

7. This section shall not be construed and is not intended as and shall not imply a grant of entitlement for services to persons who are not otherwise eligible for the services or for utilization of services which do not currently exist or are not otherwise available.

Sec. 10. NEW SECTION. 235B.20 DEPENDENT ADULT ABUSE – INITIATION OF CHARGES – PENALTY.

1. Charges of dependent adult abuse may be initiated upon complaint of private individuals or as a result of investigations by social service agencies or on the direct initiative of a county attorney or law enforcement agency.

2. A caretaker who intentionally commits dependent adult abuse on a dependent adult in violation of this chapter is guilty of a class “C” felony if the intentional dependent adult abuse results in serious injury.

3. A caretaker who recklessly commits dependent adult abuse on a dependent adult in violation of this chapter is guilty of a class “D” felony if the reckless dependent adult abuse results in serious injury.

4. A caretaker who intentionally commits dependent adult abuse on a dependent adult in violation of this chapter is guilty of a class “C” felony if the intentional dependent adult abuse results in physical injury.

5. A caretaker who commits dependent adult abuse by exploiting a dependent adult in violation of this chapter is guilty of a class “D” felony if the value of the property, assets, or resources exceeds one hundred dollars.

6. A caretaker who recklessly commits dependent adult abuse on a person in violation of this chapter is guilty of an aggravated misdemeanor if the reckless dependent adult abuse results in physical injury.

7. A caretaker who commits dependent adult abuse by exploiting a dependent adult in violation of this chapter is guilty of a simple misdemeanor if the value of the property, assets, or resources is one hundred dollars or less.

8. A caretaker alleged to have committed a violation of this chapter shall be charged with the respective offense cited, unless a charge may be brought based upon a more serious offense, in which case the charge of the more serious offense shall supersede the less serious charge.

Approved April 17, 1996

CHAPTER 1131

DOMESTIC ABUSE

S.F. 2269

AN ACT enhancing the penalties for a third or subsequent offense of domestic abuse assault, requiring county attorneys to prosecute certain domestic abuse misdemeanors, giving district associate judges jurisdiction to enter orders of protection in certain domestic abuse matters, and establishing a pilot program for domestic abuse.

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

Section 1. Section 331.756, subsection 4, Code Supplement 1995, is amended to read as follows:

4. Prosecute misdemeanors under chapter 236. The county attorney shall prosecute other misdemeanors when not otherwise engaged in the performance of other official duties.

Sec. 2. Section 602.6306, subsection 2, Code 1995, is amended to read as follows:

2. District associate judges also have jurisdiction in civil actions for money judgment where the amount in controversy does not exceed ten thousand dollars, jurisdiction over involuntary commitment, treatment, or hospitalization proceedings under chapters 125 and 229, jurisdiction of indictable misdemeanors, and felony violations of section 321J.2, jurisdiction to enter a temporary or emergency order of protection under chapter 236, and to make court appointments and set hearings in criminal matters, jurisdiction to enter orders in probate which do not require notice and hearing and to set hearings in actions under chapter 633, and the jurisdiction provided in section 602.7101 when designated as a judge of the juvenile court. While presiding in these subject matters a district associate judge shall employ district judges' practice and procedure.

Sec. 3. Section 708.2A, Code Supplement 1995, is amended to read as follows:

708.2A DOMESTIC ABUSE ASSAULT – MANDATORY MINIMUMS, PENALTIES ENHANCED – EXTENSION OF NO-CONTACT ORDER.

1. For the purposes of this chapter, "domestic abuse assault" means an assault, as defined in section 708.1, which is domestic abuse as defined in section 236.2.

2. On a first offense of domestic abuse assault, the person commits:

a. A simple misdemeanor for a domestic abuse assault, except as otherwise provided.

b. A serious misdemeanor, if the domestic abuse assault causes bodily injury or mental illness.

c. An aggravated misdemeanor, if the domestic abuse assault is committed with the intent to inflict a serious injury upon another, or if the person uses or displays a dangerous weapon in connection with the assault. This paragraph does not apply if section 708.6 or 708.8 applies.

3. Except as otherwise provided in subsection 2, on a second ~~or subsequent~~ domestic abuse assault, a person commits:

a. A serious misdemeanor, if the first offense was classified as a simple misdemeanor, and the second offense would otherwise be classified as a simple misdemeanor.

b. An aggravated misdemeanor, if the first offense was classified as a simple or aggravated misdemeanor, and the second offense would otherwise be classified as a serious misdemeanor, or the first offense was classified as a serious or aggravated misdemeanor, and the second offense would otherwise be classified as a simple or serious misdemeanor.

