

Tinsman
Horn
King

SSB - 1050

Judiciary

Succeeded By

SENATE/HOUSE F ~~6~~ HF 419
BY (PROPOSED ATTORNEY GENERAL
BILL)

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

A BILL FOR

1 An Act providing for protection from domestic abuse for persons
2 in an intimate relationship.

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

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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

EXPLANATION

24 This bill amends Code section 236.2 to provide protection
25 from domestic abuse for persons who are in an intimate
26 relationship or have been in an intimate relationship and have
27 had contact within the past year of the assault. Current law
28 provides protection from domestic abuse for persons who are
29 married or have been married and who are not currently living
30 together, for persons who are the parents of the same minor
31 child, regardless of whether they have been married or have
32 ever lived together, and for family or household members 18 or
33 older who are currently living together or who are not
34 currently living together but who have lived together within
35 the past year.

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S.F. _____ H.F. _____

1 The bill defines intimate relationship for the purposes of
2 Code section 236.2 as a significant romantic involvement which
3 need not include sexual involvement.

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H. 3/23/01 Judiciary
H. 4/6/01 Do Pass
H. 4/12/01
1999 BUSINESS CALENDAR

FILED MAR 12 2001

SENATE FILE 419
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1050)

Passed Senate, Date (p. 761) 3-21-01 Passed House, Date _____
Vote: Ayes 49 Nays 0 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act providing for protection from domestic abuse for persons
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SF 419

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 708.2A, subsection 1, Code 2001, is
24 amended to read as follows:

25 1. For the purposes of this chapter, "domestic abuse
26 assault" means an assault, as defined in section 708.1, which
27 is domestic abuse as defined in section 236.2, subsection 2,
28 paragraph "a", "b", "c", or "d".

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

31 708.2B TREATMENT OF DOMESTIC ABUSE OFFENDERS.

32 As used in this section, "district department" means a
33 judicial district department of correctional services,
34 established pursuant to section 905.2. A person convicted of,
35 or receiving a deferred judgment for, domestic abuse assault

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

21 District departments or contract service providers shall
22 receive upon request peace officers' investigative reports
23 regarding persons participating in programs under this
24 section. The receipt of reports under this section shall not
25 waive the confidentiality of the reports under section 22.7.

26 Sec. 5. Section 708.12, Code 2001, is amended to read as
27 follows:

28 708.12 HARASSMENT, AND STALKING, AND INTIMATE RELATIONSHIP
29 DOMESTIC ABUSE -- NO-CONTACT.

30 1. When a person arrested for assault as defined in
31 section 708.1, which is domestic abuse, as defined in section
32 236.2, subsection 2, paragraph "e", harassment in violation of
33 section 708.7, or stalking in violation of section 708.11, is
34 brought before a magistrate for initial appearance under
35 section 804.21, 804.22, or 804.24, and the magistrate finds

1 probable cause to believe that assault as defined in section
2 708.1, which is domestic abuse as defined in section 236.2,
3 subsection 2, paragraph "e", or a violation of section 708.7
4 or 708.11 has occurred and that the presence of or contact
5 with the defendant poses a threat to the safety of the alleged
6 victim, persons residing with the alleged victim, or members
7 of the alleged victim's immediate family, the magistrate shall
8 enter an order which shall require the defendant to have no
9 contact with the alleged victim, persons residing with the
10 alleged victim, or members of the alleged victim's immediate
11 family, and to refrain from harassing the alleged victim,
12 persons residing with the alleged victim, or members of the
13 alleged victim's immediate family, in addition to any other
14 conditions of release determined and imposed by the magistrate
15 under section 811.2. A no-contact order requiring the
16 defendant to have no contact with the alleged victim's
17 children shall prevail over any existing order which may be in
18 conflict with the no-contact order.

19 The court order shall contain the court's directives
20 restricting the defendant from having contact with the victim,
21 persons residing with the victim, or the victim's immediate
22 family. The order shall state whether a person is to be taken
23 into custody by a peace officer for a violation of the terms
24 stated in the order.

