

Senate Study Bill 1143 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON ZAUN)

A BILL FOR

1 An Act relating to civil protective orders in domestic abuse
2 and sexual abuse cases, and making penalties and remedies
3 applicable.

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

DIVISION I

SEXUAL ABUSE CIVIL PROTECTIVE ORDERS

1
2
3 Section 1. Section 13.31, subsection 3, Code 2017, is
4 amended to read as follows:

5 3. Administer the domestic abuse program provided in
6 chapter 236 and the sexual abuse program provided in chapter
7 236A.

8 Sec. 2. Section 232.8, subsection 1, paragraph d,
9 subparagraph (1), Code 2017, is amended to read as follows:

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

13 Sec. 3. Section 232.22, subsection 1, paragraph g, Code
14 2017, is amended to read as follows:

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

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

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

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

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

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

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

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

30 4. "*Pro se*" means proceeding on one's own behalf without
31 legal representation.

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

1 chapter 709 or section 726.2 or 728.12.

2 6. "Support services" include but are not limited to legal
3 services, counseling services, transportation services, child
4 care services, and advocacy services.

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

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

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

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

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

22 d. Nature of the alleged sexual abuse.

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

25 f. Desired relief, including a request for temporary or
26 emergency orders.

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

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

35 b. The clerk of court, the sheriff of any county in this

1 state, and other law enforcement and corrections officers shall
2 perform their duties relating to service of process without
3 charge to the plaintiff. When an order for protection is
4 entered by the court, the court may direct the defendant to pay
5 to the clerk of court the fees for the filing of the petition
6 and reasonable costs of service of process if the court
7 determines the defendant has the ability to pay the plaintiff's
8 fees and costs. In lieu of personal service of an order for
9 protection issued pursuant to this section, the sheriff of any
10 county in this state and other law enforcement and corrections
11 officers may serve a defendant with a short-form notification
12 pursuant to section 664A.4A.

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

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

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

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

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

31 A county attorney's office may provide assistance to a
32 person wishing to initiate proceedings pursuant to this chapter
33 or to a plaintiff at any stage of a proceeding under this
34 chapter, if the person or plaintiff does not have sufficient
35 funds to pay for legal assistance and if the assistance does

1 not create a conflict of interest for the county attorney's
2 office. The assistance provided may include but is not limited
3 to assistance in obtaining or completing forms, filing a
4 petition or other necessary pleading, presenting evidence
5 to the court, and enforcing the orders of the court entered
6 pursuant to this chapter. Providing assistance pursuant to
7 this section shall not be considered the private practice of
8 law for the purposes of section 331.752.

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

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

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

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

21 4. Upon application of the plaintiff or defendant, the court
22 shall issue subpoenas requiring attendance and testimony of
23 witnesses and production of papers.

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

27 6. Hearings shall be recorded.

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

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

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

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

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

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

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

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

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

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

34 8. The county sheriff's dispatcher shall notify all law
35 enforcement agencies having jurisdiction over the matter

1 and the twenty-four-hour dispatcher for the law enforcement
2 agencies upon notification by the clerk.

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

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

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

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

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

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

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

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

35 2. The department of public safety may compile statistics

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

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

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

19 *a.* The mailing address of a shelter or other agency.

20 *b.* A public or private post office box.

21 *c.* Any other mailing address, with the permission of the
22 resident of that address.

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

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

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

35 Sec. 15. NEW SECTION. **236A.12 Duties of peace officer —**

1 **magistrate.**

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

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

1 the matter to the county attorney.

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

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

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

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

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

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

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

1 card; and asking whether the person understands the rights:

2 You have the right to ask the court for the following help on
3 a temporary basis:

4 [1] Keeping your attacker away from you, your home, and your
5 place of work.

6 [2] The right to stay at your home without interference from
7 your attacker.

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

13 You have the right to file criminal complaints for threats,
14 assaults, or other related crimes.

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

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

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

24 2. A peace officer is not civilly or criminally liable for
25 actions pursuant to this section taken reasonably and in good
26 faith.

27 Sec. 17. NEW SECTION. 236A.14 Prohibition against referral.

28 In a criminal action arising from sexual abuse, the
29 prosecuting attorney or court shall not refer or order
30 the parties involved to participate in mediation or other
31 nonjudicial procedures prior to judicial resolution of the
32 action.

