

JUDICIARY

Succeeded

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON LARSON)

Millage, Ch.
Shey
Kreiman

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to protection from domestic abuse and including
2 protections for persons in an intimate relationship.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22

1 Section 1. Section 236.2, subsection 2, Code 2001, is
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. e. The assault is between persons who are
4 in an intimate relationship or have been in an intimate
5 relationship and have had contact within the past year of the
6 assault. In determining whether persons are or have been in
7 an intimate relationship, the court may consider the following
8 nonexclusive list of factors:

- 9 (1) The duration of the relationship.
- 10 (2) The frequency of interaction.
- 11 (3) Whether the relationship has been terminated.
- 12 (4) The nature of the relationship, characterized by
13 either party's expectation of sexual or romantic involvement.
14 A person may be involved in an intimate relationship with
15 more than one person at a time.

16 Sec. 2. Section 236.2, Code 2001, is amended by adding the
17 following new subsection:

18 NEW SUBSECTION. 4A. "Intimate relationship" means a
19 significant romantic involvement that need not include sexual
20 involvement. An intimate relationship does not include casual
21 social relationships or associations in a business or
22 professional capacity.

23 Sec. 3. Section 236.3, Code Supplement 2001, is amended by
24 adding the following new unnumbered paragraph after subsection
25 7:

26 NEW UNNUMBERED PARAGRAPH. A temporary or emergency order
27 shall be based on a showing of a prima facie case of domestic
28 abuse. If the factual basis for the alleged domestic abuse is
29 contested, the court shall issue a protective order based upon
30 a finding of domestic abuse by a preponderance of the
31 evidence.

32 Sec. 4. Section 708.2A, subsection 1, Code 2001, is
33 amended to read as follows:

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

1 is domestic abuse as defined in section 236.2, subsection 2,
2 paragraph "a", "b", "c", or "d".

3 Sec. 5. Section 708.2B, Code 2001, is amended to read as
4 follows:

5 708.2B TREATMENT OF DOMESTIC ABUSE OFFENDERS.

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

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

35 EXPLANATION

1 This bill amends Code section 236.2 to provide protection
2 from domestic abuse for persons who are in an intimate
3 relationship or have been in an intimate relationship and have
4 had contact within the past year of the assault. Current law
5 provides protection from domestic abuse for persons who are
6 married or have been married and who are not currently living
7 together, for persons who are the parents of the same minor
8 child, regardless of whether they have been married or have
9 ever lived together, and for family or household members 18 or
10 older who are currently living together or who are not
11 currently living together but who have lived together within
12 the past year.

13 The bill defines intimate relationship for the purposes of
14 Code section 236.2 as a significant romantic involvement which
15 need not include sexual involvement. The bill exempts
16 intimate relationship domestic abuse from domestic abuse
17 assault law in Iowa. The bill further provides that the court
18 may order a person convicted of intimate relationship domestic
19 abuse to participate in a batterers' treatment program.

20 The bill also provides that a temporary or emergency order
21 shall be based on a showing of a prima facie case of domestic
22 abuse. If the factual basis for the domestic abuse is
23 contested, the court shall issue the protective order based
24 upon a finding of domestic abuse by a preponderance of the
25 evidence.

26
27
28
29
30
31
32
33
34
35

Substituted for by SF 2100

2/14/02

(p. 359)

JAN 24 2002

Place On Calendar

HOUSE FILE 2111

BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 520)

WITHDRAWN

2-14-02
(p. 360)

Passed House, Date _____ Passed Senate, Date _____
 Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
 Approved _____

A BILL FOR

1 An Act relating to protection from domestic abuse and including
 2 protections for persons in an intimate relationship.

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

4
5

HOUSE FILE 2111

H-8017

1 Amend House File 2111 as follows:

2 1. Page 1, by inserting after line 31 the
3 following:

4 "Sec. ____ NEW SECTION. 236.21 INDUCEMENTS TO
5 VIOLATE PROTECTIVE ORDER -- COURT RELIEF.

