

House File 2279 - Reprinted

HOUSE FILE 2279
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 120)

(As Amended and Passed by the House March 11, 2014)

A BILL FOR

1 An Act relating to the issuance of and violations of civil
2 protective orders and criminal no-contact orders and
3 modifying penalties.

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

1 Section 1. Section 232.19, subsection 1, Code 2014, is
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. e. By a peace officer pursuant to section
4 664A.6.

5 Sec. 2. NEW SECTION. **236.14 Initial appearance.**

6 Notwithstanding chapters 804 and 805, a person taken into
7 custody pursuant to section 236.11 or arrested pursuant to
8 section 236.12 may be released on bail or otherwise only
9 after an initial appearance before a magistrate as provided
10 in chapter 804 and the rules of criminal procedure or section
11 236.11, whichever is applicable.

12 Sec. 3. Section 664A.1, subsection 2, Code 2014, is amended
13 to read as follows:

14 2. "*Protective order*" means a protective order issued
15 pursuant to chapter 232, a court order or court-approved
16 consent agreement entered pursuant to chapter 236, including a
17 valid foreign protective order under section 236.19, subsection
18 3, a ~~temporary or permanent~~ protective order or order to vacate
19 the homestead under chapter 598, ~~or an order that establishes~~
20 ~~conditions of release or is a protective order or sentencing~~
21 ~~order in a criminal prosecution arising from a domestic abuse~~
22 ~~assault under section 708.2A~~, or a civil injunction issued
23 pursuant to section 915.22.

24 Sec. 4. Section 664A.3, Code 2014, is amended to read as
25 follows:

26 **664A.3 Entry of ~~temporary~~ no-contact order.**

27 1. When a person is ~~taken into custody for contempt~~
28 ~~proceedings pursuant to section 236.11 or arrested for any~~
29 ~~public offense referred to in section 664A.2, subsection 1,~~
30 and the person is brought before a magistrate for initial
31 appearance, the magistrate shall enter a no-contact order if
32 the magistrate finds both of the following:

33 a. Probable cause exists to believe that any public offense
34 ~~referred to in section 664A.2, subsection 1, or a violation of~~
35 ~~a no-contact order, protective order, or consent agreement has~~

1 occurred.

2 **b.** The presence of or contact with the defendant poses a
3 threat to the safety of the alleged victim, persons residing
4 with the alleged victim, or members of the alleged victim's
5 family.

6 ~~2. Notwithstanding chapters 804 and 805, a person taken~~
7 ~~into custody pursuant to section 236.11 or arrested pursuant to~~
8 ~~section 236.12 may be released on bail or otherwise only after~~
9 ~~initial appearance before a magistrate as provided in chapter~~
10 ~~804 and the rules of criminal procedure or section 236.11,~~
11 ~~whichever is applicable.~~

12 ~~3. 2.~~ A no-contact order issued pursuant to this section
13 shall be issued in addition to any other conditions of release
14 imposed by a magistrate pursuant to section 811.2. The
15 no-contact order has force and effect until it is modified or
16 terminated by subsequent court action ~~in a contempt proceeding~~
17 ~~or criminal or juvenile court action~~ and is reviewable in the
18 manner prescribed in section 811.2. ~~Upon final disposition~~
19 ~~of the criminal or juvenile court action, the court shall~~
20 ~~terminate or modify the no-contact order pursuant to section~~
21 ~~664A.5.~~

22 ~~4. 3.~~ A no-contact order requiring the defendant to have
23 no contact with ~~the alleged victim's~~ a child or children shall
24 prevail over any existing custodial, visitation, or other
25 conflicting order ~~which may be in conflict with the no-contact~~
26 ~~order.~~

27 ~~5. 4.~~ A no-contact order ~~issued pursuant to this section~~
28 shall restrict the defendant from having contact with the
29 victim, persons residing with the victim, ~~or~~ and the victim's
30 immediate family.

31 ~~6. 5.~~ A no-contact order ~~issued pursuant to this section~~
32 shall specifically include notice that the person may be
33 required to relinquish all firearms, offensive weapons, and
34 ammunition ~~upon the issuance of a permanent no-contact order~~
35 ~~pursuant to section 664A.5.~~

1 Sec. 5. Section 664A.5, Code 2014, is amended to read as
2 follows:

3 **664A.5 Modification — entry of permanent no-contact order or**
4 **protective order.**

5 If a defendant is convicted of, receives a deferred judgment
6 for, or pleads guilty to a public offense referred to in
7 ~~section 664A.2, subsection 1,~~ or is held in contempt for a
8 violation of a no-contact order ~~issued under section 664A.3~~
9 or ~~for a violation of a protective order issued pursuant~~
10 ~~to chapter 232, 236, 598, or 915,~~ the court shall either
11 continue, terminate, or modify the ~~temporary~~ no-contact order
12 or protective order issued by the magistrate or juvenile
13 court. The ~~court may enter a no-contact order or protective~~
14 order ~~continue the no-contact order already in effect may be~~
15 issued for a period of five years from the date the judgment
16 or contempt finding is entered or the deferred judgment is
17 granted, regardless of whether the defendant is placed on
18 probation.

