

FEB 25 2002
Place On Calendar

S-3/12/02 Judiciary
S-3/13/02 do pass

7/24/02 Referred To: Judiciary

HOUSE FILE 2506
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 2420)

Passed House, Date ^(p. 714) 3/12/02 Passed Senate, Date ^(p. 88A) 3-27-02
Vote: Ayes 94 Nays 0 Vote: Ayes 47 Nays 0
Approved April 5, 2002

A BILL FOR

1 An Act relating to the issuance of a no-contact order against a
2 defendant convicted of a sexual offense upon the defendant's
3 release from jail or prison.

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

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HF 2506

1 Section 1. NEW SECTION. 709.19 NO-CONTACT ORDER UPON
2 DEFENDANT'S RELEASE FROM JAIL OR PRISON.

3 1. Upon the filing of an affidavit by a victim, or a
4 parent or guardian on behalf of a minor who is a victim, of a
5 crime of a sexual offense in violation of section 709.2,
6 709.3, 709.4, 709.8, 709.9, 709.11, 709.12, 709.14, 709.15, or
7 709.16, which states that the presence of or contact with the
8 defendant whose release from jail or prison is imminent or who
9 has been released from jail or prison continues to pose a
10 threat to the safety of the victim, persons residing with the
11 victim, or members of the victim's immediate family, the court
12 shall enter a temporary no-contact order which shall require
13 the defendant to have no contact with the victim, persons
14 residing with the victim, or members of the victim's immediate
15 family.

16 2. A temporary restraining order issued under this section
17 shall expire at such time as the court directs, not to exceed
18 ten days from the date of issuance. The court, for good cause
19 shown before expiration of the order, may extend the
20 expiration date of the order for up to ten days, or for a
21 longer period agreed to by the adverse party.

22 3. Upon motion of the party, the court shall issue a no-
23 contact order which shall require the defendant to have no
24 contact with the victim, persons residing with the victim, or
25 members of the victim's immediate family if the court, after a
26 hearing, finds by a preponderance of the evidence, that the
27 defendant poses a threat to the safety of the victim, persons
28 residing with the victim, or members of the victim's immediate
29 family.

30 4. A no-contact order shall set forth the reasons for the
31 issuance of the order, be specific in terms, and describe in
32 reasonable detail the purpose of the order.

33 5. The court shall set the duration of the no-contact
34 order for the period it determines is necessary to protect the
35 safety of the victim, persons residing with the victim, or

1 members of the victim's immediate family, but the duration
2 shall not be set for a period in excess of one year from the
3 date of the issuance of the order. The victim, at any time
4 within ninety days before the expiration of the order, may
5 apply for a new no-contact order under this section.

6 6. Violation of a no-contact order issued under this
7 section constitutes contempt of court and may be punished by
8 contempt proceedings.

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EXPLANATION

10 This bill relates to the issuance of a no-contact order
11 against a defendant convicted of a sexual offense upon the
12 defendant's release from jail or prison.

13 The bill provides that upon a filing of an affidavit by a
14 victim or a parent or guardian on behalf of a minor who is a
15 victim, which states that upon the defendant's release from
16 jail or prison, the presence of or contact with the defendant
17 continues to pose a threat to the safety of the victim,
18 persons residing with the victim, or members of the victim's
19 immediate family, the court shall enter a temporary no-contact
20 order which shall require the defendant to have no contact
21 with the victim, persons residing with the victim, or members
22 of the victim's family.

23 The bill further allows the court to issue a no-contact
24 order for up to one year from the date of the issuance of the
25 order if the court, after a hearing, finds by a preponderance
26 of the evidence, that the defendant poses a threat to the
27 safety of the victim, persons residing with the victim, or
28 members of the victim's immediate family.

