

House File 2726 - Introduced

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BY GJERDE

A BILL FOR

1 An Act relating to testing for communicable diseases for certain
2 persons who have committed an assault against a member of a
3 protected occupation, and including penalties.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

unofficial

1 Section 1. Section 708.3A, Code 2026, is amended by striking
2 the section and inserting in lieu thereof the following:

3 **708.3A Assaults on members of protected occupations.**

4 1. For purposes of this section, unless the context otherwise
5 requires:

6 a. "Assault" means the same as defined in section 708.1.

7 b. "Correctional staff" means a person, who is not a peace
8 officer, who is employed by the department of corrections or a
9 judicial district department of correctional services to work at
10 or in a correctional institution, community-based correctional
11 facility, or an institution under the management of the Iowa
12 department of corrections that is used for the purposes of
13 confinement of persons who have committed public offenses.

14 c. "Employee of the department of health and human services"
15 means a person who is an employee of an institution controlled
16 by the director of health and human services that is listed in
17 section 218.1, or who is an employee of the civil commitment
18 unit for sex offenders operated by the department of health and
19 human services. A person who commits an assault under this
20 section against an employee of the department of health and human
21 services at a department of health and human services institution
22 or unit is presumed to know that the person against whom the
23 assault is committed is an employee of the department of health
24 and human services.

25 d. "Employee of the department of revenue" means a person
26 who is employed as an auditor, agent, tax collector, or any
27 contractor or representative acting in the same capacity. The
28 employee, contractor, or representative shall maintain current
29 identification indicating that the person is an employee,
30 contractor, or representative of the department.

31 e. "Health care provider" means an emergency medical care
32 provider as defined in section 147A.1, or a person licensed
33 or registered under chapter 148, 148C, 148D, or 152, who is
34 providing or who is attempting to provide emergency medical
35 services as defined in section 147A.1, or anyone who is working,

1 volunteering, or participating in an educational course of
2 instruction at a hospital or rural emergency hospital as defined
3 in section 135B.1, or at a nursing facility as defined in section
4 135C.1. A person who commits an assault under this section
5 against a health care provider in a hospital, or at the scene
6 or during out-of-hospital patient transportation in an ambulance,
7 is presumed to know that the person against whom the assault is
8 committed is a health care provider.

9 *f.* "Jailer" means a person, who is not a peace officer,
10 who is employed by a county or other political subdivision of
11 the state to work at a county jail or other facility used for
12 purposes of the confinement of persons who have committed public
13 offenses.

14 *g.* "Member of a protection occupation" means a person who is
15 a peace officer; a jailer; correctional staff; juvenile detention
16 staff; a member or employee of the board of parole; a health
17 care provider; an employee of the department of health and human
18 services; an employee of the department of inspections, appeals,
19 and licensing who conducts investigations or inspections; an
20 employee of the department of revenue; a national guard member
21 engaged in national guard duty or state active duty; a civilian
22 employee of a law enforcement agency; a civilian employee of a
23 fire department; or a fire fighter, whether paid or volunteer.

24 *h.* "National guard" means the same as defined in section
25 29A.1.

26 *i.* "National guard duty" means the same as defined in section
27 29A.1.

28 *j.* "State active duty" means the same as defined in section
29 29A.1.

30 2. An assault against a member of a protected occupation
31 with the knowledge that the person against whom the assault is
32 committed is a member of a protected occupation is a class "C"
33 felony.

34 3. An assault against a member of a protected occupation
35 using or displaying a dangerous weapon is a class "C" felony.

1 4. An assault against a member of a protected occupation that
2 causes bodily injury or mental illness is a class "D" felony.

3 5. Any other assault, including an assault causing another to
4 come into contact with saliva by throwing, tossing, spitting, or
5 expelling the fluid, committed against a member of a protected
6 occupation is an aggravated misdemeanor. A person convicted of
7 violating this subsection shall serve a minimum term of seven
8 days of the sentence imposed by law, and shall not be eligible
9 for deferral or suspension of the minimum term of seven days.

10 6. a. A person who is a victim of an assault under
11 subsection 2, 3, 4, or 5 that resulted in the victim coming in
12 contact with the blood, seminal fluid, urine, saliva, or feces
13 of the person committing the assault, when there is reason to
14 believe that the person committing the assault has or may have
15 a communicable disease, may request that law enforcement make
16 application to the court for the issuance of a search warrant,
17 in accordance with chapter 808, for the purpose of requiring the
18 person committing the assault to submit to testing by a medical
19 professional for communicable diseases.

20 b. The medical professional conducting testing of the person
21 committing the assault for communicable diseases shall, as soon
22 as practicable upon receipt of the test results, contact the
23 victim of the assault with the test results.

24 EXPLANATION

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

27 Under current law, a person who commits an assault against
28 a person who is a member of certain occupations is subject
29 to specific criminal penalties based on the circumstances
30 surrounding the assault.

31 This bill defines "assault" and "member of a protected
32 occupation".

33 The bill provides that an assault against a member of a
34 protected occupation when the person committing the assault knows
35 the person is a member of a protected occupation is a class

1 "C" felony. A class "C" felony is punishable by confinement
2 for no more than 10 years and a fine of at least \$1,370 but
3 not more than \$13,660. An assault against a member of a
4 protected occupation when the person committing the assault uses
5 or displays a weapon, or the person causes bodily injury or
6 mental illness, is a class "D" felony. A class "D" felony is
7 punishable by confinement for no more than five years and a
8 fine of at least \$1,025 but not more than \$10,245. Any other
9 assault, including an assault causing another to come in contact
10 with saliva, committed against a member of a protected occupation
11 is an aggravated misdemeanor. An aggravated misdemeanor is
12 punishable by confinement for no more than two years and a fine
13 of at least \$855 but not more than \$8,540. Under the bill, a
14 person must serve a minimum of seven days of confinement and is
15 not eligible for deferral or suspension of the seven days minimum
16 confinement.

17 The bill allows a person that is a member of a protected
18 occupation who is a victim of an assault (victim) that results
19 in contact with blood, seminal fluid, urine, saliva, or feces of
20 the assailant when the assailant has or is reasonably believed
21 may have a communicable disease to request that a search warrant
22 be issued requiring testing by a medical professional of the
23 assailant for communicable diseases. Upon receipt of the test
24 results, the medical professional that conducted the testing for
25 communicable disease of the assailant shall contact the victim as
26 soon as practicable to inform the victim of the test results.