

JAN 17 1992

Judiciary
Am. 2 (5064) & Ho. Res. 129

HOUSE FILE 2025
BY PONCY, JAY, HANSON
of Black Hawk, BURKE,
MILLAGE, SVOBODA, McNEAL,
ADAMS, CARPENTER, FOGARTY,
CONNORS, OLLIE, BLANSHAN,
HAVERLAND, SHERZAN, BISIGNANO,
CHAPMAN, PETERSON of Carroll,
GRUHN, TEAFORD, SHOULTZ,
RENAUD, DICKINSON, SHEARER,
HANSEN of Woodbury, and
LUNDBY, HALVORSON of Webster (p.53)

Passed House, Date 2/7/92 (p. 181) Passed Senate, Date _____
Vote: Ayes 99 Nays 0 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act prohibiting stalking and providing criminal penalties.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2025

1 Section 1. NEW SECTION. 708.11 STALKING.

2 1. a. A person commits stalking when the person willfully
3 follows, pursues, or harasses another person and, while doing
4 so and without legitimate purpose, makes a credible threat
5 against the other person. A person may commit stalking by
6 harassing another person without committing the offense of
7 harassment pursuant to section 708.7.

8 b. As used in this section, "credible threat" means a
9 threat made with the intent to place another person in
10 reasonable fear of death or serious injury, coupled with the
11 apparent ability to carry out the threat.

12 2. A person who violates this section commits:

13 a. A class "D" felony for a third or subsequent offense.

14 b. An aggravated misdemeanor for a second offense.

15 c. A serious misdemeanor for a first offense when the act
16 was in violation of an order setting conditions of release, a
17 no-contact order, an injunction or restraining order, an order
18 to vacate the premises or homestead, or any other protective
19 order issued in a civil action or in a juvenile or criminal
20 proceeding.

21 d. A simple misdemeanor for a first offense.

22 3. A conviction for, deferred judgment for, or plea of
23 guilty to a violation of this section which occurred more than
24 six years prior to the date of the violation charged shall not
25 be considered in determining that the violation charged is a
26 second or subsequent offense. Deferred judgments pursuant to
27 section 907.3 for violations of this section and convictions
28 or the equivalent of deferred judgments for violations in any
29 other states under statutes substantially corresponding to
30 this section shall be counted as previous offenses. The
31 courts shall judicially notice the statutes of other states
32 which define offenses substantially equivalent to the offenses
33 defined in this section and can therefore be considered
34 corresponding statutes. Each previous violation on which
35 conviction or deferral of judgment was entered prior to the

1 date of the violation charged shall be considered and counted
2 as a separate previous offense. An offense shall be
3 considered a second or subsequent offense regardless of
4 whether it was committed upon the same person who was the
5 victim of any other previous offense.

50047

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EXPLANATION

7 This bill establishes the public offense of stalking.
8 Under the bill, a person commits stalking when the person
9 willfully follows, pursues, or harasses another person and,
10 while doing so and without legitimate purpose, makes a
11 credible threat against the other person. The bill defines a
12 "credible threat" as a threat made with the intent to place
13 another person in reasonable fear of death or serious injury,
14 coupled with the apparent ability to carry out the threat.

15 The bill establishes several different criminal penalties
16 for stalking. If the offender commits a third or subsequent
17 offense, the person commits a class "D" felony. The bill
18 provides that a second offense constitutes an aggravated
19 misdemeanor. If the act is committed in violation of an
20 injunction or a similar court order, the person commits a
21 serious misdemeanor under the bill. The bill provides that
22 any other stalking offense is a simple misdemeanor. For the
23 purpose of determining whether the offense is a second or
24 subsequent offense, the previous violation must have occurred
25 in the past six years and the bill further provides that the
26 prior offense need not be committed upon the same victim.

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HOUSE FILE 2025
FISCAL NOTE

A fiscal note for House File 2025 as amended and passed by the House is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

House File 2025 as amended and passed by the House establishes the public offense of stalking. The bill creates a graduated penalty system for the new stalking offense. The penalties range from a simple misdemeanor to a Class D felony. House File 2025 provides that those awaiting judgment of conviction and sentencing for stalking, or appealing a conviction of stalking, are not eligible for bail if the conviction is punishable as at least a serious misdemeanor.

The penalty for a simple misdemeanor is a maximum of no more than 30 days confinement or no more than a \$100 fine. The penalty for a Class D felony is no more than 5 years confinement, no more than a \$7,500 fine, or both.

It is not possible to predict the number of offenders who would be sentenced under this legislation. However, House File 2025 may increase prison admissions, Community Based Corrections' (CBC) caseloads, and county jail costs. Other criminal justice system costs may also increase. This includes the costs of incarceration pending trial or sentencing, increased criminal court cases, and prosecution and defense costs.

