

Reprinted 3/25/86

MAR 12 1986

Place On Calendar

HOUSE FILE 2458

BY COMMITTEE ON JUDICIARY AND
LAW ENFORCEMENT

(Formerly House Study Bill 615)

Passed House, Date 3-28-86 (p. 923) Passed Senate, Date 4-10-86 (p. 1171)

Vote: Ayes 98 Nays 0 Vote: Ayes 46 Nays 0

Approved May 5, 1986

A BILL FOR

1 An Act relating to victims and witnesses of criminal offenses,
2 and providing penalties.

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

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HF 2458

54687

1 Section 1. Section 901.3, subsection 5, Code 1985, is
2 amended to read as follows:

5451 3 5. The harm to the victim, the victim's immediate family,
4 and the community. The presentence investigator shall file a
5 victim impact statement and shall assist the victim in
6 preparing and filing the victim's impact statement pursuant to
7 chapter 910A, if requested to do so.

8 Sec. 2. Section 901.5, unnumbered paragraph 1, Code 1985,
9 is amended to read as follows:

10 After receiving and examining all pertinent information,
11 including the presentence investigation report and victim
12 impact statements, if any, the court shall consider the
13 following sentencing options. The court shall determine which
14 of them is authorized by law for the offense, and of the
15 authorized sentences, which of them or which combination of
16 them, in the discretion of the court, will provide maximum
17 opportunity for the rehabilitation of the defendant, and for
18 the protection of the community from further offenses by the
19 defendant and others.

20 Sec. 3. NEW SECTION. 910A.2 DEFINITIONS.

21 As used in this chapter, unless the context otherwise
22 requires:

23 1. "Victim" means a person who has suffered physical,
24 emotional, or financial harm as the result of a public
25 offense, other than a simple misdemeanor, committed in this
26 state. The term also includes the immediate family members of
27 a victim who died or was rendered incompetent as a result of
28 the offense or who was under eighteen years of age at the time
29 of the offense.

30 2. "Violent crime" means a forcible felony, as defined in
31 section 702.11, and includes any other felony or aggravated
32 misdemeanor which involved the actual or threatened infliction
33 of physical or emotional injury on one or more persons.

34 3. "Registered" means having provided the appropriate
35 office, agency, or department with the victim's written

1 request for notification and current mailing address and
2 telephone number.

3 4. "Notification" means mailing by regular mail or
4 providing for hand delivery of appropriate information or
5 papers.

6 Sec. 4. NEW SECTION. 910A.3 CITIZEN INTERVENTION.

7 Any person, who in good faith and without compensation,
8 renders reasonable aid or assistance to another against whom a
9 crime is being committed is not liable for any civil damage
10 for acts or omissions resulting from the aid or assistance and
11 is eligible to file a claim for reimbursement as a victim
12 pursuant to section 912.1.

13 Sec. 5. NEW SECTION. 910A.4 VICTIM IMPACT STATEMENT.

14 A victim may file a signed victim impact statement with the
15 presentence investigator, and a filed impact statement shall
16 be included in the presentence investigation report.

17 The court shall consider a filed victim impact statement in
18 determining the appropriate sentence and in entering any order
19 of restitution to the victim pursuant to chapter 910.

20 The victim impact statement shall:

- 21 1. Identify the victim of the offense.
- 22 2. Itemize any economic loss suffered by the victim as a
23 result of the offense. For purposes of this paragraph, a
24 pecuniary damages statement prepared by a county attorney
25 pursuant to section 910.3, may serve as the itemization of
26 economic loss.
- 27 3. Identify any physical injury suffered by the victim as
28 a result of the offense with detail as to its seriousness and
29 permanence.
- 30 4. Describe any change in the victim's personal welfare or
31 familial relationships as a result of the offense.
- 32 5. Describe any request for psychological services
33 initiated by the victim or the victim's family as a result of
34 the offense.
- 35 6. Contain any other information related to the impact of

1 the offense upon the victim.

2 Sec. 6. NEW SECTION. 910A.5 NOTIFICATION BY COUNTY
3 ATTORNEY.

4 The county attorney shall notify a victim registered with
5 the county attorney's office of the following:

6 1. The cancellation or postponement of a court proceeding
7 that was expected to require the victim's attendance.

8 2. The possibility of assistance through the crime victim
9 reparations program, pursuant to chapter 912, and the
10 procedures for applying for that assistance.

11 3. The right, pursuant to chapter 910, to restitution for
12 pecuniary losses suffered as a result of crime.

13 4. The victim's right to make a written impact statement.

14 5. The right to register for notification with other
15 offices, departments, and agencies pursuant to sections 910A.5
16 through 910A.8.

17 Sec. 7. NEW SECTION. 910A.6 NOTIFICATION BY CLERK OF
18 COURT.

19 The clerk of court shall notify a victim registered with
20 the office of the clerk of court of all dispositional orders
21 of the case in which the victim was involved and may advise
22 the victim of any other orders regarding custody or
23 confinement.

24 Sec. 8. NEW SECTION. 910A.7 NOTIFICATION BY LAW
25 ENFORCEMENT.

26 With the assistance of the clerk of court and the local
27 employees of the district department of correctional services,
28 the county sheriff or other person in charge of the local jail
29 or detention facility shall notify a victim registered with
30 the jail or detention facility of the following:

31 1. The offender's release from custody on bail and the
32 terms or conditions of the release.

33 2. The offender's final release from local custody and the
34 location where the offender is expected to reside following
35 the release.

1 3. The offender's escape from custody.

2 Sec. 9. NEW SECTION. 910A.8 NOTIFICATION BY DEPARTMENT
3 OF CORRECTIONS.

4 The department of corrections shall notify a victim
5 registered with the department, regarding an offender
6 convicted of a violent crime and committed to the custody of
54677 the director of the department of corrections, of the
8 following:

9 1. The date on which the offender is expected to be
10 temporarily released from custody on work release, and the
11 expected location to which the offender is to be released.

12 2. The date on which the offender is expected to be
13 temporarily released from custody on furlough, and the
14 expected location to which the offender is to be released.

15 3. The offender's escape from custody.

16 4. The recommendation by the department of the offender
17 for parole consideration.

18 Sec. 10. NEW SECTION. 910A.9 NOTIFICATION BY BOARD OF
19 PAROLE.

20 1. The board of parole shall notify a victim registered
21 with the board, regarding an offender who has committed a
22 violent crime, as follows:

5451 23 a. Not less than five days prior to conducting a hearing
24 at which the board will interview an offender, the board shall
25 notify the victim of the interview and inform the victim that
26 the victim may submit the victim's opinion concerning the
27 release of the offender in writing prior to the hearing or may
28 appear personally or by counsel at the hearing to express an
29 opinion concerning the offender's release.

30 b. Whether or not the victim appears at the hearing or
31 expresses an opinion concerning the offender's release on
32 parole, the board shall notify the victim of the board's
33 decision regarding release of the offender.

34 2. Offenders who are being considered for release on
35 parole may be informed of a victim's registration with the

1 board and the substance of any opinion submitted by the victim
2 regarding the release of the offender.

3 Sec. 11. NEW SECTION. 910A.10 CRIMINAL PENALTIES --
4 HARASSMENT.

5 1. A person who uses or attempts to use intimidation,
6 physical force, verbal or physical threats, misleading
7 conduct, or offers of pecuniary benefit or gain with the
8 intent to do either of the following commits a class "D"
9 felony:

10 a. Influence the testimony of a person in an official
11 proceeding.

12 b. Compel or induce a person to do any of the following:

13 (1) Withhold testimony, or withhold a record, document, or
14 other object, from an official proceeding.

15 (2) Alter, destroy, mutilate, or conceal an object with
16 intent to impair the integrity or availability of the object
17 for use in an official proceeding.

18 (3) Evade legal process summoning that person to appear as
19 a witness, or to produce a record, document, or other object,
20 in an official proceeding.

21 (4) Be absent from an official proceeding to which the
22 person has been summoned by legal process.