33 Sec. 18. NEW SECTION. 236A.15 Application for designation
34 and funding as a provider of services for victims of sexual
35 abuse.

1 Upon receipt of state or federal funding designated for
2 victims of sexual abuse by the department, a public or private
3 nonprofit organization may apply to the department for
4 designation and funding as a provider of emergency shelter
5 services and support services to victims of sexual abuse. The
6 application shall be submitted on a form prescribed by the
7 department and shall include but not be limited to information
8 regarding services to be provided, budget, and security
9 measures.

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

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

12 a. Designate and award grants for existing and pilot
13 programs pursuant to this chapter to provide emergency shelter
14 services and support services to victims of sexual abuse.

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

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

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

35 e. Develop, with the assistance of the entity operating

1 the telephone hotline and other sexual abuse victim services
2 providers, brochures explaining the rights of victims set
3 forth under section 236A.13 and the services of the telephone
4 hotline, and distribute the brochures to law enforcement
5 agencies, victim service providers, health practitioners,
6 charitable and religious organizations, and other entities that
7 may have contact with victims of sexual abuse.

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

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

17 Sec. 20. NEW SECTION. 236A.17 **Sexual abuse training**
18 **requirements.**

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

25 1. The enforcement of both civil and criminal remedies in
26 sexual abuse matters.

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

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

30 4. Services available to sexual abuse victims including the
31 sexual abuse telephone hotline.

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

33 6. Techniques for intervention in sexual abuse cases.

34 Sec. 21. NEW SECTION. 236A.18 **Reference to certain criminal**
35 **provisions.**

1 In addition to the provisions contained in this chapter,
2 certain criminal penalties and provisions pertaining to sexual
3 abuse are set forth in chapters 664A and 709 and sections 726.2
4 and 728.12.

5 Sec. 22. NEW SECTION. 236A.19 Foreign protective orders —
6 registration — enforcement — immunity.

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

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

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

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

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

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

34 (1) The order states the name of the protected person and
35 the person against whom enforcement is sought.

1 (2) The order has not expired.

2 (3) The order was issued by a court or tribunal that had
3 jurisdiction over the parties and subject matter under the law
4 of the foreign jurisdiction.

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

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

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

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

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

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

31 Sec. 23. NEW SECTION. 236A.20 Mutual protective orders
32 prohibited — exceptions.

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

1 Sec. 24. Section 331.424, subsection 1, paragraph a,
2 subparagraph (6), Code 2017, is amended to read as follows:

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

19 Sec. 25. Section 507B.4, subsection 3, paragraph g,
20 subparagraph (3), Code 2017, is amended to read as follows:

21 (3) Making or permitting any discrimination in the sale of
22 insurance solely on the basis of domestic abuse as defined in
23 [section 236.2](#) or sexual abuse as defined in section 236A.2.

24 Sec. 26. Section 664A.1, subsection 2, Code 2017, is amended
25 to read as follows:

26 2. "*Protective order*" means a protective order issued
27 pursuant to [chapter 232](#), a court order or court-approved
28 consent agreement entered pursuant to [this chapter](#) or chapter
29 235F, a court order or court-approved consent agreement entered
30 pursuant to [chapter 236](#) or 236A, including a valid foreign
31 protective order under [section 236.19](#), [subsection 3](#), or section
32 236A.19, [subsection 3](#), a temporary or permanent protective
33 order or order to vacate the homestead under [chapter 598](#), or an
34 order that establishes conditions of release or is a protective
35 order or sentencing order in a criminal prosecution arising

1 from a domestic abuse assault under [section 708.2A](#), or a civil
2 injunction issued pursuant to [section 915.22](#).

3 Sec. 27. Section 664A.2, subsection 2, Code 2017, is amended
4 to read as follows:

5 2. A protective order issued in a civil proceeding shall
6 be issued pursuant to [chapter 232](#), [235F](#), [236](#), [236A](#), [598](#), or
7 915. Punishment for a violation of a protective order shall be
8 imposed pursuant to [section 664A.7](#).

