

Ammon
Baudler
Holmes

HSB 39

JUDICIARY

SUB *FILED*
2/11/09

SENATE/HOUSE FILE _____
BY (PROPOSED ATTORNEY GENERAL
BILL)

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

A BILL FOR

1 An Act to restrict the posting of bond for the offense of felony
2 stalking.

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

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1 ~~Section 1.~~ Section 811.1, subsections 1 and 2, Code 1999,
2 are amended to read as follows:

3 1. A defendant awaiting judgment of conviction and
4 sentencing following either a plea or verdict of guilty of a
5 class "A" felony, murder, any class "B" felony included in
6 section 707.6A, felonious assault, felonious child
7 endangerment, sexual abuse in the second degree, sexual abuse
8 in the third degree, kidnapping, robbery in the first degree,
9 arson in the first degree, or burglary in the first degree,
10 any felony included in section 708.11, subsection 3, or any
11 felony included in section 124.401, subsection 1, paragraph
12 "a".

13 2. A defendant appealing a conviction of a class "A"
14 felony, murder, any class "B" felony included in section
15 707.6A, felonious assault, felonious child endangerment,
16 sexual abuse in the second degree, sexual abuse in the third
17 degree, kidnapping, robbery in the first degree, arson in the
18 first degree, or burglary in the first degree, any felony
19 included in section 708.11, subsection 3, or any felony
20 included in section 124.401, subsection 1, paragraph "a", or a
21 violation of section 124.401, subsection 1, paragraph "b".

22 EXPLANATION

23 This bill restricts a person's ability to post a bond upon
24 a conviction of or when appealing any felony stalking charge.
25 The bill requires that a person who pleads to or is convicted
26 at trial of any felony stalking charge remain in jail without
27 bond pending sentencing. The bill also requires any person
28 sentenced to prison for felony stalking to remain in prison
29 without the ability to post an appeal bond pending the final
30 decision by a reviewing court.

31 Current law generally permits a person awaiting sentencing
32 after a plea of guilty or a conviction at trial to post bond
33 and remain out of jail until a sentence has been imposed. If
34 the person is sentenced to jail or prison, and appeals the
35 case, current law ordinarily allows a person to post an appeal

1 bond and remain free pending the final decision by the
2 reviewing court on appeal.

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THOMAS J. MILLER
ATTORNEY GENERAL

Department of Justice

ADDRESS REPLY TO:
HOOVER BUILDING
DES MOINES, IOWA 50319
TELEPHONE: 515/281-5164
FACSIMILE: 515/281-4209

MEMORANDUM

TO: Members of the Iowa General Assembly
FROM: Anne Bunz, Legislative Liaison
DATE: November 24, 1998
SUBJECT: Appeal bonds regarding stalking

The Iowa Attorney General's Office is submitting a bill request for legislation dealing with the ability of defendants, who are convicted of felony stalking, to file for an appeal bond.

The intent of this proposal would be to restrict appeal bonds for those convicted of felony stalking, especially where the defendants have already ignored no-contact orders.

Example: The defendant's name is William Bellows. He brutally abused his live-in girlfriend in Whiteside County, Illinois and since she mustered the courage to move out, he has continually harassed and stalked her for three years. He has followed her from shelter to shelter, friend's house to friends house. He was at that time, convicted of battery and violating a protective order in Illinois. When the victim moved to Iowa, he tracked her down and showed up at her new residence. He was then convicted of felony stalking in Johnson County Iowa Code 708.11 (3) (b) (1). Currently, Mr. Bellows is free on appeal bond while the victim continues to hide from him.

The Iowa Code does set a precedent for denying appeal bonds to other felonious convictions.

S-2/24/99 Judiciary
S-3/17/99 Do Pass

FEB 17 1999
Place On Calendar

HOUSE FILE 296
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 39)

Passed House, Date 2/24/99 Passed Senate, ^(P.1177) Date 4/19/99
Vote: Ayes 96 Nays 0 Vote: Ayes 47 Nays 0
Approved April 27, 1999

A BILL FOR

1 An Act to restrict the posting of bond for the offense of felony
2 stalking.

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

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HF 296

1 Section 1. Section 811.1, subsection 3, Code 1999, is
2 amended to read as follows:

3 3. Notwithstanding subsections 1 and 2, a defendant
4 awaiting judgment of conviction and sentencing following
5 either a plea or verdict of guilty of, or appealing a
6 conviction of, any felony offense included in section 708.11,
7 subsection 3 or a felony offense under chapter 124 not
8 provided for in subsection 1 or 2 is presumed to be ineligible
9 to be admitted to bail unless the court determines that such
10 release reasonably will not result in the person failing to
11 appear as required and will not jeopardize the personal safety
12 of another person or persons.

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EXPLANATION

14 This bill restricts a person's ability to post a bond upon
15 a conviction of or when appealing any felony stalking charge.
16 The bill provides that a person who pleads to or is convicted
17 at trial of any felony stalking charge is presumed to be
18 ineligible for bond and must remain in jail. However, the
19 bill also provides the court with discretion to determine
20 whether a person is eligible for bond on a felony stalking
21 charge depending on whether the allowance of bond may result
22 in failure to appear or may jeopardize the safety of others.

23 Current law generally permits a person awaiting sentencing
24 after a plea of guilty or a conviction at trial to post bond
25 and remain out of jail until a sentence has been imposed. If
26 the person is sentenced to jail or prison, and appeals the
27 case, current law ordinarily allows a person to post an appeal
28 bond and remain free pending the final decision by the
29 reviewing court on appeal.

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**HOUSE FILE 296
FISCAL NOTE**

The estimate for House File 296 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 296 makes a person convicted of committing a felony stalking offense ineligible for release from jail on bond while awaiting sentencing or appeal.

ASSUMPTIONS

1. There are ten felony stalking convictions annually.
2. Data is not available showing the length of time these persons spend in jail awaiting sentencing or appeal.
3. It is not known how many felony stalking offenders are being denied bond under current practices.

CORRECTIONAL IMPACT

The maximum number of persons that could be held in jail until sentencing or through appeal is ten offenders.

FISCAL IMPACT

The State General Fund impact of House File 296 is not expected to be significant.

County jails may experience some cost increase, but since the change affects ten or fewer offenders annually, the costs are not expected to be significant.

SOURCES

Criminal and Juvenile Justice Planning Division, Department of Human Rights
Judicial Branch

(LSB 1265hv, MDF)

FILED FEBRUARY 23, 1999

BY DENNIS PROUTY, FISCAL DIRECTOR

HOUSE FILE 296

House File 296, p. 2

AN ACT

TO RESTRICT THE POSTING OF BOND FOR THE OFFENSE OF FELONY
STALKING.

appear as required and will not jeopardize the personal safety
of another person or persons.

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

Section 1. Section 811.1, subsection 3, Code 1999, is
amended to read as follows:

RON J. CORBETT
Speaker of the House

3. Notwithstanding subsections 1 and 2, a defendant
awaiting judgment of conviction and sentencing following
either a plea or verdict of guilty of, or appealing a
conviction of, any felony offense included in section 708.11,
subsection 3 or a felony offense under chapter 124 not
provided for in subsection 1 or 2 is presumed to be ineligible
to be admitted to bail unless the court determines that such
release reasonably will not result in the person failing to

MARY E. KRAMER
President of the Senate

I hereby certify that this bill originated in the House and
is known as House File 296, Seventy-eighth General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Approved *April 27*, 1999

THOMAS J. VILSACK
Governor

HF 296