

Senate File 2365 - Introduced

SENATE FILE 2365
BY GIDDENS

(COMPANION TO HF 2362 BY
BROWN-POWERS)

A BILL FOR

- 1 An Act relating to domestic abuse risk assessment and
- 2 deterrence.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 236.12, subsection 3, Code 2022, is
2 amended to read as follows:

3 3. a. As described in **subsection 2**, paragraph "b", "c",
4 "d", "e", or "f", the peace officer shall arrest the person
5 whom the peace officer believes to be the primary physical
6 aggressor. The duty of the officer to arrest extends only
7 to those persons involved who are believed to have committed
8 an assault. Persons acting with justification, as defined
9 in **section 704.3**, are not subject to mandatory arrest. In
10 identifying the primary physical aggressor, a peace officer
11 shall consider the need to protect victims of domestic abuse,
12 the relative degree of injury or fear inflicted on the persons
13 involved, and any history of domestic abuse between the persons
14 involved. A peace officer's identification of the primary
15 physical aggressor shall not be based on the consent of the
16 victim to any subsequent prosecution or on the relationship of
17 the persons involved in the incident, and shall not be based
18 solely upon the absence of visible indications of injury or
19 impairment.

20 b. If no arrest has been made pursuant to subsection 2,
21 paragraph "a", the peace officer shall perform a risk assessment
22 of the person the peace officer believes to be the primary
23 physical aggressor based on rules adopted by the department
24 in accordance with section 236.16, subsection 1, paragraph
25 "f". Once a risk assessment has been completed, the peace
26 officer shall provide informational materials prepared by the
27 department pursuant to section 236.16, subsection 1, paragraph
28 "h", to the primary physical aggressor.

29 Sec. 2. Section 236.12, Code 2022, is amended by adding the
30 following new subsection:

31 NEW SUBSECTION. 3A. Prior to the release of a person
32 arrested under subsection 2, the police department or sheriff's
33 office responsible for the person's arrest shall perform a
34 risk assessment of the person based on rules adopted by the
35 department in accordance with section 236.16, subsection 1,

1 paragraph "f". Upon completion of the risk assessment, the
2 police department or sheriff's office shall transmit the
3 risk assessment to the appropriate judicial department of
4 correctional services.

5 Sec. 3. Section 236.16, subsection 1, Code 2022, is amended
6 by adding the following new paragraphs:

7 NEW PARAGRAPH. *f.* (1) Adopt rules pursuant to chapter 17A
8 to create a risk assessment classification system to categorize
9 the potential threat a primary physical aggressor identified
10 pursuant to section 236.12, subsection 3, poses to an abused
11 person. Categories of risk shall be established based on the
12 following:

13 (a) The number of previous and current domestic abuse
14 assault convictions of the primary physical aggressor.

15 (b) The number of times the primary physical aggressor has
16 violated a temporary, emergency, or protective order issued
17 pursuant to this chapter.

18 (c) Whether the primary physical aggressor has been
19 convicted of a felony.

20 (d) Whether the primary physical aggressor has been
21 convicted of illegally using, carrying, or possessing a
22 dangerous weapon as defined in section 702.7.

23 (e) The number of offenses committed by the primary physical
24 aggressor that occurred in other jurisdictions that are
25 substantially similar to the offenses listed in subparagraph
26 divisions (a) through (d).

27 (2) Rules adopted pursuant to this paragraph shall include
28 but not be limited to a requirement that a peace officer
29 or law enforcement agency shall make reasonable efforts to
30 obtain information from other state jurisdictions that may be
31 pertinent in performing a risk assessment.

32 NEW PARAGRAPH. *g.* (1) Prepare, for the purpose of
33 dissemination to a victim of domestic abuse, informational
34 materials intended to address root causes of domestic abuse,
35 deter further domestic abuse, and offer support. Information

1 contained in the materials shall include but not be limited to
2 all of the following:

3 (a) Financial assistance that may be available to a victim
4 and general application information.

