

MAR 4 2003  
Place On Calendar

HOUSE FILE 404  
BY COMMITTEE ON PUBLIC SAFETY  
(SUCCESSOR TO HSB 135)

Passed House, Date Passed 3/18/03 Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act authorizing a sentencing court to issue no-contact orders  
2 against persons arrested for any public offense.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HSB 404

1 Section 1. Section 901.5, Code 2003, is amended by adding  
2 the following new subsection:

3 NEW SUBSECTION. 7A. a. The court may order the defendant  
4 to have no contact with the victim of the offense, persons  
5 residing with the victim, members of the victim's immediate  
6 family, or witnesses to the offense if the court finds that  
7 the presence of or contact with the defendant poses a threat  
8 to the safety of the victim.

9 b. The duration of the no-contact order may extend for a  
10 period of five years from the date the judgment is entered or  
11 the deferred judgment is granted, or up to the maximum term of  
12 confinement, whichever is greater. The court may order the  
13 no-contact order regardless of whether the defendant is placed  
14 on probation.

15 c. The court order shall contain the court's directives  
16 restricting the defendant from having contact with the victim  
17 of the offense, persons residing with the victim, members of  
18 the victim's immediate family, or witnesses to the offense.  
19 The order shall state whether the defendant is to be taken  
20 into custody by a peace officer for a violation of the terms  
21 stated in the order.

22 d. Violation of a no-contact order issued under this  
23 section is punishable by summary contempt proceedings. A  
24 hearing in a contempt proceeding brought pursuant to this  
25 subsection shall be held not less than five and not more than  
26 fifteen days after the issuance of a rule to show cause, as  
27 set by the court, unless the defendant is already in custody  
28 at the time of the alleged violation in which case the hearing  
29 shall be held not less than five days and not more than forty-  
30 five days after the issuance of the rule to show cause.

31 e. For purposes of this subsection, "victim" means a  
32 person who has suffered physical, emotional, or financial harm  
33 as the result of a public offense committed in this state.

34 EXPLANATION

35 This bill authorizes a sentencing court to issue a no-

1 contact order to protect victims of any public offense, their  
2 immediate family members, persons residing with the victim,  
3 and any witnesses to the offense if the court finds that the  
4 presence of or contact with the defendant poses a threat to  
5 the safety of the victim.

6 The bill provides that the duration of the no-contact order  
7 may extend for a period of five years from the date the  
8 judgment is entered or the deferred judgment is granted, or up  
9 to the maximum term of confinement, whichever is greater. The  
10 court may order the no-contact order regardless of whether the  
11 defendant is placed on probation. A defendant who violates a  
12 no-contact order issued is subject to summary contempt  
13 proceedings.

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HOUSE FILE 404

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H-1044

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1 Amend House File 404 as follows:

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2 1. Page 1, line 8, by inserting after the word  
3 "victim" the following: ", persons residing with the  
4 victim, members of the victim's immediate family, or  
5 witnesses to the offense".

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6 2. Page 1, by inserting after line 14 the  
7 following:

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8 "Upon the filing of an affidavit by the victim  
9 which states that the defendant continues to pose a  
10 threat to the safety of the victim, persons residing  
11 with the victim, members of the victim's immediate  
12 family, or witnesses to the offense within ninety days  
13 prior to the expiration of the no-contact order, the  
14 court shall modify and extend the no-contact order for  
15 an additional period of up to five years, unless the  
16 court finds that the defendant no longer poses a  
17 threat to the safety of the victim, persons residing  
18 with the victim, members of the victim's immediate  
19 family, or witnesses to the offense. The number of  
20 modifications extending the no-contact order permitted  
21 by this subsection is not limited."

By EICHHORN of Hamilton

HOGG of Linn

H-1044 FILED MARCH 11, 2003

*Adopted 3/18/03*

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### **Description**

House File 404 authorizes a sentencing court to protect victims of any public offense, their immediate family members, people residing with the victim, and any witnesses to the offense if the court finds that the presence of or contact with the defendant poses a threat to the victim. The no-contact order is available at the time of sentencing. People who violate no-contact orders are subject to summary contempt proceedings.

### **Assumptions**

11. Charge, conviction, and sentencing patterns and trends will not change over the projection period.
12. Prisoner length of stay, revocation rates, and other corrections' practices and policies will not change over the projection period.
13. The law will become effective July 1, 2003. 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.
14. The analysis is based on information obtained from the Justice Data Warehouse, which includes statewide court and Community-Based Corrections (CBC) information. Conviction and penalty information is based on FY 2002 data.
15. There is no readily available data with which to predict the number of no-contact orders that will be issued under HF 404. In certain cases, no-contact orders may already be in effect.
16. There is no readily available data with which to predict the number of no-contact orders that will be issued under HF 404, and subsequently violated. Approximately 7.0% of no-contact orders issued for domestic abuse defendants are violated. It may or may not be reasonable to assume a similar violation rate for these cases. Domestic violence no-contact orders are available at the time of arrest; the defendant remains in the community pending trial. No-contact orders issued under HF 404 are available at the time of sentencing; the defendant may be held in prison for the majority of the term that the no-contact order is in effect. Therefore, there may be less time available for a defendant to violate a no-contact order issued under the provisions of this Bill.
17. The marginal cost per day for county jails ranges from \$15 to \$25 per offender. The average length of stay in jail for violating a no-contact order is 32 days.
18. Court costs per case are approximately \$116. These costs include the time of a District Court Judge, Clerk of Court staff, a court attendant, and a court reporter.
19. The median cost per proceeding for indigent defense summary contempt is \$250.

