

FEB 17 1998

JUDICIARY

HOUSE FILE 2293

BY WHITEAD

Passed House, Date _____ Passed Senate, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act providing for legal assistance for pro se domestic abuse
2 complainants in contempt proceedings where the defendant is
3 represented by counsel.

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

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HF 2293

1 Section 1. Section 236.8, Code 1997, is amended to read as
2 follows:

3 236.8 VIOLATION OF ORDER -- CONTEMPT -- PENALTIES --
4 HEARINGS.

5 1. A person commits a simple misdemeanor or the court may
6 hold a person in contempt for a violation of ~~an~~ any of the
7 following:

8 a. An order or court-approved consent agreement entered
9 under this chapter,~~for violation of a.~~

10 b. A temporary or permanent protective order or order to
11 vacate the homestead under chapter 598,~~for violation of any.~~

12 c. Any order that establishes conditions of release or is
13 a protective order or sentencing order in a criminal
14 prosecution arising from a domestic abuse assault,~~or for~~
15 violation by an adult of a.

16 d. A protective order under chapter 232, by an adult.

17 2. In any contempt proceeding in which the person seeking
18 the contempt order is proceeding pro se and the defendant has
19 a right to appointed counsel or is otherwise represented by
20 counsel in the contempt hearing, the plaintiff shall be
21 eligible for legal assistance pursuant to section 13.34,
22 providing for the legal services for persons in poverty grant
23 program, if the plaintiff qualifies as an "eligible
24 individual" under that section. The county attorney may also
25 assist the person proceeding pro se, pursuant to section
26 236.3B.

27 3. If convicted or held in contempt, the defendant shall
28 serve a jail sentence. Any jail sentence of more than one day
29 imposed under this section shall be served on consecutive
30 days.

31 4. A defendant who is held in contempt or convicted may be
32 ordered by the court to pay the plaintiff's attorney fees and
33 court costs incurred in the proceedings under this section.

34 5. A hearing in a contempt proceeding brought pursuant to
35 this section shall be held not less than five and not more

1 than fifteen days after the issuance of a rule to show cause,
2 as set by the court.

3 6. A person shall not be convicted of and held in contempt
4 for the same violation of an order or court-approved consent
5 agreement ~~entered under this chapter, for the same violation~~
6 ~~of a temporary or permanent protective order or order to~~
7 ~~vacate the homestead under chapter 598, for violation of any~~
8 ~~order that establishes conditions of release or is a~~
9 ~~protective order or sentencing order in a criminal prosecution~~
10 ~~arising from a domestic abuse assault, or for violation of a~~
11 ~~protective order under chapter 232~~ listed in subsection 1.

12 Sec. 2. APPROPRIATION. There is appropriated from the
13 general fund of the state to the department of justice for the
14 fiscal year beginning July 1, 1998, and ending June 30, 1999,
15 the following amount, or so much thereof as is necessary, to
16 be used for the purpose designated:

17 For legal services for persons in poverty grants as
18 provided in section 13.34:

19 \$ 950,000

20 EXPLANATION

21 This bill amends Code section 236.8, regarding contempt
22 proceedings for violations of protective orders in domestic
23 abuse actions.

24 In cases where a contempt action for a violation of such an
25 order is pursued pro se by the person who is protected by the
26 order, this bill would provide that such a person is eligible
27 for legal assistance through the attorney general's program
28 for providing legal assistance to persons in poverty, if the
29 person who violated the order was entitled to appointed
30 counsel in such a hearing, or was otherwise represented by
31 counsel. In any such hearing, the person proceeding pro se
32 could also seek the assistance of the county attorney.

33 The bill makes an appropriation of \$950,000 from the
34 general fund of the state to the department of justice to
35 contract for legal assistance to persons in poverty.