Following is the average daily costs for certain criminal justice functions.

County jails: \$45.
State prisons and CBC facilities: \$50.
Probation/parole supervision: \$1.57.
Presentence investigations: \$288 (average cost per investigation).
Pretrial interviews: \$77.64 (average cost per interview).
Pretrial release with services: \$0.74.

In addition, average indigent defense cost per case ranges from \$180 (public defender) to \$225 (court-appointed counsel).

Sources: Iowa State Association of Counties
Department of Corrections
Department of Human Rights
Department of Inspections and Appeals

(LSB 5062hh, BAL)

FILED FEBRUARY 18, 1992

BY DENNIS PROUTY, FISCAL DIRECTOR

HOUSE FILE 2025

H-5004

- 1 Amend House File 2025 as follows:
- 2 1. Page 2, by inserting after line 5 the
- 3 following:
- 4 "Sec. ____ . Section 811.1, subsection 3, Code 1991,
- 5 is amended to read as follows:
- 6 3. Notwithstanding subsections 1 and 2, a
- 7 defendant awaiting judgment of conviction and
- 8 sentencing following either a plea or verdict of
- 9 guilty of, or appealing a conviction of, a felony
- 10 offense under chapter 204 not provided for in
- 11 subsection 1 or 2 or a violation of section 708.11, is
- 12 presumed to be ineligible to be admitted to bail
- 13 unless the court determines that such release
- 14 reasonably will not result in the person failing to
- 15 appear as required and will not jeopardize the
- 16 personal safety of another person or persons."
- 17 2. Title page, line 1, by inserting after the
- 18 word "penalties" the following: ", and establishing
- 19 restrictions concerning admissibility to bail".
- 20 3. By renumbering as necessary.

By COMMITTEE ON JUDICIARY
AND LAW ENFORCEMENT
JAY of Appanoose, Chairperson

H-5004 FILED JANUARY 29, 1992

Adopted as amended by 5019 2/1 (p. 180)

HOUSE FILE 2025

H-5009

- 1 Amend House File 2025 as follows:
- 2 1. Page 1, line 4, by striking the words "and
- 3 without legitimate purpose".

By McNEAL of Hardin

H-5009 FILED JANUARY 30, 1992

Adopted 2/1 (p. 181)

HOUSE FILE 2025

H-5019

- 1 Amend amendment, H-5004, to House File 2025, as
- 2 follows:

- 3 1. Page 1, line 11, by striking the words and
- 4 figure "of section 708.11" and inserting the
- 5 following: "punishable under section 708.11,
- 6 subsection 2, paragraph "a", "b", or "c"".

By McNEAL of Hardin

H-5019 FILED FEBRUARY 5, 1992

Adopted 2/1 (p. 180)

Sen Judiciary, Amend - R's Pass (S-5392) 3/26

HOUSE FILE 2025
BY PONCY, JAY, HANSON
of Black Hawk, BURKE,
MILLAGE, SVOBODA, McNEAL,
ADAMS, CARPENTER, FOGARTY,
CONNORS, OLLIE, BLANSHAN,
HAVERLAND, SHERZAN, BISIGNANO,
CHAPMAN, PETERSON of Carroll,
GRUHN, TEAFORD, SHOULTZ,
RENAUD, DICKINSON, SHEARER,
HANSEN of Woodbury, LUNDBY,
HIBBARD, NIELSEN, HALVORSON
of Webster, and SPENNER

(As Amended and Passed by the House February 7, 1992)

Passed House, Date 4/14/92 (p. 1339) Passed Senate, Date 4-19-92 (p. 1139)
Vote: Ayes 96 Nays 0 Vote: Ayes 45 Nays 0
Approved April 29, 1992

A BILL FOR

1 An Act prohibiting stalking and providing criminal penalties, and
2 establishing restrictions concerning admissibility to bail.

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

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House Amendments _____

Deleted Language *

1 Section 1. NEW SECTION. 708.11 STALKING.

2 1. a. A person commits stalking when the person willfully
3 follows, pursues, or harasses another person and, while doing
* 4 so, makes a credible threat against the other person. A
5 person may commit stalking by harassing another person without
6 committing the offense of harassment pursuant to section
7 708.7.

8 b. As used in this section, "credible threat" means a
9 threat made with the intent to place another person in
10 reasonable fear of death or serious injury, coupled with the
11 apparent ability to carry out the threat.

12 2. A person who violates this section commits:

13 a. A class "D" felony for a third or subsequent offense.

14 b. An aggravated misdemeanor for a second offense.

15 c. A serious misdemeanor for a first offense when the act
16 was in violation of an order setting conditions of release, a
17 no-contact order, an injunction or restraining order, an order
18 to vacate the premises or homestead, or any other protective
19 order issued in a civil action or in a juvenile or criminal
20 proceeding.

