SENATE FILE 534
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SF 497)

(As Amended and Passed by the Senate March 10, 2021)

 = New Language by the Senate

* = Language Stricken by the Senate

## A BILL FOR

An Act relating to law enforcement and certain criminal offenses, and providing penalties.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. **321.366A Immunity from civil liability for certain vehicle operators.**

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

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

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

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

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

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

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

(b) A health care professional who uses a laser in providing services within the scope of practice of that professional or any other person who is licensed or authorized by law to use a laser or who uses a laser in the performance of the person's

official duties.

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

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

1. A person who commits an assault, as defined in section 708.1, against a peace officer, civilian employee of a law enforcement agency, jailer, correctional staff, member or employee of the board of parole, health care provider, employee of the department of human services, employee of the department of revenue, ~~or~~ fire fighter, whether paid or volunteer, or civilian employee of a fire department, with the knowledge that the person against whom the assault is committed is a peace officer, civilian employee of a law enforcement agency, jailer, correctional staff, member or employee of the board of parole, health care provider, employee of the department of human services, employee of the department of revenue, ~~or~~ fire fighter, or civilian employee of a fire department, and with the intent to inflict a serious injury upon the peace officer, civilian employee of a law enforcement agency, jailer, correctional staff, member or employee of the board of parole, health care provider, employee of the department of human services, employee of the department of revenue, ~~or~~ fire fighter, or civilian employee of a fire department, is guilty of a class ~~"D"~~ "C" felony, with a mandatory minimum term of imprisonment of two years.

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

jailer, correctional staff, member or employee of the board of parole, health care provider, employee of the department of human services, employee of the department of revenue, ~~or~~ fire fighter, or civilian employee of a fire department, and who uses or displays a dangerous weapon in connection with the assault, is guilty of a class ~~"D"~~ "C" felony.

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

4. Any other assault, as defined in section 708.1, committed against a peace officer, civilian employee of a law enforcement agency, jailer, correctional staff, member or employee of the board of parole, health care provider, employee of the department of human services, employee of the department of revenue, ~~or~~ fire fighter, or civilian employee of a fire department whether paid or volunteer, by a person who knows that the person against whom the assault is committed is a peace officer, jailer, correctional staff, member or employee of the board of parole, health care provider, employee of the department of human services, employee of the department of revenue, or fire fighter, is ~~a serious~~ an aggravated misdemeanor.

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

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

Sec. 5. Section 716.4, subsection 1, Code 2021, is amended to read as follows:

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

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

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

Sec. 6. Section 723.1, Code 2021, is amended to read as follows:

**723.1 Riot.**

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

Sec. 7. Section 723.2, Code 2021, is amended to read as follows:

**723.2 Unlawful assembly.**

An unlawful assembly is three or more persons assembled together, with them or any of them acting in a violent manner, and with intent that they or any of them will commit a public offense. A person who willingly joins in or remains a part of an unlawful assembly, knowing or having reasonable grounds

to believe that it is such, commits ~~a simple~~ an aggravated misdemeanor.

Sec. 8. Section 723.4, Code 2021, is amended by striking the section and inserting in lieu thereof the following:

**723.4 Disorderly conduct.**

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

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

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

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

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

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

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

(2) As used in this paragraph:

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

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

(c) *"Flag"* means a piece of woven cloth or other material designed to be flown from a pole or mast.

(d) *"Mutilate"* means to intentionally cut up or alter so as

to make imperfect.

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

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

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

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

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

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

*b.* Commits property damage.

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

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

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

*b.* Causes bodily injury.

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

Sec. 9. NEW SECTION. **723.6 Interference with public disorder control.**

Any person who possesses a tool, instrument, or device with the intent to use the tool, instrument, or device to suppress or disrupt law enforcement from legally deploying a

device to control public disorder under this chapter commits an aggravated misdemeanor.

Sec. 10. Section 804.21, Code 2021, is amended by adding the following new subsection:

NEW SUBSECTION. 7. Notwithstanding any other provision in this section:

*a.* A defendant arrested for the offense of criminal mischief, as defined in section 716.4, subsection 1, paragraph "*b*"; rioting, as defined in section 723.1; unlawful assembly, as defined in section 723.2; or disorderly conduct, as defined in section 723.4, subsections 2 and 3, shall be held for at least twenty-four hours after the time of the arrest. The court may, however, release the defendant in less than twenty-four hours if the court finds that the defendant is not likely to immediately resume the criminal behavior based on the circumstances of the arrest and the defendant's prior criminal history, if any.

*b.* The findings of the court shall be reduced to writing. The written findings shall be attached to the warrant and be preserved as a permanent part of the record. The arresting officer shall make official note of the time of the arrest in order to establish the beginning of the twenty-four-hour period required by this subsection.