29 The bill applies to a victim of a crime of first, second,
30 or third degree sexual abuse, a victim of a crime of
31 lascivious acts with a child, a victim of a crime of assault
32 with intent to commit sexual abuse, a victim of a crime of
33 indecent contact with a child, a victim of a crime of
34 lascivious contact with a minor, a victim of a crime of sexual
35 exploitation by a counselor or therapist, or a victim of a

1 crime of sexual misconduct with offenders and juveniles.

2 The bill further provides that violation of a no-contact
3 order constitutes contempt of court and may be punished by
4 contempt proceedings.

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HOUSE FILE 2506

S-5266

1 Amend House File 2506, as passed by the House, as
2 follows:
3 1. Page 2, by inserting after line 8 the
4 following:
5 "Sec. _____. Section 901.5, Code Supplement 2001, is
6 amended by adding the following new subsection:
7 NEW SUBSECTION. 14. If the court defers judgment
8 or sentence or suspends the sentence, the court may
9 order as a condition of probation that the defendant
10 be subjected to searches under the same circumstances
11 and procedures that apply to parolees under section
12 906.4.
13 Sec. _____. Section 906.4, Code 2001, is amended by
14 adding the following new unnumbered paragraph after
15 unnumbered paragraph 3:
16 NEW UNNUMBERED PARAGRAPH. The board as a condition
17 of parole or work release may require a person submit
18 to a search of the person, the person's property,
19 place of residence, vehicle, or personal effects, at
20 any time, with or without a search warrant or probable
21 cause, by any peace officer for the duration of parole
22 or work release. For purposes of this section, "peace
23 officer" means those officers designated under section
24 801.4.
25 Sec. _____. NEW SECTION. 906.5A INFORMATION
26 PROVIDED TO STATE DEPARTMENT OF TRANSPORTATION AND LAW
27 ENFORCEMENT AGENCIES.
28 The board of parole shall notify the local law
29 enforcement agency with jurisdiction over the area
30 where a person is paroled and the state department of
31 transportation of conditions of the person's release
32 requiring the person to submit to a search as provided
33 in section 906.4 or 907.6. The state department of
34 transportation shall release such information to a law
35 enforcement agency as provided in section 321.11.
36 Sec. _____. Section 907.6, Code 2001, is amended to
37 read as follows:
38 907.6 CONDITIONS OF PROBATION -- REGULATIONS.
39 Probationers are subject to the conditions
40 established by the judicial district department of
41 correctional services subject to the approval of the
42 court, and any additional reasonable conditions which
43 the court or district department may impose to promote
44 rehabilitation of the defendant or protection of the
45 community. Conditions may include but are not limited
46 to adherence to regulations generally applicable to
47 persons released on parole and including requiring
48 unpaid community service as allowed pursuant to
49 section 907.13, or being subjected to searches
50 pursuant to section 906.4. The district department

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1 assigned to supervise the probationer shall notify the
2 local law enforcement agency with jurisdiction over
3 the area where the probationer resides and the state
4 department of transportation of conditions of the
5 probationer's release requiring the probationer to
6 submit to a search as provided in this section. The
7 state department of transportation shall release such
8 information to a law enforcement agency as provided in
9 section 321.11."

10 2. Title page, by striking lines 1 through 3, and
11 inserting the following: "An Act relating to persons
12 released from jail or prison or on probation or
13 parole."

14 3. By renumbering as necessary.

By STEVE KING
JEFF ANGELO

S-5266 FILED MARCH 27, 2002
RULED OUT OF ORDER

(p. 828)

Legislative Fiscal Bureau

Fiscal Note

HF 2506 - No Contact for Convicted Sexual Abusers (LSB 6002 HV)
Analyst: Beth Lenstra (Phone: (515) 281-6301) (beth.lenstra@legis.state.ia.us)
Fiscal Note Version - New
Requested by Representative Mark Tremmel