21 d. A simple misdemeanor for a first offense.

22 3. A conviction for, deferred judgment for, or plea of
23 guilty to a violation of this section which occurred more than
24 six years prior to the date of the violation charged shall not
25 be considered in determining that the violation charged is a
26 second or subsequent offense. Deferred judgments pursuant to
27 section 907.3 for violations of this section and convictions
28 or the equivalent of deferred judgments for violations in any
29 other states under statutes substantially corresponding to
30 this section shall be counted as previous offenses. The
31 courts shall judicially notice the statutes of other states
32 which define offenses substantially equivalent to the offenses
33 defined in this section and can therefore be considered
34 corresponding statutes. Each previous violation on which
35 conviction or deferral of judgment was entered prior to the

1 date of the violation charged shall be considered and counted
2 as a separate previous offense. An offense shall be
3 considered a second or subsequent offense regardless of
4 whether it was committed upon the same person who was the
5 victim of any other previous offense.

6 Sec. 2. Section 811.1, subsection 3, Code 1991, is amended
7 to read as follows:

8 3. Notwithstanding subsections 1 and 2, a defendant
9 awaiting judgment of conviction and sentencing following
10 either a plea or verdict of guilty of, or appealing a
11 conviction of, a felony offense under chapter 204 not provided
12 for in subsection 1 or 2 or a violation punishable under
13 section 708.11, subsection 2, paragraph "a", "b", or "c", is
14 presumed to be ineligible to be admitted to bail unless the
15 court determines that such release reasonably will not result
16 in the person failing to appear as required and will not
17 jeopardize the personal safety of another person or persons.

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HOUSE FILE 2025

S-5392

- 1 Amend House File 2025, as amended, passed, and
2 reprinted by the House, as follows:
- 3 1. Page 1, line 2, by inserting before the word
4 "willfully" the following: ", on more than one
5 occasion,".
- 6 2. Page 1, line 4, by striking the word "so," and
7 inserting the following: "so and without legitimate
8 purpose,".
- 9 3. Page 1, line 8, by striking the words
10 ""credible threat"" and inserting the following:
11 "unless the context otherwise requires:
12 (1) "Credible threat"."
- 13 4. Page 1, line 10, by striking the word
14 "serious" and inserting the following: "bodily".
- 15 5. Page 1, by inserting after line 11 the
16 following:
17 "(2) "Harasses" means repeated, intrusive, or
18 unwanted acts, words, or gestures that are intended to
19 adversely affect the safety, security, or privacy of
20 another person, regardless of the relationship between
21 the offender and the intended victim."
- 22 6. Page 2, line 13, by striking the words "'a",
23 "b", or "c" and inserting the following: "'a"."
- 24 7. Page 2, line 17, by inserting after the word
25 "persons." the following: "While the presumption of
26 ineligibility for bail established in this subsection
27 shall not apply to a violation punishable under
28 section 708.11, subsection 2, paragraph "b" or "c", in
29 considering bail for a defendant awaiting judgment of
30 conviction and sentencing following a plea or verdict
31 of guilty of, or appealing a conviction of, a
32 violation punishable pursuant to section 708.11,
33 subsection 2, paragraph "b" or "c", the court shall
34 consider the likelihood of the defendant reestab-
35 lishing contact with the victim of the violation."
- 36 8. By renumbering as necessary.

By COMMITTEE ON JUDICIARY
Al STURGEON, Chairperson

S-5392 FILED MARCH 26, 1992

Adopted 11 p. 1136

HOUSE FILE 2025

S-5490

- 1 Amend House File 2025, as amended, passed, and
- 2 reprinted by the House, as follows:
- 3 1. Page 1, by striking line 9 and inserting the
- 4 following: "threat made with the intent to place a
- 5 reasonable person in like circumstances in".
- 6 2. Page 1, line 10, by striking the word
- 7 "reasonable".

By LINN FUHRMAN

S-5490 FILED APRIL 1, 1992

ADOPTED (p. 1138)