5 (b) Mental health services that may be available to a victim
6 and contact information for those services.

7 (c) Victim abuse and rehabilitation services and contact
8 information for those services.

9 (d) Information pertaining to Iowa legal aid and contact
10 information for Iowa legal aid.

11 (e) General information regarding services and benefits
12 that may be available to a victim through the department of
13 human services.

14 (2) Rules adopted pursuant to this paragraph shall include
15 but not be limited to a determination of when a victim shall
16 receive materials created pursuant to this paragraph.

17 NEW PARAGRAPH. h. (1) Prepare, for the purpose of
18 dissemination to a primary physical aggressor identified
19 pursuant to section 236.12, subsection 3, paragraph "a",
20 informational materials intended to address root causes of
21 domestic abuse and deter further domestic abuse. Information
22 contained in the materials shall include but not be limited to
23 all of the following:

24 (a) Financial assistance that may be available to a primary
25 physical aggressor and general application information.

26 (b) Employment services and work programs that may
27 be available to a primary physical aggressor and contact
28 information for those services and programs.

29 (c) Mental health and substance abuse services that may
30 be available to a primary physical aggressor and a general
31 explanation of how to request those services.

32 (d) Housing assistance that may be available to a primary
33 physical aggressor and general application information.

34 (e) Family counseling services that may be available to a
35 primary physical aggressor and contact information for those

1 services.

2 (f) Community mentoring services that may be available to a
3 primary physical aggressor and contact information for those
4 services.

5 (g) A summary of the consequences a primary physical
6 aggressor may face for violating any temporary, emergency, or
7 protective order issued pursuant to this chapter.

8 (2) Rules adopted pursuant to this paragraph shall include
9 but not be limited to a determination of when a primary
10 physical aggressor shall receive materials created pursuant to
11 this paragraph.

12 NEW PARAGRAPH. i. Establish a system of best practices for
13 enhanced precautions based on a primary physical aggressor's
14 risk assessment performed pursuant to section 236.12,
15 subsection 3, paragraph "b", or section 236.12, subsection 3A.
16 Such enhanced precautions shall include but not be limited
17 to follow-up visits with a victim and follow-up visits with
18 the primary physical aggressor based on the risk the primary
19 physical aggressor poses to the victim.

20 Sec. 4. Section 236.16, Code 2022, is amended by adding the
21 following new subsection:

22 NEW SUBSECTION. 2A. The department shall consult and
23 cooperate with all law enforcement agencies and public and
24 private agencies to provide training, education, and guidance
25 to a primary physical aggressor identified pursuant to section
26 236.12, subsection 3, for the purpose of identifying and
27 resolving possible causes of domestic abuse and deterring
28 further abuse.

29 Sec. 5. Section 708.2B, Code 2022, is amended by adding the
30 following new subsection:

31 NEW SUBSECTION. 2A. A person who was arrested pursuant to
32 section 236.12, subsection 3, paragraph "a", shall report to a
33 district department upon the person's release, at which time
34 the district department shall provide materials prepared by the
35 department of justice pursuant to section 236.16, subsection 1,

1 paragraph "h", to the person.

2

EXPLANATION

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

5 This bill relates to domestic abuse risk assessment and
6 deterrence.

7 The bill requires that, when a peace officer has reason to
8 believe that domestic abuse has occurred but no arrest has
9 been made, a peace officer shall perform a risk assessment
10 of the person the peace officer has determined to be the
11 primary physical aggressor, based on rules adopted by the
12 department of justice, in order to categorize the potential
13 threat a primary physical aggressor poses to an abused person.
14 Once a risk assessment has been completed, the peace officer
15 shall provide to the primary physical aggressor informational
16 materials created by the department of justice for the purpose
17 of addressing root causes of domestic abuse the peace officer
18 believes may be relevant to the situation.

