

MAR 14 1995

JUDICIARY

HOUSE FILE
BY MUNDIE

427

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

A BILL FOR

1 An Act providing a penalty for violations of domestic abuse
2 protective orders.

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

- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

HF 427

1 Section 1. Section 236.8, Code 1995, is amended to read as
2 follows:

3 236.8 ~~CONTEMPT~~---~~HEARINGS~~ VIOLATIONS.

4 ~~The court may hold a party in contempt for a violation of A~~
5 party who violates an order or court-approved consent
6 agreement entered under this chapter, for violation of a
7 temporary or permanent protective order or order to vacate the
8 homestead under chapter 598, or for violation of any order
9 that establishes conditions of release or is a protective
10 order or sentencing order in a criminal prosecution arising
11 from a domestic abuse assault.---~~if held in contempt, the~~
12 ~~defendant shall serve a jail sentence.~~---~~Any jail sentence of~~
13 ~~more than one day imposed under this section shall be served~~
14 ~~on consecutive days.~~ commits a simple misdemeanor and shall be
15 punished as follows:

16 1. For a first violation, by a jail sentence of at least
17 one but not more than seven days.

18 2. For a second violation, by a jail sentence of at least
19 eight but not more than fourteen days.

20 3. For a third violation, by a jail sentence of at least
21 fifteen but not more than twenty-one days.

22 4. For a fourth or subsequent violation, by a sentence of
23 at least twenty-two but not more than twenty-eight days.

24 Any jail sentence of more than one day imposed under this
25 section shall be served on consecutive days.

26 ~~A hearing in a contempt proceeding brought pursuant to this~~
27 ~~section shall be held not less than five and not more than~~
28 ~~fifteen days after the issuance of a rule to show cause, as~~
29 ~~set by the court.~~

30 Sec. 2. Section 236.14, subsection 2, unnumbered
31 paragraphs 1 and 3, Code 1995, are amended to read as follows:

32 When a person arrested for a domestic abuse assault, or
33 taken into custody for contempt proceedings pursuant to
34 section 236.14 or for violating a protective order, is brought
35 before a magistrate and the magistrate finds probable cause to

1 believe that domestic abuse or a violation of an order or
2 consent agreement has occurred and that the presence of the
3 alleged abuser in the victim's residence poses a threat to the
4 safety of the alleged victim, persons residing with the
5 alleged victim, or members of the alleged victim's immediate
6 family, the magistrate shall enter an order which shall
7 require the alleged abuser to have no contact with the alleged
8 victim, persons residing with the alleged victim, or members
9 of the alleged victim's immediate family, and to refrain from
10 harassing the alleged victim, persons residing with the
11 alleged victim, or members of the alleged victim's immediate
12 family, in addition to any other conditions of release
13 determined and imposed by the magistrate under section 811.2.
14 A no-contact order requiring the alleged abuser to have no
15 contact with the alleged victim's children shall prevail over
16 any existing order awarding custody or visitation rights,
17 which may be in conflict with the no-contact order.

18 The clerk of the court or other person designated by the
19 court shall provide a copy of this order to the victim
20 pursuant to chapter 910A. The order has force and effect
21 until it is modified or terminated by subsequent court action
22 ~~in-the-contempt-proceeding-or-the-criminal~~ or juvenile court
23 action and is reviewable in the manner prescribed in section
24 811.2. If a defendant is convicted for, receives a deferred
25 judgment for, or pleads guilty to a violation of section
26 708.2A, the court shall modify the no-contact order issued by
27 the magistrate to provide that the no-contact order shall
28 continue in effect for a period of one year from the date that
29 the judgment is entered or the deferred judgment is granted,
30 regardless of whether the defendant is placed on probation.
31 Upon an application by the state which is filed within ninety
32 days prior to the expiration of the modified no-contact order,
33 the court shall modify and extend the no-contact order for an
34 additional period of one year, if the court finds that the
35 defendant continues to pose a threat to the safety of the

1 victim, persons residing with the victim, or members of the
2 victim's immediate family. The number of modifications
3 extending the no-contact order permitted by this subsection is
4 not limited.

5 Sec. 3. Section 331.756, subsection 4, Code 1995, is
6 amended to read as follows:

7 4. Prosecute misdemeanors when not otherwise engaged in
8 the performance of other official duties, except simple
9 misdemeanors under section 236.8, which shall be prosecuted in
10 the same manner as felonies.

11 Sec. 4. Section 907.3, subsection 1, paragraph i, Code
12 1995, is amended to read as follows:

13 i. The offense is a violation of section 236.8 or a
14 finding of contempt pursuant to section 236.8 or 236.14.

15 EXPLANATION

16 This bill makes violation of protective or other orders
17 relating to domestic abuse or dissolution of marriage a simple
18 misdemeanor. Punishment for a first offense is by a jail
19 sentence of at least one but not more than seven days.
20 Punishment for a second offense is by a jail sentence of at
21 least eight but not more than 14 days. Punishment for a third
22 offense is by a jail sentence of at least 15 but not more than
23 21 days. Punishment for fourth and subsequent offenses is by
24 a jail sentence of at least 22 but not more than 28 days.
25 Jail sentences are to be served on consecutive days.

26 This bill also provides that the county attorney is to
27 prosecute violations of protective orders in the same manner
28 as felonies. Currently, a county attorney need only prosecute
29 misdemeanors as the county attorney's other duties permit.

30 This bill may contain a state mandate under chapter 25B. A
31 political subdivision does not have to comply with any mandate
32 contained in the bill unless an appropriation is made fully or
33 proportionately funding the cost to the political subdivision
34 of the mandate in accordance with section 25B.2, subsection 3.

35