
32 order or sentencing order in a criminal prosecution arising
33 from a domestic abuse assault under section 708.2A, or a civil
34 injunction issued pursuant to section 915.22.

35 Sec. 27. Section 664A.2, subsection 2, Code 2015, is amended

1 to read as follows:

2 2. A protective order issued in a civil proceeding shall
3 be issued pursuant to chapter 232, 235F, 236, 236A, 598, or
4 915. Punishment for a violation of a protective order shall be
5 imposed pursuant to section 664A.7.

6 Sec. 28. Section 664A.3, subsection 1, unnumbered paragraph
7 1, Code 2015, is amended to read as follows:

8 When a person is taken into custody for contempt proceedings
9 pursuant to section 236.11, taken into custody pursuant to
10 section 236A.12, or arrested for any public offense referred
11 to in section 664A.2, subsection 1, and the person is brought
12 before a magistrate for initial appearance, the magistrate
13 shall enter a no-contact order if the magistrate finds both of
14 the following:

15 Sec. 29. Section 664A.3, subsection 2, Code 2015, is amended
16 to read as follows:

17 2. Notwithstanding chapters 804 and 805, a person taken
18 into custody pursuant to section 236.11 or 236A.12 or arrested
19 pursuant to section 236.12 may be released on bail or otherwise
20 only after initial appearance before a magistrate as provided
21 in chapter 804 and the rules of criminal procedure or section
22 236.11 or 236A.12, whichever is applicable.

23 Sec. 30. Section 664A.4, subsection 2, Code 2015, is amended
24 to read as follows:

25 2. The clerk of the district court shall provide a notice
26 and copy of the no-contact order to the appropriate law
27 enforcement agencies and the twenty-four-hour dispatcher for
28 the law enforcement agencies in the same manner as provided
29 in section 235F.6, ~~or 236.5~~, or 236A.7, as applicable. The
30 clerk of the district court shall provide a notice and copy of
31 a modification or vacation of a no-contact order in the same
32 manner.

33 Sec. 31. Section 664A.5, Code 2015, is amended to read as
34 follows:

35 **664A.5 Modification — entry of permanent no-contact order.**

1 If a defendant is convicted of, receives a deferred judgment
2 for, or pleads guilty to a public offense referred to in
3 section 664A.2, subsection 1, or is held in contempt for a
4 violation of a no-contact order issued under section 664A.3
5 or for a violation of a protective order issued pursuant to
6 chapter 232, 235F, 236, 236A, 598, or 915, the court shall
7 either terminate or modify the temporary no-contact order
8 issued by the magistrate. The court may enter a no-contact
9 order or continue the no-contact order already in effect for
10 a period of five years from the date the judgment is entered
11 or the deferred judgment is granted, regardless of whether the
12 defendant is placed on probation.

13 Sec. 32. Section 664A.6, subsection 2, Code 2015, is amended
14 to read as follows:

15 2. If the peace officer is investigating a domestic abuse
16 assault pursuant to section 708.2A, the officer shall also
17 comply with sections 236.11, and 236.12, 236A.12, and 236A.13.

18 Sec. 33. Section 664A.7, subsections 1, 3, and 5, Code 2015,
19 are amended to read as follows:

20 1. Violation of a no-contact order issued under this chapter
21 or a protective order issued pursuant to chapter 232, 235F,
22 236, 236A, or 598, including a modified no-contact order, is
23 punishable by summary contempt proceedings.

24 3. If convicted of or held in contempt for a violation
25 of a no-contact order or a modified no-contact order for a
26 public offense referred to in section 664A.2, subsection 1,
27 or held in contempt of a no-contact order issued during a
28 contempt proceeding brought pursuant to section 236.11 or
29 236A.12, the person shall be confined in the county jail for
30 a minimum of seven days. A jail sentence imposed pursuant
31 to this subsection shall be served on consecutive days. No
32 portion of the mandatory minimum term of confinement imposed
33 by this subsection shall be deferred or suspended. A deferred
34 judgment, deferred sentence, or suspended sentence shall not
35 be entered for a violation of a no-contact order, modified

1 no-contact order, or protective order and the court shall not
2 impose a fine in lieu of the minimum sentence, although a fine
3 may be imposed in addition to the minimum sentence.

4 5. Violation of a no-contact order entered for the offense
5 or alleged offense of domestic abuse assault in violation
6 of section 708.2A or a violation of a protective order
7 issued pursuant to chapter 232, 235F, 236, 236A, 598, or 915
8 constitutes a public offense and is punishable as a simple
9 misdemeanor. Alternatively, the court may hold a person
10 in contempt of court for such a violation, as provided in
11 subsection 3.

