

criteria for placement of inmates in educational programs. Rules adopted may include, but shall not be limited to, the establishment of standards for the development of appropriate programming, imposition of any applicable penalties, and for waiver of any educational requirements.

Sec. 2. Section 906.4, Code 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The board may, effective July 1, 1997, subject to such exceptions as may be deemed necessary by the board, require each inmate who is physically and mentally capable to demonstrate functional literacy competence at or above the sixth grade level or make progress towards completion of the requirements for a high school equivalency diploma under chapter 259A prior to release of the inmate on parole or work release.

Sec. 3. **PROGRESS REPORTS – BUDGET REQUEST.** The department of corrections shall submit, as part of the department's budget request to the governor, plans for the implementation of this Act by July 1, 1997. The department shall also submit a report, in January of 1996, to the general assembly which outlines the progress made towards implementation of this Act.

Approved May 16, 1995

CHAPTER 180
DOMESTIC ABUSE
S.F. 367

†AN ACT relating to domestic abuse and providing a penalty.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 13.2, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 13. Develop written procedures and policies to be followed by prosecuting attorneys in the prosecution of domestic abuse cases under chapters 236 and 708.

Sec. 2. Section 232.8, subsection 1, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. The juvenile court shall have jurisdiction in proceedings commenced against a child pursuant to section 236.3 over which the district court has waived its jurisdiction. The juvenile court shall hear the action in the manner of an adjudicatory hearing under section 232.47, subject to the following:

(1) The juvenile court shall abide by the provisions of sections 236.4 and 236.6 in holding hearings and making a disposition.

(2) The plaintiff is entitled to proceed pro se under sections 236.3A and 236.3B.

Sec. 3. Section 232.22, subsection 1, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. There is probable cause to believe that the child has committed a delinquent act which would be domestic abuse under chapter 236 or a domestic abuse assault under section 708.2A if committed by an adult.

Sec. 4. Section 232.29, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 3. An informal adjustment agreement regarding a child who has been placed in detention under section 232.22, subsection 1, paragraph "f", may include a provision that the child voluntarily participate in a batterers' treatment program under section 708.2B.

Sec. 5. Section 232.46, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. A consent decree entered regarding a child placed in detention under section 232.22, subsection 1, paragraph "f", shall require the child to attend a batterers' treatment program under section 708.2B. The second time the child fails to attend the batterers' treatment as required by the consent decree shall result in the decree being vacated and proceedings commenced under section 232.47.

Sec. 6. Section 232.52, subsection 2, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. In the case of a child adjudicated delinquent for an act which would be a violation of chapter 236 or section 708.2A if committed by an adult, an order requiring the child to attend a batterers' treatment program under section 708.2B.

Sec. 7. Section 236.2, subsection 4, Code 1995, is amended to read as follows:

4. a. "Family or household members" means spouses, persons cohabiting, parents, or other persons related by consanguinity or affinity, ~~except children under eighteen.~~

b. "Family or household members" does not include children under age eighteen of persons listed in paragraph "a".

Sec. 8. Section 236.3, unnumbered paragraph 1, Code 1995, is amended to read as follows:

A person, including a parent or guardian on behalf of an unemancipated minor, may seek relief from domestic abuse by filing a verified petition in the district court. Venue shall lie where either party resides. The petition shall state the:

Sec. 9. Section 236.3, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. If the petition is being filed on behalf of an unemancipated minor, the name of the parent or guardian filing the petition and the parent's or guardian's address. For the purposes of this chapter, "plaintiff" includes a person filing an action on behalf of an unemancipated minor.

Sec. 10. Section 236.3, Code 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If the person against whom relief from domestic abuse is being sought is seventeen years of age or younger, the district court shall waive its jurisdiction over the action to the juvenile court.

Sec. 11. Section 236.5, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. The court may order that the defendant pay the plaintiff's attorneys fees and court costs.

Sec. 12. Section 236.8, Code 1995, is amended to read as follows:

236.8 CONTEMPT – HEARINGS.

~~The A person commits a simple misdemeanor or the~~ court may hold a ~~party person~~ in contempt for a violation of an order or court-approved consent agreement entered under this chapter, for violation of a temporary or permanent protective order or order to vacate the homestead under chapter 598, or for violation of any order that establishes conditions

of release or is a protective order or sentencing order in a criminal prosecution arising from a domestic abuse assault. If convicted or held in contempt, the defendant shall serve a jail sentence. Any jail sentence of more than one day imposed under this section shall be served on consecutive days. A defendant who is held in contempt or convicted may be ordered by the court to pay the plaintiff's attorneys fees and court costs incurred in the proceedings under this section.

