

**House File 2399 - Reprinted**

HOUSE FILE 2399  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 605)

(As Amended and Passed by the House March 8, 2016)

**A BILL FOR**

1 An Act relating to domestic abuse and other offenses involving  
2 a domestic relationship, and providing penalties.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 236.5, subsection 1, paragraph b,  
2 subparagraph (6), Code 2016, is amended to read as follows:

3 (6) Unless prohibited pursuant to 28 U.S.C. §1738B, that the  
4 defendant pay the clerk a sum of money for the separate support  
5 and maintenance of the plaintiff and children under eighteen.  
6 The court may order the defendant to provide a certified  
7 statement regarding the defendant's financial ability to pay  
8 support and maintenance. If the defendant fails to provide  
9 full and accurate disclosure of the defendant's ability to pay  
10 support and maintenance, the court shall hold the defendant in  
11 contempt.

12 Sec. 2. Section 664A.7, subsection 5, Code 2016, is amended  
13 to read as follows:

14 5. a. Violation of a no-contact order entered for the  
15 offense or alleged offense of domestic abuse assault in  
16 violation of [section 708.2A](#) or a violation of a protective  
17 order issued pursuant to [chapter 232, 235F, 236, 598, or 915](#)  
18 constitutes a public offense and is punishable as a simple  
19 misdemeanor. Alternatively, the court may hold a person  
20 in contempt of court for such a violation, as provided in  
21 subsection 3.

22 b. If a person is convicted of a violation of a no-contact  
23 order or a protective order under this subsection, or  
24 alternatively if the person is held in contempt of court for  
25 such a violation, as provided in subsection 3, the court shall  
26 order the person to submit to a risk assessment pursuant to  
27 section 901.5C.

28 Sec. 3. Section 708.2A, subsection 7, paragraph b, Code  
29 2016, is amended by striking the paragraph and inserting in  
30 lieu thereof the following:

31 b. A person convicted of a violation referred to in  
32 subsection 4 shall be sentenced as provided under section  
33 902.13.

34 Sec. 4. Section 708.2B, Code 2016, is amended to read as  
35 follows:

1       **708.2B Treatment of domestic abuse offenders.**

2       1. As used in [this section](#), "*district department*" means  
3 a judicial district department of correctional services,  
4 established pursuant to [section 905.2](#). A person convicted of,  
5 or receiving a deferred judgment for, domestic abuse assault  
6 as defined in [section 708.2A](#), shall report to the district  
7 department in order to participate in a batterers' treatment  
8 program for domestic abuse offenders. In addition, a person  
9 convicted of, or receiving a deferred judgment for, an assault,  
10 as defined in [section 708.1](#), which is domestic abuse, as  
11 defined in [section 236.2, subsection 2](#), paragraph "e", may be  
12 ordered by the court to participate in a batterers' treatment  
13 program. Participation in the batterers' treatment program  
14 shall not require a person to be placed on probation, but  
15 a person on probation may participate in the program. The  
16 district departments may contract for services in completing  
17 the duties relating to the batterers' treatment programs. The  
18 district departments shall assess the fees for participation  
19 in the program, and shall either collect or contract for the  
20 collection of the fees to recoup the costs of treatment,  
21 but may waive the fee or collect a lesser amount upon a  
22 showing of cause. The fees shall be used by each of the  
23 district departments or contract service providers for the  
24 establishment, administration, coordination, and provision of  
25 direct services of the batterers' treatment programs.

26       2. In addition to the requirements of subsection 1, the  
27 court shall order a person convicted of domestic abuse assault  
28 in violation of section 708.2A to submit to a risk assessment  
29 pursuant to section 901.5C.

30       3. District departments or contract service providers shall  
31 receive upon request peace officers' investigative reports  
32 regarding persons participating in programs under [this section](#).  
33 The receipt of reports under [this section](#) shall not waive the  
34 confidentiality of the reports under [section 22.7](#).

35       Sec. 5. NEW SECTION. **708.2D Enhanced assault — former**

1 relationship.

2 An *“enhanced assault”* means an assault, as defined in section  
3 708.1, that does not meet the definition of domestic abuse  
4 assault under section 708.2A, for which a sentencing court may  
5 sentence an offender to the additional sentencing provisions  
6 found under section 708.2A, subsection 7, paragraph *“a”*, or  
7 section 708.2A, subsection 10, if the court or finder of fact  
8 finds that the defendant and the victim had at the time of the  
9 assault or within one year prior to the assault a romantic  
10 relationship, based upon the following factors: the nature and  
11 extent of, or expectation of, a sexual or romantic relationship  
12 from the perspective of the defendant, the duration of the  
13 relationship, and the frequency of interaction between the  
14 defendant and the victim.

