

Senate File 497 - Introduced

SENATE FILE 497

BY GARRETT, ZAUN, and DAWSON

A BILL FOR

1 An Act relating to law enforcement and certain criminal
2 offenses, and providing penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 80F.1, subsection 13, Code 2021, is
2 amended by striking the subsection and inserting in lieu
3 thereof the following:

4 13. An officer who has suffered any injury, physical
5 or otherwise, during the performance of official duties
6 or directly related to the officer's status as an officer,
7 including due to a person knowingly filing a false complaint
8 against the officer, shall have the right to pursue civil
9 remedies under the law against any person, group of persons,
10 organization, corporation, or the head of an organization or
11 corporation, for damages including but not limited to actual
12 damages, court costs, and reasonable attorney fees.

13 Sec. 2. NEW SECTION. 321.366A Immunity from civil liability
14 for certain vehicle operators.

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

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

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

32 Sec. 3. Section 331.604, subsection 3, paragraph b,
33 subparagraph (3), Code 2021, is amended by adding the following
34 new subparagraph division:

35 NEW SUBPARAGRAPH DIVISION. (c) Implementing and

1 maintaining a process for redacting the names of any law
2 enforcement officer, as defined in section 80B.3, or state
3 or federal judicial officer or state or federal prosecutor
4 contained in electronic documents that are displayed for public
5 access through an internet site.

6 Sec. 4. Section 622.10, subsection 9, paragraphs a and b,
7 Code 2021, are amended to read as follows:

8 a. A peer support group counselor who obtains information
9 from an officer or a civilian employee of a law enforcement
10 agency or fire department by reason of the counselor's capacity
11 as a peer support group counselor shall not be allowed, in
12 giving testimony, to disclose any confidential communication
13 properly entrusted to the counselor by the officer or civilian
14 employee while receiving counseling.

15 b. The prohibition in [this subsection](#) does not apply
16 where the officer or civilian employee has consented to the
17 disclosure of the information specified in paragraph "a"
18 or where the peer support group counselor was an initial
19 responding officer, a witness, or a party to the incident which
20 prompted the delivery of peer support group counseling services
21 to the officer or civilian employee.

22 Sec. 5. Section 708.1, subsection 2, Code 2021, is amended
23 by adding the following new paragraph:

24 NEW PARAGRAPH. d. (1) Intentionally points a laser
25 emitting a visible light beam at another person with the intent
26 to cause pain or injury to another. For purposes of this
27 paragraph, "laser" means a device that emits a visible light
28 beam amplified by the stimulated emission of radiation and any
29 light which simulates the appearance of a laser.

30 (2) This paragraph does not apply to any of the following:

31 (a) A law enforcement officer who uses a laser in
32 discharging or attempting to discharge the officer's official
33 duties.

34 (b) A health care professional who uses a laser in providing
35 services within the scope of practice of that professional or

1 any other person who is licensed or authorized by law to use a
2 laser or who uses a laser in the performance of the person's
3 official duties.

4 (c) A person who uses a laser to play laser tag, paintball,
5 and other similar games using light-emitting diode technology.

6 Sec. 6. Section 708.3A, subsections 1, 2, 3, and 4, Code
7 2021, are amended to read as follows:

8 1. A person who commits an assault, as defined in section
9 708.1, against a peace officer, civilian employee of a law
10 enforcement agency, jailer, correctional staff, member or
11 employee of the board of parole, health care provider, employee
12 of the department of human services, employee of the department
13 of revenue, ~~or~~ fire fighter, whether paid or volunteer, or
14 civilian employee of a fire department, with the knowledge
15 that the person against whom the assault is committed is a
16 peace officer, civilian employee of a law enforcement agency,
17 jailer, correctional staff, member or employee of the board
18 of parole, health care provider, employee of the department
19 of human services, employee of the department of revenue,
20 ~~or~~ fire fighter, or civilian employee of a fire department,
21 and with the intent to inflict a serious injury upon the
22 peace officer, civilian employee of a law enforcement agency,
23 jailer, correctional staff, member or employee of the board of
24 parole, health care provider, employee of the department of
25 human services, employee of the department of revenue, ~~or~~ fire
26 fighter, or civilian employee of a fire department, is guilty
27 of a class "D" "C" felony, with a mandatory minimum term of
28 imprisonment of two years.

