

WITHDRAWN

FEB 27 1998
Place On Calendar

*Substituted for
by S.F. 2378
2/23/98 (p. 838)*

HOUSE FILE 2475
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 2334)

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

A BILL FOR

1 An Act relating to certain crimes against persons, by permitting
2 the retention as criminal history data of acquittals,
3 dismissals, or adjudications based on mental condition if the
4 charge involved injury to another, by providing for the
5 collection and dissemination of information on the offense of
6 stalking, by providing for the application of enhanced
7 stalking penalties for persons who are the subject of certain
8 restraining or protective orders, and providing for the
9 issuance of a no-contact order against persons accused of
10 stalking.

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

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HF 2475

1 Section 1. Section 692.17, unnumbered paragraph 1, Code
2 1997, is amended to read as follows:

3 Criminal history data in a computer data storage system
4 shall not include arrest or disposition data or custody or
5 adjudication data after the person has been acquitted or the
6 charges dismissed, except that records of acquittals or
7 dismissals by reason of insanity and records of adjudications
8 of mental incompetence to stand trial in cases in which
9 physical or mental injury or an attempt to commit physical or
10 mental injury to another was alleged may be included.

11 Criminal history data shall not include custody or
12 adjudication data after the juvenile has reached twenty-one
13 years of age, unless the juvenile was convicted of or pled
14 guilty to a serious or aggravated misdemeanor or felony
15 between age eighteen and age twenty-one.

16 Sec. 2. NEW SECTION. 692.22 STALKING INFORMATION.

17 Criminal or juvenile justice agencies, as defined in
18 section 692.1, shall collect and maintain information on
19 incidents involving stalking, as defined in section 708.11,
20 and shall provide the information to the department of public
21 safety in the manner prescribed by the department of public
22 safety.

23 The department of public safety may compile statistics and
24 issue reports on stalking in Iowa, provided individual
25 identifying details of the stalking are deleted. The
26 statistics and reports may include nonidentifying information
27 on the personal characteristics of perpetrators and victims.
28 The department of public safety may request the cooperation of
29 the department of justice in compiling the statistics and
30 issuing the reports. The department of public safety may
31 provide nonidentifying information on individual incidents of
32 stalking to persons conducting bona fide research, including
33 but not limited to personnel of the department of justice.

34 Sec. 3. Section 708.11, subsection 3, paragraph b,
35 subparagraph (1), Code 1997, is amended to read as follows:

1 (1) The person commits stalking ~~in violation of~~ while
2 subject to restrictions contained in a criminal or civil
3 protective order or injunction, or any other court order which
4 prohibits contact between the person and the victim, or while
5 subject to restrictions contained in a criminal or civil
6 protective order or injunction or other court order which
7 prohibits contact between the person and another person
8 against whom the person has committed an assault or a
9 violation of this section.

10 Sec. 4. NEW SECTION. 910A.11A STALKING -- NO-CONTACT
11 ORDER.

12 1. When a person arrested for stalking in violation of
13 section 708.11 is brought before a magistrate, and the
14 magistrate finds probable cause to believe that a violation of
15 section 708.11 has occurred and that the presence of or
16 contact with the defendant poses a threat to the safety of the
17 alleged victim, persons residing with the alleged victim, or
18 members of the alleged victim's immediate family, the
19 magistrate shall enter an order which shall require the
20 defendant to have no contact with the alleged victim, persons
21 residing with the alleged victim, or members of the alleged
22 victim's immediate family, and to refrain from harassing the
23 alleged victim, persons residing with the alleged victim, or
24 members of the alleged victim's immediate family, in addition
25 to any other conditions of release determined and imposed by
26 the magistrate under section 811.2. A no-contact order
27 requiring the defendant to have no contact with the alleged
28 victim's children shall prevail over any existing order which
29 may be in conflict with the no-contact order.

30 The court order shall contain the court's directives
31 restricting the defendant from having contact with the victim,
32 persons residing with the victim, or the victim's relatives.

33 2. The clerk of the district court or other person
34 designated by the court shall provide a copy of this order to
35 the victim pursuant to this chapter. The order has force and

1 effect until it is modified or terminated by subsequent court
2 action in a contempt proceeding or the criminal or juvenile
3 court action and is reviewable in the manner prescribed in
4 section 811.2. If a defendant is convicted for, receives a
5 deferred judgment for, or pleads guilty to a violation of
6 section 708.11, the court shall modify the no-contact order
7 issued by the magistrate to provide that the no-contact order
8 shall continue in effect for a period of one year from the
9 date that the judgment is entered or the deferred judgment is
10 granted, regardless of whether the defendant is placed on
11 probation. Upon an application by the state which is filed
12 within ninety days prior to the expiration of the modified no-
13 contact order, the court shall modify and extend the no-
14 contact order for an additional period of one year, if the
15 court finds that the defendant continues to pose a threat to
16 the safety of the victim, persons residing with the victim, or
17 members of the victim's immediate family. The number of
18 modifications extending the no-contact order permitted by this
19 subsection is not limited.