4. On a third or subsequent offense of domestic abuse assault, a person commits a class "D" felony.

5. a. A conviction for, deferred judgment for, or plea of guilty to, a violation of this section which occurred more than six years prior to the date of the violation charged shall not be considered in determining that the violation charged is a second or subsequent offense.

b. For the purpose of determining if a violation charged is a second or subsequent offense, deferred judgments issued pursuant to section 907.3 for violations of section 708.2 or this section, which were issued on domestic abuse assaults, and convictions or the equivalent of deferred judgments for violations in any other states under statutes substantially corresponding to this section shall be counted as previous offenses. The courts shall judicially notice the statutes of other states which define offenses substantially equivalent to the offenses defined in this section and can therefore be considered corresponding statutes. Each previous violation on which conviction or deferral of judgment was entered prior to the date of the offense charged shall be considered and counted as a separate previous offense.

c. An offense shall be considered a prior offense regardless of whether it was committed upon the same victim.

4. 6. a. A person convicted of violating ~~this section~~ subsection 2 or 3 shall serve a minimum term of two days of the sentence imposed by law, and shall not be eligible for suspension of the minimum sentence. The minimum term shall be served on consecutive days. The court shall not impose a fine in lieu of the minimum sentence, although a fine may be imposed in addition to the minimum sentence. This section does not prohibit the court from sentencing and the defendant from serving the maximum term of confinement or from paying the maximum fine permitted pursuant to chapters 902 and 903, and does

not prohibit the court from entering a deferred judgment or sentence pursuant to section 907.3, if the defendant has not previously received a deferred sentence or judgment for a violation of section 708.2 or this section which was issued on a domestic abuse assault. However, once the defendant has received one deferred sentence or judgment involving a violation of section 708.2 or this section which was issued on a domestic abuse assault, the defendant shall not be eligible to receive another deferred sentence or judgment for a violation of this section.

b. A person convicted of violating subsection 4 shall be sentenced to a term of not less than one year and committed to the custody of the director of the department of corrections, and assessed a fine of not less than seven hundred fifty dollars. Notwithstanding section 901.5, subsection 3, and section 907.3, subsection 3, the sentence cannot be suspended; however, the person sentenced shall receive credit for any time the person was confined in a jail or detention facility following arrest.

~~5. 7.~~ If a defendant is convicted for, receives a deferred judgment for, or pleads guilty to a violation of this section, the court shall modify the no-contact order issued upon initial appearance in the manner provided in section 236.14, regardless of whether the defendant is placed on probation.

~~6. 8.~~ The clerk of the district court shall provide notice and copies of a judgment entered under this section to the applicable law enforcement agencies and the twenty-four hour dispatcher for the law enforcement agencies, in the manner provided for protective orders under section 236.5. The clerk shall provide notice and copies of modifications of the judgment in the same manner.

~~7. 9.~~ In addition to the mandatory minimum term of confinement imposed by ~~this section subsection 6, paragraph "a",~~ the court shall order ~~the a~~ defendant convicted under ~~subsection 2 or 3~~ to participate in a batterers' treatment program as required under section 708.2B. In addition, as a condition of deferring judgment or sentence pursuant to section 907.3, the court shall order the defendant to participate in a batterers' treatment program. The clerk of the district court shall send a copy of the judgment or deferred judgment to the judicial district department of correctional services.

Sec. 4. Section 907.3, subsection 3, Code Supplement 1995, is amended to read as follows:

3. By record entry at the time of or after sentencing, the court may suspend the sentence and place the defendant on probation upon such terms and conditions as it may require including commitment to an alternate jail facility or a community correctional residential treatment facility for a specific number of days to be followed by a term of probation as specified in section 907.7. A person so committed who has probation revoked shall be given credit for such time served. However, the court shall not suspend the minimum term of two days imposed pursuant to section 708.2A, subsection 6, paragraph "a", or a sentence imposed under section 708.2A, subsection 6, paragraph "b", and the court shall not suspend a sentence imposed pursuant to section 236.8 or 236.14 for contempt.

Sec. 5. DOMESTIC ABUSE TREATMENT PILOT PROGRAM. Notwithstanding section 708.2A, a court, located in a county which has been designated by the supreme court as a county establishing an alternative batterers' treatment pilot program, shall sentence a person who pleads guilty to or is convicted of domestic abuse assault under section 708.2A to either a batterers' treatment program under section 708.2B or the alternative batterers' pilot program established in the county.

The judicial district in which the county is located shall report to the general assembly not later than January 15 of each year regarding the alternative batterers' pilot program. The judicial district shall submit a final report not later than August 1, 1998, regarding the pilot program.

This section is repealed effective June 30, 1998, except that the date for submission of the final report shall remain August 1, 1998.