

Senate File 493 - Introduced

SENATE FILE 493
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1151)

A BILL FOR

1 An Act relating to domestic abuse threat evaluation 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 2023, 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 whom
5 the peace officer believes to be the likely 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 likely primary physical aggressor, a peace
11 officer shall consider the need to protect victims of domestic
12 abuse, the relative degree of injury or fear inflicted on the
13 persons involved, and any history of domestic abuse between
14 the persons involved. A peace officer's identification of the
15 likely primary physical aggressor shall not be based on the
16 consent of the victim to any subsequent prosecution or on the
17 relationship of the persons involved in the incident, and shall
18 not be based solely upon the absence of visible indications of
19 injury or impairment.

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

29 Sec. 2. Section 236.12, Code 2023, 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 threat evaluation of the person based on rules adopted by
35 the department in accordance with section 236.16, subsection

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

5 Sec. 3. Section 236.16, subsection 1, Code 2023, is amended
6 by adding the following new paragraphs:

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

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

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

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

20 (d) Whether the likely primary physical aggressor has
21 been 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 likely primary
24 physical aggressor that occurred in other jurisdictions
25 that are substantially similar to the offenses listed in
26 subparagraph 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 threat evaluation.

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 health and 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 likely 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 likely
25 primary physical aggressor and general application information.

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

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

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

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

1 those services.

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

5 (g) A summary of the consequences a likely 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 likely primary
10 physical aggressor shall receive materials created pursuant to
11 this paragraph.

12 Sec. 4. Section 708.2B, Code 2023, is amended by adding the
13 following new subsection:

14 NEW SUBSECTION. 2A. A person who was arrested pursuant to
15 section 236.12, subsection 3, paragraph "a", shall report to a
16 district department upon the person's release, at which time
17 the district department shall provide materials prepared by the
18 department of justice pursuant to section 236.16, subsection 1,
19 paragraph "h", to the person.

20 EXPLANATION

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

23 This bill relates to domestic abuse threat evaluation and
24 deterrence.

25 The bill requires that, when a peace officer has reason to
26 believe that domestic abuse has occurred but no arrest has been
27 made, a peace officer shall perform a threat evaluation of
28 the person the peace officer has determined to be the likely
29 primary physical aggressor, based on rules adopted by the
30 department of justice, in order to categorize the potential
31 threat a likely primary physical aggressor poses to an abused
32 person. Once a threat evaluation has been completed, the peace
33 officer shall provide to the likely primary physical aggressor
34 informational materials created by the department of justice
35 for the purpose of addressing root causes of domestic abuse the

1 peace officer believes may be relevant to the situation.

2 The bill requires that if a person has been arrested for
3 committing domestic abuse assault, prior to the release of the
4 person, the police department or sheriff's office responsible
5 for the person's arrest shall perform a threat evaluation of
6 the person based on rules adopted by the department of justice.
7 Upon completion of the threat evaluation, the police department
8 or sheriff's office shall transmit the threat evaluation to
9 the appropriate judicial district department of correctional
10 services. Under current law, judicial district departments of
11 correctional services provide mandatory treatment and training
12 to a person convicted of, or receiving a deferred judgment for,
13 domestic abuse assault.

14 The bill requires the department of justice to adopt rules
15 to create a threat evaluation classification system in order
16 to categorize the potential threat a likely primary physical
17 aggressor identified by the peace officer poses to an abused
18 person. Categories of threat shall be established based on the
19 number of the likely primary physical aggressor's previous and
20 current domestic abuse assault convictions; the number of times
21 the likely primary physical aggressor has violated a temporary,
22 emergency, or protective order issued pursuant to Code chapter
23 236 (domestic abuse); whether the likely primary physical
24 aggressor has been convicted of a felony; whether the likely
25 primary physical aggressor has been convicted of illegally
26 using, carrying, or possessing a dangerous weapon; and the
27 number of offenses committed by the likely primary physical
28 aggressor in other jurisdictions that are substantially similar
29 to the offenses listed in the bill. The bill also requires
30 rules adopted by the department of justice to require that a
31 peace officer or law enforcement agency make reasonable efforts
32 to obtain information from other state jurisdictions that may
33 be pertinent in performing a threat evaluation.

34 The bill directs the department of justice to prepare,
35 for the purpose of dissemination to a domestic abuse victim,

1 informational materials intended to address root causes
2 of domestic abuse, deter further domestic abuse, and offer
3 support. Information contained in the materials shall
4 include but not be limited to financial assistance that may
5 be available to a victim and general application information;
6 mental health services that may be available to a victim and
7 contact information for those services; victim abuse and
8 rehabilitation services and contact information for those
9 services; information pertaining to Iowa legal aid and contact
10 information for Iowa legal aid; and general information
11 regarding services and benefits that may be available to a
12 victim through the department of health and human services.
13 The bill also requires the department of justice to adopt
14 rules that determine when a victim shall receive informational
15 materials.

16 The bill directs the department of justice to prepare,
17 for the purpose of dissemination to a likely domestic abuse
18 primary physical aggressor identified by a peace officer,
19 informational materials intended to address root causes of
20 domestic abuse and deter further domestic abuse. Information
21 contained in the materials shall include but not be limited
22 to financial assistance that may be available to a likely
23 primary physical aggressor and general application information;
24 employment services and work programs that may be available to
25 a likely primary physical aggressor and contact information
26 for those services and programs; mental health and substance
27 abuse services that may be available to a likely primary
28 physical aggressor and a general explanation of how to request
29 those services; housing assistance that may be available to
30 a likely primary physical aggressor and general application
31 information; family counseling services that may be available
32 to a likely primary physical aggressor and contact information
33 for those services; community mentoring services that may
34 be available to a likely primary physical aggressor and
35 contact information for those services; and a summary of the

1 consequences a likely primary physical aggressor may face for
2 violating any temporary, emergency, or protective order. The
3 bill also requires the department of justice to adopt rules
4 that determine when a likely primary physical aggressor shall
5 receive informational materials. The bill also requires, if
6 a likely primary physical aggressor was arrested by a peace
7 officer based on the peace officer's belief that the likely
8 primary physical aggressor committed domestic abuse assault,
9 for a likely primary physical aggressor to report to a judicial
10 district department of correctional services after release to
11 receive informational materials.

12 The bill requires the department of justice to establish a
13 system of best practices for enhanced precautions based on a
14 likely primary physical aggressor's threat evaluation.

15 The bill directs the department of justice to consult and
16 cooperate with all public and private agencies to provide
17 training, education, and guidance to a likely primary physical
18 aggressor for the purpose of identifying and resolving possible
19 causes of domestic abuse and deterring further abuse.