15 Sec. 6. Section 708.7, subsection 2, Code 2016, is amended  
16 by adding the following new paragraph:

17 NEW PARAGRAPH. *c.* A person convicted of harassment in  
18 the first degree shall be sentenced under section 902.13 if  
19 the offense involved a domestic relationship and the sentence  
20 exceeds one year.

21 Sec. 7. Section 708.11, Code 2016, is amended by adding the  
22 following new subsection:

23 NEW SUBSECTION. 3A. A person convicted under subsection 3,  
24 paragraph *“a”*, or subsection 3, paragraph *“b”*, subparagraph (1),  
25 shall be sentenced under section 902.13 if the offense involved  
26 a domestic relationship.

27 Sec. 8. NEW SECTION. 901.5C Domestic abuse assault  
28 — no-contact order or protective order violations — risk  
29 assessment.

30 1. If a person is convicted of domestic abuse assault in  
31 violation of section 708.2A, a violation of a no-contact order  
32 or a protective order under section 664A.7, subsection 5, or  
33 alternatively the person is held in contempt of court for such  
34 a violation, as provided in section 664A.7, subsection 3, and  
35 ordered to be supervised by the judicial district department

1 of correctional services or to participate in a batterers'  
2 treatment program for domestic abuse offenders, the court shall  
3 order the person to submit to a risk assessment.

4 2. The risk assessment shall be performed by the judicial  
5 district department of correctional services or a contract  
6 service provider of a batterers' treatment program for domestic  
7 abuse offenders, using a validated risk assessment developed  
8 by the board of parole and approved by the department of  
9 corrections. The court shall consider the risk assessment  
10 in determining the appropriate conditions for release. In  
11 determining whether to release a defendant, the court shall  
12 determine whether sufficient conditions for release are  
13 available that are designed to reduce the risk to another  
14 individual, detect threatening or criminal behavior, and  
15 increase the safety of individuals and the general public, and  
16 balance those determinations with the potential risk of harm  
17 if the defendant is released.

18 3. The court may order the defendant to participate in a  
19 program that includes the use of an electronic tracking and  
20 monitoring system as a condition of release. When ordering  
21 the use of an electronic tracking and monitoring system  
22 the court shall consider the safety of the victim and other  
23 legitimate factors that may impact all of the parties. If  
24 an electronic tracking and monitoring system is ordered, the  
25 court shall order the defendant to pay the costs associated  
26 with the imposition of the system. If the defendant fails to  
27 pay the fees of the electronic tracking and monitoring system  
28 in a timely manner, the court may impose garnishment of the  
29 defendant's wages in order to meet the payment obligation.

30 **Sec. 9. NEW SECTION. 902.13 Minimum sentence for certain**  
31 **domestic abuse assault, harassment, and stalking offenses.**

32 1. As used in this section, unless the context otherwise  
33 requires:

34 a. (1) "*Family or household members*" means spouses, persons  
35 cohabiting, parents, or other persons related by consanguinity

1 or affinity.

2 (2) "*Family or household members*" does not include children  
3 under age eighteen of persons listed in subparagraph (1).

4 b. "*Offense involving a domestic relationship*" means an  
5 offense involving any of the following circumstances:

6 (1) The offense is between family or household members who  
7 resided together at the time of the offense.

8 (2) The offense is between separated spouses or persons  
9 divorced from each other and not residing together at the time  
10 of the offense.

11 (3) The offense is between persons who are parents of the  
12 same minor child, regardless of whether they have been married  
13 or have lived together at any time.

14 (4) The offense is between persons who have been family or  
15 household members residing together within the past year and  
16 are not residing together at the time of the offense.

17 2. A person who has been convicted of a third or subsequent  
18 offense of domestic abuse assault under section 708.2A,  
19 subsection 4, shall be denied parole or work release until the  
20 person has served a minimum term of confinement of three years.

21 3. A person who has been convicted of the offense of  
22 harassment in the first degree under section 708.7, subsection  
23 2, and the offense involved a domestic relationship, shall be  
24 denied parole or work release until the person has served a  
25 minimum term of confinement of one year.

26 4. A person who has been convicted of a third or subsequent  
27 offense of stalking under section 708.11, subsection  
28 3, paragraph "a", and the offense involved a domestic  
29 relationship, shall be denied parole or work release until the  
30 person has served a minimum term of confinement of five years.

31 5. A person who has been convicted of the offense of  
32 stalking under section 708.11, subsection 3, paragraph  
33 "b", subparagraph (1), and the offense involved a domestic  
34 relationship, shall be denied parole or work release until the  
35 person has served a minimum term of confinement of three years.