29 2. A person who commits an assault, as defined in section
30 708.1, against a peace officer, civilian employee of a law
31 enforcement agency, jailer, correctional staff, member
32 or employee of the board of parole, health care provider,
33 employee of the department of human services, employee of
34 the department of revenue, ~~or~~ fire fighter, whether paid or
35 volunteer, or civilian employee of a fire department, who knows

1 that the person against whom the assault is committed is a
2 peace officer, civilian employee of a law enforcement agency,
3 jailer, correctional staff, member or employee of the board
4 of parole, health care provider, employee of the department
5 of human services, employee of the department of revenue, or
6 fire fighter, or civilian employee of a fire department, and
7 who uses or displays a dangerous weapon in connection with the
8 assault, is guilty of a class ~~"D"~~ "C" felony.

9 3. A person who commits an assault, as defined in section
10 708.1, against a peace officer, a civilian employee of a
11 law enforcement agency, jailer, correctional staff, member
12 or employee of the board of parole, health care provider,
13 employee of the department of human services, employee of
14 the department of revenue, or fire fighter, whether paid or
15 volunteer, or civilian employee of a fire department, who knows
16 that the person against whom the assault is committed is a
17 peace officer, a civilian employee of a law enforcement agency,
18 jailer, correctional staff, member or employee of the board
19 of parole, health care provider, employee of the department
20 of human services, employee of the department of revenue, or
21 fire fighter, or civilian employee of a fire department, and
22 who causes bodily injury or mental illness, is guilty of an
23 ~~aggravated misdemeanor~~ a class "D" felony, with a mandatory
24 minimum term of imprisonment of one year.

25 4. Any other assault, as defined in [section 708.1](#), committed
26 against a peace officer, civilian employee of a law enforcement
27 agency, jailer, correctional staff, member or employee of
28 the board of parole, health care provider, employee of the
29 department of human services, employee of the department of
30 revenue, or fire fighter, or civilian employee of a fire
31 department whether paid or volunteer, by a person who knows
32 that the person against whom the assault is committed is a
33 peace officer, jailer, correctional staff, member or employee
34 of the board of parole, health care provider, employee of
35 the department of human services, employee of the department

1 of revenue, or fire fighter, is ~~a serious~~ an aggravated
2 misdemeanor.

3 Sec. 7. Section 708.7, subsection 2, paragraph a, Code 2021,
4 is amended by adding the following new subparagraph:

5 NEW SUBPARAGRAPH. (4) Commits harassment against another
6 person who is lawfully in a place of public accommodation.

7 Sec. 8. Section 716.4, subsection 1, Code 2021, is amended
8 to read as follows:

9 1. Criminal mischief is criminal mischief in the second
10 degree if ~~the~~ any of the following apply:

11 a. The cost of replacing, repairing, or restoring the
12 property that is damaged, defaced, altered, or destroyed
13 exceeds one thousand five hundred dollars but does not exceed
14 ten thousand dollars.

15 b. The acts damage, deface, alter, or destroy any publicly
16 owned property, including a monument or a statue. In addition
17 to any sentence imposed for a violation of this paragraph, the
18 court shall include an order of restitution for any property
19 damage or loss incurred as a result of the offense.

20 Sec. 9. Section 723.1, Code 2021, is amended to read as
21 follows:

22 **723.1 Riot.**

23 A riot is three or more persons assembled together in a
24 violent manner, ~~to the disturbance of~~ disturbing others, and
25 with any use of unlawful force or violence by them or any of
26 them against another person or persons, or causing property
27 damage. A person who willingly joins in or remains a part of a
28 riot, knowing or having reasonable grounds to believe that it
29 is such, commits ~~an aggravated misdemeanor~~ a class "D" felony.

