

House File 251 - Introduced

HOUSE FILE 251

BY JACOBSEN, JENEARY, and
SALMON

A BILL FOR

1 An Act relating to certain public safety and law enforcement
2 matters, including creating the crime of violent or
3 disorderly assembly, and providing penalties.

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

1 Section 1. NEW SECTION. **8.31A Denial of state funds.**

2 1. Notwithstanding any other provision of law to the
3 contrary, a local entity, including any entity under the
4 jurisdiction of the local entity, shall be ineligible to
5 receive any state funds if the local entity reduces the budget
6 of a law enforcement agency under the jurisdiction of the local
7 entity unless the total budget of the local entity is reduced
8 by an equal or larger percentage.

9 2. State funds shall be denied to a local entity pursuant to
10 subsection 1 by all state agencies for each state fiscal year
11 that begins after the fiscal year in which the law enforcement
12 agency's budget is reduced. State funds shall continue to be
13 denied until eligibility to receive state funds is reinstated
14 under section 8.31. However, any state funds for law
15 enforcement purposes shall not be denied under this section.

16 3. A local entity's eligibility to receive state funds shall
17 be reinstated beginning on the first day of the month following
18 the date on which the local entity's budget is no longer in
19 violation of this section.

20 4. The department of management shall adopt rules pursuant
21 to chapter 17A to implement this section uniformly across
22 state agencies from which state funds are distributed to local
23 entities.

24 Sec. 2. NEW SECTION. **138.6A Intentional blocking of traffic**
25 **prohibited — organizing others to block prohibited — penalties**
26 **— exceptions.**

27 1. A person shall not loiter on the traveled portion of
28 the right-of-way of a highway with a speed limit of fifty-five
29 miles per hour or more with the intention of blocking the
30 normal and reasonable movement of motor vehicle traffic.
31 A person who violates this subsection commits a serious
32 misdemeanor punishable by a fine in the amount of one thousand
33 dollars, which shall be in lieu of any other punishment imposed
34 under this chapter.

35 2. A person shall not perform an activity related to

1 organizing, scheduling, or otherwise assembling a group of
2 persons if the person knows or should reasonably know the group
3 of persons will violate subsection 1. A person who violates
4 this subsection commits an aggravated misdemeanor, which shall
5 be in lieu of any other punishment imposed under this chapter.

6 3. This section shall not apply to a person who blocks
7 the movement of traffic for the purpose of obtaining law
8 enforcement, medical, or mechanical assistance. This section
9 shall also not apply to a person who is a peace officer or
10 emergency responder, who is engaged in highway construction
11 or maintenance, or who is an employee of a federal, state, or
12 local government, if the person is acting within the scope of
13 the person's duties.

14 Sec. 3. NEW SECTION. 321.366A Immunity from civil liability
15 for certain vehicle operators.

16 1. The driver of a vehicle who is exercising due care and
17 who injures another person who is participating in a protest,
18 demonstration, riot, unlawful assembly or who is engaging in
19 disorderly conduct and is blocking traffic in a public street
20 or highway shall be immune from civil liability for the injury
21 caused by the driver of the vehicle.

22 2. The driver of a vehicle who injures another person who
23 is participating in a protest, demonstration, riot, unlawful
24 assembly or who is engaging in disorderly conduct and is
25 blocking traffic in a public street or highway shall not be
26 immune from civil liability if the actions leading to the
27 injury caused by the driver of a vehicle constitute reckless
28 or willful misconduct.

29 3. Subsection 1 shall not apply if the injured person
30 participating in a protest or demonstration was doing so with a
31 valid permit allowing persons to protest or demonstrate on the
32 public street or highway where the injury occurred.

33 Sec. 4. Section 708.7, subsection 2, paragraph a, Code 2021,
34 is amended by adding the following new subparagraph:

35 NEW SUBPARAGRAPH. (4) Commits harassment against another

1 person who is lawfully in a place of public accommodation. For
2 purposes of this section, "*public accommodation*" means a private
3 entity that owns, operates, leases, or leases to, a place of
4 public accommodation, including but not limited to restaurants,
5 hotels, theaters, doctors' offices, pharmacies, retail stores,
6 museums, libraries, amusement parks, private schools, and day
7 care centers.

8 Sec. 5. Section 716.3, subsection 1, Code 2021, is amended
9 to read as follows:

10 1. Criminal mischief is criminal mischief in the first
11 degree if ~~either~~ any of the following apply:

12 a. The cost of replacing, repairing, or restoring the
13 property that is damaged, defaced, altered, or destroyed is
14 more than ten thousand dollars.

15 b. The acts are intended to or do in fact cause a
16 substantial interruption or impairment of service rendered to
17 the public by a gas, electric, steam or waterworks corporation,
18 telephone or telegraph corporation, common carrier, or a public
19 utility operated by a municipality.

