

4-7-97 Referred Back - Judiciary

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SENATE FILE **496**
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SF 325)

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

A BILL FOR

1 An Act relating to the modification of domestic abuse no-contact
2 orders.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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S.F. 496

1 Section 1. Section 236.14, subsection 2, Code 1997, is
2 amended to read as follows:

3 2. a. When a person is arrested for a domestic abuse
4 assault, or is taken into custody ~~for contempt proceedings~~
5 pursuant to section 236.11, and is brought before a magistrate
6 ~~and the magistrate who~~ finds probable cause to believe that
7 domestic abuse or a violation of an order or consent agreement
8 has occurred and that the presence of the alleged abuser in
9 the victim's residence poses a threat to the safety of the
10 alleged victim, persons residing with the alleged victim, or
11 members of the alleged victim's immediate family, the
12 magistrate shall enter an order ~~which shall require~~ requiring
13 all of the following:

14 (1) That the alleged abuser ~~to~~ shall have no contact with
15 the alleged victim, persons residing with the alleged victim,
16 or members of the alleged victim's immediate family, ~~and to.~~

17 (2) That the alleged abuser shall refrain from harassing
18 the alleged victim, persons residing with the alleged victim,
19 or members of the alleged victim's immediate family, ~~in~~
20 ~~addition to any.~~

21 (3) Any other conditions of release determined and imposed
22 by the magistrate under section 811.2.

23 b. A no-contact order requiring that the alleged abuser ~~to~~
24 have no contact with the alleged victim's children shall
25 prevail over any existing order awarding custody or visitation
26 rights, which may be in conflict with the no-contact order
27 unless the order is subsequently modified or terminated in
28 accordance with this subsection.

29 c. The court order shall contain the court's directives
30 restricting the defendant from having contact with the victim
31 or the victim's relatives.

32 d. The clerk of the court or other person designated by
33 the court shall provide a copy of ~~this~~ the order issued under
34 this subsection to the victim pursuant to chapter 910A.

35 e. The order issued under this subsection has force and

1 effect until it is modified or terminated by subsequent court
2 ~~action in the contempt proceeding or the criminal~~ or juvenile
3 court action by any court having jurisdiction over all parties
4 affected by the order and is reviewable in the manner
5 prescribed in section 811.2.

6 f. If a defendant is convicted for, receives a deferred
7 judgment for, or pleads guilty to a violation of section
8 708.2A, the court shall modify the no-contact order issued by
9 the magistrate to provide that the no-contact order shall
10 continue in effect for a period of one year from the date that
11 the judgment is entered or the deferred judgment is granted,
12 regardless of whether the defendant is placed on probation.
13 Upon an application by the state which is filed within ninety
14 days prior to the expiration of the modified no-contact order,
15 the court shall modify and extend the no-contact order for an
16 additional period of one year, if the court finds that the
17 defendant continues to pose a threat to the safety of the
18 victim, persons residing with the victim, or members of the
19 victim's immediate family. The number of modifications
20 extending the no-contact order permitted by this subsection is
21 not limited.

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

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

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

11 EXPLANATION

12 This bill amends Code section 236.14 to provide that a no-
13 contact order may subsequently be modified by any court having
14 jurisdiction over all of the parties affected by the order.
15 Presently, the language restricts modifications to a court
16 having jurisdiction over contempt proceedings initiated under
17 the chapter, or to a juvenile court with jurisdiction over the
18 matter. The bill also makes technical changes throughout the
19 subsection.

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