

FEB 8 2000

JUDICIARY

HOUSE FILE
BY DAVIS

2183

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

A BILL FOR

1 An Act relating to assault, including domestic abuse and
2 harassment, by changing the definition of assault and
3 providing penalties, including penalties for second and
4 subsequent violations of certain no-contact orders.

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

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HF 2183

1 Section 1. Section 236.8, Code 1999, 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~~ For a violation of an order or
7 court-approved consent agreement entered under this chapter,
8 for violation of a temporary or permanent protective order or
9 order to vacate the homestead under chapter 598, for violation
10 of any order that establishes conditions of release or is a
11 protective order or sentencing order in a criminal prosecution
12 arising from a domestic abuse assault, or for violation by an
13 adult of a protective order under chapter 232-:

14 a. A person commits a simple misdemeanor or the court may
15 hold a person in contempt for a first offense under this
16 subsection.

17 b. A person commits a serious misdemeanor for a second or
18 subsequent offense under this subsection.

19 2. If convicted or held in contempt, the defendant shall
20 serve a jail sentence. Any jail sentence of more than one day
21 imposed under this section shall be served on consecutive
22 days. A defendant who is held in contempt or convicted may be
23 ordered by the court to pay the plaintiff's attorney fees and
24 court costs incurred in the proceedings under this section.

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

29 4. A person shall not be convicted of and held in contempt
30 for the same violation of an order or court-approved consent
31 agreement entered under this chapter, for the same violation
32 of a temporary or permanent protective order or order to
33 vacate the homestead under chapter 598, for violation of any
34 order that establishes conditions of release or is a
35 protective order or sentencing order in a criminal prosecution

1 arising from a domestic abuse assault, or for violation of a
2 protective order under chapter 232.

3 Sec. 2. Section 708.1, subsection 2, Code 1999, is amended
4 to read as follows:

5 2. Any act which is intended to place another in fear of
6 immediate imminent physical contact which will be painful,
7 injurious, insulting, or offensive, coupled with the apparent
8 ability to execute the act.

9 Sec. 3. Section 708.12, subsection 4, Code 1999, is
10 amended to read as follows:

11 4. a. Violation of a no-contact order issued under this
12 section, including modified no-contact orders, is punishable
13 by summary contempt proceedings for a first offense.

14 b. A second or subsequent violation of a no-contact order
15 issued under this section, including modified no-contact
16 orders, is punishable as a serious misdemeanor.

17 c. A hearing in a contempt proceeding brought pursuant to
18 this section subsection shall be held not less than five and
19 not more than fifteen days after the an issuance of a rule to
20 show cause or initial appearance, as set by the court.

21 d. If held in contempt-for violation of a no-contact order
22 or a modified no-contact order, the defendant shall be
23 confined in the county jail for a minimum of seven days.

24 e. A jail sentence imposed pursuant to this paragraph
25 subsection shall be served on consecutive days. No A portion
26 of the mandatory minimum term of confinement imposed by this
27 section shall not be deferred or suspended. A deferred
28 judgment, deferred sentence, or suspended sentence shall not
29 be entered for violation of a no-contact order or a modified
30 no-contact order, and the court shall not impose a fine in
31 lieu of the minimum sentence, although a fine may be imposed
32 in addition to the minimum sentence for a first offense, and
33 shall be imposed in addition to a sentence for a second or
34 subsequent offense.

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EXPLANATION

1 This bill amends several Code sections relating to assault
2 and domestic abuse.

3 The bill amends the definition of assault in Code section
4 708.1 to provide that an assault occurs when a person is in
5 fear of imminent physical contact, rather than immediate
6 physical contact. Penalties for assault range from a simple
7 misdemeanor to a class "D" felony, depending in part upon the
8 degree of injury inflicted. A simple misdemeanor is
9 punishable by confinement for no more than 30 days or a fine
10 of at least \$50 but not more than \$500 or by both. A class
11 "D" felony is punishable by confinement for no more than five
12 years and a fine of at least \$750 but not more than \$7,500.

13 The bill also changes the penalties for second and
14 subsequent violations of no-contact orders for domestic abuse
15 and for harassment and stalking in Code sections 236.8 and
16 708.12. Second and subsequent violations of such orders are
17 punishable as serious misdemeanors, rather than as simple
18 misdemeanors or as contempt. A serious misdemeanor is
19 punishable by confinement for no more than one year and a fine
20 of at least \$250 but not more than \$1,500.

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