

Senate File 382 - Introduced

SENATE FILE 382

BY NUNN

A BILL FOR

1 An Act relating to domestic abuse, including provisions
2 relating to the implementation of a domestic abuse lethality
3 screening assessment and supervised electronic tracking and
4 monitoring.

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

1 Section 1. Section 236.12, subsection 1, Code 2019, is
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. *d.* (1) Conducting a validated,
4 evidence-based domestic abuse lethality screening assessment
5 with the abused person that assists peace officers, victim
6 counselors, and others in identifying victims of domestic abuse
7 who are most likely to be killed by such abuse in the future.
8 If possible, the peace officer shall conduct the screening
9 assessment verbally by presenting certain screening assessment
10 questions to the abused person.

11 (2) The peace officer conducting the domestic abuse
12 lethality screening assessment or the law enforcement agency
13 that has received such a screening assessment shall provide the
14 county attorney with the results of the assessment conducted
15 pursuant to subparagraph (1).

16 Sec. 2. Section 811.2, subsection 1, paragraph a,
17 unnumbered paragraph 1, Code 2019, is amended to read as
18 follows:

19 All bailable defendants shall be ordered released from
20 custody pending judgment or entry of deferred judgment on their
21 personal recognizance, or upon the execution of an unsecured
22 appearance bond in an amount specified by the magistrate unless
23 the magistrate determines in the exercise of the magistrate's
24 discretion, that such a release will not reasonably assure the
25 appearance of the defendant as required or that release will
26 jeopardize the personal safety of another person or persons,
27 or the defendant has been charged with a violation of domestic
28 abuse assault under section 708.2A and the defendant is a
29 high risk to reoffend. When such determination is made, the
30 magistrate shall, either in lieu of or in addition to the
31 above methods of release, impose the first of the following
32 conditions of release which will reasonably assure the
33 appearance of the person for trial or deferral of judgment and
34 the safety of other persons, or, if no single condition gives
35 that assurance, any combination of the following conditions,

1 except that the condition in subparagraph (03) shall be imposed
2 with any combination of the following conditions if applicable
3 to the person:

4 Sec. 3. Section 811.2, subsection 1, paragraph a, Code 2019,
5 is amended by adding the following new subparagraph:

6 NEW SUBPARAGRAPH. (03) Require the defendant to be
7 supervised by an electronic tracking and monitoring system
8 upon release if the defendant is charged with a violation of
9 domestic abuse assault under section 708.2A and the defendant
10 is a high risk to reoffend.

11 Sec. 4. Section 811.2, subsection 2, Code 2019, is amended
12 to read as follows:

13 2. *Determination of conditions.* In determining which
14 conditions of release will reasonably assure the defendant's
15 appearance and the safety of another person or persons, the
16 magistrate shall, on the basis of available information, take
17 into account the nature and circumstances of the offense
18 charged including the results of a domestic abuse lethality
19 screening assessment if available, the defendant's family
20 ties, employment, financial resources, character and mental
21 condition, the length of the defendant's residence in the
22 community, the defendant's record of convictions, including the
23 defendant's failure to pay any fine, surcharge, or court costs,
24 and the defendant's record of appearance at court proceedings
25 or of flight to avoid prosecution or failure to appear at court
26 proceedings.

27 Sec. 5. Section 905.16, Code 2019, is amended by striking
28 the section and inserting in lieu thereof the following:

29 **905.16 Domestic abuse assault — class "D" felons.**

30 A person who is serving a sentence under section 708.2A,
31 subsection 4 or 5, and who is released on parole or work
32 release, shall be supervised by an electronic tracking and
33 monitoring system when the person is not confined in a secure
34 area of a community-based correctional facility until such
35 time as the district department determines the person may be

1 supervised without the electronic tracking and monitoring
2 system.

3 Sec. 6. IMPLEMENTATION OF ACT. Section 25B.2, subsection
4 3, shall not apply to this Act.

5 EXPLANATION

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

8 This bill relates to domestic abuse lethality screening by
9 peace officers.

10 Currently, if a peace officer has reason to believe domestic
11 abuse has occurred, the peace officer is required to use all
12 reasonable means to prevent further abuse including providing a
13 notice to the abused person about the person's rights pursuant
14 to Code section 236.12(1).

15 The bill provides that after notice is provided under Code
16 section 236.12(1), the peace officer shall also conduct a
17 validated, evidence-based domestic abuse lethality screening
18 assessment with the abused person that assists peace officers,
19 victim counselors, and others in identifying victims of
20 domestic abuse who are most likely to be killed by such abuse
21 in the future. If possible, the peace officer shall conduct
22 the screening assessment verbally by presenting certain
23 screening assessment questions to the abused person.

24 The bill specifies that the peace officer conducting
25 the domestic abuse lethality screening assessment or the
26 law enforcement agency that has received such a screening
27 assessment shall be responsible for providing the county
28 attorney with the results of the screening assessment.

29 The bill amends Code section 811.2 by prohibiting the
30 release of a person on their personal recognizance, or upon the
31 execution of an unsecured appearance bond, if the person is
32 charged with a violation of domestic abuse assault under Code
33 section 708.2A and the defendant is a high risk to reoffend.
34 The bill further specifies that if a person charged with a
35 violation of domestic abuse assault under Code section 708.2A

1 is released, the person shall be supervised by an electronic
2 tracking and monitoring system if the person has been assessed
3 as a high risk to reoffend in addition to any other conditions
4 specified under Code section 811.2(1)(a).

5 The bill amends Code section 811.2 relating to conditions
6 of release of a person after arrest. In determining the
7 conditions of release, the bill requires the court to take into
8 account the results of a domestic abuse lethality screening
9 assessment, if available.

10 The bill requires a person who is serving a domestic
11 abuse assault class "D" felony sentence under Code section
12 708.2A(4) or (5), to be supervised by an electronic tracking
13 and monitoring system, upon release, when the person is not
14 confined in a secure area of a community-based correctional
15 facility until such time as the district department determines
16 the person may be supervised without the electronic tracking
17 and monitoring system.

18 The bill may include a state mandate as defined in Code
19 section 25B.3. The bill makes inapplicable Code section
20 25B.2(3), which would relieve a political subdivision from
21 complying with a state mandate if funding for the cost of
22 the state mandate is not provided or specified. Therefore,
23 political subdivisions are required to comply with any state
24 mandate included in the bill.