### **Correctional Impact**

There is no readily available data with which to predict the correctional impact of HF 404. To the extent no-contact orders that are issued under the Bill are subsequently violated, there will be an impact on county jails. That impact is expected to be minimal.

### **Fiscal Impact**

Due to insufficient information, the fiscal impact of HF 404 cannot be determined. The State's cost for issuing a no-contact order, and providing counsel for the defendant upon violating the order, is approximately \$366, including the costs of court staff time and indigent defense.



HOUSE FILE 404  
BY COMMITTEE ON PUBLIC SAFETY

(SUCCESSOR TO HSB 135)

(As Amended and Passed by the House March 18, 2003)

Passed House, Date Passed 3/18/03 <sup>4/22/03</sup> Passed Senate, Date Passed 4/10/03  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved 5/2/03

A BILL FOR

1 An Act authorizing a sentencing court to issue no-contact orders  
2 against persons arrested for any public offense.

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

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House Amendments \_\_\_\_\_

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FOF

1 Section 1. Section 901.5, Code 2003, is amended by adding  
2 the following new subsection:

3 NEW SUBSECTION. 7A. a. The court may order the defendant  
4 to have no contact with the victim of the offense, persons  
5 residing with the victim, members of the victim's immediate  
6 family, or witnesses to the offense if the court finds that  
7 the presence of or contact with the defendant poses a threat  
8 to the safety of the victim, persons residing with the victim,  
9 members of the victim's immediate family, or witnesses to the  
10 offense.

11 b. The duration of the no-contact order may extend for a  
12 period of five years from the date the judgment is entered or  
13 the deferred judgment is granted, or up to the maximum term of  
14 confinement, whichever is greater. The court may order the  
15 no-contact order regardless of whether the defendant is placed  
16 on probation.

17 Upon the filing of an affidavit by the victim which states  
18 that the defendant continues to pose a threat to the safety of  
19 the victim, persons residing with the victim, members of the  
20 victim's immediate family, or witnesses to the offense within  
21 ninety days prior to the expiration of the no-contact order,  
22 the court shall modify and extend the no-contact order for an  
23 additional period of up to five years, unless the court finds  
24 that the defendant no longer poses a threat to the safety of  
25 the victim, persons residing with the victim, members of the  
26 victim's immediate family, or witnesses to the offense. The  
27 number of modifications extending the no-contact order  
28 permitted by this subsection is not limited.

29 c. The court order shall contain the court's directives  
30 restricting the defendant from having contact with the victim  
31 of the offense, persons residing with the victim, members of  
32 the victim's immediate family, or witnesses to the offense.  
33 The order shall state whether the defendant is to be taken  
34 into custody by a peace officer for a violation of the terms  
35 stated in the order.

1 d. Violation of a no-contact order issued under this  
2 section is punishable by summary contempt proceedings. A  
3 hearing in a contempt proceeding brought pursuant to this  
4 subsection shall be held not less than five and not more than  
5 fifteen days after the issuance of a rule to show cause, as  
6 set by the court, unless the defendant is already in custody  
7 at the time of the alleged violation in which case the hearing  
8 shall be held not less than five days and not more than forty-  
9 five days after the issuance of the rule to show cause.

10 e. For purposes of this subsection, "victim" means a  
11 person who has suffered physical, emotional, or financial harm  
12 as the result of a public offense committed in this state.

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14 **HOUSE FILE \* 404**

15 **S-3154**

16 1 Amend House File 404, as amended, passed, and  
17 2 reprinted by the House, as follows:

18 3 1. Page 1, line 17, by inserting after the word  
19 4 "victim" the following: ", a person residing with <sup>the</sup>  
20 5 victim, a member of the victim's immediate family, or  
21 6 a witness to the offense".

22 7 2. By renumbering as necessary.

23 **By KEITH A. KREIMAN**

24 **S-3154 FILED APRIL 8, 2003**  
25 *accepted 4/10/03*

26 **SENATE AMENDMENT TO**  
27 **HOUSE FILE 404**

28 **H-1323**

29 1 Amend House File 404, as amended, passed, and  
30 2 reprinted by the House, as follows:

31 3 1. Page 1, line 17, by inserting after the word  
32 4 "victim" the following: ", a person residing with the  
33 5 victim, a member of the victim's immediate family, or  
34 6 a witness to the offense".