Description

House File 2506 provides for the issuance of no-contact orders to protect victims of convicted sex offenders upon their release from prison or jail. The Bill provides that upon a filing of an affidavit by a victim or parent or guardian of a minor who is a victim, that upon the offender's release from prison or jail, the presence of or contact with the offender continues to pose a threat to the victim or the victim's family, the court shall enter a temporary no-contact order. 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 Adult Corrections Information System, the statewide prison database plus the Justice Data Warehouse, which includes statewide court information. Conviction and penalty information is based on FY 2001 data.
5. During FY 2001, 220 offenders were released from prison who would potentially be covered by the Bill's provisions. There were 122 offenders who received jail terms for offenses covered under the Bill. Therefore, it is possible that restraining orders against 342 people may be issued annually.
6. There is no readily available information with which to predict how many victims will choose to file for restraining orders against these offenders, who are not already doing so. Therefore, it is assumed that no more than 50.0% of the offenders will have no-contact orders issued against them. There will be 171 no-contact orders issued (50.0% of 342 offenders).
7. 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.
8. Approximately 37.0% of offenders placed on the sex offender registry during 1998 had victims who were family members.
9. It is assumed that 63 (37.0%) of the estimated 171 offenders annually had family member victims. It is assumed that 4 (7.0% of 63 offenders) will be convicted of violations of no-contact orders and receive county jail sentences.
10. 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.
11. 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, court attendant, court reporter, and Clerk of Court staff.
12. The median cost per proceeding for indigent defense summary contempt is \$250.

Correctional Impact

House File 2506 is anticipated to increase jail admissions by two during FY 2003, and by four 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 county jail operations; however, the costs are expected to be minimal.

Sources

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

/s/ Dennis C Prouty

March 4, 2002

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.

HOUSE FILE 2506

AN ACT

RELATING TO THE ISSUANCE OF A NO-CONTACT ORDER AGAINST A
DEFENDANT CONVICTED OF A SEXUAL OFFENSE UPON THE DEFENDANT'S
RELEASE FROM JAIL OR PRISON.

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

Section 1. NEW SECTION. 709.19 NO-CONTACT ORDER UPON
DEFENDANT'S RELEASE FROM JAIL OR PRISON.

1. Upon the filing of an affidavit by a victim, or a
parent or guardian on behalf of a minor who is a victim, of a

crime of a sexual offense in violation of section 709.2,
709.3, 709.4, 709.8, 709.9, 709.11, 709.12, 709.14, 709.15, or
709.16, which states that the presence of or contact with the
defendant whose release from jail or prison is imminent or who
has been released from jail or prison continues to pose a
threat to the safety of the victim, persons residing with the
victim, or members of the victim's immediate family, the court
shall enter a temporary no-contact order which shall require
the defendant to have no contact with the victim, persons
residing with the victim, or members of the victim's immediate
family.

2. A temporary restraining order issued under this section
shall expire at such time as the court directs, not to exceed
ten days from the date of issuance. The court, for good cause
shown before expiration of the order, may extend the
expiration date of the order for up to ten days, or for a
longer period agreed to by the adverse party.

3. Upon motion of the party, the court shall issue a no-
contact order which shall require the defendant to have no
contact with the victim, persons residing with the victim, or
members of the victim's immediate family if the court, after a
hearing, finds by a preponderance of the evidence, that the
defendant poses a threat to the safety of the victim, persons
residing with the victim, or members of the victim's immediate
family.

4. A no-contact order shall set forth the reasons for the
issuance of the order, be specific in terms, and describe in
reasonable detail the purpose of the order.

5. The court shall set the duration of the no-contact
order for the period it determines is necessary to protect the
safety of the victim, persons residing with the victim, or
members of the victim's immediate family, but the duration
shall not be set for a period in excess of one year from the
date of the issuance of the order. The victim, at any time
within ninety days before the expiration of the order, may
apply for a new no-contact order under this section.

6. Violation of a no-contact order issued under this section constitutes contempt of court and may be punished by contempt proceedings.

BRENT SIEGRIST
Speaker of the House

MARY E. KRAMER
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2506, Seventy-ninth General Assembly.

MARGARET THOMSON
Chief Clerk of the House

Approved 4/5, 2002

THOMAS J. VILSACK
Governor