6 The department of justice shall establish a
 7 procedure for the defendant against whom a protective
 8 order has been issued to report and request relief
 9 from any attempt on the part of the plaintiff to
 10 induce the defendant to violate such protective order
 11 including, but not limited to, instructions on who to
 12 contact if the plaintiff attempts to make contact with
 13 the defendant. The court shall provide written notice
 14 concerning this procedure to the plaintiff and the
 15 defendant upon the issuance of the protective order."

16 2. By renumbering as necessary.

By BODDICKER of Cedar

H-8017 FILED JANUARY 29, 2002

HF 2111

20
21
22

1 Section 1. Section 236.2, subsection 2, Code 2001, is
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. e. The assault is between persons who are
4 in an intimate relationship or have been in an intimate
5 relationship and have had contact within the past year of the
6 assault. In determining whether persons are or have been in
7 an intimate relationship, the court may consider the following
8 nonexclusive list of factors:

9 (1) The duration of the relationship.

10 (2) The frequency of interaction.

11 (3) Whether the relationship has been terminated.

12 (4) The nature of the relationship, characterized by
13 either party's expectation of sexual or romantic involvement.

14 A person may be involved in an intimate relationship with
15 more than one person at a time.

16 Sec. 2. Section 236.2, Code 2001, is amended by adding the
17 following new subsection:

18 NEW SUBSECTION. 4A. "Intimate relationship" means a
19 significant romantic involvement that need not include sexual
20 involvement. An intimate relationship does not include casual
21 social relationships or associations in a business or
22 professional capacity.

23 Sec. 3. Section 236.3, Code Supplement 2001, is amended by
24 adding the following new unnumbered paragraph after subsection
25 7:

26 NEW UNNUMBERED PARAGRAPH. A temporary or emergency order
27 shall be based on a showing of a prima facie case of domestic
28 abuse. If the factual basis for the alleged domestic abuse is
29 contested, the court shall issue a protective order based upon
30 a finding of domestic abuse by a preponderance of the
31 evidence.

32 Sec. 4. Section 708.2A, subsection 1, Code 2001, is
33 amended to read as follows:

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

1 is domestic abuse as defined in section 236.2, subsection 2,
2 paragraph "a", "b", "c", or "d".

3 Sec. 5. Section 708.2B, Code 2001, is amended to read as
4 follows:

5 708.2B TREATMENT OF DOMESTIC ABUSE OFFENDERS.

6 As used in this section, "district department" means a
7 judicial district department of correctional services,
8 established pursuant to section 905.2. A person convicted of,
9 or receiving a deferred judgment for, domestic abuse assault
10 as defined in section 708.2A, shall report to the district
11 department in order to participate in a batterers' treatment
12 program for domestic abuse offenders. In addition, a person
13 convicted of, or receiving a deferred judgment for, an
14 assault, as defined in section 708.1, which is domestic abuse,
15 as defined in section 236.2, subsection 2, paragraph "e", may
16 be ordered by the court to participate in a batterers'

17 treatment program. Participation in the batterers' treatment
18 program shall not require a person to be placed on probation,
19 but a person on probation may participate in the program. The
20 district departments may contract for services in completing
21 the duties relating to the batterers' treatment programs. The
22 district departments shall assess the fees for participation
23 in the program, and shall either collect or contract for the
24 collection of the fees to recoup the costs of treatment, but
25 may waive the fee or collect a lesser amount upon a showing of
26 cause. The fees shall be used by each of the district
27 departments or contract service providers for the
28 establishment, administration, coordination, and provision of
29 direct services of the batterers' treatment programs.

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

35 EXPLANATION

1 This bill amends Code section 236.2 to provide protection
2 from domestic abuse for persons who are in an intimate
3 relationship or have been in an intimate relationship and have
4 had contact within the past year of the assault. Current law
5 provides protection from domestic abuse for persons who are
6 married or have been married and who are not currently living
7 together, for persons who are the parents of the same minor
8 child, regardless of whether they have been married or have
9 ever lived together, and for family or household members 18 or
10 older who are currently living together or who are not
11 currently living together but who have lived together within
12 the past year.