23 (5) Hinder, delay, or prevent the communication to a law
24 enforcement officer or judge of information relating to the
25 commission or possible commission of an offense or a violation
26 of a condition of probation, parole, or release pending a
27 judicial proceeding.

28 2. A person who knowingly and intentionally harasses or
29 attempts to harass another person and thereby hinders, delays,
30 prevents, or dissuades a person from doing any of the
31 following, commits an aggravated misdemeanor:

32 a. Attending or testifying in an official proceeding.

33 b. Reporting to a law enforcement officer or judge the
34 commission or possible commission of an offense or a violation
35 of a condition of probation, parole, or release pending a

1 judicial proceeding.

2 c. Arresting or seeking the arrest of another person in
3 connection with an offense.

4 d. Causing a criminal prosecution, or a parole or
5 probation revocation proceeding, to be sought or instituted,
6 or assisting in such prosecution or proceeding.

7 3. In a prosecution for an offense under this section, it
8 is an affirmative defense, as to which the defendant has the
9 burden of proof by a preponderance of the evidence, that the
10 conduct consisted solely of lawful conduct and that the
11 defendant's sole intention was to encourage, induce, or cause
12 the other person to testify truthfully.

13 Sec. 12. NEW SECTION. 910A.11 CIVIL INJUNCTION TO
14 RESTRAIN HARASSMENT OR INTIMIDATION.

15 1. Upon application, the court shall issue a temporary
16 restraining order prohibiting the harassment or intimidation
17 of a victim or witness in a criminal case if the court finds,
18 from specific facts shown by affidavit or by verified
19 complaint, that there are reasonable grounds to believe that
20 harassment or intimidation of an identified victim or witness
21 in a criminal case exists or that the order is necessary to
22 prevent and restrain an offense under this chapter.

23 A temporary restraining order may be issued under this
24 subsection without written or oral notice to the adverse party
25 or the party's attorney in a civil action under this section
26 if the court finds, upon written certification of facts, that
27 the notice should not be required and that there is a
28 reasonable probability that the party will prevail on the
29 merits. The temporary restraining order shall set forth the
30 reasons for the issuance of the order, be specific in terms,
31 and describe in reasonable detail the act or acts being
32 restrained.

33 A temporary restraining order issued without notice under
34 this section shall be endorsed with the date and hour of
35 issuance and be filed immediately in the office of the clerk

1 of the court issuing the order.

2 A temporary restraining order issued under this section
3 shall expire at such time as the court directs, not to exceed
4 ten days from issuance. The court, for good cause shown
5 before expiration of the order, may extend the expiration date
6 of the order for up to ten days, or for a longer period agreed
7 to by the adverse party.

8 When a temporary restraining order is issued without
9 notice, the motion for a protective order shall be set down
10 for hearing at the earliest possible time and takes precedence
11 over all matters except older matters of the same character.
12 If the party does not proceed with the application for a
13 protective order when the motion is heard, the court shall
14 dissolve the temporary restraining order.

15 If, after two days' notice to the party or after a shorter
16 notice as the court prescribes, the adverse party appears and
17 moves to dissolve or modify the temporary restraining order,
18 the court shall proceed to hear and determine the motion as
19 expeditiously as possible.

20 2. Upon motion of the party, the court shall issue a
21 protective order prohibiting the harassment or intimidation of
22 a victim or witness in a criminal case if the court, after a
23 hearing, finds by a preponderance of the evidence that
24 harassment or intimidation of an identified victim or witness
25 in a criminal case exists or that the order is necessary to
26 prevent and restrain an offense under this chapter.

27 At the hearing, any adverse party named in the complaint
28 has the right to present evidence and cross-examine witnesses.

29 A protective order shall set forth the reasons for the
30 issuance of the order, be specific in terms, and describe in
31 reasonable detail the act or acts being restrained.

32 The court shall set the duration of the protective order
33 for the period it determines is necessary to prevent the
34 harassment or intimidation of the victim or witness, but the
35 duration shall not be set for a period in excess of three

1 years from the date of the issuance of the order. The party,
2 at any time within ninety days before the expiration of the
3 order, may apply for a new protective order under this
4 section.

5 Sec. 13. NEW SECTION. 910A.12 EMPLOYMENT PRACTICES.

6 An employer shall not discharge an employee from or take or
7 fail to take action regarding an employee's promotion or
8 proposed promotion or take action to reduce an employee's
9 wages or benefits, for actual time worked, due to the service
10 of an employee as a witness in a criminal proceeding. An
11 employer who violates this section commits a simple
12 misdemeanor.

13 Sec. 14. NEW SECTION. 910A.16 CHILD VICTIM SERVICES.

14 1. As used in this section, "victim" means a child under
15 the age of eighteen who has been sexually abused or subjected
16 to any other unlawful sexual conduct under chapter 709 or 726
17 or who has been the subject of a forcible felony.

18 2. A professional licensed or certified by the state to
19 provide immediate or short-term medical services or mental
20 health services to a victim may provide the services without
21 the prior consent or knowledge of the victim's parents or
22 guardians. Such a professional shall not deny initial
23 services to a victim due to the fact that the victim is
24 personally unable to pay for the services at the time the
25 services are provided.

26 3. Such a professional shall notify the victim if the pro-
27 fessional is required to report an incidence of child abuse
28 involving the victim pursuant to section 232.69.

29 Sec. 15. NEW SECTION. 910A.17 EXCEPTION FROM PUBLIC
30 RECORDS LAW.

31 A victim's registration pursuant to this chapter, shall be
54/ 32 strictly maintained in a separate confidential file,
33 notwithstanding chapter 22 or any other provision of law.

34 Sec. 16. NEW SECTION. 910A.18 IMMUNITY.

35 This chapter does not create a civil cause of action and a

1 person is not liable for damages resulting from an act or
2 omission in regard to any responsibility or authority created
3 by this chapter, and such acts or omissions shall not be used
4 in any proceeding for damages.

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5 Sec. 17. Sections 910A.2 through 910A.4, Code Supplement
6 1985, shall be moved by the Code editor to appear as sections
7 910A.13 through 910A.15.

8 Sec. 18. Section 910A.5, Code Supplement 1985, is
9 repealed.

10 EXPLANATION

11 This bill makes additions to chapter 910A (victim and
12 witness protection Act) including:

- 13 1. Requiring victim impact statements.
- 14 2. Providing definitions.
- 15 3. Providing that persons assisting victims of crime are
16 not civilly liable and qualify for reimbursement of losses.
- 17 4. Requiring notification to registered victims by the
18 clerk of court, law enforcement agencies, department of
19 corrections, and board of parole.
- 20 5. Establishing criminal penalties for persons who
21 interfere with official proceedings or harass victims or
22 witnesses.
- 23 6. Authorizing the issuance of temporary restraining
24 orders and protective orders.
- 25 7. Prohibiting retributive actions by employers against
26 employees who serve as witnesses.

27 The bill also makes cross references in other sections of the
28 Code and requires the Code editor to move certain existing
29 sections of chapter 910A.

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HOUSE FILE 2458

H-5458

1 Amend House File 2458 as follows:

- 2 1. Page 1, by inserting before line 1, the
3 following:
4 "Section 1. It is the purpose of this Act to
5 assure the fair and compassionate treatment of victims,
6 and witnesses of crimes and to increase the
7 effectiveness of the criminal justice system by
8 affording to them certain basic rights and
9 consideration, and by reaffirming the criminal justice
10 system's fundamental responsibility to victims and
11 witnesses to ensure their equitable and fair
12 treatment, protect them from intimidation and further
13 injury, assist them in overcoming emotional and
14 economic hardships resulting from criminal acts, and
15 to keep them informed of the status of their case."
16 2. By renumbering as necessary.

H-5458 FILED MARCH 18, 1986 BY HAMMOND of Story

Adopted 3/20 (p. 921)

HOUSE FILE 2458

H-5469

1 Amend House File 2458 as follows:

- 2 1. Page 3, line 30 by striking the word "of" and
3 inserting the word "before".
4 2. Page 4, by striking line 7 and inserting the
5 following: "the director of the department of
6 corrections, before the".