20 c. The acts damage, deface, alter, or destroy any publicly
21 owned property, including a monument or statue.

22 Sec. 6. Section 723.4, Code 2021, is amended by striking the
23 section and inserting in lieu thereof the following:

24 **723.4 Disorderly conduct.**

25 1. A person commits a simple misdemeanor when the person
26 does any of the following:

27 a. Engages in fighting or violent behavior in any public
28 place or in or near any lawful assembly of persons, provided
29 that participants in athletic contests may engage in such
30 conduct which is reasonably related to that sport.

31 b. Makes loud and raucous noise in the vicinity of any
32 residence or public building which causes unreasonable distress
33 to the occupants thereof.

34 c. Directs abusive epithets or makes any threatening gesture
35 which the person knows or reasonably should know is likely to

1 provoke a violent reaction by another.

2 *d.* Without lawful authority or color of authority, the
3 person disturbs any lawful assembly or meeting of persons by
4 conduct intended to disrupt the meeting or assembly.

5 *e.* By words or action, initiates or circulates a report or
6 warning of fire, epidemic, or other catastrophe, knowing such
7 report to be false or such warning to be baseless.

8 *f.* (1) Knowingly and publicly uses the flag of the United
9 States in such a manner as to show disrespect for the flag as
10 a symbol of the United States, with the intent or reasonable
11 expectation that such use will provoke or encourage another to
12 commit trespass or assault.

13 (2) As used in this paragraph:

14 (a) "*Deface*" means to intentionally mar the external
15 appearance.

16 (b) "*Defile*" means to intentionally make physically unclean.

17 (c) "*Flag*" means a piece of woven cloth or other material
18 designed to be flown from a pole or mast.

19 (d) "*Mutilate*" means to intentionally cut up or alter so as
20 to make imperfect.

21 (e) "*Show disrespect*" means to deface, defile, mutilate, or
22 trample.

23 (f) "*Trample*" means to intentionally tread upon or
24 intentionally cause a machine, vehicle, or animal to tread
25 upon.

26 (3) This paragraph does not apply to a flag retirement
27 ceremony conducted pursuant to federal law.

28 2. A person commits a serious misdemeanor when the person,
29 without lawful authority or color of authority, obstructs any
30 street, sidewalk, highway, or other public way, with the intent
31 to prevent or hinder its lawful use by others.

32 3. A person commits an aggravated misdemeanor when the
33 person commits disorderly conduct as described in subsection 2
34 and does any of the following:

35 *a.* Obstructs or attempts to obstruct a fully

1 controlled-access facility on a highway, street, or road in
2 which the speed restriction is controlled by section 321.285,
3 subsection 3 or 5.

4 *b.* Commits property damage.

5 *c.* Is present during an unlawful assembly as defined in
6 section 723.2.

7 4. A person commits a class "D" felony when the person
8 commits disorderly conduct as described in subsection 2 and
9 does any of the following:

10 *a.* Is present during a riot as defined in section 723.1.

11 *b.* Causes bodily injury.

12 5. A person commits a class "C" felony when the person
13 commits disorderly conduct as described in subsection 2 and the
14 person causes serious bodily injury or death.

15 **Sec. 7. NEW SECTION. 723.6 Violent or disorderly assembly.**

16 1. For purposes of this section:

17 *a.* "*Violent or disorderly assembly*" means the gathering of
18 seven or more persons resulting in conduct which does any of
19 the following:

20 (1) Creates an immediate danger of damage to property or
21 injury to persons.

22 (2) Substantially obstructs law enforcement or other
23 governmental functions or services.

24 (3) Deprives any person of a legal right or disturbs any
25 person in the enjoyment of a legal right by force, threat of
26 force, or physical action.

27 *b.* "*Looting*" means committing burglary within five hundred
28 feet of a violent or disorderly assembly.

29 2. *a.* A person who willingly joins in or remains a part
30 of a violent or disorderly assembly commits a class "D" felony
31 with a mandatory minimum term of confinement of one year.

32 *b.* A person who violates paragraph "a", who traveled to
33 this state from another state to participate in a violent
34 or disorderly assembly, commits a class "C" felony with a
35 mandatory minimum term of confinement of two years.

1 c. It is a defense to a prosecution under this section
2 that the assembly was at first lawful, but once another person
3 assembled manifested an intent to engage in a violent or
4 disorderly assembly, the person removed themselves from the
5 assembly.