30 Sec. 10. Section 723.2, Code 2021, is amended to read as
31 follows:

32 **723.2 Unlawful assembly.**

33 An unlawful assembly is three or more persons assembled
34 together, with them or any of them acting in a violent manner,
35 and with intent that they or any of them will commit a public

1 offense. A person who willingly joins in or remains a part
2 of an unlawful assembly, knowing or having reasonable grounds
3 to believe that it is such, commits a ~~simple~~ an aggravated
4 misdemeanor.

5 Sec. 11. Section 723.4, Code 2021, is amended by striking
6 the section and inserting in lieu thereof the following:

7 **723.4 Disorderly conduct.**

8 1. A person commits a simple misdemeanor when the person
9 does any of the following:

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

14 b. Makes loud and raucous noise in the vicinity of any
15 residence or public building which causes unreasonable distress
16 to the occupants thereof.

17 c. Directs abusive epithets or makes any threatening gesture
18 which the person knows or reasonably should know is likely to
19 provoke a violent reaction by another.

20 d. Without lawful authority or color of authority, the
21 person disturbs any lawful assembly or meeting of persons by
22 conduct intended to disrupt the meeting or assembly.

23 e. By words or action, initiates or circulates a report or
24 warning of fire, epidemic, or other catastrophe, knowing such
25 report to be false or such warning to be baseless.

26 f. (1) Knowingly and publicly uses the flag of the United
27 States in such a manner as to show disrespect for the flag as
28 a symbol of the United States, with the intent or reasonable
29 expectation that such use will provoke or encourage another to
30 commit trespass or assault.

31 (2) As used in this paragraph:

32 (a) "Deface" means to intentionally mar the external
33 appearance.

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

35 (c) "Flag" means a piece of woven cloth or other material

1 designed to be flown from a pole or mast.

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

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

6 (f) "*Trample*" means to intentionally tread upon or
7 intentionally cause a machine, vehicle, or animal to tread
8 upon.

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

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

15 3. A person commits an aggravated misdemeanor when the
16 person commits disorderly conduct as described in subsection 2
17 and does any of the following:

18 a. Obstructs or attempts to obstruct a fully
19 controlled-access facility on a highway, street, or road in
20 which the speed restriction is controlled by section 321.285,
21 subsection 3 or 5.

22 b. Commits property damage.

23 c. Is present during an unlawful assembly as defined in
24 section 723.2.

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

28 a. Is present during a riot as defined in section 723.1.

29 b. Causes bodily injury.

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

33 Sec. 12. Section 804.21, Code 2021, is amended by adding the
34 following new subsection:

35 NEW SUBSECTION. 7. Notwithstanding any other provision in

1 The bill provides that the driver of a vehicle who is
2 exercising due care and who injures another person who is
3 participating in a protest, demonstration, riot, or unlawful
4 assembly or who is engaging in disorderly conduct and is
5 blocking traffic in a public street or highway is immune from
6 civil liability for the injury. The driver shall not be immune
7 from civil liability if the actions leading to the injury
8 constitute reckless or willful misconduct. The bill shall
9 not apply if the injured person participating in a protest or
10 demonstration was doing so with a valid permit allowing persons
11 to protest or demonstrate on the public street or highway where
12 the injury occurred.

13 COUNTY RECORDER FILING FEE. The bill provides that a
14 county recorder shall collect an additional fee of \$1 for
15 each recorded transaction for which a fee is paid under Code
16 section 331.604(1), which may be used for implementing and
17 maintaining a process for redacting the names of any state or
18 federal judicial officer, state or federal prosecutor, or law
19 enforcement officer contained in electronic documents that are
20 displayed for public access through an internet site.

21 COMMUNICATIONS IN PROFESSIONAL CONFIDENCE. The bill
22 provides that a peer support group counselor who obtains
23 information from an officer or a civilian employee of a law
24 enforcement agency or fire department shall not be allowed, in
25 giving testimony, to disclose any confidential communication
26 properly entrusted to the counselor by the officer or civilian
27 employee while receiving counseling. The officer or civilian
28 employee may consent to the disclosure.