H-5469 FILED MARCH 18, 1986 BY STROMER of Hancock

2/15 3/20 (p. 922)

HOUSE FILE 2458

H-5451

1 Amend House File 2458 as follows:

2 1. Page 1, by striking lines 4 through 7, and
3 inserting the following: "and the community."
4 Additionally, the presentence investigator shall
5 provide a victim impact statement form to each victim,
6 if one has not already been provided, and shall file
7 the completed statement or statements with the
8 presentence investigation report."

9 2. Page 2, line 5, by inserting after the word
10 "papers." the following: "However, this notification
11 procedure does not prohibit an agency from also
12 providing appropriate information to a registered
13 victim by telephone."

14 3. Page 3, by striking lines 26 and 27.

15 4. Page 3, line 28, by striking the words "the
16 county" and inserting the words "The county".

17 5. Page 8, line 32, by inserting after the word
18 "file," the following: "and shall be available only
19 to the judicial district departments of correctional
20 services and the agencies required to provide
21 information under sections 910A.5 through 910A.9,".

22 6. Page 9, by inserting after line 4, the
23 following:

24 "Sec. ____ . Section 912.4, subsections 4 and 5,
25 Code Supplement 1985, are amended to read as follows:

26 4. When immediate or short-term medical services
27 or mental health services are provided to a victim
28 under section ~~910A.5~~ 910A.16, the department of human
29 services shall file the claim for reparation as
30 provided in subsection 3 for the victim and the
31 provisions of section 912.7, subsection 2, paragraphs
32 "b" and "c" do not apply.

33 5. When immediate or short-term medical services
34 to a victim are provided pursuant to section ~~910A.5~~
35 910A.16 by a professional licensed or certified by the
36 state to provide such services, the professional shall
37 file the claim for reparation, unless the department
38 of human services is required to file the claim under
39 this section, and the provisions of section 912.7,
40 subsection 2, paragraphs "b" and "c" do not apply.
41 The requirement to report the crime to the local
42 police department or county sheriff department under
43 subsection 2 does not apply to this subsection.

44 Sec. ____ . Section 912.13, Code Supplement 1985, is
45 amended to read as follows:

46 912.13 RULEMAKING.

47 The department shall adopt rules pursuant to
48 chapter 17A to implement the procedures for reparation
49 payments with respect to section ~~910A.5~~ 910A.16 and
50 section 912.4, subsections 3, 4, and 5."

Page Two

1 7. By numbering and ~~re~~numbering as necessary.

H-5451 FILED MARCH 18, 1986

Adopted 3/20 (p. 922)

BY CARL of Poweshiek
HAMMOND of Story
ROSENBERG of Story

A. Judiciary 3/26 Do Pass 3/28 (p. 933)

HOUSE FILE 2458
BY COMMITTEE ON JUDICIARY AND
LAW ENFORCEMENT

(As Amended and Passed by the House March 20, 1986)

Be Passed House, Date 4-18-86 (p. 1555) Passed Senate, Date 4-10-86 (p. 1171)
Vote: Ayes 95 Nays 0 Vote: Ayes 46 Nays 0
Approved May 5, 1986

A BILL FOR

1 An Act relating to victims and witnesses of criminal offenses,
2 and providing penalties.

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

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House Amendments _____

Language Deleted *

1 Section 1. It is the purpose of this Act to assure the
2 fair and compassionate treatment of victims and witnesses of
3 crimes and to increase the effectiveness of the criminal
4 justice system by affording to them certain basic rights and
5 consideration, and by reaffirming the criminal justice
6 system's fundamental responsibility to victims and witnesses
7 to ensure their equitable and fair treatment, protect them
8 from intimidation and further injury, assist them in
9 overcoming emotional and economic hardships resulting from
10 criminal acts, and to keep them informed of the status of
11 their case.

12 Sec. 2. Section 901.3, subsection 5, Code 1985, is amended
13 to read as follows:

14 5. The harm to the victim, the victim's immediate family,
15 and the community. Additionally, the presentence investigator
16 shall provide a victim impact statement form to each victim,
17 if one has not already been provided, and shall file the
18 completed statement or statements with the presentence
19 investigation report.

20 Sec. 3. Section 901.5, unnumbered paragraph 1, Code 1985,
21 is amended to read as follows:

22 After receiving and examining all pertinent information,
23 including the presentence investigation report and victim
24 impact statements, if any, the court shall consider the
25 following sentencing options. The court shall determine which
26 of them is authorized by law for the offense, and of the
27 authorized sentences, which of them or which combination of
28 them, in the discretion of the court, will provide maximum
29 opportunity for the rehabilitation of the defendant, and for
30 the protection of the community from further offenses by the
31 defendant and others.

32 Sec. 4. NEW SECTION. 910A.2 DEFINITIONS.

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34 requires:

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2 offense, other than a simple misdemeanor, committed in this
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4 a victim who died or was rendered incompetent as a result of
5 the offense or who was under eighteen years of age at the time
6 of the offense.

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8 section 702.11, and includes any other felony or aggravated
9 misdemeanor which involved the actual or threatened infliction
10 of physical or emotional injury on one or more persons.

11 3. "Registered" means having provided the appropriate
12 office, agency, or department with the victim's written
13 request for notification and current mailing address and
14 telephone number.

15 4. "Notification" means mailing by regular mail or
16 providing for hand delivery of appropriate information or
17 papers. However, this notification procedure does not
18 prohibit an agency from also providing appropriate information
19 to a registered victim by telephone.

20 Sec. 5. NEW SECTION. 910A.3 CITIZEN INTERVENTION.

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22 renders reasonable aid or assistance to another against whom a
23 crime is being committed is not liable for any civil damage
24 for acts or omissions resulting from the aid or assistance and
25 is eligible to file a claim for reimbursement as a victim
26 pursuant to section 912.1.

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28 A victim may file a signed victim impact statement with the
29 presentence investigator, and a filed impact statement shall
30 be included in the presentence investigation report.

31 The court shall consider a filed victim impact statement in
32 determining the appropriate sentence and in entering any order
33 of restitution to the victim pursuant to chapter 910.

34 The victim impact statement shall:

- 35 1. Identify the victim of the offense.

1 2. Itemize any economic loss suffered by the victim as a
2 result of the offense. For purposes of this paragraph, a
3 pecuniary damages statement prepared by a county attorney
4 pursuant to section 910.3, may serve as the itemization of
5 economic loss.

6 3. Identify any physical injury suffered by the victim as
7 a result of the offense with detail as to its seriousness and
8 permanence.

9 4. Describe any change in the victim's personal welfare or
10 familial relationships as a result of the offense.

11 5. Describe any request for psychological services
12 initiated by the victim or the victim's family as a result of
13 the offense.

14 6. Contain any other information related to the impact of
15 the offense upon the victim.

16 Sec. 7. NEW SECTION. 910A.5 NOTIFICATION BY COUNTY
17 ATTORNEY.

18 The county attorney shall notify a victim registered with
19 the county attorney's office of the following:

20 1. The cancellation or postponement of a court proceeding
21 that was expected to require the victim's attendance.

22 2. The possibility of assistance through the crime victim
23 reparations program, pursuant to chapter 912, and the
24 procedures for applying for that assistance.

25 3. The right, pursuant to chapter 910, to restitution for
26 pecuniary losses suffered as a result of crime.

27 4. The victim's right to make a written impact statement.

28 5. The right to register for notification with other
29 offices, departments, and agencies pursuant to sections 910A.5
30 through 910A.8.

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32 COURT.

33 The clerk of court shall notify a victim registered with
34 the office of the clerk of court of all dispositional orders
35 of the case in which the victim was involved and may advise

1 the victim of any other orders regarding custody or
2 confinement.

3 Sec. 9. NEW SECTION. 910A.7 NOTIFICATION BY LAW

* 4 ENFORCEMENT. The county sheriff or other person in charge of
5 the local jail or detention facility shall notify a victim
6 registered with the jail or detention facility of the
7 following:

8 1. The offender's release from custody on bail and the
9 terms or conditions of the release.