19 Sec. 6. Section 664A.6, Code 2014, is amended to read as
20 follows:

21 **664A.6 ~~Mandatory arrest~~ Taking into custody for violation of**
22 **no-contact order or protective order — immunity for actions.**

23 1. a. If a peace officer has probable cause to believe
24 that a person has violated a no-contact order ~~issued under~~
25 ~~this chapter~~ or a protective order, the peace officer shall
26 take the person into custody and shall take the person without
27 unnecessary delay before the nearest or most accessible
28 magistrate in the judicial district in which the person was
29 taken into custody. Notwithstanding chapters 804 and 805, a
30 person taken into custody pursuant to this subsection may be
31 released on bail or otherwise only after initial appearance
32 before a magistrate as provided in chapter 804 and the rules of
33 criminal procedure, or section 236.11, whichever is applicable.

34 b. If a peace officer has probable cause to believe that
35 a person under the age of eighteen has violated a protective

1 order, the peace officer may take the person into custody
2 and may take the person without unnecessary delay before the
3 nearest or most accessible juvenile court in the judicial
4 district in which the person was taken into custody.

5 2. If the peace officer is investigating a domestic abuse
6 assault pursuant to section 708.2A, the officer shall also
7 comply with sections 236.11 and 236.12.

8 3. A peace officer shall not be held civilly or criminally
9 liable for acting pursuant to this section provided the peace
10 officer acts in good faith and on reasonable grounds and the
11 peace officer's acts do not constitute a willful or wanton
12 disregard for the rights or safety of another.

13 Sec. 7. Section 664A.7, Code 2014, is amended to read as
14 follows:

15 **664A.7 Violation of no-contact order or protective order —**
16 **contempt or simple misdemeanor penalties.**

17 1. Violation of a no-contact order ~~issued under this chapter~~
18 ~~or a protective order issued pursuant to chapter 232, 236, or~~
19 ~~598, including a modified no-contact order,~~ is punishable by
20 summary contempt proceedings.

21 2. A hearing in a contempt proceeding brought pursuant to
22 this section shall be held not less than five and not more than
23 fifteen days after ~~the issuance of a rule to show cause, as~~
24 ~~determined by the court~~ the person is taken into custody.

25 3. If ~~convicted of or held in contempt for a violation of a~~
26 ~~no-contact order or a modified no-contact order for a public~~
27 ~~offense referred to in section 664A.2, subsection 1, or held~~
28 ~~in contempt of a no-contact order issued during a contempt~~
29 ~~proceeding brought pursuant to section 236.11,~~ the person shall
30 be confined in the county jail for a minimum of seven days and
31 a maximum of one hundred eighty days per violation. A jail
32 sentence imposed pursuant to this subsection shall be served
33 on consecutive days. No portion of the mandatory minimum term
34 of confinement imposed by this subsection shall be deferred
35 or suspended. A deferred judgment, deferred sentence, or

1 suspended sentence shall not be entered for a violation of a
2 no-contact order, ~~modified no-contact order,~~ or protective
3 order and the court shall not impose a fine in lieu of the
4 minimum sentence, although a fine may be imposed in addition
5 to the minimum sentence.

6 4. If ~~convicted or~~ held in contempt for a violation of
7 a ~~civil~~ protective order referred to in section 664A.2, the
8 person shall serve a jail sentence. A jail sentence imposed
9 pursuant to this subsection shall be served on consecutive
10 days. A person who is ~~convicted of or~~ held in contempt for a
11 violation of a protective order referred to in section 664A.2
12 may be ordered by the court to pay the plaintiff's attorney's
13 fees and court costs.

14 5. ~~Violation of a no-contact order entered for the offense~~
15 ~~or alleged offense of domestic abuse assault in violation of~~
16 ~~section 708.2A or a violation of a protective order issued~~
17 ~~pursuant to chapter 232, 236, 598, or 915 constitutes a~~
18 ~~public offense and is punishable as a simple misdemeanor.~~
19 ~~Alternatively, the court may hold a person in contempt of court~~
20 ~~for such a violation, as provided in subsection 3.~~

21 6. 5. A person shall not be held in contempt ~~or convicted~~
22 ~~of violations~~ under multiple no-contact orders, protective
23 orders, or consent agreements, for the same set of facts and
24 circumstances that constitute a single violation.

25 Sec. 8. Section 664A.8, Code 2014, is amended to read as
26 follows:

27 **664A.8 Extension of no-contact order.**

28 Upon the filing of an application by the state or by ~~the~~
29 ~~victim of any public offense referred to in section 664A.2,~~
30 ~~subsection 1~~ a protected party which is filed within ninety
31 days prior to the expiration of a modified no-contact order,
32 the court shall modify and extend the no-contact order for an
33 additional period of five years, unless the court finds that
34 the defendant no longer poses a threat to the safety of the
35 victim, persons residing with the victim, or members of the

1 victim's family. The number of modifications extending the
2 no-contact order permitted by this section is not limited.

3 Sec. 9. NEW SECTION. **664A.9 Termination of no-contact**
4 **order.**

5 Upon the filing of an application by the state or a protected
6 party, the court shall terminate a no-contact order if the
7 court finds by a preponderance of the evidence that the
8 defendant no longer poses a threat to the safety of the victim,
9 persons residing with the victim, or members of the victim's
10 family.

11 Sec. 10. Section 907.3, subsection 1, paragraph a,
12 subparagraph (8), Code 2014, is amended to read as follows:

13 (8) The offense is a ~~conviction for or plea of guilty to a~~
14 ~~violation of section 664A.7 or a~~ finding of contempt pursuant
15 to section 664A.7.

16 Sec. 11. Section 907.3, subsection 2, paragraph a,
17 subparagraph (4), Code 2014, is amended to read as follows:

18 (4) ~~Section 664A.7 or for~~ For contempt pursuant to section
19 664A.7.