

S-3/11/02 Judiciary  
S-3/13/02 Do Pass

FEB 21 2002  
Place On Calendar

HOUSE FILE 2495  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 2396)

Passed House, Date (P. 692) 3-11-02 Passed Senate, Date (P. 812) 3-26-02  
Vote: Ayes 93 Nays 0 Vote: Ayes 48 Nays 0  
Approved April 9, 2002

**A BILL FOR**

1 An Act providing for the issuance of no-contact orders against  
2 persons who are arrested for the crime of sexual abuse.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2495

1 Section 1. NEW SECTION. 709.19 SEXUAL ABUSE -- NO-  
2 CONTACT.

3 1. When a person arrested for sexual abuse in violation of  
4 section 709.2, 709.3, or 709.4 is brought before a magistrate  
5 for initial appearance under section 804.21, 804.22, or  
6 804.24, and the magistrate finds probable cause to believe  
7 that a violation of section 709.2, 709.3, or 709.4 has  
8 occurred and that the presence of or contact with the  
9 defendant poses a threat to the safety of the alleged victim,  
10 persons residing with the alleged victim, or members of the  
11 alleged victim's immediate family, the magistrate shall enter  
12 an order which shall require the defendant to have no contact  
13 with the alleged victim, persons residing with the alleged  
14 victim, or members of the alleged victim's immediate family,  
15 and to refrain from harassing the alleged victim, persons  
16 residing with the alleged victim, or members of the alleged  
17 victim's immediate family, in addition to any other conditions  
18 of release determined and imposed by the magistrate under  
19 section 811.2. A no-contact order requiring the defendant to  
20 have no contact with the alleged victim's children shall  
21 prevail over any existing order which may be in conflict with  
22 the no-contact order.

23 The court order shall contain the court's directives  
24 restricting the defendant from having contact with the victim,  
25 persons residing with the victim, or the victim's immediate  
26 family. The order shall state whether a person is to be taken  
27 into custody by a peace officer for a violation of the terms  
28 stated in the order.

29 2. The clerk of the district court or other person  
30 designated by the court shall provide a copy of this order to  
31 the victim pursuant to this chapter. The order has force and  
32 effect until it is modified or terminated by subsequent court  
33 action in a contempt proceeding or the criminal or juvenile  
34 court action and is reviewable in the manner prescribed in  
35 section 811.2. Upon final disposition of the criminal or

1 juvenile court action, the court shall make a determination  
2 whether the no-contact order should be modified or terminated.  
3 If a defendant is convicted for, receives a deferred judgment  
4 for, or pleads guilty to a violation of section 709.2, 709.3,  
5 or 709.4, the court shall modify the no-contact order issued  
6 by the magistrate to provide that the no-contact order shall  
7 continue in effect for a period of five years from the date  
8 that the judgment is entered or the deferred judgment is  
9 granted, regardless of whether the defendant is placed on  
10 probation. Upon the filing of an affidavit by the victim  
11 which states that the defendant continues to pose a threat to  
12 the safety of the victim, persons residing with the victim, or  
13 members of the victim's immediate family within ninety days  
14 prior to the expiration of the modified no-contact order, the  
15 court shall modify and extend the no-contact order for an  
16 additional period of five years, unless the court finds that  
17 the defendant no longer poses a threat to the safety of the  
18 victim, persons residing with the victim, or members of the  
19 victim's immediate family. The number of modifications  
20 extending the no-contact order permitted by this subsection is  
21 not limited.

22 The clerk of the district court shall also provide notice  
23 and copies of the no-contact order to the applicable law  
24 enforcement agencies and the twenty-four-hour dispatcher for  
25 the law enforcement agencies, in the same manner as provided  
26 for protective orders under section 236.5. The clerk shall  
27 provide notice and copies of modifications or vacations of  
28 these orders in the same manner.

29 EXPLANATION

30 This bill allows for the issuance of a no-contact order to  
31 protect victims of first, second, and third degree sexual  
32 abuse, their immediate family members, and other people who  
33 may reside with victims of sexual abuse upon the arrest of the  
34 person accused of sexually abusing the victim.

# Legislative Fiscal Bureau

## Fiscal Note

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HF 2495 - Restraining Order for Sexual Abuse (LSB 6259 HV)  
Analyst: Beth Lenstra (Phone: (515) 281-6301) (beth.lenstra@legis.state.ia.us)  
Fiscal Note Version - New  
Requested by Representative Mark Tremmel

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### Description

House File 2495 provides for the issuance of no-contact orders to protect victims of first, second, and third degree sexual abuse; their immediate family members; and other people who may reside with victims of sexual abuse. The no-contact order is available at the time of the arrest of the person accused of sexually abusing the victim. People who violate no-contact orders are subject to summary contempt proceedings.