566 10 2. The offender's final release from local custody and the
11 location where the offender is expected to reside following
12 the release.

13 3. The offender's escape from custody.

14 Sec. 10. NEW SECTION. 910A.8 NOTIFICATION BY DEPARTMENT
15 OF CORRECTIONS.

16 The department of corrections shall notify a victim
17 registered with the department, regarding an offender
18 convicted of a violent crime and committed to the custody of
19 the director of the department of corrections, of the
20 following:

566 21 1. The date on which the offender is expected to be
22 temporarily released from custody on work release, and the
23 expected location to which the offender is to be released.

24 2. The date on which the offender is expected to be
25 temporarily released from custody on furlough, and the
26 expected location to which the offender is to be released.

27 3. The offender's escape from custody.

28 4. The recommendation by the department of the offender
29 for parole consideration.

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31 PAROLE.

32 1. The board of parole shall notify a victim registered
33 with the board, regarding an offender who has committed a
34 violent crime, as follows:

35 a. Not less than five days prior to conducting a hearing

1 at which the board will interview an offender, the board shall
2 notify the victim of the interview and inform the victim that
3 the victim may submit the victim's opinion concerning the
4 release of the offender in writing prior to the hearing or may
5 appear personally or by counsel at the hearing to express an
6 opinion concerning the offender's release.

7 b. Whether or not the victim appears at the hearing or
8 expresses an opinion concerning the offender's release on
9 parole, the board shall notify the victim of the board's
10 decision regarding release of the offender.

11 2. Offenders who are being considered for release on
12 parole may be informed of a victim's registration with the
13 board and the substance of any opinion submitted by the victim
14 regarding the release of the offender.

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17 1. A person who uses or attempts to use intimidation,
18 physical force, verbal or physical threats, misleading
19 conduct, or offers of pecuniary benefit or gain with the
20 intent to do either of the following commits a class "D"
21 felony:

22 a. Influence the testimony of a person in an official
23 proceeding.

24 b. Compel or induce a person to do any of the following:

25 (1) Withhold testimony, or withhold a record, document, or
26 other object, from an official proceeding.

27 (2) Alter, destroy, mutilate, or conceal an object with
28 intent to impair the integrity or availability of the object
29 for use in an official proceeding.

30 (3) Evade legal process summoning that person to appear as
31 a witness, or to produce a record, document, or other object,
32 in an official proceeding.

33 (4) Be absent from an official proceeding to which the
34 person has been summoned by legal process.

35 (5) Hinder, delay, or prevent the communication to a law

1 enforcement officer or judge of information relating to the
2 commission or possible commission of an offense or a violation
3 of a condition of probation, parole, or release pending a
4 judicial proceeding.

5 2. A person who knowingly and intentionally harasses or
6 attempts to harass another person and thereby hinders, delays,
7 prevents, or dissuades a person from doing any of the
8 following, commits an aggravated misdemeanor:

9 a. Attending or testifying in an official proceeding.

10 b. Reporting to a law enforcement officer or judge the
11 commission or possible commission of an offense or a violation
12 of a condition of probation, parole, or release pending a
13 judicial proceeding.

14 c. Arresting or seeking the arrest of another person in
15 connection with an offense.

16 d. Causing a criminal prosecution, or a parole or
17 probation revocation proceeding, to be sought or instituted,
18 or assisting in such prosecution or proceeding.

19 3. In a prosecution for an offense under this section, it
20 is an affirmative defense, as to which the defendant has the
21 burden of proof by a preponderance of the evidence, that the
22 conduct consisted solely of lawful conduct and that the
23 defendant's sole intention was to encourage, induce, or cause
24 the other person to testify truthfully.

25 Sec. 13. NEW SECTION. 910A.11 CIVIL INJUNCTION TO
26 RESTRAIN HARASSMENT OR INTIMIDATION.

27 1. Upon application, the court shall issue a temporary
28 restraining order prohibiting the harassment or intimidation
29 of a victim or witness in a criminal case if the court finds,
30 from specific facts shown by affidavit or by verified
31 complaint, that there are reasonable grounds to believe that
32 harassment or intimidation of an identified victim or witness
33 in a criminal case exists or that the order is necessary to
34 prevent and restrain an offense under this chapter.

35 A temporary restraining order may be issued under this

1 subsection without written or oral notice to the adverse party
2 or the party's attorney in a civil action under this section
3 if the court finds, upon written certification of facts, that
4 the notice should not be required and that there is a
5 reasonable probability that the party will prevail on the
6 merits. The temporary restraining order shall set forth the
7 reasons for the issuance of the order, be specific in terms,
8 and describe in reasonable detail the act or acts being
9 restrained.

10 A temporary restraining order issued without notice under
11 this section shall be endorsed with the date and hour of
12 issuance and be filed immediately in the office of the clerk
13 of the court issuing the order.

14 A temporary restraining order issued under this section
15 shall expire at such time as the court directs, not to exceed
16 ten days from issuance. The court, for good cause shown
17 before expiration of the order, may extend the expiration date
18 of the order for up to ten days, or for a longer period agreed
19 to by the adverse party.

20 When a temporary restraining order is issued without
21 notice, the motion for a protective order shall be set down
22 for hearing at the earliest possible time and takes precedence
23 over all matters except older matters of the same character.
24 If the party does not proceed with the application for a
25 protective order when the motion is heard, the court shall
26 dissolve the temporary restraining order.

27 If, after two days' notice to the party or after a shorter
28 notice as the court prescribes, the adverse party appears and
29 moves to dissolve or modify the temporary restraining order,
30 the court shall proceed to hear and determine the motion as
31 expeditiously as possible.

32 2. Upon motion of the party, the court shall issue a
33 protective order prohibiting the harassment or intimidation of
34 a victim or witness in a criminal case if the court, after a
35 hearing, finds by a preponderance of the evidence that

1 harassment or intimidation of an identified victim or witness
2 in a criminal case exists or that the order is necessary to
3 prevent and restrain an offense under this chapter.

4 At the hearing, any adverse party named in the complaint
5 has the right to present evidence and cross-examine witnesses.

6 A protective order shall set forth the reasons for the
7 issuance of the order, be specific in terms, and describe in
8 reasonable detail the act or acts being restrained.

56629 The court shall set the duration of the protective order
10 for the period it determines is necessary to prevent the
11 harassment or intimidation of the victim or witness, but the
12 duration shall not be set for a period in excess of three
13 years from the date of the issuance of the order. The party,
14 at any time within ninety days before the expiration of the
15 order, may apply for a new protective order under this
16 section.

17 Sec. 14. NEW SECTION. 910A.12 EMPLOYMENT PRACTICES.

18 An employer shall not discharge an employee from or take or
19 fail to take action regarding an employee's promotion or
20 proposed promotion or take action to reduce an employee's
21 wages or benefits, for actual time worked, due to the service
22 of an employee as a witness in a criminal proceeding. An
23 employer who violates this section commits a simple

5662 24 misdemeanor.

25 Sec. 15. NEW SECTION. 910A.16 CHILD VICTIM SERVICES.

26 1. As used in this section, "victim" means a child under
27 the age of eighteen who has been sexually abused or subjected
28 to any other unlawful sexual conduct under chapter 709 or 726
29 or who has been the subject of a forcible felony.

5662 30 2. A professional licensed or certified by the state to
31 provide immediate or short-term medical services or mental
32 health services to a victim may provide the services without
33 the prior consent or knowledge of the victim's parents or
34 guardians. Such a professional shall not deny initial
35 services to a victim due to the fact that the victim is

1 personally unable to pay for the services at the time the
2 services are provided.

3 3. Such a professional shall notify the victim if the pro-
4 fessional is required to report an incidence of child abuse
5 involving the victim pursuant to section 232.69.