6 3. A person who, while participating in a violent or
7 disorderly assembly, throws an object at a peace officer,
8 jailer, correctional staff, member or employee of the board of
9 parole, health care provider, employee of the department of
10 human services, employee of the department of revenue, or fire
11 fighter with the knowledge that the person is a peace officer,
12 jailer, correctional staff, member or employee of the board
13 of parole, health care provider, employee of the department
14 of human services, employee of the department of revenue, or
15 fire fighter, commits a class "D" felony, with a mandatory
16 minimum term of confinement of one year. If the object thrown
17 hits a peace officer, jailer, correctional staff, member or
18 employee of the board of parole, health care provider, employee
19 of the department of human services, employee of the department
20 of revenue, or fire fighter, the person commits a class "C"
21 felony, with a mandatory minimum term of confinement of two
22 years.

23 4. A person who, while participating in a violent or
24 disorderly assembly, engages in looting commits a class "D"
25 felony and shall serve a mandatory minimum term of confinement
26 of one year.

27 5. An employee of a state or local governmental entity
28 who is convicted of engaging in a violent or disorderly
29 assembly shall not continue employment with a state or local
30 governmental entity.

31

EXPLANATION

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

34 This bill relates to certain public safety and law
35 enforcement matters, includes creating the crime of violent or

1 disorderly assembly, and provides penalties.

2 DENIAL OF STATE FUNDS — LAW ENFORCEMENT AGENCY BUDGETS.

3 The bill provides that a local entity, including any entity
4 under the jurisdiction of the local entity, shall be ineligible
5 to receive any state funds if the local entity reduces the
6 budget of their law enforcement agency unless the total
7 budget of the local entity is reduced by an equal or larger
8 percentage. State funds shall be denied to a local entity
9 by all state agencies for each state fiscal year that begins
10 after the fiscal year in which the law enforcement agency's
11 budget is reduced. State funds shall continue to be denied
12 until eligibility to receive state funds is reinstated under
13 Code section 8.31. State funds for law enforcement purposes
14 shall not be denied. The department of management is directed
15 to adopt rules pursuant to Code chapter 17A. Further, the
16 governor's office of drug control policy shall not expend any
17 moneys received from any state or federal grants to a local
18 entity that reduces the budget of its law enforcement agency
19 unless the total local entity budget is reduced by an equal or
20 larger percentage.

21 INTENTIONAL BLOCKING OF TRAFFIC. Under current law, a
22 person is prohibited from placing an obstruction in the highway
23 right-of-way, including the traveled portion of the roadway. A
24 person who violates this provision is subject to an injunction
25 and upon conviction is guilty of creating a public nuisance, an
26 aggravated misdemeanor, punishable by confinement for no more
27 than two years and a fine of at least \$855 but not more than
28 \$8,540. Any obstruction is subject to removal.

29 The bill prohibits a person from loitering on the traveled
30 portion of the right-of-way of a highway with a speed limit
31 of 55 miles per hour or more with the intention of blocking
32 the normal and reasonable movement of motor vehicle traffic.
33 A person who violates this provision commits a serious
34 misdemeanor punishable by a fine of \$1,000, which is in
35 lieu of any other punishment imposed under Code chapter 318

1 (obstructions in highway rights-of-way).

2 The bill also prohibits a person from performing an activity
3 related to organizing, scheduling, or otherwise assembling a
4 group of persons if the person knows or should reasonably know
5 the group of persons will loiter on the traveled portion of
6 the right-of-way of a highway with a speed limit of 55 miles
7 per hour or more with the intention of blocking the normal and
8 reasonable movement of motor vehicle traffic. A person who
9 violates this provision commits an aggravated misdemeanor,
10 which is in lieu of any other punishment imposed under Code
11 chapter 318.

12 The bill does not apply to a person who blocks the movement
13 of traffic for the purpose of obtaining law enforcement,
14 medical, or mechanical assistance. In addition, the
15 bill does not apply to a person who is a peace officer or
16 emergency responder, who is engaged in highway construction
17 or maintenance, or who is an employee of a federal, state, or
18 local government, if the person is acting within the scope of
19 the person's duties.

20 IMMUNITY FROM CIVIL LIABILITY FOR CERTAIN VEHICLE OPERATORS.
21 The bill provides that the driver of a vehicle who is
22 exercising due care and who injures another person who is
23 participating in a protest, demonstration, riot, unlawful
24 assembly or who is engaging in disorderly conduct and is
25 blocking traffic in a public street or highway is immune from
26 civil liability for the injury. The driver shall not be immune
27 from civil liability if the actions leading to the injury
28 constitute reckless or willful misconduct. The bill shall
29 not apply if the injured person participating in a protest or
30 demonstration was doing so with a valid permit allowing persons
31 to protest or demonstrate on the public street or highway where
32 the injury occurred.

33 HARASSMENT. The bill provides that a person commits
34 harassment in the first degree when the person commits
35 harassment against another person who is lawfully in a place

1 of public accommodation. Harassment in the first degree is an
2 aggravated misdemeanor.