A hearing in a contempt proceeding brought pursuant to this section shall be held not less than five and not more than fifteen days after the issuance of a rule to show cause, as set by the court.

A person shall not be convicted of and held in contempt for the same violation of an order or court-approved consent agreement entered under this chapter, for the same violation of a temporary or permanent protective order or order to vacate the homestead under chapter 598, or for violation of any order that establishes conditions of release or is a protective order or sentencing order in a criminal prosecution arising from a domestic abuse assault.

Sec. 13. NEW SECTION. 236.20 FOREIGN PROTECTIVE ORDERS – REGISTRATION – ENFORCEMENT.

1. As used in this section, “foreign protective order” means a protective order entered in a state other than Iowa which would be an order or court-approved consent agreement entered under this chapter, a temporary or permanent protective order or order to vacate the homestead under chapter 598, or an order that establishes conditions of release or is a protective order or sentencing order in a criminal prosecution arising from a domestic abuse assault if it had been entered in Iowa.

2. A copy of a foreign protective order authenticated in accordance with the statutes of this state may be filed with the clerk of the district court of the county in which the person in whose favor the order was entered resides. The clerk shall provide copies of the order as required by section 236.5.

3. A foreign protective order so filed has the same effect and shall be enforced in the same manner as a protective order issued in this state.

Sec. 14. NEW SECTION. 236.21 MUTUAL PROTECTIVE ORDERS PROHIBITED – EXCEPTIONS.

A court in an action under this chapter shall not issue mutual protective orders against the victim and the abuser unless both file a petition requesting a protective order.

Sec. 15. Section 708.2B, Code 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. District departments or contract service providers shall receive upon request peace officers’ investigative reports regarding persons participating in programs under this section. The receipt of reports under this section shall not waive the confidentiality of the reports under section 22.7.

Sec. 16. Section 907.3, subsection, 1, paragraph i, Code 1995, is amended to read as follows:

i. The offense is a conviction for or plea of guilty to a violation of section 236.8 or a finding of contempt pursuant to section 236.8 or 236.14.

Sec. 17. Section 907.3, subsection 2, Code 1995, is amended to read as follows:

2. At the time of or after pronouncing judgment and with the consent of the defendant, the court may defer the sentence and assign the defendant to the judicial district department of correctional services. However, the court shall not defer the sentence for a violation of section 708.2A if the defendant has previously received a deferred judgment or sentence for a violation of section 708.2 or 708.2A which was issued on a domestic abuse assault, or if similar relief was granted anywhere in the United States concerning that

jurisdiction's statutes which substantially correspond to domestic abuse assault as provided in section 708.2A. In addition, the court shall not defer a sentence if it is imposed for a conviction for or plea of guilty to a violation of section 236.8 or for contempt pursuant to section 236.8 or 236.14. Upon a showing that the defendant is not fulfilling the conditions of probation, the court may revoke probation and impose any sentence authorized by law. Before taking such action, the court shall give the defendant an opportunity to be heard on any matter relevant to the proposed action. Upon violation of the conditions of probation, the court may proceed as provided in chapter 908.

Sec. 18. The commissioner of insurance shall evaluate model legislation which will be proposed by the national association of insurance commissioners regarding using domestic abuse as a factor in determining whether a person shall be offered insurance coverage and make recommendations to the general assembly regarding adopting the model legislation.

Approved May 16, 1995

CHAPTER 181

LEGALIZATION OF KEOKUK PROPERTY TRANSFER

S.F. 468

AN ACT to legalize the transfer of certain property by the City of Keokuk and providing an effective date.

WHEREAS, the City of Keokuk, by quitclaim deed dated November 30, 1993, and recorded on December 2, 1993, transferred certain property, namely vacated F Street, lots seven, ten, and eleven, in block seventeen, Reid's addition to the City of Keokuk, to Clarence and Rose Bergher; and

WHEREAS, section 364.7 of the Code of Iowa requires the city council to adopt a resolution regarding the proposed sale of city property, publish notice of the proposal, hold a public hearing on the proposal, and then adopt another resolution authorizing the sale; and

WHEREAS, neither the abstract of the property nor city records indicate that the city council of the City of Keokuk complied with the requirements of section 364.7; and

WHEREAS, the lack of recorded evidence of compliance by the city with section 364.7 has clouded the title of the property; NOW THEREFORE,

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. All proceedings taken by the city council of the City of Keokuk regarding the transfer of the property described as vacated F Street, lots seven, ten, and eleven, in block seventeen, Reid's addition to the City of Keokuk, are hereby legalized and constitute a valid and binding disposal of city property in accordance with section 364.7.

Sec. 2. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 16, 1995