6 Sec. 16. NEW SECTION. 910A.17 EXCEPTION FROM PUBLIC
7 RECORDS LAW.

8 A victim's registration pursuant to this chapter, shall be
9 strictly maintained in a separate confidential file, and shall
10 be available only to the judicial district departments of
11 correctional services and the agencies required to provide
12 information under sections 910A.5 through 910A.9,
13 notwithstanding chapter 22 or any other provision of law.

14 Sec. 17. NEW SECTION. 910A.18 IMMUNITY.

15 This chapter does not create a civil cause of action and a
16 person is not liable for damages resulting from an act or
17 omission in regard to any responsibility or authority created
18 by this chapter, and such acts or omissions shall not be used
5462 19 in any proceeding for damages.

20 Sec. 18. Section 912.4, subsections 4 and 5, Code
21 Supplement 1985, are amended to read as follows:

22 4. When immediate or short-term medical services or mental
23 health services are provided to a victim under section 910A-5
24 910A.16, the department of human services shall file the claim
25 for reparation as provided in subsection 3 for the victim and
26 the provisions of section 912.7, subsection 2, paragraphs "b"
27 and "c" do not apply.

28 5. When immediate or short-term medical services to a
29 victim are provided pursuant to section 910A-5 910A.16 by a
30 professional licensed or certified by the state to provide
31 such services, the professional shall file the claim for
32 reparation, unless the department of human services is
33 required to file the claim under this section, and the
34 provisions of section 912.7, subsection 2, paragraphs "b" and
35 "c" do not apply. The requirement to report the crime to the

1 local police department or county sheriff department under
2 subsection 2 does not apply to this subsection.

3 Sec. 19. Section 912.13, Code Supplement 1985, is amended
4 to read as follows:

5 912.13 RULEMAKING.

6 The department shall adopt rules pursuant to chapter 17A to
7 implement the procedures for reparation payments with respect
8 to section ~~910A.5~~ 910A.16 and section 912.4, subsections 3, 4,
9 and 5.

10 Sec. 20. Sections 910A.2 through 910A.4, Code Supplement
11 1985, shall be moved by the Code editor to appear as sections
12 910A.13 through 910A.15.

13 Sec. 21. Section 910A.5, Code Supplement 1985, is
14 repealed.

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HOUSE FILE 2458

S-5662

- 1 Amend House File 2458 as amended, passed and
2 reprinted by the House as follows:
3 1. Page 2, by striking lines 21 through 26 and
4 inserting the following:
5 "Any person, who in good faith and without
6 compensation, renders reasonable aid or assistance to
7 another against whom a crime is being committed or, if
8 rendered at the scene of the crime, to another against
9 whom a crime has been committed is not liable for any
10 civil damages for acts or omissions resulting from the
11 aid or assistance and is eligible to file a claim for
12 reimbursement as a victim pursuant to section 912.1."
13 2. Page 4, by striking lines 10 through 12 and
14 inserting the following:
15 "2. The offender's final release from local
16 custody."
17 3. Page 4, by striking lines 21 through 26 and
18 inserting the following:
19 "1. The date on which the offender is expected to
20 be released from custody on work release, and whether
21 the offender is expected to return to the community
22 where the registered victim resides.
23 2. The date on which the offender is expected to
24 be temporarily released from custody on furlough, and
25 whether the offender is expected to return to the
26 community where the registered victim resides."
27 4. By striking page 5, line 15, through page 6,
28 line 24.
29 5. Page 8, lines 12 and 13, by striking the words
30 "three years" and inserting the words "one year".
31 6. Page 8, by striking line 24, and inserting the
32 following: "misdemeanor, and an employee shall be
33 entitled to recover damages. Damages recoverable
34 under this section include but are not limited to,
35 actual damages, court costs, and reasonable attorney
36 fees. The employee may also petition the court for
37 imposition of a cease and desist order against the
38 person's employer and for reinstatement to the
39 person's previous position of employment."
40 7. By striking page 8, line 34 through page 9,
41 line 2, and inserting the following: "guardians."
42 8. Page 9, line 19, by inserting after the word
43 "damages." the following: "This section does not
44 apply to acts or omissions which constitute a willful
45 and wanton disregard for the rights or safety of
46 another."

S-5662 April 9, 1986

BY RITSEMA

Adopted 4/10/86 (f. 1171)

SENATE AMENDMENT TO HOUSE FILE 2458

H-5820

- 1 Amend House File 2458 as amended, passed and
2 reprinted by the House as follows:
3 1. Page 2, by striking lines 21 through 26 and
4 inserting the following:
5 "Any person, who in good faith and without
6 compensation, renders reasonable aid or assistance to
7 another against whom a crime is being committed or, if
8 rendered at the scene of the crime, to another against
9 whom a crime has been committed is not liable for any
10 civil damages for acts or omissions resulting from the
11 aid or assistance and is eligible to file a claim for
12 reimbursement as a victim pursuant to section 912.1."
13 2. Page 4, by striking lines 10 through 12 and
14 inserting the following:
15 "2. The offender's final release from local
16 custody."
17 3. Page 4, by striking lines 21 through 26 and
18 inserting the following:
19 "1. The date on which the offender is expected to
20 be released from custody on work release, and whether
21 the offender is expected to return to the community
22 where the registered victim resides.
23 2. The date on which the offender is expected to
24 be temporarily released from custody on furlough, and
25 whether the offender is expected to return to the
26 community where the registered victim resides."
27 4. By striking page 5, line 15, through page 6,
28 line 24.
29 5. Page 8, lines 12 and 13, by striking the words
30 "three years" and inserting the words "one year".
31 6. Page 8, by striking line 24, and inserting the
32 following: "misdemeanor, and an employee shall be
33 entitled to recover damages. Damages recoverable
34 under this section include but are not limited to,
35 actual damages, court costs, and reasonable attorney
36 fees. The employee may also petition the court for
37 imposition of a cease and desist order against the
38 person's employer and for reinstatement to the
39 person's previous position of employment."
40 7. By striking page 8, line 34 through page 9,
41 line 2, and inserting the following: "guardians."
42 8. Page 9, line 19, by inserting after the word
43 "damages." the following: "This section does not
44 apply to acts or omissions which constitute a willful
45 and wanton disregard for the rights or safety of
46 another."

H-5820 FILED APRIL 14, 1986 RECEIVED FROM THE SENATE

House concurred 4/18 (p. 1555)

Judiciary and Law Enforcement: Carl, Chair; Haverland and Kremer.

Judiciary & Law Enforcement

now
AF 2458

SENATE/HOUSE FILE 2458
BY (PROPOSED GOVERNOR'S BILL)

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

A BILL FOR

1 An Act relating to victims and witnesses of criminal offenses,
2 and providing penalties.

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

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1 Section 1. NEW SECTION. 910A.2 DEFINITIONS.

2 As used in this chapter, unless the context otherwise
3 requires:

4 1. "Victim" means a person who has suffered direct or
5 threatened physical, emotional, or financial harm as the
6 result of a public offense, other than a simple misdemeanor,
7 committed in this state. The term also includes the immediate
8 family members of a victim who died or was rendered
9 incompetent or disabled as a result of the offense or who was
10 under eighteen years of age at the time of the offense.

11 2. "Violent crime" means a forcible felony, as defined in
12 section 702.11, and includes any other felony or aggravated
13 misdemeanor which involved the actual or threatened infliction
14 of physical or emotional injury on one or more persons.

15 3. "Registered" means having provided the appropriate
16 office, agency, or department with the victim's written
17 request for notification and current mailing address and
18 telephone number.

19 Sec. 2. NEW SECTION. 910A.3 CITIZEN INTERVENTION.

20 Any person, who in good faith and without compensation,
21 renders reasonable aid or assistance to another against whom a
22 violent crime is being committed is not liable for any civil
23 damage for acts or omissions resulting from the aid or
24 assistance and is eligible to file a claim for reimbursement
25 as a victim pursuant to section 912.1.

26 Sec. 3. NEW SECTION. 910A.4 NOTIFICATION BY COUNTY
27 ATTORNEY.

28 The county attorney shall notify a victim registered with
29 the county attorney's office or a victim of a violent crime of
30 the following:

31 1. The cancellation or postponement of a court proceeding
32 that was expected to require the victim's attendance.

