

FEB 8 1999

JUDICIARY

HOUSE FILE

230

BY WITT and BODDICKER

2/15/99 Sponsor added - Davis

Passed House, Date _____

Passed Senate, Date _____

Vote: Ayes _____ Nays _____

Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to certain alleged violations of no-contact
2 orders in domestic abuse cases.

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

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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 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 2. The court shall take into consideration all
15 circumstances related to the occurrence that is alleged to be
16 a violation of the order or consent agreement. If the court
17 determines by clear and convincing evidence that both of the
18 following occurred, the court may dismiss the charges:

19 a. The violation occurred because of provocation,
20 invitation, or deception by a person protected by the order or
21 consent agreement.

22 b. No domestic abuse occurred during the violation.

23 3. a. If convicted or held in contempt, the defendant
24 shall serve a jail sentence. Any jail sentence of more than
25 one day imposed under this section shall be served on
26 consecutive days.

27 b. A defendant who is held in contempt or convicted may be
28 ordered by the court to pay the plaintiff's attorney fees and
29 court costs incurred in the proceedings under this section.

30 4. A hearing in a contempt proceeding brought pursuant to
31 this section shall be held not less than five and not more
32 than fifteen days after the issuance of a rule to show cause,
33 as set by the court.

34 5. A person shall not be convicted of and held in contempt
35 for the same violation of an order or court-approved consent

1 agreement entered under this chapter, for the same violation
2 of a temporary or permanent protective order or order to
3 vacate the homestead under chapter 598, for violation of any
4 order that establishes conditions of release or is a
5 protective order or sentencing order in a criminal prosecution
6 arising from a domestic abuse assault, or for violation of a
7 protective order under chapter 232.

8 EXPLANATION

9 This bill amends Code section 236.8, regarding alleged
10 violations of no-contact orders in domestic abuse cases.

11 The bill divides the current section into subsections, and
12 adds a provision that allows the judge to dismiss criminal or
13 contempt charges of a violation in situations where the
14 violation occurred because the defendant was provoked,
15 invited, or deceived by the person protected by the order, and
16 where no domestic abuse occurred during the violation.

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