19 The bill requires that if a person has been arrested for
20 committing domestic abuse assault, prior to the release of the
21 person, the police department or sheriff's office responsible
22 for the person's arrest shall perform a risk assessment of the
23 person based on rules adopted by the department of justice.
24 Upon completion of the risk assessment, the police department
25 or sheriff's office shall transmit the risk assessment to
26 the appropriate judicial district department of correctional
27 services. Under current law, judicial district departments of
28 correctional services provide mandatory treatment and training
29 to a person convicted of, or receiving a deferred judgment for,
30 domestic abuse assault.

31 The bill requires the department of justice to adopt rules
32 to create a risk classification system in order to categorize
33 the potential threat a primary physical aggressor identified
34 by the peace officer poses to an abused person. Categories of
35 risk shall be established based on the number of the primary

1 physical aggressor's previous and current domestic abuse
2 assault convictions; the number of times the primary physical
3 aggressor has violated a temporary, emergency, or protective
4 order issued pursuant to Code chapter 236 (domestic abuse);
5 whether the primary physical aggressor has been convicted
6 of a felony; whether the primary physical aggressor has
7 been convicted of illegally using, carrying, or possessing a
8 dangerous weapon; and the number of offenses committed by the
9 primary physical aggressor in other jurisdictions that are
10 substantially similar to the offenses listed in the bill. The
11 bill also requires rules adopted by the department to require
12 that a peace officer or law enforcement agency make reasonable
13 efforts to obtain information from other state jurisdictions
14 that may be pertinent in performing a risk assessment.

15 The bill directs the department of justice to prepare,
16 for the purpose of dissemination to a domestic abuse victim,
17 informational materials intended to address root causes
18 of domestic abuse, deter further domestic abuse, and offer
19 support. Information contained in the materials shall
20 include but not be limited to financial assistance that may
21 be available to a victim and general application information;
22 mental health services that may be available to a victim and
23 contact information for those services; victim abuse and
24 rehabilitation services and contact information for those
25 services; information pertaining to Iowa legal aid and contact
26 information for Iowa legal aid; and general information
27 regarding services and benefits that may be available to a
28 victim through the department of human services. The bill also
29 requires the department to adopt rules that determine when a
30 victim shall receive informational materials.

31 The bill directs the department of justice to prepare,
32 for the purpose of dissemination to a domestic abuse
33 primary physical aggressor identified by a peace officer,
34 informational materials intended to address root causes of
35 domestic abuse and deter further domestic abuse. Information

1 contained in the materials shall include but not be limited
2 to financial assistance that may be available to a primary
3 physical aggressor and general application information;
4 employment services and work programs that may be available
5 to a primary physical aggressor and contact information for
6 those services and programs; mental health and substance
7 abuse services that may be available to a primary physical
8 aggressor and a general explanation of how to request those
9 services; housing assistance that may be available to a primary
10 physical aggressor and general application information; family
11 counseling services that may be available to a primary physical
12 aggressor and contact information for those services; community
13 mentoring services that may be available to a primary physical
14 aggressor and contact information for those services; and a
15 summary of the consequences a primary physical aggressor may
16 face for violating any temporary, emergency, or protective
17 order. The bill also requires the department to adopt rules
18 that determine when a primary physical aggressor shall receive
19 informational materials. The bill also requires, if a primary
20 physical aggressor was arrested by a peace officer based on
21 the peace officer's belief that the primary physical aggressor
22 committed domestic abuse assault, for a primary physical
23 aggressor to report to a judicial district department of
24 correctional services after release to receive informational
25 materials.

26 The bill requires the department of justice to establish a
27 system of best practices for enhanced precautions based on a
28 primary physical aggressor's risk assessment.

29 The bill directs the department of justice to consult and
30 cooperate with all public and private agencies to provide
31 training, education, and guidance to a primary physical
32 aggressor for the purpose of identifying and resolving possible
33 causes of domestic abuse and deterring further abuse.