33 2. The possibility of assistance through the crime victim
34 reparations program, pursuant to chapter 912, and the
35 procedures for applying for that assistance.

1 3. The right, pursuant to chapter 910, to restitution for
2 pecuniary losses suffered as a result of crime.

3 4. The victim's right to make a written or oral impact
4 statement which shall be available to the judge prior to
5 sentencing and made a part of the presentence investigation
6 concerning the defendant. The notice given shall inform the
7 victim that the impact statement may include, but is not
8 limited to, the following:

9 a. An explanation of the nature and extent of any
10 physical, psychological, or emotional loss or trauma suffered
11 by the victim.

12 b. An explanation of the extent of any economic loss or
13 property damage suffered by the victim.

14 c. An opinion of the need for and extent of restitution
15 and whether the victim has applied for or received
16 compensation for damages or loss.

17 d. The victim's recommendation for an appropriate
18 sentence.

19 5. The right to register for notification with other
20 offices, departments, and agencies pursuant to sections 910A.5
21 through 910A.8.

22 Sec. 4. NEW SECTION. 910A.5 NOTIFICATION BY CLERK OF
23 COURT.

24 The clerk of court shall notify a victim registered with
25 the office of the clerk of court of the developments in and
26 the final disposition of the case in which the victim was
27 involved. This duty is satisfied by mailing, by regular mail,
28 or providing for hand delivery of copies of all orders entered
29 by the court and placed in the court file at any stage of the
30 proceedings.

31 Sec. 5. NEW SECTION. 910A.6 NOTIFICATION BY LAW
32 ENFORCEMENT.

33 With the assistance of the clerk of court and the local
34 employees of the district department of correctional services,
35 the county sheriff or other person in charge of the local jail

1 or detention facility shall notify a victim registered with
2 the jail or detention facility of the following:

3 1. The offender's release from custody on bail and the
4 terms or conditions of the release.

5 2. The offender's final release from local custody and the
6 location where the offender is expected to reside following
7 the release.

8 3. The offender's escape from custody.

9 Sec. 6. NEW SECTION. 910A.7 NOTIFICATION BY DEPARTMENT
10 OF CORRECTIONS.

11 The department of corrections shall notify a victim
12 registered with the department, regarding an offender
13 convicted of a violent crime and committed to the custody of
14 the director of the department of corrections, of the
15 following:

16 1. The date on which the offender is expected to be
17 temporarily released from custody on a furlough or work
18 release.

19 2. An offenders' escape from custody.

20 3. The recommendation by the department of an offender for
21 parole consideration.

22 Sec. 7. NEW SECTION. 910A.8 NOTIFICATION BY BOARD OF
23 PAROLE.

24 1. The board of parole shall notify a victim registered
25 with the board, regarding an offender who has committed a
26 violent crime, as follows:

27 a. Not less than five days prior to conducting a hearing
28 at which the board will interview an offender, the board shall
29 notify the victim of the interview and inform the victim that
30 the victim may submit the victim's opinion concerning the
31 release of the offender in writing prior to the hearing or may
32 appear personally or by counsel at the hearing to express an
33 opinion concerning the offender's release.

34 b. Whether or not the victim appears at the hearing or
35 expresses an opinion concerning the offender's release on

1 parole, the board shall notify the victim of the board's
2 decision regarding release of the offender.

3 2. Offenders who are being considered for release on
4 parole may be informed of a victim's registration with the
5 board and the substance of any opinion submitted by the victim
6 regarding the release of the offender. However, the victim's
7 current mailing address and telephone number shall be strictly
8 maintained in a separate confidential file, notwithstanding
9 chapter 22 or any other provision of law.

10 Sec. 8. NEW SECTION. 910A.9 CRIMINAL PENALTIES --
11 HARASSMENT.

12 1. A person who uses or attempts to use intimidation,
13 physical force, verbal or physical threats, misleading
14 conduct, or offers of pecuniary benefit or gain with the
15 intent to do either of the following commits a class "C"
16 felony:

17 a. Influence the testimony of a person in an official
18 proceeding.

19 b. Compel or induce a person to do any of the following:

20 (1) Withhold testimony, or withhold a record, document, or
21 other object, from an official proceeding.

22 (2) Alter, destroy, mutilate, or conceal an object with
23 intent to impair the integrity or availability of the object
24 for use in an official proceeding.

25 (3) Evade legal process summoning that person to appear as
26 a witness, or to produce a record, document, or other object,
27 in an official proceeding.

28 (4) Be absent from an official proceeding to which the
29 person has been summoned by legal process.

30 (5) Hinder, delay, or prevent the communication to a law
31 enforcement officer or judge of information relating to the
32 commission or possible commission of an offense or a violation
33 of a condition of probation, parole, or release pending a
34 judicial proceeding.

35 2. A person who knowingly and intentionally harasses or

1 attempts to harass another person and thereby hinders, delays,
2 prevents, or dissuades a person from doing any of the
3 following, commits an aggravated misdemeanor:

4 a. Attending or testifying in an official proceeding.

5 b. Reporting to a law enforcement officer or judge the
6 commission or possible commission of an offense or a violation
7 of a condition of probation, parole, or release pending a
8 judicial proceeding.

9 c. Arresting or seeking the arrest of another person in
10 connection with an offense.

11 d. Causing a criminal prosecution, or a parole or
12 probation revocation proceeding, to be sought or instituted,
13 or assisting in such prosecution or proceeding.

14 3. In a prosecution for an offense under this section, it
15 is an affirmative defense, as to which the defendant has the
16 burden of proof by a preponderance of the evidence, that the
17 conduct consisted solely of lawful conduct and that the
18 defendant's sole intention was to encourage, induce, or cause
19 the other person to testify truthfully.

20 Sec. 9. NEW SECTION. 910A.10 CIVIL INJUNCTION TO
21 RESTRAIN HARASSMENT.

22 1. Upon application of the county attorney, the court
23 shall issue a temporary restraining order prohibiting the
24 harassment of a victim or witness in a criminal case if the
25 court finds, from specific facts shown by affidavit or by
26 verified complaint, that there are reasonable grounds to
27 believe that harassment of an identified victim or witness in
28 a criminal case exists or that the order is necessary to
29 prevent and restrain an offense under this chapter.

30 A temporary restraining order may be issued under this
31 subsection without written or oral notice to the adverse party
32 or the party's attorney in a civil action under this section
33 if the court finds, upon written certification of facts by the
34 county attorney, that the notice should not be required and
35 that there is a reasonable probability that the state will

1 prevail on the merits. The temporary restraining order shall
2 set forth the reasons for the issuance of the order, be
3 specific in terms, and describe in reasonable detail the act
4 or acts being restrained.

5 A temporary restraining order issued without notice under
6 this section shall be endorsed with the date and hour of
7 issuance and be filed immediately in the office of the clerk
8 of the court issuing the order.

9 A temporary restraining order issued under this section
10 shall expire at such time as the court directs, not to exceed
11 ten days from issuance. The court, for good cause shown
12 before expiration of the order, may extend the expiration date
13 of the order for up to ten days, or for a longer period agreed
14 to by the adverse party.

15 When a temporary restraining order is issued without
16 notice, the motion for a protective order shall be set down
17 for hearing at the earliest possible time and takes precedence
18 over all matters except older matters of the same character.
19 If the county attorney does not proceed with the application
20 for a protective order when the motion is heard, the court
21 shall dissolve the temporary restraining order.

22 If, after two days notice to the county attorney or after a
23 shorter notice as the court prescribes, the adverse party
24 appears and moves to dissolve or modify the temporary
25 restraining order, the court shall proceed to hear and
26 determine the motion as expeditiously as possible.

27 2. Upon motion of the county attorney, the court shall
28 issue a protective order prohibiting the harassment of a
29 victim or witness in a criminal case if the court, after a
30 hearing, finds by a preponderance of the evidence that
31 harassment of an identified victim or witness in a criminal
32 case exists or that the order is necessary to prevent and
33 restrain an offense under this chapter.

