

MAR 3 1999

HUMAN RESOURCES

HOUSE FILE
BY FOEGE

478

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

A BILL FOR

1 An Act relating to child in need of assistance dispositional
2 orders for transfer of custody by authorizing entry of a no-
3 contact order under certain circumstances and providing a
4 penalty.

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

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HF 478

1 Section 1. Section 232.102, Code 1999, is amended by
2 adding the following new subsection:

3 NEW SUBSECTION. 13. a. In addition to entry of an order
4 under this section transferring the custody of a child for
5 purposes of placement, the court may require a parent to have
6 no contact with the child and with the person responsible for
7 the care of the child, persons residing with that person, or
8 members of that person's immediate family, except as otherwise
9 authorized by the court, if any of the following circumstances
10 are applicable:

11 (1) The court has determined aggravated circumstances
12 exist such as those enumerated in subsection 12 and the court
13 has waived the requirement for making reasonable efforts as
14 provided in subsection 12.

15 (2) The court finds there is probable cause to believe
16 that the child's parent may attempt to have contact with the
17 child without the consent of the person responsible for the
18 care of the child or to interfere with the person responsible
19 for the care of the child, or to have contact with the child
20 that is not in accordance with the court order.

21 b. In addition, the court may order the parent to refrain
22 from harassing the child and the person responsible for the
23 care of the child, persons residing with that person, or
24 members of that person's immediate family.

25 c. A no-contact order entered pursuant to this subsection
26 shall prevail over any existing order awarding custody or
27 visitation rights, that may be in conflict with the no-contact
28 order.

29 d. The no-contact order shall contain the court's
30 directives prohibiting or restricting the parent from having
31 contact with the child and the person responsible for the care
32 of the child, persons residing with that person, or members of
33 that person's immediate family. The order may contain
34 authorization for the parent to have supervised visitation
35 with the child or for reasonable efforts to be made while

1 assuring the protection of the child's health and safety and
2 that of the person responsible for the care of the child,
3 persons residing with that person, or members of that person's
4 immediate family. The clerk of the juvenile court or other
5 person designated by the court shall provide a copy of this
6 order to the person responsible for the care of the child.

7 The order has force and effect until it is modified or
8 terminated by subsequent court action.

9 e. The clerk of the juvenile court shall also provide
10 notice and copies of the no-contact order to the applicable
11 law enforcement agencies and the twenty-four hour dispatcher
12 for the law enforcement agencies, in the manner provided for
13 protective orders under section 236.5. The clerk shall
14 provide notice and copies of modifications or vacations of
15 these orders in the same manner.

16 f. Violation of this no-contact order constitutes contempt
17 under chapter 665 and is punishable by summary contempt
18 proceedings. A hearing in a contempt proceeding brought
19 pursuant to this subsection shall be held not less than five
20 and not more than fifteen days after the issuance of a rule to
21 show cause, as set by the court. If held in contempt for
22 violation of a no-contact order, the person shall be confined
23 in the county jail for a minimum of seven days. A term of
24 confinement imposed pursuant to this paragraph shall be served
25 on consecutive days. No portion of the mandatory minimum term
26 of confinement imposed pursuant to this paragraph shall be
27 deferred or suspended. The court shall not impose a fine in
28 lieu of the minimum term of confinement, although a fine may
29 be imposed in addition to the minimum term of confinement.

30 Sec. 2. IMPLEMENTATION OF ACT. Section 25B.2, subsection
31 3, shall not apply to this Act.

32 EXPLANATION

33 This bill relates to child in need of assistance
34 dispositional orders for transfer of custody under Code
35 section 232.102 by authorizing entry of a no-contact order

1 under certain circumstances.

2 In addition to the transfer of custody order, the court is
3 authorized to issue a no-contact order if the court has
4 determined aggravated circumstances exist such as an imminent
5 danger to the life of the child or murder of another child of
6 the parent and the court has waived the requirement for making
7 reasonable efforts to eliminate the need for out-of-home
8 placement of the child. The no-contact order may also be
9 issued if there is probable cause to believe the parent may
10 have contact with the child without consent of the person
11 responsible for the care of the child or to interfere with the
12 person responsible for the care of the child, or to have
13 contact with the child that is not in accordance with the
14 court order.

15 The parent may also be ordered to refrain from harassment.
16 The no-contact order prevails over any conflicting child
17 custody and visitation orders. The no-contact order may
18 include a provision for supervised visitation or for
19 reasonable efforts to be made while assuring the protection of
20 the child and others protected by the order. The person
21 responsible for the care of the child and local law
22 enforcement agencies are to receive copies of the order.

23 Violations of the no-contact order constitute contempts
24 punishable by a summary contempt of court proceeding with a
25 minimum imprisonment in the county jail for seven days or
26 more. In addition, a fine may be imposed.

27 This bill may include a state mandate as defined in Code
28 section 25B.3. This bill makes inapplicable Code section
29 25B.2, subsection 3, which would relieve a political
30 subdivision from complying with a state mandate if funding for
31 the cost of the state mandate is not provided or specified.
32 Therefore, political subdivisions are required to comply with
33 any state mandate included in this bill.

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