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

27 3. Violation of a no-contact order issued pursuant to this
28 section, including a modified no-contact order, is punishable
29 by summary contempt proceedings. A hearing in a contempt
30 proceeding brought pursuant to this section shall be held not
31 less than five and not more than fifteen days after the
32 issuance of a rule to show cause, as set by the court. If
33 held in contempt for violation of a no-contact order or a
34 modified no-contact order, the defendant shall be confined in
35 the county jail for a minimum of seven days. A jail sentence

1 imposed pursuant to this paragraph shall be served on
2 consecutive days. No portion of the mandatory minimum term of
3 confinement imposed by this section shall be deferred or
4 suspended. A deferred judgment, deferred sentence, or
5 suspended sentence shall not be entered for violation of a no-
6 contact order or a modified no-contact order, and the court
7 shall not impose a fine in lieu of the minimum sentence,
8 although a fine may be imposed in addition to the minimum
9 sentence.

10 4. This section shall not be construed to limit a pretrial
11 release order issued pursuant to chapter 811.

12 EXPLANATION

13 This bill makes changes pertaining to certain crimes
14 against persons. A criminal records retention provision is
15 amended to provide that criminal history information is to
16 include information pertaining to dismissals and acquittals
17 which are based on the defendant's mental capacity if the
18 offense charged involved allegations of the commission or the
19 attempted commission of physical or mental injury to another.

20 The bill also requires criminal and juvenile justice
21 agencies to collect and maintain information pertaining to
22 stalking. The department is to compile information and
23 statistics on stalking and generate reports on the incidence
24 of stalking in this state.

25 One of the criteria established for enhanced stalking
26 penalties is changed to provide for the imposition of a class
27 "D" felony penalty where the person who committed the stalking
28 offense is the subject of a civil or criminal protective order
29 or injunction or any other court order pertaining to the
30 victim or the subject of a civil or criminal protective order
31 or injunction or other court order which pertains to another
32 person against whom the person has committed an assault or a
33 stalking offense.

34 A new provision is created which allows for the issuance of
35 a no-contact order to protect victims of stalking, their

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1 immediate family members, and other people who may reside with
2 a victim of stalking upon the arrest of a person accused of
3 stalking.

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**HOUSE FILE 2475
FISCAL NOTE**

The estimate for House File 2475 is hereby submitted as a fiscal note pursuant to Joint Rule 17 and as a correctional impact statement pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

House File 2475 provides a procedure for the issuance of a no-contact order in stalking cases after an arrest has occurred and provides for penalties for violation of a no-contact order. The Bill requires criminal and juvenile justice agencies to collect and maintain information pertaining to stalking.

ASSUMPTIONS

1. Initial appearances before a Magistrate would cost \$16.76 per case.
2. Copies to victims would cost \$1.00 per case.
3. To continue the no-contact order would cost \$17.00 per case.
4. To provide notices to law enforcement agencies would cost \$5.95 per case, per order, assuming three orders per case or \$17.85 per case.
5. Based on the most recent data available, there were 44 charges for stalking.
6. No information is available on the number of persons violating no-contact orders. Violations would result in a correctional impact on the jail system.
7. Judicial Department programming expenditures to retain records of acquittals or dismissals by reason of insanity and adjudications of mental incompetence will be \$35,000 for FY 1999.
8. Judicial Department programming expenditures to collect and maintain information on stalking incidents will cost \$35,000 in FY 1999. Data entry expenditures will be \$3.00 per case.
9. Department of Public Safety expenditures to collect and maintain information on stalking incidents will cost \$36,000 for 1.00 FTE Administrative Assistant I position and support, and \$5,000 for computer programming.

CORRECTIONAL IMPACT

The impact of House File 2475 on the jail system cannot be determined.

FISCAL IMPACT

House File 2475 is expected to increase General Fund expenditures by \$113,000 in FY 1999, and \$38,000 in FY 2000 and each year thereafter.

	<u>FY 1999</u>	<u>FY 2000</u>
Judicial Department	\$ 72,000	\$ 2,000
Dept. of Public Safety	<u>41,000</u>	<u>36,000</u>

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Total

\$113,000\$38,000

The fiscal impact to local governments cannot be determined.

SOURCES

Judicial Department

Department of Human Rights (CJJP)

Department of Public Safety

(LSB 4070hv, DHK)

FILED MARCH 16, 1998

BY DENNIS PROUTY, FISCAL DIRECTOR