3 CRIMINAL MISCHIEF IN THE FIRST DEGREE. The bill provides
4 that acts of a person which damage, deface, alter, or destroy
5 any publicly owned property, including a monument or statue, is
6 criminal mischief in the first degree. Criminal mischief in
7 the first degree is a class "C" felony.

8 VIOLENT OR DISORDERLY ASSEMBLY. The bill defines "violent
9 or disorderly assembly" as the gathering of seven or more
10 persons resulting in conduct which does any of the following:
11 creates an immediate danger of damage to property or injury
12 to persons; substantially obstructs law enforcement or other
13 governmental functions or services; or deprives any person of a
14 legal right or disturbs any person in the enjoyment of a legal
15 right by force, threat of force, or physical action. "Looting"
16 is defined as committing burglary within 500 feet of a violent
17 or disorderly assembly.

18 The bill provides that a person who willingly joins in or
19 remains a part of a violent or disorderly assembly commits a
20 class "D" felony, with a mandatory minimum term of confinement
21 of one year, and that a person who travels to this state
22 from another state to participate in a violent or disorderly
23 assembly commits a class "C" felony, with a mandatory minimum
24 term of confinement of two years. It is a defense to a
25 prosecution that the assembly was at first lawful, but once
26 another person assembled manifested an intent to engage in a
27 violent or disorderly assembly, the person removed themselves
28 from the assembly.

29 The bill provides that a person who, while participating
30 in a violent or disorderly assembly, throws an object at a
31 peace officer, jailer, correctional staff, member or employee
32 of the board of parole, health care provider, employee of the
33 department of human services, employee of the department of
34 revenue, or fire fighter with the knowledge that the person is
35 a peace officer, jailer, correctional staff, member or employee

1 of the board of parole, health care provider, employee of the
2 department of human services, employee of the department of
3 revenue, or fire fighter, commits a class "D" felony, with a
4 mandatory minimum term of confinement of one year. If the
5 object thrown hits a peace officer, jailer, correctional
6 staff, member or employee of the board of parole, health
7 care provider, employee of the department of human services,
8 employee of the department of revenue, or fire fighter, the
9 person commits a class "C" felony, with a mandatory minimum
10 term of confinement of two years. A person who, while
11 participating in a violent or disorderly assembly, engages in
12 looting commits a class "D" felony, with a mandatory minimum
13 term of confinement of one year.

14 The bill provides that an employee of a state or local
15 governmental entity who is convicted of engaging in a violent
16 or disorderly assembly shall not continue employment with a
17 state or local governmental entity.

18 DISORDERLY CONDUCT. Current law provides that all
19 violations of Code section 723.4 (disorderly conduct) are
20 simple misdemeanors. The bill amends Code section 723.4 by
21 providing additional criminal penalties greater than a simple
22 misdemeanor for additional acts of disorderly conduct.

23 The bill provides that a person commits a serious
24 misdemeanor when the person, without lawful authority or
25 color of authority, obstructs or attempts to obstruct any
26 street, sidewalk, highway, or other public way, or obstructs or
27 attempts to obstruct any business, business drive, parking lot,
28 or business access, with the intent to prevent or hinder its
29 lawful use by others.

30 The bill provides that a person commits an aggravated
31 misdemeanor when the person, without lawful authority or color
32 of authority, obstructs any street, sidewalk, highway, or other
33 public way with the intent to prevent or hinder its lawful use
34 by others and does any of the following: obstructs or attempts
35 to obstruct a fully controlled-access facility or a highway,

1 street, or road in which a speed restriction is controlled by
2 Code section 321.285(3) or 321.285(5); commits property damage;
3 or is present during an unlawful assembly, as defined in Code
4 section 723.2.

5 The bill provides that a person commits a class "D"
6 felony when the person, without lawful authority or color of
7 authority, obstructs any street, sidewalk, highway, or other
8 public way with the intent to prevent or hinder its lawful use
9 by others and is present during a riot, as defined in Code
10 section 723.1; or causes bodily injury.

11 The bill provides that a person commits a class "C"
12 felony when the person, without lawful authority or color of
13 authority, obstructs any street, sidewalk, highway, or other
14 public way with the intent to prevent its unlawful use by
15 others and serious injury or death results.

16 PENALTY PROVISIONS. A class "C" felony is punishable
17 by confinement for no more than 10 years and a fine of at
18 least \$1,370 but not more than \$13,660. A class "D" felony
19 is punishable by confinement for no more than five years
20 and a fine of at least \$1,025 but not more than \$10,245. An
21 aggravated misdemeanor is punishable by confinement for no more
22 than two years and a fine of at least \$855 but not more than
23 \$8,540. A serious misdemeanor is punishable by confinement for
24 no more than one year and a fine of at least \$430 but not more
25 than \$2,560.