25 2. The clerk of the district court or other person
26 designated by the court shall provide a copy of this order to
27 the victim pursuant to this chapter. The order has force and
28 effect until it is modified or terminated by subsequent court
29 action in a contempt proceeding or the criminal or juvenile
30 court action and is reviewable in the manner prescribed in
31 section 811.2. Upon final disposition of the criminal or
32 juvenile court action, the court shall make a determination
33 whether the no-contact order should be modified or terminated.
34 If a defendant is convicted for, receives a deferred judgment
35 for, or pleads guilty to assault as defined in section 708.1,

1 which is domestic abuse as defined in section 236.2,
2 subsection 2, paragraph "e", or a violation of section 708.7
3 or 708.11, the court shall modify the no-contact order issued
4 by the magistrate to provide that the no-contact order shall
5 continue in effect for a period of five years from the date
6 that the judgment is entered or the deferred judgment is
7 granted, regardless of whether the defendant is placed on
8 probation. Upon the filing of an affidavit by the victim
9 which states that the defendant continues to pose a threat to
10 the safety of the victim, persons residing with the victim, or
11 members of the victim's immediate family within ninety days
12 prior to the expiration of the modified no-contact order, the
13 court shall modify and extend the no-contact order for an
14 additional period of up to five years, unless the court finds
15 that the defendant no longer poses a threat to the safety of
16 the victim, persons residing with the victim, or members of
17 the victim's immediate family. The number of modifications
18 extending the no-contact order permitted by this subsection is
19 not limited.

20 The clerk of the district court shall also provide notice
21 and copies of the no-contact order to the applicable law
22 enforcement agencies and the twenty-four hour dispatcher for
23 the law enforcement agencies, in the same manner as provided
24 for protective orders under section 236.5. The clerk shall
25 provide notice and copies of modifications or vacations of
26 these orders in the same manner.

27 3. If a peace officer has probable cause to believe that a
28 person has violated a no-contact order issued under this
29 section, the peace officer shall take the person into custody
30 and shall take the person without unnecessary delay before the
31 nearest or most accessible magistrate in the judicial district
32 in which the person was taken into custody.

33 4. Violation of a no-contact order issued under this
34 section, including modified no-contact orders, is punishable
35 by summary contempt proceedings. A hearing in a contempt

1 proceeding brought pursuant to this section shall be held not
2 less than five and not more than fifteen days after the
3 issuance of a rule to show cause, as set by the court. If
4 held in contempt for violation of a no-contact order or a
5 modified no-contact order, the defendant shall be confined in
6 the county jail for a minimum of seven days. A jail sentence
7 imposed pursuant to this paragraph shall be served on
8 consecutive days. No portion of the mandatory minimum term of
9 confinement imposed by this section shall be deferred or
10 suspended. A deferred judgment, deferred sentence, or
11 suspended sentence shall not be entered for violation of a no-
12 contact order or a modified no-contact order, and the court
13 shall not impose a fine in lieu of the minimum sentence,
14 although a fine may be imposed in addition to the minimum
15 sentence.

16 5. This section shall not be construed to limit a pretrial
17 release order issued pursuant to chapter 811.

18

EXPLANATION

19 This bill amends Code section 236.2 to provide protection
20 from domestic abuse for persons who are in an intimate
21 relationship or have been in an intimate relationship and have
22 had contact within the past year of the assault. Current law
23 provides protection from domestic abuse for persons who are
24 married or have been married and who are not currently living
25 together, for persons who are the parents of the same minor
26 child, regardless of whether they have been married or have
27 ever lived together, and for family or household members 18 or
28 older who are currently living together or who are not
29 currently living together but who have lived together within
30 the past year.