### Assumptions

1. Charge, conviction, and sentencing patterns and trends will not change over the projection period.
2. Prisoner length of stay, revocation rates, and other corrections' practices and policies will not change over the projection period.
3. The law will become effective July 1, 2002. A lag of six months is assumed, from the effective date of the change in the law to the date of first entry of affected offenders into the correctional system.
4. The analysis is based on information obtained from the Justice Data Warehouse, which includes statewide court information. Conviction and penalty information is based on FY 2001 data.
5. During FY 2001, 687 people were charged with sexual abuse crimes covered by the Bill. It is not known to what extent the victims and families involved applied for and received restraining orders against these offenders.
6. During FY 2001, 228 people were charged but not convicted of offenses covered by the Bill. Another 138 people were convicted of these offenses but not sentenced to prison. Therefore, it is possible that restraining orders against 366 people may be issued annually.
7. For offenders incarcerated for the offenses covered by HF 2495, they would not be released to the community during the five-year no-contact order period. There is no readily available information with which to estimate how many victims and families will apply for and receive extensions of those no-contact orders.
8. Approximately 7.0% of convicted domestic abuse offenders are later cited for violations of no-contact orders, based on tracking cases over a 3.5-year period.
9. A representative sample of offenders placed on the sex offender registry during 1998, who were initially charged with offenses covered by HF 2495, show that approximately 37.0% had victims who were family members.
10. It is assumed that 135 (37.0%) of the estimated 366 offenders per year had family member victims. It is assumed that 9 offenders (7.0% of 135 offenders) will be convicted of violations of no-contact orders and receive county jail sentences.
11. Offenders convicted of violations of no-contact orders will serve 32 days in the county jail. The marginal cost per day for county jails ranges from \$15 to \$25 per offender.
12. Average court costs for a restraining order range from \$20 to \$30. Average court costs for summary contempt range from \$70 to \$75. These figures include the costs of a Magistrate or District Associate Judge, Clerk of Court staff, a court attendant, and court reporter.
13. The median cost per proceeding for indigent defense summary contempt is \$250.

### **Correctional Impact**

House File 2495 is anticipated to increase jail admissions by six during FY 2003, and by nine each year thereafter. Admissions may increase in future years as inmates covered under the Bill are released, and have no-contact orders issued against them, which they subsequently violate. Each person admitted to the county jail will serve 32 days.

### **Fiscal Impact**

Total State criminal justice system costs, including costs for indigent defense and the Judicial Branch, are expected to be minimal.

Counties are expected to incur additional costs for jail operations, however, the costs are expected to be minimal.

### **Sources**

Department of Human Rights, Criminal and Juvenile Justice Planning Division  
State Public Defender's Office  
Iowa Supreme Court

/s/ Dennis C Prouty

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February 27, 2002

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The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and 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.

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HOUSE FILE 2495

AN ACT

PROVIDING FOR THE ISSUANCE OF NO-CONTACT ORDERS AGAINST  
PERSONS WHO ARE ARRESTED FOR THE CRIME OF SEXUAL ABUSE.

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

Section 1. NEW SECTION. 709.19 SEXUAL ABUSE -- NO-CONTACT.

1. When a person arrested for sexual abuse in violation of section 709.2, 709.3, or 709.4 is brought before a magistrate for initial appearance under section 804.21, 804.22, or 804.24, and the magistrate finds probable cause to believe that a violation of section 709.2, 709.3, or 709.4 has occurred and that the presence of or contact with the defendant poses a threat to the safety of the alleged victim, persons residing with the alleged victim, or members of the alleged victim's immediate family, the magistrate shall enter an order which shall require the defendant to have no contact with the alleged victim, persons residing with the alleged victim, or members of the alleged victim's immediate family, and to refrain from harassing the alleged victim, persons residing with the alleged victim, or members of the alleged victim's immediate family, in addition to any other conditions of release determined and imposed by the magistrate under section 811.2. A no-contact order requiring the defendant to have no contact with the alleged victim's children shall prevail over any existing order which may be in conflict with the no-contact order.

The court order shall contain the court's directives restricting the defendant from having contact with the victim, persons residing with the victim, or the victim's immediate family. The order shall state whether a person is to be taken

into custody by a peace officer for a violation of the terms stated in the order.

2. The clerk of the district court or other person designated by the court shall provide a copy of this order to the victim pursuant to this chapter. The order has force and effect until it is modified or terminated by subsequent court action in a contempt proceeding or the criminal or juvenile court action and is reviewable in the manner prescribed in section 811.2. Upon final disposition of the criminal or juvenile court action, the court shall make a determination whether the no-contact order should be modified or terminated. If a defendant is convicted for, receives a deferred judgment for, or pleads guilty to a violation of section 709.2, 709.3, or 709.4, the court shall modify the no-contact order issued by the magistrate to provide that the no-contact order shall continue in effect for a period of five years from the date that the judgment is entered or the deferred judgment is granted, regardless of whether the defendant is placed on probation. Upon the filing of an affidavit by the victim which states that the defendant continues to pose a threat to the safety of the victim, persons residing with the victim, or members of the victim's immediate family within ninety days prior to the expiration of the modified no-contact order, the court shall modify and extend the no-contact order for an additional period of five years, unless the court finds that the defendant no longer poses a threat to the safety of the victim, persons residing with the victim, or members of the victim's immediate family. The number of modifications extending the no-contact order permitted by this subsection is not limited.

The clerk of the district court shall also provide notice and copies of the no-contact order to the applicable law enforcement agencies and the twenty-four-hour dispatcher for the law enforcement agencies, in the same manner as provided for protective orders under section 236.5. The clerk shall

provide notice and copies of modifications or vacations of these orders in the same manner.

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BRENT SIEGRIST  
Speaker of the House

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MARY E. KRAMER  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2495, Seventy-ninth General Assembly.

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MARGARET THOMSON  
Chief Clerk of the House

Approved 4/9, 2002

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THOMAS J. VILSACK  
Governor