

Substituted for By SF 2308
3-21-00 P. 850

MAR 3 2000

Place On Calendar

HOUSE FILE **2534**
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 2224)

WITHDRAWN

3-21-00 (P. 854)

Passed House, Date _____ Passed Senate, Date _____

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

Approved _____

A BILL FOR

1 An Act relating to electronic communications constituting the
2 crime of harassment.

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

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HOUSE FILE 2534

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H-8173

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1 Amend House File 2534 as follows:

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2 1. Title page, by striking lines 1 and 2 and

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3 inserting the following:

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4 "An Act relating to harassment via electronic
5 communications and making penalties applicable."

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By KETTERING of Sac

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H-8173 FILED MARCH 6, 2000

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adopted

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HF 2534

1 Section 1. Section 708.7, subsection 1, paragraph a,
2 subparagraph (1), Code 1999, is amended to read as follows:

3 (1) Communicates with another by telephone, telegraph, or
4 writing, or via electronic communication without legitimate
5 purpose and in a manner likely to cause the other person
6 annoyance or harm.

7 EXPLANATION

8 This bill amends Code section 708.7, relating to the crime
9 of harassment, to include electronic communication.

10 Harassment varies by degree, according to the type of
11 threat communicated.

12 A person commits harassment in the first degree when the
13 person commits harassment involving a threat to commit a
14 forcible felony, or commits harassment and has previously been
15 convicted of harassment three or more times under Code section
16 708.7 or any similar statute during the preceding 10 years.

17 Harassment in the first degree is an aggravated misdemeanor.
18 An aggravated misdemeanor is punishable by confinement for no
19 more than two years and a fine of at least \$500, but not more
20 than \$5,000.

21 A person commits harassment in the second degree when the
22 person commits harassment involving a threat to commit bodily
23 injury, or commits harassment and has previously been
24 convicted of harassment two times under Code section 708.7 or
25 any similar statute during the preceding 10 years. Harassment
26 in the second degree is a serious misdemeanor. A serious
27 misdemeanor is punishable by confinement for no more than one
28 year and a fine of at least \$250, but not more than \$1,500.

29 Any other act of harassment is harassment in the third
30 degree. Harassment in the third degree is a simple
31 misdemeanor. A simple misdemeanor is punishable by
32 confinement for no more than 30 days or a fine of at least \$50
33 but not more than \$500, or by both.

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HOUSE FILE 2534
FISCAL NOTE

The estimate for House File 2534 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 2534 makes harassment via electronic communication a crime. Harassment varies by degree according to the type of threat communicated. A person commits harassment in the first degree when the harassment involves a threat to commit a forcible felony or commits harassment and has previously been convicted of harassment three or more times during the last ten years. Harassment in the first degree is an aggravated misdemeanor, which is punishable by confinement for no more than two years and a fine of at least \$500 but no more than \$5,000. A person commits harassment in the second degree when the harassment involves a threat to commit bodily injury, or commits harassment and has previously been convicted of harassment two times during the last ten years. Harassment in the second degree is a serious misdemeanor, which is punishable by confinement for no more than one year and a fine of at least \$250 but no more than \$1,500. Any other act of harassment is harassment in the third degree, which is a simple misdemeanor. A simple misdemeanor is punishable by confinement in the county jail for no more than 30 days and/or a fine of at least \$50 but no more than \$500.

ASSUMPTIONS

1. The average daily cost for jails is \$60. The marginal cost per inmate is \$14 per day.
2. The average daily cost for probation supervision is \$1.53. The average daily cost for residential facilities is \$55.61. The marginal cost per resident is \$14 per day.
3. The average daily cost for prisons is \$58.39. The marginal cost per inmate is \$12 per day.
4. The median cost for indigent defense of a simple misdemeanor is approximately \$200 per case. The median cost for indigent defense of a serious misdemeanor is approximately \$500 per case. The median cost for indigent defense of an aggravated misdemeanor is approximately \$1,000 per case.
5. The number of indigent defendants under House File 2534 is unknown.
6. The average cost for processing an uncontested simple misdemeanor is \$2.21 per case, which includes approximately ten minutes of the Clerk of Court's time. The average cost for processing a contested simple misdemeanor ranges from \$71 to \$105, depending on whether a magistrate or district associate judge is involved. This figure does not include the additional time associated with imposing a penalty.
7. The average cost for processing an uncontested serious misdemeanor ranges from \$176 to \$367, depending on whether a district associate judge or district court judge is involved. These estimates include pre- and

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post-trial court procedures and fine collection efforts. The collection rate for fines for serious misdemeanors in 1998 was 46.0%.

8. The average cost for processing an uncontested aggravated misdemeanor ranges from \$167 to \$357, depending on whether a district associate judge or district court judge is involved. The average cost for processing a contested aggravated misdemeanor ranges from \$3,263 to \$5,434, depending on whether a district associate judge or district court judge is involved. A trial is anticipated to last from three to five days. The average collection rate for fines for aggravated misdemeanors in 1998 was 38.0%.
9. During 1998, there were 119 aggravated misdemeanor convictions for harassment. Of these convictions, 71 people were sentenced to probation, 6 people were sentenced to residential facilities, 41 people received a jail sentence, and 16 people received a prison sentence. The number of dispositions exceeds the number of convictions due to the imposition of multiple sanctions.
10. During 1998, there were 92 serious misdemeanor convictions for harassment. Of these convictions, 1 person was sentenced to prison, 55 people received probation, and 39 people received a jail sentence. The number of dispositions exceeds the number of convictions due to the imposition of multiple sanctions.

CORRECTIONAL IMPACT

There may be additional convictions for harassment under House File 2534. However, it is anticipated that there will not be a significant increase in cases or convictions.

FISCAL IMPACT

House File 2534 may result in additional convictions for harassment, but any fiscal impact is not expected to be significant.

SOURCES

Criminal and Juvenile Justice Planning Division, Department of Human Rights
Office of the Attorney General
State Court Administrator's Office
State Public Defender's Office
Department of Corrections
Iowa State Association of Counties

(LSB 5025hv, BAL)

FILED MARCH 6, 2000

BY DENNIS PROUTY, FISCAL DIRECTOR