9 Sec. 28. Section 664A.3, subsection 1, unnumbered paragraph
10 1, Code 2017, is amended to read as follows:

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

18 Sec. 29. Section 664A.3, subsection 2, Code 2017, is amended
19 to read as follows:

20 2. Notwithstanding [chapters 804](#) and [805](#), a person taken
21 into custody pursuant to [section 236.11](#) or 236A.12 or arrested
22 pursuant to [section 236.12](#) may be released on bail or otherwise
23 only after initial appearance before a magistrate as provided
24 in [chapter 804](#) and the rules of criminal procedure or section
25 [236.11](#) or 236A.12, whichever is applicable.

26 Sec. 30. Section 664A.4, subsection 2, Code 2017, is amended
27 to read as follows:

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

1 Sec. 31. Section 664A.5, Code 2017, is amended to read as
2 follows:

3 **664A.5 Modification — entry of permanent no-contact order.**

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

16 Sec. 32. Section 664A.7, subsections 1, 3, and 5, Code 2017,
17 are amended to read as follows:

18 1. Violation of a no-contact order issued under [this chapter](#)
19 or a protective order issued pursuant to [chapter 232](#), [235F](#),
20 [236](#), [236A](#), or [598](#), including a modified no-contact order, is
21 punishable by summary contempt proceedings.

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

1 may be imposed in addition to the minimum sentence.

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

10 Sec. 33. Section 915.22, subsection 5, Code 2017, is amended
11 to read as follows:

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

21 Sec. 34. Section 915.50, unnumbered paragraph 1, Code 2017,
22 is amended to read as follows:

23 In addition to other victim rights provided in [this chapter](#),
24 victims of domestic abuse and sexual abuse shall have the
25 following rights:

26 Sec. 35. Section 915.50, subsections 1 and 2, Code 2017, are
27 amended to read as follows:

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

32 2. The right, pursuant to [section sections 236.12](#), and
33 236A.13, for law enforcement to remain on the scene, to
34 assist the victim in leaving the scene, to assist the victim
35 in obtaining transportation to medical care, and to provide

1 the person with a written statement of victim rights and
2 information about domestic abuse and sexual abuse shelters,
3 support services, and crisis lines.

4 Sec. 36. Section 915.94, Code 2017, is amended to read as
5 follows:

6 **915.94 Victim compensation fund.**

7 A victim compensation fund is established as a separate fund
8 in the state treasury. Moneys deposited in the fund shall
9 be administered by the department and dedicated to and used
10 for the purposes of [section 915.41](#) and [this subchapter](#). In
11 addition, the department may use moneys from the fund for the
12 purpose of the department's prosecutor-based victim service
13 coordination, including the duties defined in [sections 910.3](#)
14 and [910.6](#) and [this chapter](#), for the award of funds to programs
15 that provide services and support to victims of domestic abuse
16 ~~or sexual assault~~ as provided in [chapter 236](#), to victims of
17 sexual abuse as provided in chapter 236A, to victims under
18 section 710A.2, for reimbursement to the Iowa law enforcement
19 academy for domestic abuse and human trafficking training, and
20 for the support of an automated victim notification system
21 established in [section 915.10A](#). For each fiscal year, the
22 department may also use up to three hundred thousand dollars
23 from the fund to provide training for victim service providers,
24 to provide training for related professionals concerning
25 victim service programming, and to provide training concerning
26 homicide, domestic assault, sexual assault, stalking,
27 harassment, and human trafficking as required by section
28 710A.6. Notwithstanding [section 8.33](#), any balance in the fund
29 on June 30 of any fiscal year shall not revert to the general
30 fund of the state.

31 DIVISION II

32 PROTECTIVE ORDER VICTIM NOTIFICATION SYSTEM

33 Sec. 37. NEW SECTION. **915.52 Protective order victim**
34 **notification system.**

35 1. An automated protective order victim notification system

1 is established within the crime victim assistance division
2 of the department of justice to assist public officials in
3 informing registered victims of domestic abuse and sexual abuse
4 pursuant to chapters 236 and 236A, the families of victims,
5 and other interested persons of the date and time of service
6 of a protective order upon respondents who are the subjects of
7 protective orders and of the expiration dates of the protective
8 orders. The system shall also have the capability to notify
9 victims of the expiration of the protective orders thirty days
10 prior to their expiration dates.