29 ASSAULTS. The bill adds intentionally pointing a laser
30 emitting a visible light beam at another person with the
31 intent to cause pain or injury to another to the definition of
32 assault. This definition does not apply to a law enforcement
33 officer who uses a laser in discharging or attempting to
34 discharge the officer's official duties, to a health care
35 professional who uses a laser in providing services or to any

1 other person who is licensed or authorized by law to use a
2 laser or uses it in the performance of the person's official
3 duties, or to a person who uses a laser to play tag, paintball,
4 and other similar games using light-emitting diode technology.

5 The bill amends Code section 708.3A relating to assaults
6 on persons engaged in certain occupations by adding a civil
7 employee of a law enforcement agency and a civil employee of
8 a fire department to the list of persons engaged in certain
9 occupations against whom an assault is committed and increasing
10 the penalties for violations of the Code section. A person who
11 commits an assault against any of the persons listed in the
12 Code section with the intent to inflict a serious injury, or
13 who uses or displays a dangerous weapon in connection with the
14 assault, commits a class "C" felony; a person who commits an
15 assault against any of the persons listed in the Code section
16 who uses or displays a dangerous weapon in connection with the
17 assault commits a class "C" felony; a person who commits an
18 assault which causes bodily injury or mental illness commits a
19 class "D" felony, with a mandatory minimum term of imprisonment
20 of one year; and a person who commits any other assault commits
21 an aggravated misdemeanor.

22 HARASSMENT. The bill provides that a person commits
23 harassment in the first degree when the person commits
24 harassment against another person who is lawfully in a place
25 of public accommodation. Harassment in the first degree is an
26 aggravated misdemeanor.

27 CRIMINAL MISCHIEF IN THE SECOND DEGREE. The bill provides
28 that acts of a person which damage, deface, alter, or destroy
29 any publicly owned property, including a monument or statue, is
30 criminal mischief in the second degree. Criminal mischief in
31 the second degree is a class "D" felony.

32 RIOT CRIMES. The bill increases the penalty for a riot crime
33 from an aggravated misdemeanor to a class "D" felony.

34 UNLAWFUL ASSEMBLY. The bill increases the penalty for
35 unlawful assembly from a simple misdemeanor to an aggravated

1 misdemeanor.

2 DISORDERLY CONDUCT. Current law provides that all
3 violations of Code section 723.4 (disorderly conduct) are
4 simple misdemeanors. The bill amends Code section 723.4 by
5 providing additional criminal penalties greater than a simple
6 misdemeanor for additional acts of disorderly conduct.

7 The bill provides that a person commits a serious
8 misdemeanor when the person, without lawful authority or
9 color of authority, obstructs or attempts to obstruct any
10 street, sidewalk, highway, or other public way, or obstructs or
11 attempts to obstruct any business, business drive, parking lot,
12 or business access, with the intent to prevent or hinder its
13 lawful use by others.

14 The bill provides that a person commits an aggravated
15 misdemeanor when the person, without lawful authority or color
16 of authority, obstructs any street, sidewalk, highway, or other
17 public way with the intent to prevent or hinder its lawful use
18 by others and does any of the following: obstructs or attempts
19 to obstruct a fully controlled-access facility or a highway,
20 street, or road in which a speed restriction is controlled
21 under Code section 321.285(3) or (5); commits property damage;
22 or is present during an unlawful assembly, as defined in Code
23 section 723.2.

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

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

35 ARREST BY WARRANT — CERTAIN CRIMES — HOLDING PERIOD. The

1 bill provides that a defendant arrested for criminal mischief
2 in the second degree for an act that damages, defaces, alters,
3 or destroys any publicly owned property including a monument or
4 statue; for rioting; unlawful assembly; or disorderly conduct
5 shall not be released within 24 hours of the time of arrest.
6 The court may release the defendant in less than 24 hours if
7 the court finds that the defendant is not likely to immediately
8 resume the criminal behavior based on the circumstances of the
9 arrest and the defendant's criminal history. Court findings
10 shall be in writing and shall be attached to the warrant.

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