13 The bill defines intimate relationship for the purposes of
14 Code section 236.2 as a significant romantic involvement which
15 need not include sexual involvement. The bill exempts
16 intimate relationship domestic abuse from domestic abuse
17 assault law in Iowa. The bill further provides that the court
18 may order a person convicted of intimate relationship domestic
19 abuse to participate in a batterers' treatment program.

20 The bill also provides that a temporary or emergency order
21 shall be based on a showing of a prima facie case of domestic
22 abuse. If the factual basis for the domestic abuse is
23 contested, the court shall issue the protective order based
24 upon a finding of domestic abuse by a preponderance of the
25 evidence.

26
27
28
29
30
31
32
33
34
35

Legislative Fiscal Bureau

Fiscal Note

HF 2111 - Dating Violence (LSB 5846 HV)

Analyst: Beth Lenstra (Phone: (515) 281-6301) (Beth.Lenstra@legis.state.ia.us)

Fiscal Note Version – New

Requested by Representative David Millage

Description

House File 2111 amends Section 236.2, Code of Iowa, to provide protection from domestic abuse for persons who are in an intimate relationship or have been in an intimate relationship and have had contact within the past year of the assault. The intimate relationship need not include sexual involvement. The Bill exempts intimate relationship domestic abuse assault from enhanced penalties for domestic abuse, but victims are eligible for no-contact orders. The court may order a person convicted of intimate relationship domestic abuse to participate in a batterer's treatment program.

Assumptions

1. Charge, conviction, and sentencing patterns and trends will not change over the projection period.
2. Prisoner length of stay, revocation rates, and other corrections' practices and policies will not change over the projection period.
3. The law will become effective July 1, 2002. A lag effect of six months is assumed, from the effective date of the change in the law to the date of first entry of affected offenders into the correctional system.
4. The analysis is based on information obtained from the Justice Data Warehouse, which includes statewide court information. Conviction and penalty information is based on FY 2001 data.
5. Intimate domestic abuse assault can be prosecuted as assault under current law. The Bill exempts intimate domestic abuse assault from the enhanced penalties of domestic abuse. Therefore, the effect of the Bill is to provide no-contact orders for victims of intimate relationship domestic abuse assault.
6. House File 2111 will cause at least 33 offenders annually to be convicted of summary contempt for violating a no-contact order.
7. House File 2111 may increase demand for the batterer's treatment program. The impact cannot be estimated because of sentencing discretion and insufficient information.
8. The marginal cost per day for county jails ranges from \$15 to \$25 per offender. The average time served in jail under Section 236.8, Code of Iowa, is 10 days.
9. The median cost per case for summary contempt is \$250 to defend.

10. Average court costs for domestic abuse cases are \$108 per case. This figure includes expenses for a District Court Judge, court attendant, court reporter, and the Clerk of Court.
11. Section 3 of HF 2111 requires the court to issue a protective order based upon a finding of domestic abuse by a preponderance of the evidence, if the facts are contested. This provision will increase the number of domestic abuse restraining orders issued, and therefore increase convictions for violations of those orders. An estimate for the costs associated with these orders cannot be provided, due to insufficient data to project how many additional convictions would be imposed.

Correctional Impact

House File 2111 is expected to increase jail admissions by 16 during FY 2003, and by 33 each year thereafter. Each person admitted to the county jail will serve 10 days.

Fiscal Impact

House File 2111 will have the following impact:

State General Fund Impact:

Indigent defense costs are estimated to be \$4,000 during FY 2003 and \$8,000 during FY 2004.

The court system will incur additional costs for an increased number of summary contempt proceedings. The FY 2003 cost is estimated to be \$1,700. For FY 2004, the cost is estimated to be \$3,600.

Total State criminal justice system (Indigent Defense and Judicial Branch) costs are estimated to be \$6,000 for FY 2003. For FY 2004, total State costs are estimated to be \$12,000.

Local Government Impact:

Total statewide costs for county jails are estimated to range from \$2,400 to \$4,000 during FY 2003. FY 2004 costs are estimated to range from \$5,000 to 8,200.

Sources

Department of Human Rights, Criminal and Juvenile Justice Planning Division
Supreme Court
State Public Defender's Office

_____/s/ Dennis C Prouty_____

January 30, 2002

The fiscal note and correction impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.