12 Sec. 34. Section 915.22, subsection 5, Code 2015, is amended
13 to read as follows:

14 5. The clerk of the district court shall provide notice and
15 copies of restraining orders issued pursuant to this section
16 in a criminal case involving an alleged violation of section
17 708.2A to the applicable law enforcement agencies and the
18 twenty-four hour dispatcher for the law enforcement agencies,
19 in the manner provided for protective orders under section
20 236.5 or 236A.7. The clerk shall provide notice and copies of
21 modifications or vacations of these orders in the same manner.

22 Sec. 35. Section 915.50, unnumbered paragraph 1, Code 2015,
23 is amended to read as follows:

24 In addition to other victim rights provided in this chapter,
25 victims of domestic abuse and sexual abuse shall have the
26 following rights:

27 Sec. 36. Section 915.50, subsections 1 and 2, Code 2015, are
28 amended to read as follows:

29 1. The right to file a pro se petition for relief from
30 domestic abuse and sexual abuse in the district court, pursuant
31 to sections 236.3 through 236.10 and sections 236A.3 through
32 236A.11.

33 2. The right, pursuant to ~~section~~ sections 236.12~~7~~ and
34 236A.13, for law enforcement to remain on the scene, to
35 assist the victim in leaving the scene, to assist the victim

1 in obtaining transportation to medical care, and to provide
2 the person with a written statement of victim rights and
3 information about domestic abuse and sexual abuse shelters,
4 support services, and crisis lines.

5 Sec. 37. Section 915.94, Code 2015, is amended to read as
6 follows:

7 **915.94 Victim compensation fund.**

8 A victim compensation fund is established as a separate
9 fund in the state treasury. Moneys deposited in the fund
10 shall be administered by the department and dedicated to and
11 used for the purposes of section 915.41 and this subchapter.
12 In addition, the department may use moneys from the fund
13 for the purpose of the department's prosecutor-based victim
14 service coordination, including the duties defined in sections
15 910.3 and 910.6 and this chapter, and for the award of funds
16 to programs that provide services and support to victims of
17 domestic abuse or ~~sexual assault~~ abuse as provided in chapter
18 236, to victims of sexual abuse as provided in chapter 236A,
19 to victims under section 710A.2, and for the support of an
20 automated victim notification system established in section
21 915.10A. The department may also use up to one hundred thousand
22 dollars from the fund to provide training for victim service
23 providers. Notwithstanding section 8.33, any balance in the
24 fund on June 30 of any fiscal year shall not revert to the
25 general fund of the state.

26 EXPLANATION

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

29 This bill relates to civil protective orders in sexual abuse
30 cases, and makes penalties applicable.

31 Under current law, a defendant accused of sexual abuse must
32 be arrested for sexual abuse before a victim can apply for a
33 criminal no-contact order against the defendant (Code section
34 664A.3) or the victim can apply for a criminal no-contact order
35 against a defendant upon the defendant's release from jail or

1 prison (Code section 709.19).

2 The bill creates new Code chapter 236A, the sexual abuse Act,
3 allowing a victim of sexual abuse to seek relief from sexual
4 abuse by filing a petition in district court for a sexual abuse
5 civil protective order (emergency, temporary, and permanent)
6 prior to the arrest of the defendant in such a situation
7 affording the victim and the victim's family members, whose
8 welfare may be affected by the sexual abuse situation, the
9 same civil protections as victims of domestic abuse under Code
10 chapter 236. The bill defines sexual abuse as the commission
11 of a crime defined in Code chapter 709 (sexual abuse) and
12 Code sections 726.2 (incest) and 728.12 (sexual exploitation
13 of a minor), and to include sexual abuse crimes in other
14 jurisdictions under statutes that are substantially similar to
15 the aforementioned statutes.

16 Under the bill, upon a finding by the court, by a
17 preponderance of the evidence, that a defendant has engaged
18 in sexual abuse against the plaintiff, the court may order
19 the defendant to cease the abuse, and order the defendant to
20 stay away from the plaintiff's residence, school, or place
21 of employment. In seeking a protective order, a victim has
22 the right to seek help from the court with or without the
23 assistance of an attorney and without the payment of court
24 costs.

25 The bill requires criminal or juvenile justice agencies to
26 collect and maintain information on incidents involving sexual
27 abuse and to provide the information to the department of
28 public safety.

29 The bill makes conforming changes to Code provisions
30 relating to the issuance of and violations of civil protective
31 orders, the duties of the departments of justice and public
32 health, delinquency detention, insurance practices, court
33 operating costs, and peace officer arrests.