1     Sec. 10. Section 903A.2, subsection 1, paragraph a,  
2 unnumbered paragraph 1, Code 2016, is amended to read as  
3 follows:

4     Category "A" sentences are those sentences which are not  
5 subject to a maximum accumulation of earned time of fifteen  
6 percent of the total sentence of confinement under section  
7 902.12 or 902.13. To the extent provided in subsection 5,  
8 category "A" sentences also include life sentences imposed  
9 under section 902.1. An inmate of an institution under the  
10 control of the department of corrections who is serving a  
11 category "A" sentence is eligible for a reduction of sentence  
12 equal to one and two-tenths days for each day the inmate  
13 demonstrates good conduct and satisfactorily participates in  
14 any program or placement status identified by the director to  
15 earn the reduction. The programs include but are not limited  
16 to the following:

17     Sec. 11. Section 903A.2, subsection 1, paragraph b, Code  
18 2016, is amended to read as follows:

19     b. (1) Category "B" sentences are those sentences which  
20 are subject to a maximum accumulation of earned time of  
21 fifteen percent of the total sentence of confinement under  
22 section 902.12 or 902.13. An inmate of an institution under  
23 the control of the department of corrections who is serving a  
24 category "B" sentence is eligible for a reduction of sentence  
25 equal to fifteen eighty-fifths of a day for each day of good  
26 conduct by the inmate.

27     (2) An inmate required to participate in a domestic abuse  
28 treatment program shall not be eligible for a reduction of  
29 sentence unless the inmate participates in and completes a  
30 domestic abuse treatment program established by the director.

31     Sec. 12. Section 904A.4, subsection 8, Code 2016, is amended  
32 to read as follows:

33     8. a. The board of parole shall implement a risk assessment  
34 program which shall provide risk assessment analysis for the  
35 board.

1     b. The board of parole shall also develop a risk assessment  
2 validated for domestic abuse-related offenses in consultation  
3 with the department of corrections. The board may adopt rules  
4 pursuant to chapter 17A relating to the use of the domestic  
5 abuse risk assessment.

6     Sec. 13. NEW SECTION. 905.16 **Electronic tracking and**  
7 **monitoring system.**

8     1. A person placed on probation, parole, work release,  
9 special sentence, or any other type of conditional release  
10 for any of the following offenses may be supervised by an  
11 electronic tracking and monitoring system in addition to any  
12 other conditions of supervision:

13     a. Domestic abuse assault in violation of section 708.2A,  
14 subsection 4.

15     b. Harassment in the first degree in violation of section  
16 708.7, subsection 2, if the offense involved a domestic  
17 relationship as defined in section 902.13.

18     c. Stalking under section 708.11, subsection 3, paragraph  
19 "a", if the offense involved a domestic relationship as defined  
20 in section 902.13.

21     d. Stalking under section 708.11, subsection 3, paragraph  
22 "b", subparagraph (1), if the offense involved a domestic  
23 relationship as defined in section 902.13.

24     2. When considering whether to order the use of an  
25 electronic tracking and monitoring system the court shall  
26 consider the safety of the victim and other legitimate factors  
27 that may impact all of the parties.

28     Sec. 14. Section 907.3, subsection 1, paragraph a, Code  
29 2016, is amended by adding the following new subparagraphs:

30     NEW SUBPARAGRAPH. (013) The offense is a violation referred  
31 to in section 708.2A, subsection 4.

32     NEW SUBPARAGRAPH. (0013) The offense is a violation  
33 of section 708.7, subsection 2, and the offense involved a  
34 domestic relationship as defined in section 902.13.

35     NEW SUBPARAGRAPH. (00013) The offense is a violation



1 referred to in section 708.11, subsection 3, paragraph "a",  
2 and the offense involved a domestic relationship as defined in  
3 section 902.13.

4 NEW SUBPARAGRAPH. (000013) The offense is a violation of  
5 section 708.11, subsection 3, paragraph "b", subparagraph (1),  
6 and the offense involved a domestic relationship as defined in  
7 section 902.13.

8 Sec. 15. Section 907.3, subsection 2, paragraph a, Code  
9 2016, is amended by adding the following new subparagraphs:

10 NEW SUBPARAGRAPH. (8) The offense is a violation referred  
11 to in section 708.2A, subsection 4.

12 NEW SUBPARAGRAPH. (9) The offense is a violation of section  
13 708.7, subsection 2, and the offense involved a domestic  
14 relationship as defined in section 902.13.

15 NEW SUBPARAGRAPH. (10) The offense is a violation of  
16 section 708.11, subsection 3, paragraph "a", and the offense  
17 involved a domestic relationship as defined in section 902.13.

18 NEW SUBPARAGRAPH. (11) The offense is a violation of  
19 section 708.11, subsection 3, paragraph "b", subparagraph (1),  
20 and the offense involved a domestic relationship as defined in  
21 section 902.13.

22 Sec. 16. Section 907.3, subsection 3, Code 2016, is amended  
23 by adding the following new paragraph:

24 NEW PARAGRAPH. *0a.* The sentence imposed under section  
25 902.13 for a violation referred to in section 708.2A,  
26 subsection 4.