34 At the hearing, any adverse party named in the complaint
35 has the right to present evidence and cross-examine witnesses.

1 A protective order shall set forth the reasons for the
2 issuance of the order, be specific in terms, and describe in
3 reasonable detail the act or acts being restrained.

4 The court shall set the duration of the protective order
5 for the period it determines is necessary to prevent the
6 harassment of the victim or witness, but the duration shall
7 not be set for a period in excess of three years from the date
8 of the issuance of the order. The county attorney, at any
9 time within ninety days before the expiration of the order,
10 may apply for a new protective order under this section.

11 Sec. 10. NEW SECTION. 910A.11 EMERGENCY PROTECTION.

12 Upon the request of a victim or witness, a local law
13 enforcement agency or the county attorney shall implement or
14 cause to be implemented, special emergency protection
15 procedures if a serious and substantial threat exists to the
16 victim or witness, or to the victim's or witness' immediate
17 family or property.

18 The local law enforcement agency or county attorney may
19 make application to the court for an order approving special
20 emergency protection procedures. The court shall grant the
21 application if it finds that a serious and substantial threat
22 exists that would warrant implementation of the proposed
23 special emergency protection procedures.

24 A local law enforcement agency may seek reimbursement, from
25 the funds available pursuant to chapter 912, for court ordered
26 special emergency protection procedures, by filing a claim
27 with the commissioner of the department of public safety.
28 However, the claim shall only be allowed if the court or the
29 commissioner has determined that the special emergency
30 protection procedures have placed an extraordinary burden upon
31 the local law enforcement agency's resources.

32 Sec. 11. NEW SECTION. 910A.12 EMPLOYMENT PRACTICES.

33 An employer shall not discharge an employee from or take or
34 fail to take action regarding an employee's promotion or
35 proposed promotion or take action to reduce an employee's

1 wages or benefits, for actual time worked, due to the service
2 of an employee as a witness in a criminal proceeding. An
3 employer who violates this section commits a simple
4 misdemeanor.

5 Sec. 12. Sections 910A.2 through 910A.5, Code Supplement
6 1985, are repealed and reenacted as sections 910A.13 through
7 910A.16.

8 EXPLANATION

9 This bill amends chapter 910A (victim and witness
10 protection Act) as follows:

11 Section 1 provides for the definition of the terms
12 "victim", "violent crime", and "registered" for purposes of
13 the chapter.

14 Section 2 provides that a person who aids or assists a
15 victim is not civilly liable and qualifies for reimbursement
16 of losses.

17 Section 3 provides for mandatory notifications by the
18 county attorney to the victim.

19 Section 4 provides for mandatory notifications by the clerk
20 of court to the victim.

21 Section 5 provides for mandatory notifications by law
22 enforcement agencies to the victim.

23 Section 6 provides for mandatory notifications by the
24 department of corrections to the victim.

25 Section 7 provides for mandatory notifications by the board
26 of parole to the victim.

27 Section 8 establishes criminal penalties for persons who
28 interfere with official proceedings (class "C" felony) or
29 harass victims or witnesses (aggravated misdemeanor).

30 Section 9 provides for the issuing of temporary restraining
31 orders and protective orders to enjoin a person from harassing
32 a victim or witness, and sets out the procedures and
33 circumstances for the issuance of the orders.

34 Section 10 provides that a victim or witness may request
35 special emergency protection procedures from local law

1 enforcement agencies. It also provides that the court may
2 order such procedures and allows the law enforcement agency to
3 seek reimbursement of protection expenses from the crime
4 victim reparation fund (chapter 912).

5 Section 11 prohibits an employer from taking or failing to
6 take action on a person's employment, promotion, wages, or
7 benefits due to the employee serving as a witness. Violation
8 of this prohibition is a simple misdemeanor.

9 Section 12 repeals the present sections 910A.2 through
10 910A.5 and reenacts them as sections 910A.13 through 910A.16.

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HOUSE FILE 2458

AN ACT
RELATING TO VICTIMS AND WITNESSES OF CRIMINAL OFFENSES, AND PRO-
VIDING PENALTIES.

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

Section 1. It is the purpose of this Act to assure the fair and compassionate treatment of victims and witnesses of crimes and to increase the effectiveness of the criminal justice system by affording to them certain basic rights and consideration, and by reaffirming the criminal justice system's fundamental responsibility to victims and witnesses to ensure their equitable and fair treatment, protect them from intimidation and further injury, assist them in overcoming emotional and economic hardships resulting from criminal acts, and to keep them informed of the status of their case.

Sec. 2. Section 901.3, subsection 5, Code 1985, is amended to read as follows:

5. The harm to the victim, the victim's immediate family, and the community. Additionally, the presentence investigator shall provide a victim impact statement form to each victim, if one has not already been provided, and shall file the completed statement or statements with the presentence investigation report.

Sec. 3. Section 901.5, unnumbered paragraph 1, Code 1985, is amended to read as follows:

After receiving and examining all pertinent information, including the presentence investigation report and victim impact statements, if any, the court shall consider the following sentencing options. The court shall determine which of them is authorized by law for the offense, and of the authorized sentences, which of them or which combination of

them, in the discretion of the court, will provide maximum opportunity for the rehabilitation of the defendant, and for the protection of the community from further offenses by the defendant and others.

Sec. 4. NEW SECTION. 910A.2 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Victim" means a person who has suffered physical, emotional, or financial harm as the result of a public offense, other than a simple misdemeanor, committed in this state. The term also includes the immediate family members of a victim who died or was rendered incompetent as a result of the offense or who was under eighteen years of age at the time of the offense.

2. "Violent crime" means a forcible felony, as defined in section 702.11, and includes any other felony or aggravated misdemeanor which involved the actual or threatened infliction of physical or emotional injury on one or more persons.

3. "Registered" means having provided the appropriate office, agency, or department with the victim's written request for notification and current mailing address and telephone number.

4. "Notification" means mailing by regular mail or providing for hand delivery of appropriate information or papers. However, this notification procedure does not prohibit an agency from also providing appropriate information to a registered victim by telephone.

Sec. 5. NEW SECTION. 910A.3 CITIZEN INTERVENTION.

Any person, who in good faith and without compensation, renders reasonable aid or assistance to another against whom a crime is being committed or, if rendered at the scene of the crime, to another against whom a crime has been committed is not liable for any civil damages for acts or omissions resulting from the aid or assistance and is eligible to file a claim for reimbursement as a victim pursuant to section 912.1.

Sec. 6. NEW SECTION. 910A.4 VICTIM IMPACT STATEMENT.

A victim may file a signed victim impact statement with the presentence investigator, and a filed impact statement shall be included in the presentence investigation report.

The court shall consider a filed victim impact statement in determining the appropriate sentence and in entering any order of restitution to the victim pursuant to chapter 910.

The victim impact statement shall:

1. Identify the victim of the offense.
2. Itemize any economic loss suffered by the victim as a result of the offense. For purposes of this paragraph, a pecuniary damages statement prepared by a county attorney pursuant to section 910.3, may serve as the itemization of economic loss.
3. Identify any physical injury suffered by the victim as a result of the offense with detail as to its seriousness and permanence.
4. Describe any change in the victim's personal welfare or familial relationships as a result of the offense.
5. Describe any request for psychological services initiated by the victim or the victim's family as a result of the offense.
6. Contain any other information related to the impact of the offense upon the victim.

Sec. 7. NEW SECTION. 910A.5 NOTIFICATION BY COUNTY ATTORNEY.

The county attorney shall notify a victim registered with the county attorney's office of the following:

1. The cancellation or postponement of a court proceeding that was expected to require the victim's attendance.
2. The possibility of assistance through the crime victim reparations program, pursuant to chapter 912, and the procedures for applying for that assistance.
3. The right, pursuant to chapter 910, to restitution for pecuniary losses suffered as a result of crime.
4. The victim's right to make a written impact statement.