SENATE AMENDMENT TO HOUSE FILE 2025

E-5707

- 1 Amend House File 2025, as amended, passed, and
2 reprinted by the House, as follows:
- 3 1. Page 1, line 2, by inserting before the word
4 "willfully" the following: ", on more than one
5 occasion,".
- 6 2. Page 1, line 4, by striking the word "so," and
7 inserting the following: "so and without legitimate
8 purpose,".
- 9 3. Page 1, line 8, by striking the words
10 "'credible threat'" and inserting the following:
11 "unless the context otherwise requires:
12 (1) 'Credible threat'."
- 13 4. Page 1, by striking line 9 and inserting the
14 following: "threat made with the intent to place a
15 reasonable person in like circumstances in".
- 16 5. Page 1, line 10, by striking the word
17 "reasonable".
- 18 6. Page 1, line 10, by striking the word
19 "serious" and inserting the following: "bodily".
- 20 7. Page 1, by inserting after line 11 the
21 following:
22 "(2) 'Harasses' means repeated, intrusive, or
23 unwanted acts, words, or gestures that are intended to
24 adversely affect the safety, security, or privacy of
25 another person, regardless of the relationship between
26 the offender and the intended victim."
- 27 8. Page 2, line 13, by striking the words "'a",
28 "b", or "c"' and inserting the following: "'a"'.
29 9. Page 2, line 17, by inserting after the word
30 "persons." the following: "While the presumption of
31 ineligibility for bail established in this subsection
32 shall not apply to a violation punishable under
33 section 708.11, subsection 2, paragraph 'b' or 'c', in
34 considering bail for a defendant awaiting judgment of
35 conviction and sentencing following a plea or verdict
36 of guilty of, or appealing a conviction of, a
37 violation punishable pursuant to section 708.11,
38 subsection 2, paragraph 'b' or 'c', the court shall
39 consider the likelihood of the defendant reestab-
40 lishing contact with the victim of the violation."
- 41 10. By renumbering, relettering, or redesignating
42 and correcting internal references as necessary.

RECEIVED FROM THE SENATE

H-5707 FILED APRIL 3, 1992

Have concurred 4/14/92 (p. 1329)

HOUSE FILE 2025

AN ACT

PROHIBITING STALKING AND PROVIDING CRIMINAL PENALTIES, AND
ESTABLISHING RESTRICTIONS CONCERNING ADMISSIBILITY TO BAIL.

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

Section 1. NEW SECTION. 708.11 STALKING.

1. a. A person commits stalking when the person, on more than one occasion, willfully follows, pursues, or harasses another person and, while doing so and without legitimate purpose, makes a credible threat against the other person. A person may commit stalking by harassing another person without committing the offense of harassment pursuant to section 708.7.

b. As used in this section, unless the context otherwise requires:

(1) "Credible threat" means a threat made with the intent to place a reasonable person in like circumstances in fear of death or bodily injury, coupled with the apparent ability to carry out the threat.

(2) "Harasses" means repeated, intrusive, or unwanted acts, words, or gestures that are intended to adversely affect the safety, security, or privacy of another person, regardless of the relationship between the offender and the intended victim.

2. A person who violates this section commits:

a. A class "D" felony for a third or subsequent offense.

b. An aggravated misdemeanor for a second offense.

c. A serious misdemeanor for a first offense when the act was in violation of an order setting conditions of release, a no-contact order, an injunction or restraining order, an order to vacate the premises or homestead, or any other protective order issued in a civil action or in a juvenile or criminal

proceeding.

d. A simple misdemeanor for a first offense.

3. A conviction for, deferred judgment for, or plea of guilty to a violation of this section which occurred more than six years prior to the date of the violation charged shall not be considered in determining that the violation charged is a second or subsequent offense. Deferred judgments pursuant to section 907.3 for violations of this section and convictions or the equivalent of deferred judgments for violations in any other states under statutes substantially corresponding to this section shall be counted as previous offenses. The courts shall judicially notice the statutes of other states which define offenses substantially equivalent to the offenses defined in this section and can therefore be considered corresponding statutes. Each previous violation on which conviction or deferral of judgment was entered prior to the date of the violation charged shall be considered and counted as a separate previous offense. An offense shall be considered a second or subsequent offense regardless of whether it was committed upon the same person who was the victim of any other previous offense.

Sec. 2. Section 811.1, subsection 3, Code 1991, is amended to read as follows:

3. Notwithstanding subsections 1 and 2, a defendant awaiting judgment of conviction and sentencing following either a plea or verdict of guilty of, or appealing a conviction of, a felony offense under chapter 204 not provided for in subsection 1 or 2 or a violation punishable under section 708.11, subsection 2, paragraph "a", is presumed to be ineligible to be admitted to bail unless the court determines that such release reasonably will not result in the person failing to appear as required and will not jeopardize the personal safety of another person or persons. While the presumption of ineligibility for bail established in this subsection shall not apply to a violation punishable under

section 708.11, subsection 2, paragraph "b" or "c", in considering bail for a defendant awaiting judgment of conviction and sentencing following a plea or verdict of guilty of, or appealing a conviction of, a violation punishable pursuant to section 708.11, subsection 2, paragraph "b" or "c", the court shall consider the likelihood of the defendant reestablishing contact with the victim of the violation.

ROBERT C. ARNOULD
Speaker of the House

MICHAEL E. GRONSTAL
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2025, Seventy-fourth General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved April 29, 1992

TERRY E. BRANSTAD
Governor