31 The bill defines intimate relationship for the purposes of
32 Code section 236.2 as a significant romantic involvement which
33 need not include sexual involvement. The bill exempts
34 intimate relationship domestic abuse from domestic abuse
35 assault law in Iowa, but includes intimate relationship

1 domestic abuse in the list of offenses that make victims
2 eligible for no-contact orders. The bill further provides
3 that the court may order a person convicted of intimate
4 relationship domestic abuse to participate in a batterers'
5 treatment program.

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SENATE FILE 419

H-1462

1 Amend Senate File 419, as passed by the Senate, as
2 follows:

3 1. By striking page 1, line 1, through page 2,
4 line 25.

5 2. Page 2, by striking lines 28 and 29, and
6 inserting the following: "708.12 ASSAULT,
7 HARASSMENT, AND STALKING -- NO-CONTACT."

8 3. Page 2, by striking lines 31 and 32, and
9 inserting the following: "section 708.1, harassment
10 in violation of".

11 4. Page 3, by striking lines 2 and 3, and
12 inserting the following: "708.1, or a violation of
13 section 708.7".

14 5. Page 4, by striking lines 1 and 2, and
15 inserting the following: "or a violation of section
16 708.7".

17 6. Title page, by striking lines 1 and 2, and
18 inserting the following: "An Act relating to
19 protection for persons involved in an assault."

20 7. By renumbering as necessary.

By MILLAGE of Scott

H-1462 FILED APRIL 9, 2001

**SENATE FILE 419
FISCAL NOTE****REQUESTED BY:
SENATOR TINSMAN**

A fiscal note for **Senate File 419** is hereby submitted pursuant to Joint Rule 17 and as a correctional impact statement pursuant to 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.

Senate File 419 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, 2001. 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 2000 data.
5. Intimate relationship domestic abuse can be prosecuted as assault under current law. The Bill exempts intimate relationship domestic abuse assault from the enhanced penalties for domestic abuse. Therefore, the effect of the Bill is to provide no-contact orders for victims of intimate relationship domestic abuse assault.
6. Senate File 419 will cause at least 33 offenders annually to be convicted of summary contempt for violating a no-contact order.
7. Senate File 419 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 is \$25 per offender. Jail terms are seven days for violation of no-contact orders.
9. The median cost per case for summary contempt is \$200 to defend.
10. Court costs vary by type of offense charged as well as contested versus uncontested cases. Information concerning the ratio of contested versus uncontested cases is not available.
11. Court costs for a summary contempt proceeding are similar to a simple misdemeanor. The average court cost for an uncontested simple misdemeanor case is \$58. The average court cost for a contested simple misdemeanor case is \$371.

PAGE 2 , FISCAL NOTE, SENATE FILE 419

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12. These costs include expenses for the Clerk of Court, court attendant, court reporter, juries, and judges; i.e., Magistrates, District Associate Judges, and District Court Judges.

CORRECTIONAL IMPACT

Senate File 419 is expected to increase jail admissions by 16 during FY 2002, and by 33 each year thereafter. Each person admitted to the county jail will serve seven days.

FISCAL IMPACT

Senate File 419 will have the following fiscal impact:

State General Fund Impact:

Indigent Defense costs are estimated to be \$3,200 during FY 2002 and \$6,500 during FY 2003.

The court system will incur additional costs for an increased number of summary contempt proceedings. The FY 2002 cost will range from approximately \$1,000 for uncontested cases to \$6,000 for contested cases. For FY 2003, the cost will range from approximately \$2,000 for uncontested cases to \$12,000 for contested cases.

Total State criminal justice system (Indigent Defense and Judicial Branch) costs will range from approximately \$4,000 to \$9,000 for FY 2002. For FY 2003, total State costs will range from approximately \$9,000 to \$19,000.

Local Government Impact:

Total statewide costs for county jails are estimated to be approximately \$3,000 during FY 2002 and \$6,000 annually thereafter.

SOURCES

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

(LSB 1119SV, DAL)

FILED MARCH 15, 2001

BY DENNIS PROUTY, FISCAL DIRECTOR