5. The right to register for notification with other offices, departments, and agencies pursuant to sections 910A.5 through 910A.8.

Sec. 8. NEW SECTION. 910A.6 NOTIFICATION BY CLERK OF COURT.

The clerk of court shall notify a victim registered with the office of the clerk of court of all dispositional orders of the case in which the victim was involved and may advise the victim of any other orders regarding custody or confinement.

Sec. 9. NEW SECTION. 910A.7 NOTIFICATION BY LAW ENFORCEMENT.

The county sheriff or other person in charge of the local jail or detention facility shall notify a victim registered with the jail or detention facility of the following:

1. The offender's release from custody on bail and the terms or conditions of the release.
2. The offender's final release from local custody.
3. The offender's escape from custody.

Sec. 10. NEW SECTION. 910A.8 NOTIFICATION BY DEPARTMENT OF CORRECTIONS.

The department of corrections shall notify a victim registered with the department, regarding an offender convicted of a violent crime and committed to the custody of the director of the department of corrections, of the following:

1. The date on which the offender is expected to be released from custody on work release, and whether the offender is expected to return to the community where the registered victim resides.
2. The date on which the offender is expected to be temporarily released from custody on furlough, and whether the offender is expected to return to the community where the registered victim resides.
3. The offender's escape from custody.

4. The recommendation by the department of the offender for parole consideration.

Sec. 11. NEW SECTION. 910A.9 NOTIFICATION BY BOARD OF PAROLE.

1. The board of parole shall notify a victim registered with the board, regarding an offender who has committed a violent crime, as follows:

a. Not less than five days prior to conducting a hearing at which the board will interview an offender, the board shall notify the victim of the interview and inform the victim that the victim may submit the victim's opinion concerning the release of the offender in writing prior to the hearing or may appear personally or by counsel at the hearing to express an opinion concerning the offender's release.

b. Whether or not the victim appears at the hearing or expresses an opinion concerning the offender's release on parole, the board shall notify the victim of the board's decision regarding release of the offender.

2. Offenders who are being considered for release on parole may be informed of a victim's registration with the board and the substance of any opinion submitted by the victim regarding the release of the offender.

Sec. 12. NEW SECTION. 910A.11 CIVIL INJUNCTION TO RESTRAIN HARASSMENT OR INTIMIDATION.

1. Upon application, the court shall issue a temporary restraining order prohibiting the harassment or intimidation of a victim or witness in a criminal case if the court finds, from specific facts shown by affidavit or by verified complaint, that there are reasonable grounds to believe that harassment or intimidation of an identified victim or witness in a criminal case exists or that the order is necessary to prevent and restrain an offense under this chapter.

A temporary restraining order may be issued under this subsection without written or oral notice to the adverse party or the party's attorney in a civil action under this section if the court finds, upon written certification of facts, that

the notice should not be required and that there is a reasonable probability that the party will prevail on the merits. The temporary restraining order shall set forth the reasons for the issuance of the order, be specific in terms, and describe in reasonable detail the act or acts being restrained.

A temporary restraining order issued without notice under this section shall be endorsed with the date and hour of issuance and be filed immediately in the office of the clerk of the court issuing the order.

A temporary restraining order issued under this section shall expire at such time as the court directs, not to exceed ten days from issuance. The court, for good cause shown before expiration of the order, may extend the expiration date of the order for up to ten days, or for a longer period agreed to by the adverse party.

When a temporary restraining order is issued without notice, the motion for a protective order shall be set down for hearing at the earliest possible time and takes precedence over all matters except older matters of the same character. If the party does not proceed with the application for a protective order when the motion is heard, the court shall dissolve the temporary restraining order.

If, after two days' notice to the party or after a shorter notice as the court prescribes, the adverse party appears and moves to dissolve or modify the temporary restraining order, the court shall proceed to hear and determine the motion as expeditiously as possible.

2. Upon motion of the party, the court shall issue a protective order prohibiting the harassment or intimidation of a victim or witness in a criminal case if the court, after a hearing, finds by a preponderance of the evidence that harassment or intimidation of an identified victim or witness in a criminal case exists or that the order is necessary to prevent and restrain an offense under this chapter.

At the hearing, any adverse party named in the complaint has the right to present evidence and cross-examine witnesses.

A protective order shall set forth the reasons for the issuance of the order, be specific in terms, and describe in reasonable detail the act or acts being restrained.

The court shall set the duration of the protective order for the period it determines is necessary to prevent the harassment or intimidation of the victim or witness, but the duration shall not be set for a period in excess of one year from the date of the issuance of the order. The party, at any time within ninety days before the expiration of the order, may apply for a new protective order under this section.

Sec. 13. NEW SECTION. 910A.12 EMPLOYMENT PRACTICES.

An employer shall not discharge an employee from or take or fail to take action regarding an employee's promotion or proposed promotion or take action to reduce an employee's wages or benefits, for actual time worked, due to the service of an employee as a witness in a criminal proceeding. An employer who violates this section commits a simple misdemeanor, and an employee shall be entitled to recover damages. Damages recoverable under this section include but are not limited to, actual damages, court costs, and reasonable attorney fees. The employee may also petition the court for imposition of a cease and desist order against the person's employer and for reinstatement to the person's previous position of employment.

Sec. 14. NEW SECTION. 910A.16 CHILD VICTIM SERVICES.

1. As used in this section, "victim" means a child under the age of eighteen who has been sexually abused or subjected to any other unlawful sexual conduct under chapter 709 or 726 or who has been the subject of a forcible felony.

2. A professional licensed or certified by the state to provide immediate or short-term medical services or mental health services to a victim may provide the services without the prior consent or knowledge of the victim's parents or guardians.

3. Such a professional shall notify the victim if the professional is required to report an incidence of child abuse involving the victim pursuant to section 232.69.

Sec. 15. NEW SECTION. 910A.17 EXCEPTION FROM PUBLIC RECORDS LAW.

A victim's registration pursuant to this chapter, shall be strictly maintained in a separate confidential file, and shall be available only to the judicial district departments of correctional services and the agencies required to provide information under sections 910A.5 through 910A.9, notwithstanding chapter 22 or any other provision of law.

Sec. 16. NEW SECTION. 910A.18 IMMUNITY.

This chapter does not create a civil cause of action and a person is not liable for damages resulting from an act or omission in regard to any responsibility or authority created by this chapter, and such acts or omissions shall not be used in any proceeding for damages. This section does not apply to acts or omissions which constitute a willful and wanton disregard for the rights or safety of another.

Sec. 17. Section 912.4, subsections 4 and 5, Code Supplement 1985, are amended to read as follows:

4. When immediate or short-term medical services or mental health services are provided to a victim under section 910A-5 910A.16, the department of human services shall file the claim for reparation as provided in subsection 3 for the victim and the provisions of section 912.7, subsection 2, paragraphs "b" and "c" do not apply.

5. When immediate or short-term medical services to a victim are provided pursuant to section 910A-5 910A.16 by a professional licensed or certified by the state to provide such services, the professional shall file the claim for reparation, unless the department of human services is required to file the claim under this section, and the provisions of section 912.7, subsection 2, paragraphs "b" and "c" do not apply. The requirement to report the crime to the local police department or county sheriff department under subsection 2 does not apply to this subsection.

Sec. 18. Section 912.13, Code Supplement 1985, is amended to read as follows:

912.13 RULEMAKING.

The department shall adopt rules pursuant to chapter 17A to implement the procedures for reparation payments with respect to section ~~910A.5~~ 910A.16 and section 912.4, subsections 3, 4, and 5.

Sec. 19. Sections 910A.2 through 910A.4, Code Supplement 1985, shall be moved by the Code editor to appear as sections 910A.13 through 910A.15.

Sec. 20. Section 910A.5, Code Supplement 1985, is repealed.

DONALD D. AVENSON
Speaker of the House

ROBERT T. ANDERSON
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2458, Seventy-first General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved *Mays*, 1986

TERRY E. BRANSTAD
Governor

H.F. 2458