35 7 2. By renumbering as necessary.

**RECEIVED FROM THE SENATE**

**H-1323 FILED APRIL 11, 2003**  
*House concurred 4/22/03*

Eichhorn, Chair

Hogg

De Boef

Succeeded By  
SF 404

HSB 135

PUBLIC SAFETY

HOUSE FILE \_\_\_\_\_

BY (PROPOSED COMMITTEE ON  
PUBLIC SAFETY BILL BY  
CHAIRPERSON BAUDLER)

Passed House, Date \_\_\_\_\_

Passed Senate, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

**A BILL FOR**

1 An Act authorizing a sentencing court to issue no-contact orders  
2 against persons arrested for any public offense.

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5 residing with the victim, members of the victim's immediate  
6 family, or witnesses to the offense.

7 b. The duration of the no-contact order may extend for a  
8 period of five years from the date the judgment is entered or  
9 the deferred judgment is granted, or up to the maximum term of  
10 confinement, whichever is greater. The court may order the  
11 no-contact order regardless of whether the defendant is placed  
12 on probation.

13 c. The court order shall contain the court's directives  
14 restricting the defendant from having contact with the victim  
15 of the offense, persons residing with the victim, members of  
16 the victim's immediate family, or witnesses to the offense.  
17 The order shall state whether the defendant is to be taken  
18 into custody by a peace officer for a violation of the terms  
19 stated in the order.

20 d. Violation of a no-contact order issued under this  
21 section is punishable by summary contempt proceedings. A  
22 hearing in a contempt proceeding brought pursuant to this  
23 subsection shall be held not less than five and not more than  
24 fifteen days after the issuance of a rule to show cause, as  
25 set by the court, unless the defendant is already in custody  
26 at the time of the alleged violation in which case the hearing  
27 shall be held not less than five days and not more than forty-  
28 five days after the issuance of the rule to show cause.

29 e. For purposes of this subsection, "victim" means a  
30 person who has suffered physical, emotional, or financial harm  
31 as the result of a public offense committed in this state.

32 EXPLANATION

33 This bill authorizes a sentencing court to issue a no-  
34 contact order to protect victims of any public offense, their  
35 immediate family members, persons residing with the victim,

1 and any witnesses to the offense.

2     The bill provides that the duration of the no-contact order  
3 may extend for a period of five years from the date the  
4 judgment is entered or the deferred judgment is granted, or up  
5 to the maximum term of confinement, whichever is greater. The  
6 court may order the no-contact order regardless of whether the  
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8 no-contact order issued is subject to summary contempt  
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HOUSE FILE 404

AN ACT

AUTHORIZING A SENTENCING COURT TO ISSUE NO-CONTACT ORDERS  
AGAINST PERSONS ARRESTED FOR ANY PUBLIC OFFENSE.

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

Section 1. Section 901.5, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 7A. a. The court may order the defendant to have no contact with the victim of the offense, persons residing with the victim, members of the victim's immediate family, or witnesses to the offense if the court finds that the presence of or contact with the defendant poses a threat to the safety of the victim, persons residing with the victim, members of the victim's immediate family, or witnesses to the offense.

b. The duration of the no-contact order may extend for a period of five years from the date the judgment is entered or the deferred judgment is granted, or up to the maximum term of confinement, whichever is greater. The court may order the no-contact order regardless of whether the defendant is placed on probation.

Upon the filing of an affidavit by the victim, a person residing with the victim, a member of the victim's immediate family, or a witness to the offense which states that the defendant continues to pose a threat to the safety of the victim, persons residing with the victim, members of the victim's immediate family, or witnesses to the offense within ninety days prior to the expiration of the no-contact order, the court shall modify and extend the no-contact order for an additional period of up to 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, members of the victim's immediate family, or witnesses to the offense. The number of modifications extending the no-contact order permitted by this subsection is not limited.

c. The court order shall contain the court's directives restricting the defendant from having contact with the victim of the offense, persons residing with the victim, members of the victim's immediate family, or witnesses to the offense. The order shall state whether the defendant is to be taken into custody by a peace officer for a violation of the terms stated in the order.

d. Violation of a no-contact order issued under this section is punishable by summary contempt proceedings. A hearing in a contempt proceeding brought pursuant to this subsection shall be held not less than five and not more than fifteen days after the issuance of a rule to show cause, as set by the court, unless the defendant is already in custody at the time of the alleged violation in which case the hearing shall be held not less than five days and not more than forty-five days after the issuance of the rule to show cause.

e. For purposes of this subsection, "victim" means a person who has suffered physical, emotional, or financial harm as the result of a public offense committed in this state.

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CHRISTOPHER C. RANTS  
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 404, Eightieth General Assembly.

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MARGARET THOMSON  
Chief Clerk of the House

Approved \_\_\_\_\_, 2003

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THOMAS J. VILSACK  
Governor