11 2. The automated protective order victim notification
12 system shall disseminate the information to registered users
13 through telephonic, electronic, or other means of access.

14 3. A law enforcement agency or any other public or private
15 agency responsible for serving civil protective orders
16 shall enter the date and time of the service of a protective
17 order into the Iowa court information system or other secure
18 electronic database intended only for law enforcement use
19 within twenty-four hours of service of the protective order
20 upon a respondent in a domestic abuse or sexual abuse case
21 pursuant to chapter 236 or 236A. A law enforcement agency or
22 any other public or private agency responsible for serving
23 civil protective orders which has made a good-faith effort to
24 serve a protective order upon a respondent and which is unable
25 to comply with the requirements of this subsection shall notify
26 the appropriate clerk of the district court, who shall, if
27 possible, enter such information into the automated protective
28 order victim notification system.

29 4. The standard forms prescribed by the department of
30 justice to be used by victims of domestic abuse and sexual
31 abuse pursuant to chapters 236 and 236A shall include a
32 space to allow victims to register for service of process and
33 expiration notifications pursuant to this section.

34 5. For the purposes of this section, "registered" means
35 having provided the county attorney with the victim's written

1 request for registration and current mailing address and
2 telephone number. "Registered" also means having provided the
3 county attorney notice in writing that the victim has filed a
4 request for registration with the automated protective order
5 victim notification system established in this section.

6 EXPLANATION

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

9 This bill relates to civil protective orders in domestic
10 abuse and sexual abuse cases, and makes penalties applicable.
11 The bill is organized into divisions.

12 SEXUAL ABUSE CIVIL PROTECTIVE ORDERS. Under current law, a
13 defendant accused of sexual abuse must be arrested for sexual
14 abuse before a victim can apply for a criminal no-contact order
15 against the defendant (Code section 664A.3) or the victim can
16 apply for a criminal no-contact order against a defendant upon
17 the defendant's release from jail or prison (Code section
18 709.19).

19 This division creates new Code chapter 236A, the sexual
20 abuse Act, allowing a victim of sexual abuse to seek relief
21 from sexual abuse by filing a petition in district court for
22 a sexual abuse civil protective order (emergency, temporary,
23 or permanent) prior to the arrest of the defendant in such a
24 situation affording the victim and the victim's family members,
25 whose welfare may be affected by the sexual abuse situation,
26 the same civil protections as victims of domestic abuse under
27 Code chapter 236. The division defines sexual abuse as the
28 commission of a crime defined in Code chapter 709 (sexual
29 abuse) and Code sections 726.2 (incest) and 728.12 (sexual
30 exploitation of a minor), and includes sexual abuse crimes
31 in other jurisdictions under statutes that are substantially
32 similar to the aforementioned statutes.

33 Under the division, upon a finding by the court, by a
34 preponderance of the evidence, that a defendant has engaged in
35 sexual abuse against the plaintiff, the court may order the

1 defendant to cease the sexual abuse, and order the defendant
2 to stay away from the plaintiff's residence, school, or place
3 of employment. In seeking a protective order, a victim has
4 the right to seek help from the court with or without the
5 assistance of an attorney and without the payment of court
6 costs.

7 The division requires criminal and juvenile justice agencies
8 to collect and maintain information on incidents involving
9 sexual abuse and to provide the information to the department
10 of public safety.

11 The division makes conforming changes to Code provisions
12 relating to the issuance of and violations of civil protective
13 orders, the duties of the departments of justice and
14 delinquency detention, insurance practices, court operating
15 costs, and peace officer arrests.

16 PROTECTIVE ORDER VICTIM NOTIFICATION SYSTEM. This division
17 establishes an automated protective order victim notification
18 system within the crime victim assistance division of the
19 department of justice to assist public officials in informing
20 registered victims of domestic abuse and sexual abuse pursuant
21 to Code chapters 236 and 236A, the families of victims, and
22 other interested persons of the date and time of service of
23 a protective order upon respondents who are the subjects of
24 protective orders and of the expiration dates of the protective
25 orders. The system shall also have the capability to notify
26 victims of the expiration of the protective orders thirty days
27 prior to their expiration dates.